



Town of Loxahatchee Groves

Special Town Council Meeting

Tuesday, April 16, 2013 at 7:00 p.m.

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

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

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

MINUTES

1. OPENING

a. Call to Order & Roll Call

Vice Mayor Jarriel called the meeting to order at 7:00 p.m. Present were Councilmen Tom Goltzené, Ryan Liang and Jim Rockett. Councilman Goltzené left the meeting at 7:30 p.m. Mayor Browning was not in attendance. Also present were Bill Underwood, Managing Partner of Underwood Management Services Group (UMSG), 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 – Vice Mayor Jarriel
- c. Approval of Agenda

Motion: Councilman Goltzene requested reversal in the order of Items 2.a.1 and 2.a.2., and made a motion to approve the Agenda, as amended. The motion was seconded by Councilman Liang. The motion passed 4/0.

Clerk's Note: Please note that these meeting minutes reflect the actual order that agenda items were discussed during the meeting, and may differ from the agenda outline.

2. TOPIC TO BE DISCUSSED

a. Roadway Issues

- 1. Getting Roads “regularized” in Some Way (listed as 2.a.2. on the Agenda)
 - a. Fee simple ownership
 - b. What Degree of Public Use is Needed Relative to Ownership

Town Manager Kutney addressed the Town Council, stating that this issue was brought up at the last meeting, and most Town roads were easements cobbled together to form a road system, not in the ownership of the Town. The issues were how the Town would acquire the rights of way and/or if there was some other degree of public use that would be appropriate to make future public improvement on the roads.

In response to Councilman Rockett, Town Attorney Cirullo explained that the form developed for Bryan Road could be used for any road that the Town wanted to start working on. He explained that Compton and Marcella were dedicated and it was accepted by the LGWCD on behalf of the public. The implementation of that form takes time and money to get individual surveys. The initial step from would be to get in the process of selecting some roads and see how that system works. The form is a useful tool to start putting the documentation in place. With the obligation to maintain the roads, it also becomes the obligation to those who have property on those roads to have them become

TOWN OF LOXAHATCHEE GROVES
SPECIAL TOWN COUNCIL MEETING MINUTES, TUESDAY, APRIL 16, 2013

public roads. Over the course of time, the Town could do a survey and record a map as to the location of the roads.

Town Manager Kutney commented that one of the concerns is whether the roads are really public roads that should be treated as such by a municipality, since they are mainly easements that have been cobbled together.

Councilman Rockett commented that maintaining all of the roads in the Town was being accomplished as best as could be done, and that he thought Compton, Marcella and Bryan were different and that the Town should move ahead with those. He also stated that the Mayor should be party to any kind of statement of where we are going.

Bill Underwood, Underwood Management stated the following: In my professional opinion and my years of experience, as I stated a year ago plus, I have significant concerns contrary to the opinion that the Town Attorney has provided. The issue is the expenditure of public funds for these items. I have expressed a concern, and I stand by those concerns, and that is where I am at.

Town Attorney Cirullo stated that the LGWCD was going to give the Town a quit claim – which is whatever they have they are giving to the Town. They have eighty years of documents where the roads were cobbled together.

Vice Mayor Jarriel stated that the Florida League of Cities had told the Town what had to be done in order to receive gas tax funds, and they have not had a problem with the Town. He referred to language in the Florida Statutes that addressed the length of time required for a road to be deemed public. He stated that the legal advice is that the funds can be used, and management says they are not sure of it, and that he was trying to get the residents of Loxahatchee Groves some type of road service.

Councilman Goltzene explained that reference was being made to F.S. 95.361, and that would involve an entity claiming ownership of land. He added that he was leaving the meeting at this time, and that he supported the management team.

Public Comment:

Ken Johnson, Collecting Canal Rd.: Commented with questions related to the criteria for what roads should be public and what roads should not be public.

TOWN OF LOXAHATCHEE GROVES
SPECIAL TOWN COUNCIL MEETING MINUTES, TUESDAY, APRIL 16, 2013

Bill Louda, 1300 E Rd.: Commented regarding the motion made at the RETGAC meeting of January 31, 2013. and said they got worried that they were collecting gas tax and then spending that on roads that were not really owned, or were deeded private property and wanted the Town to somehow get the correct legal right to maintain those roads.

Todd McLendon, 3481 D Rd.: Commented regarding the requirements for collection of gas tax money.

John Ryan, 3508 A Road: Commented regarding State of Florida requirements for rural local roads, and the method of qualifying for gas tax money.

Frank Schiola, 13434 Marcella Blvd.: Commented regarding the procedure that took place with Bryan Road and Marcella Blvd., and that the Town could follow that example.

Marge Herzog, 966 A Rd: Commented that the people on Bryan Road had been paying the full assessment to the LGWCD for all these years that their OGEM has been down, and that they should be entitled to have the road re-surfaced. She also commented that the Census Map had identified every road with at least two residences on it, and that the Town should be getting gas tax for every road that is used.

Councilman Liang commented that he was open to any process as to how to adopt or claim the roads as Town roads, and that the correct legal descriptions needed to be obtained.

Town Attorney Cirullo stated that there are definitions of public roads and private roadways, and he read a definition of a public road from federal rules. He noted that roads that are on the gas tax map, but have signs or gates on them was something that needed discussion.

2. The “Town Road System” (How to Develop) (listed as item 2.a.1. on the Agenda)
 - a. Process
 - b. Timeline
 - c. Policy for Road Network Prioritization

TOWN OF LOXAHATCHEE GROVES
SPECIAL TOWN COUNCIL MEETING MINUTES, TUESDAY, APRIL 16, 2013

Town Manager Kutney advised that a process needs to be developed, as well as how the roads would be prioritized. He requested direction to the staff as to how to develop this road system.

Howard Voren, 1538 E Rd.: Commented that people who have put up signs to indicate that their road is private should be told they need to remove them, and requested that one of the Town Council members ask the Town Attorney if this was necessary to discuss.

Town Attorney Cirullo stated that it depended on each road. The concept was that because of the way that the road rights have developed, the Town does not have title to those roads just yet and is maintaining them with the anticipation they will receive that dedication. The Town would need to work with those people who had signs or gates up to compel them to remove the signs, and to come to an understanding of what comes along with privatizing a road.

Motion: Councilman Rockett made a motion to move forward with a policy that would include having a Public Works official talk to those with gates on their roads, and an informal letter from the Town Manager. If there was not resolution, then a formal letter from the Town Attorney would be issued. If the matter still was not resolved at that point, the road would be considered a private road. The motion was seconded by Councilman Liang, and passed 3/0.

Town Attorney Cirullo stated that a Comprehensive Plan provides for five year improvements and it is updated on an annual basis. The initial language in the Comprehensive Plan should include the initial five year plan and provide for annual updates. The Town Council needed to provide a mechanism for that in the Town's Comprehensive Plan.

Motion: Councilman Rockett made a motion to generate an RFP which would include Marcella Blvd., Compton Rd., Bryan Rd., the unsurfaced area of Collecting Canal segments and resurfacing F Road. The work would not be done until proper title was transferred to the Town. The motion was seconded by Councilman Liang. The motion passed 3/0.

Public Comments:

Phil Liu, 148th Terrace N.: Commented that 148th Terrace north was a legal Town road, and requested that it be paved first.

Howard Voren, 1538 E Rd.: Requested clarification by what exactly is meant by resurfacing. He noted that he had talked to experts and was told that OGEM could not be installed on top of OGEM – it could only be re-sealed.

TOWN OF LOXAHATCHEE GROVES
SPECIAL TOWN COUNCIL MEETING MINUTES, TUESDAY, APRIL 16, 2013

Councilman Rockett replied that he thought the Town had a quote for F Road. It was a sealing or re-sealing. We would certainly have to define what improvements would be needed on the other roads.

Virginia, 15410 North Rd.: Commented that the language should be consistent when using terms such as maintenance maps and surveys. It was maintenance maps that were being discussed. On F Road, or any project, the Town should not bear the cost of development infrastructure. Proper surveys had never been done and she suggested that an engineering firm could provide the cost of doing a survey of the Town.

Bill Louda, 1300 E Rd.: Commented that the Town would need to be sure that it obtains correct ownership rights for whatever is done.

Town Attorney Cirullo noted that when calculating acreage, there was a ULDC provision that any property dedicated to the Town would be included in that calculation.

Marge Herzog, 966 A Rd.: Commented regarding surplus land that the County had offered to the Town, and that the Landowners Association will be having the surveyor that has been working in Loxahatchee Groves since the 1980's as their speaker.

Councilman Jarriel requested that the Management meet with Ms. Herzog to obtain the information regarding the surplus land.

Lung Chiu, 3270 B Rd.: Commented regarding the Town Council holding the Town Management accountable for implementing the capital improvement plan; any amendments to the plan should have sufficient input from all residents.

John Ryan, 3508 A Rd.: Commented that the resurfacing of the OGEM roads basically needs to patch pot holes, re-seal, and rebuild the humps as necessary and to use some fill to level the road edges. The focus ought to be on public use easements.

Jorge Perez, 1544 B Rd.: Commented that complaints should be the highest priority, and that if the Town was going to get easements, the easements should be more than just the road, because roadways are more than just the road and drainage was needed on both sides of the road. He noted that there were other types of road re-surfacing, such as micro chipping, which was cost effective.

3. Gas Taxes
 - a. Town Council Approval of Gas Tax Maps
 - b. Management Comment

Town Manager Kutney reviewed the information provided in the Agenda Packet. He advised that the Town needed to provide a response to Palm Beach County with a calculation of the municipally maintained lane-miles for distribution of gasoline taxes to each municipality. That data would then be forwarded to the State. He referred to some questionable roads in the Town, which were included in a hand out that Planning Technician Garrett had provided. He explained that if roads are gated and not used as a public roadway they need to come off the map. The roadways in question totaled about two miles in roadway miles.

Discussion took place regarding receipt of the document requesting the gas tax map, and the deadline for turning in the information. Town Manager Kutney said that he would look into an extension of the deadline, and that staff had taken it upon themselves to identify roadways that were not eligible for gas tax. He noted that Town Management has been concerned all along about roads that were basically easements cobbled together.

Motion: Councilman Rockett made a motion to adopt the town road miles, less those items identified as questionable and instruct Town Management to work to resolve as many as they can resolve before the deadline, and the Mayor will sign the letter and those miles will be included back in if those items were resolved. The motion was seconded by Councilman Liang. The motion passed 3/0.

****** A five minute break was taken at 9:15 p.m. The meeting resumed at 9:22 p.m. ******

Bill Underwood, Underwood Management Services Group, addressed the Town Council and provided information regarding the comment in the Management Letter, stating the recommendation that the Town obtain guidance from their Attorney or the State on the allowable uses of gas tax funds and then take appropriate action on past and future expenditures. A test of expenditures in last year's audit had found a large check that had been written using gas tax money for the North Road project, and management would respond that it would address this with the Town Attorney and eliminate this problem for the future. The issue was that the Town did not have title or ownership or easement

relative to that road. He advised that management may come back and request direction from the Town Council about possibly reimbursing the gas tax from the general fund for that expenditure.

Town Attorney Cirullo said that North Road was a district road and it would be put on the list to discuss with the LGWCD.. It sounded like it could be resolved by asking LGWCD to put North Road on the list of roads for which they are getting quit claims.

Motion: Councilman Rockett made a motion to authorize Town Attorney Cirullo to work with the LGWCD counsel to add North Road to the list and to request that LGWCD do the same thing. The motion was seconded by Councilman Liang. The motion passed 3/0.

4. Progress and Next Steps Related to the LGWCD Road Transfers

Town Attorney Cirullo commented that it was expected to get quit claim deeds fairly soon, and that he had explained that the Town was ready to go with Compton and Marcella but that it needed LGWCD to reciprocate, so that both entities could work together on it. The list is growing, but the manner in which we are solving it is the same. Also, he understood that Southern Land and Timber is being spoken to about whatever rights they have. A more tangible memo would be provided within the next few weeks.

John Ryan, 3508 A Rd.: Commented regarding the letter going to Southern States from LGWCD requesting a quit claim deed.

5. Compton Road

- a. Surfacing
- b. Drainage Ditch

Vice Mayor Jarriel stated that he would like to get a bid on cleaning out the drainage ditch on Compton Rd.

Town Manager Kutney advised that issue could be discussed once the Town had the Town Engineer on board.

Councilman Liang commented that before he would approve working on these drainage issues, he would want an easement that allowed that work. That way there is no question about spending funds on private property. He recalled that the folks on Compton Rd were more than willing to grant the Town an easement.

6. Bryan Road

Councilman Rockett stated that Bryan Road had been discussed earlier, and the form was available; the next step was to get in touch with the property owners and have a surveyor identify the road.

7. Red Light at Southern Blvd. and "D" Road

Councilman Jarriel advised that he had requested the inclusion of this item because of the recent FDOT pond siting meetings. He explained that he had mentioned it to the FDOT officials, and that the Town needed to get involved right now in pushing for a red light at the dangerous intersection at Southern Blvd. and "D" Road.

Town Manager Kutney advised that he had established a good working relationship with the FDOT people who were doing the project on the pond siting, and that he would contact them to let them know that the Town is looking at this seriously. The next FDOT pond siting meeting was scheduled for April 23, 2013.

Town Attorney Cirullo stated that the Town Council always has the prerogative to express its preference to other agencies by Resolution. That could be done, and the Council could provide that direction in the future after the preliminary pond siting is done.

Town Manager Kutney responded that he would bring the issue forward at the April pond siting meeting, and then report back; at that point the Town Council could decide on a Resolution.

Motion: Councilman Rockett made a motion to direct Town Manager Kutney to speak with the FDOT head engineer and see what kind of guidance he can give relative to the intersection at "D" Road and Southern Blvd.; a Resolution would then be prepared for the first meeting in May if it was so deemed appropriate. The motion was seconded by Councilman Liang.

Public Comments:

Ken Johnson, Collecting Canal Rd.: - Commented regarding support for a stop light at Southern Blvd. and "D" Road, and also recommended warning blinking lights that alert drivers that the light ahead will be turning red.

Howard Voren, 1538 E Rd.: Commented regarding publicizing a traffic study when the Department of Transportation reviews its plans for Southern Blvd.

Bill Louda, 1300 E Rd.: Commented regarding access points to Southern Blvd. being cut off when it was widened, and that a light at Southern Blvd. and "D" was necessary.

Councilman Rockett commented that a light was also needed at "D" Rd. and Okeechobee.

The motion passed 3/0.

8. 24th Court North

Vice Mayor Jarriel explained that there were two streets involved, and the Fire Department maps indicate that one was a court and one was a circle, which was different than what the road signs indicated.

Public Comment:

Pat McCauley, 14900 24th Circle North: Commented that he had surveys dating back to the 1960's and it indicated a circle, and he explained the survey history of the location.

In response to Vice Mayor Jarriel, Town Manager Kutney advised that as soon as a Town engineer was on board, 24th Court north would be a project to review.

Ms. Lorenz, 14925 24th Circle North: Commented regarding the properties located on 24th Circle, and said that Mr. Yohe of the LGWCD was working with the residents regarding the surveys.

Ken Johnson, Collecting Canal Rd.: Commented that he had surveyed and driven every road in Loxahatchee Groves and made a listing of them. The location being discussed was definitely a problem that needs to be resolved.

TOWN OF LOXAHATCHEE GROVES
SPECIAL TOWN COUNCIL MEETING MINUTES, TUESDAY, APRIL 16, 2013

Marge Herzog 966 A Rd.: Commented regarding the flooding that occurs in the 24th Circle North area..

Vice Mayor Jarriel commented that he had been out to the property to look at the situation, and he would like to see direction tonight to have a simple fix done right now to take two loads of road rock material to put on the corner easement and make that road wider, as well as clearing the drainage area.

Town Manager Kutney advised that relative to a fence being constructed in the area that would prevent access, staff had been trying to make contact regarding a permit. If Council could give direction to start code enforcement, staff could go out there and look into the permit situation.

Barbara Lorenz, 24th Circle: Commented that the fence is not there, but instead of the fence trees had been used. She stated that she would provide the phone number of the property owner to the Town.

Town Manager Kutney stated that staff will try to contact the property owner, however, if the property owner ignores that, he would need the Town Council to provide direction to go ahead and start code enforcement.

Public Comment:

Frank Schiola, 13434 Marcella Blvd.: Commented that the mower that does all of the hedging is down with transmission problems. Another resource may be needed if it was necessary to clear that area.

Discussion took place, and Town Manager Kutney indicated that the road rock was not an issue, and that he could have the LGWCD do the road rock, however, the other work would require further review and an estimate.

Vice Mayor Jarriel clarified that he understood that the LGWCD would do the work for free, just to solve the problem, and he requested that Mr. Kutney clarify that with the LGWCD they were going to do it for free and there would be no cost to the resident.

Councilman Rockett stated that we would not want to have a situation where an emergency vehicle could not get down that road.

Motion: Councilman Rockett made a motion to provide road rock, as well as clearing the debris out of the drainage ditch when the bush hog was available, and get the road widened. The motion was seconded by Councilman Liang. The motion passed 3/0.

9. Speed Humps

Councilman Rockett advised that he would prefer to discuss this matter when a full Council was present, in order to discuss frequency of speed humps and to set a standard for speed hump design. He requested that it be added to the May 7, 2013, Town Council meeting agenda.

5. CLOSING COMMENTS

a. Public

Frank Schiola, 13434 Marcella Blvd.: Commented regarding turning the non-district road easements over to the Town to relieve the legal liability for all residents on a road.

b. Town Attorney

In response to Councilman Rockett, Town Attorney Cirullo explained that the easement statement document drafted for Bryan Road did not address the issue of acreage calculations when roadway easements were assigned. He advised that the ULDC Review Committee would be addressing that issue.

c. Town Council Members

Councilman Liang: None.

Vice Mayor Jarriel: Thanked everyone for their patience and for attending.

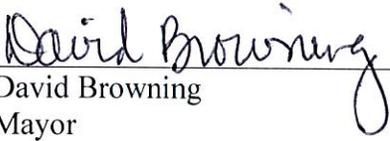
**TOWN OF LOXAHATCHEE GROVES
SPECIAL TOWN COUNCIL MEETING MINUTES, TUESDAY, APRIL 16, 2013**

6. ADJOURNMENT

There being no further business, the Town Council meeting of April 16, 2013, was adjourned at 10:50 p.m.



Susan Eichhorn
Town Clerk



David Browning
Mayor

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