



Town of Loxahatchee Groves

Town Council Meeting

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

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

Mayor David Browning (Seat 4)
Vice Mayor Ronald D. 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

Mayor Browning called the meeting to order at 7:00 p.m. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzené, Ryan Liang, and Jim Rockett. Also present were Bill Underwood, Managing Partner Underwood Management Services Group (UMSG), Town Manager Mark Kutney, Town Clerk Susan Eichhorn, Town Attorney Michael D. Cirullo, Jr., and Town Planning Consultant Jim Fleischmann.

b. Pledge of Allegiance & Invocation – Mayor Browning

c. Approval of Agenda

Vice Mayor Jarriel requested an addition to the Agenda, under Old Business, Item a.: Compton Road Repair.

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

2. CONSENT AGENDA

- a. Minutes for Approval: Revised June 18, 2013; July 2, 2013 Budget Workshop; July 2, 2013 Regular Town Council Meeting

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

3. PUBLIC COMMENT

Ms. Penny Riccio distributed copies of a Sirdar Trucking progress report relative to the mowing and vegetative removal service. Ms. Riccio addressed the Town Council as follows: Mayor Browning and distinguished board members, thank you for allowing me to speak this evening. Sirdar Trucking and Tractor Company is a woman owned, minority owned small business enterprise designated business. It most assuredly is the pleasure of the company and Mr. and Mrs. Sirdar to serve in the capacity of mower and vegetative removal service for the Town of Loxahatchee Groves. Before you we have provided a progress report in which we have established a very methodical, efficient, and effective way of providing the Town of Loxahatchee Groves with top quality service. In our capacity as experts, we are asking at the pleasure of the Town Council to establish a cyclical mowing schedule of mowing sixty miles of Town roads. You designated thirty miles, but when we mow, we mow up one side and down the other, thereby making it sixty miles of Town roads, every forty-five days, with a list of roadways provided to us so kindly by your Town Manager, Mark Kutney. The reason for the request is two fold: One, the current state of Town roads was found, upon close inspection, to be overgrown and in rather disarray with various forms of vegetation, including, but not limited to leaves, vines, trees, and shrubs. In order to maintain the standards to which we have landscaped

your roads, we would need to have constant and consistent access to your roads on a forty five day revolving basis, repeating the mowing of the same main roads, as provided by your Town Manager, who we thank very much for his consideration and respect, every forty five days. To go outside of that pattern would lead to the same problems that you have currently in place. Second, the vegetation has grown on the canal base, along the Town roadway easements, to the canal base, thereby blocking maintenance of Town canals, which directly affects the concerns that FEMA has about the Town of Loxahatchee Groves, as well as the Town Council. FEMA has designated several western communities, including the Town of Loxahatchee Groves, as a flood zone. We would like to partner with the Town to help you address the problem of accessing your canals in order for you to get control of the flooding, and resolve the situation to everyone's satisfaction. Lastly, our services have been well received overwhelmingly from your residents and your community, and we do thank them so much. They come out of their homes to greet us and to thank us so much for the service, and the first question they ask is did the Town send you, and we tell them yes, we have a contract with the Town, and they are just very, very, pleased. As we all know, good customer care is the heart and soul of all businesses. If you have any questions, I would be happy to answer them. Again, thank you so much for choosing us.

Town Manager Kutney replied that he was very sad that this has come up because he believed that Sirdar Trucking, Inc. has done a great job on the Notice to Proceed, however it seemed from Ms. Riccio's comments that an open purchase order is being requested. He referred to contract items 2.3 and 2.4 wherein the terms of the contract were stated, and advised that they would need to live within the confines of the contract, and that he did not appreciate the vendor coming in and trying to change those terms. He stated that he would speak with Ms. Riccio and the vendor.

Mayor Browning read a public comment into the record:

Linda Cowart, 4156 161st Terrace North: Commented regarding appreciation for the trimming job done by Sirdar Trucking, Inc. Also commented regarding a danger existing at the 90 degree turn on the south west beginning of 161st Terrace North, and recommended a blind drive mirror is installed, or the property owner remove vegetation.

4. PRESENTATIONS - None

5. COMMITTEE REPORTS - None

6. PUBLIC HEARINGS (Ordinances 2nd Reading)

7. ORDINANCES (1st Reading) -

a. Public Hearing:

ORDINANCE NO. 2013-04

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, UPDATING THE FIVE-YEAR SCHEDULE OF IMPROVEMENTS FOR THE CAPITAL IMPROVEMENTS ELEMENT OF THE TOWN OF LOXAHATCHEE GROVES COMPREHENSIVE PLAN PURSUANT TO STATE STATUTE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Ordinance No. 2013-04 by title as printed above.

Town Planning Consultant Jim Fleischmann reported that Ordinance No. 2013-04 is an update to the capital improvements in the capital improvements element (CIE) of the Comprehensive Plan. The schedule of improvements was being updated first, and the updates to the text would be brought next month. He referred to the staff report which indicated that the Town would come into compliance with F.S. Section 336.25(b)3, which required the CIE of the Town's Comprehensive Plan to identify projects to be funded with 5 cent gas tax revenues. The Comprehensive Plan requires that an update be done once a year. Thus two requirements were being met with this Ordinance. We do have the ability to make changes in the 5 year schedule in-between first and second reading, and staff intends to include several projects approved by the Loxahatchee Groves Water Control District (LGWCD) at their last meeting, and incorporate them into the second reading of the ordinance.

Discussion took place, and it was the **consensus of the Town Council to address Ordinance No. 2013-04 after Item 8.a., which related to budget decisions that needed to be made.**

Clerk's Note: All items discussed below were included with approval of Ordinance No. 2013-04.

8. RESOLUTIONS

a. Budgetary Decisions Related to Resolutions No. 2013-06 and 2013-07

Reference was made to the Memorandum from Underwood Management Services, LLC, dated July 8, 2013, (included in the back up Agenda Packet) regarding inclusions or exclusions to the 2014 budget.

Motion: Councilman Goltzené made a motion to appropriate \$300,000 in the budget to pave “D” Road with typical pavement to the bridge, then OGEM from the bridge to Collecting Canal, with the LGWCD agreeing, and that the Town receive whatever was needed to obtain proprietary. The motion was seconded by Vice Mayor Jarriel. The motion passed 5/0.

Town Attorney Cirullo explained that anytime the Town Council identified a project, staff would engage in conversations on the process for those roads with the LGWCD.

Public Comments:

Ken Johnson, Collecting Canal Rd.: Commented regarding what would happen to Tangerine with this concept. Councilman Goltzené replied that it would stay as a legitimate intersection.

Motion: Councilman Goltzené made a motion to approve the Capital Improvement budget funding for OGEMing Tangerine from “D Road west to back entry into the plaza. The motion died for lack of a second. That project was therefore removed from consideration in the budget.

Motion: Motion by Councilman Rockett to eliminate the Town Hall Alternative funding at \$50,000. The motion was seconded by Councilman Liang. The motion passed 5/0.

Motion: Motion by Councilman Liang to approve the capital improvement funding for trails and development of linear park from “A” Road to Folsom, funded at \$80,000 in FY 2014; \$100,000 in FY 2015; and \$100,000 in FY 2016; included in the motion was that Town Attorney Cirullo is directed to work with the LGWCD on getting the trails opened up on “A” Road to Folsom. The motion was seconded by Councilman Goltzené. The motion passed 5/0.

Motion: Councilman Rockett made a motion for the budget amounts of \$100,000 for FY2015 and FY2016 to be put under a line item entitled "trails" in general. The motion was seconded by Councilman Goltzené. The motion passed 5/0.

Motion: Councilman Rockett made a motion to approve funding at \$250,000 for a cable/wire signal at the intersection of "D" Road and Okeechobee. The motion was seconded by Councilman Liang.

Discussion took place.

The motion passed 3/2, with Mayor Browning and Councilman Goltzené dissenting.

Regarding LGWCD roads being transferred to the Town before October, 2013, per Town Attorney Mike Cirullo, and providing funding as a grant from the General Fund for previously OGEMed roads at \$28,934 per year after transfer, or provide a capital acquisition of the OGEMed roads through the Transportation Fund:

Motion: Councilman Rockett made a motion to include funding in the amount of \$28,934 per year in the budget, as a capital improvement project, for the next five years starting in 2014, with the understanding that every capital expenditure will be considered for approval by the Town Council each year, as it comes up. The motion was seconded by Vice Mayor Jarriel. The motion passed 5/0.

Motion: Councilman Rockett made a motion that the last 5 motions, relative to the Capital Improvement fund will be incorporated, as a first reading change into Ordinance 2013-04, which is now approved on first reading, as amended. The motion was seconded by Councilman Goltzené. The motion passed 5/0.

Mr. Underwood explained that upon determination of the millage rate and solid waste collection rate, staff could prepare the budget for presentation and adoption, at two scheduled public hearings.

Discussion took place.

Motion: Councilman Rockett made a motion to set the millage at 1.500 and set the solid waste assessment at 344.37 per residential unit. The motion was seconded by Councilman Liang. The motion passed 4/1, with Councilman Goltzené dissenting.

*****A break was taken at 8:30 p.m. The meeting was resumed at 8:40 p.m.*****

b. **RESOLUTION NO. 2013-06**

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, 2013; 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. 2013-06 reads by title.

Town Attorney Cirullo stated that the previous motion indicated that the solid waste assessment per residential unit was \$344.37; Town Manager Kutney advised that the estimated solid waste assessment total for the Fiscal Year commencing October 1, 2013, was \$427,784.

Town Attorney Cirullo explained that because the rates were being raised from last year, a first class mail notice would need to be sent out to residents, so that they could be noticed that the Town Council was considering this preliminary rate. He stressed that the rate set tonight was only preliminary. A public hearing date would also need to be set.

Motion: Vice Mayor Jarriel made a motion to set the public hearing meeting date for adoption of the solid waste assessment Resolution for Tuesday, September 10, at 5:05 p.m. The motion was seconded by Councilman Liang. The motion passed 5/0.

Motion: Councilman Rockett made a motion to adopt Resolution No. 2013-06. The motion was seconded by Councilman Liang. The motion passed 5/0.

c. RESOLUTION NO. 2013-07

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA ADOPTING A PROPOSED OPERATING MILLAGE RATE OF 1.500 FOR GENERAL OPERATING BUDGET PURPOSES FOR FISCAL YEAR 2013/14; APPROVING AND AUTHORIZING TRANSMITTAL OF THE FORM DR 420 TO THE PROPERTY APPRAISER; PROVIDING FOR THE ESTABLISHMENT OF AND SETTING FORTH THE DATE, TIME AND PLACE OF THE PUBLIC HEARING TO CONSIDER THE FISCAL YEAR 2013/14 PROPOSED MILLAGE RATE AND TENTATIVE BUDGET; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Resolution No. 2013-07 by title, as printed above.

Town Attorney announced that the first public hearing was scheduled for September 3 at 7:00 p.m.

Mr. Underwood presented the rolled-back millage rate of 1.2845 mills.

Motion: Councilman Rockett made a motion to adopt Resolution No. 2013-07. The motion was seconded by Councilman Goltzené. The motion passed 5/0.

d. RESOLUTION NO. 2013-08

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A BUDGET AMENMENT FOR THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING

OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Town Attorney Cirullo read Resolution No. 2013-08 by title, as printed above.

Motion: Vice Mayor Jarriel made a motion to adopt Resolution No. 2013-08. The motion was seconded by Councilman Rockett. The motion passed 5/0.

9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

Town Manager Kutney provided an update on the following issues:

- The residential enterprise ordinance would be reviewed and further information would be presented at the August 6, 2013, Town Council meeting.
- Progress being made by Sirdar Trucking, Inc. with mowing and vegetative trimming.
- Provided an updated prioritized business initiatives list, identifying 37 projects. He noted that the list does not include the one time occurrences, nor the daily staff projects.
- Town engineering vendors would review the FEMA maps, and the traffic engineering vendor would be reviewing the traffic signal situation.
- Councilman Rockett referred to the weekly significant issues report, and questioned the item concerning Callery-Judge. Town Manager Kutney explained that he had met informally with developers that were working with Callery-Judge, and that he had indicated the Town's concerns relative to Okeechobee Blvd.

10. OLD BUSINESS - *None*

a. Compton Road potholes

Vice Mayor Jarriel explained that the potholes on Compton Road were too big, and that he had spoken with LGWCD, and would like the Town Council to direct management to fill the holes with road rock material. That would bring the safety factor back to where the road was safe to ride on.

Motion: Vice Mayor Jarriel made a motion to put road rock material on Compton Road. The motion was seconded by Councilman Rockett.

Town Manager Kutney confirmed that he would check to see if it could be done as a road repair, if it could not be done under road rock material.

After further discussion, the motion passed 4/1 with Councilman Goltzené dissenting.

11. NEW BUSINESS

a. Annual Management Team Evaluation (*Councilman Rockett*)

Councilman Rockett: In this package is, I believe, that my note is included. The note is simply a reminder to the Town Manager, that according to the copy of the contract that we have with the Town Management team, that performance criteria and evaluation contract for Town Management services shall be reviewed annually. This annual review will be comprised of performance and evaluation criteria established with management and town Council based upon the duties contained in the contract, along with the Town management report through June of the current year prepared by the Town Manager. This annual review of the contract of Town Management Services shall occur no later than August 1st of each year, and the Town Manager is responsible for placing this annual review on the Town Council Agenda. All I did is send a note to the Town Manager saying I don't recall having this done and August 1st is upon us, and if we don't do it this next meeting, we will miss it. So, it was written up as I requested the item on the Agenda. So, since I am on the agenda as the requestor, I guess I have the flexibility to take it off. But my point is, we should have had it this meeting – we should have had the discussion. The town manager is responsible for that, not me. If we put it off, we can put it at another time. If he doesn't hold it by August 1st, we don't fire him, so I guess it's okay. But I would suggest that he put it on an appropriate schedule for the Town Council; but first thing, it's kind of ironic, we are talking about the Town Manager schedules his own performance review – that's our contract. One of the things that has to be presented is a report through June of the current year. We don't have that. That is one of the criteria. We don't have that, so we can't have a review. So I am suggesting to the Town Council that we postpone this until we can have a report through June prepared for us to be included as one of the criteria we have to use in the evaluation, but I underscore the fact that this is not something that we should have to bring up, and if the Town Manager misses his own performance criteria deadline that tells me a little something right there, but I suggest we take it off the agenda and postpone it until such time as the Town Manager is prepared to give us all of the information we need, and not in the too distant future.

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Town Manager Kutney: Mayor, we have two items at play here. Councilman Rockett did mention the fact that the evaluation is due and he is correct. We put it on; we are ready to discuss it tonight. There are two issues – you are talking about a review of the Town Management Company, based upon the contract, and then what Councilman Rockett is referring to is one of the responsibilities of the Town Manager is a report that is due at the end of June. We provided that in terms of the budget we provided you at the end of June. We did meet that requirement, plus I give you a significant events email every week, plus we give you all the financials and the FAAC Report. So I suppose if the Councilman is asking for another report to do another work item, I will be happy to do that, but I think we cover everything. If there are any questions that you have about what is going on, we can do that. I did look back at the previous management company—what they did, and they did the same thing. They did basically a report to you, line items, where the budget was, and that's it. We are ready to go line item by line item if Councilman Rockett likes. We can talk about how we are meeting the contract. But, I hope he is not trying to make this personal, because really we should be reviewing the Management Company, and not the Town Manager, we work as a Management Company. With that I would be happy to address it any way you want.

Mayor Browning: Let's take it off the agenda.

Councilman Rockett: The report is not only financial. The other point to be made the agenda items we were given – we were given two and a half pages in the agenda for items to be used for performance evaluation—two and a half pages out of seven and a half that were in the contract; one page is for town manager; in fact, there is six and a half pages in the contract that describe town manager responsibilities. We were not even given enough to look at to remind you what is the criteria we are giving an evaluation on. So from the management report through June about financial only and the documentation that you need -- we probably need to set the contract out so that all of the items are included. One of the items that was not included was the document I read from that performance criteria and evaluation was his responsibility to include it on the calendar. So, we need better input to us. So some day in the future --

Town Manager Kutney: Your honor, as I indicated, we are ready to go through every item in the contract tonight. I thought that is what he wanted to do. You know, I didn't put a copy of the contract in. I suppose I could have done that. We did that last year, and last year we didn't even talk about it, so I did not think it was necessary. But I've got it right here. I have it right here, and if you would like to, we can go through it line item by line item.

Councilman Rockett: The Council cannot look at something now and give an evaluation.

Town Attorney Cirullo: So, there is no action on that one.

- b. Approval of Engineering Contracts with Keshavarz for General Engineering Services; Simmons & White for Traffic Engineering, A & B Engineering, Inc. for surveying

Town Manager Kutney reported that all three Engineering Contracts were ready for approval.

Motion: Councilman Goltzené made a motion to approve the contract for Keshavarz & Associates, Inc., for general engineering. The motion was seconded by Councilman Liang. The motion passed 5/0.

Motion: Councilman Rockett made a motion to approve the contract for Simmons and White, Inc., for traffic engineering. The motion was seconded by Vice Mayor Jarriel. The motion passed 5/0.

Motion: Councilman Rockett made a motion to approve the contract for A & B Engineering, Inc., for land surveying. The motion was seconded by Vice Mayor Jarriel. The motion passed 5/0.

- c. Discussion of Land Use Policy for Southern Boulevard Corridor (*Councilman Goltzené*)

Councilman Goltzené suggested that an additional workshop is held for input on the Southern Blvd. corridor.

Discussion took place on having the workshop take place directly before a Town Council meeting, having another workshop on the Okeechobee Blvd. corridor, and contacting people in the area affected to see which dates work best for them.

Public Comment:

Todd McLendon, 3481 D Rd.: Commented that many people who live here do not want government in their lives, and therefore do not come to the meetings; that people who live on Tangerine do not want commercial there; suggested that people come to a workshop and have some input.

It was the consensus of the Town Council to direct staff to contact property owners and residents, and let them know of a proposed workshop on the Southern Blvd. corridor, and ask for acceptable dates for a workshop.

- d. Discussion of Roadway, Equestrian Trails and Greenway Advisory Committee (RETGAC) Proposal to Allow Golf Carts and Side-by-Side UTVs on Town Roads (*Councilman Goltzené*)

Councilman Goltzené requested that Town Attorney Cirullo is directed to research golf cart and side-by-sides laws and report back to the Town Council

Vice Mayor Jarriel suggested that Town Manager Kutney could express to Lt. Combs that those riding golf carts and side-by-sides are not ticketed, but are stopped to ask what they are doing, and checked for license and registration.

Public Comment:

Ken Johnson, Collecting Canal Rd.: Commented that the police should be allowed to do their job, and the town should just go by State regulations.

Frank Schiola, 13434 Marcella Blvd.: Commented regarding the need to have regulations.

Nina Corning, 2834 E Rd.: Commented regarding keeping motorized vehicles off of the greenways.

Virginia Standish, 15410 North Rd.: Commented regarding using common sense with regulations, and keeping motorized vehicles off the greenways.

It was the consensus of the Town Council to allow Town Attorney Cirullo to do the research on golf cart and side-by-sides, and report back to the Town Council.

12. CLOSING COMMENTS

a. Public

Virginia Standish, 15410 North Rd.: Commented regarding dangerous areas of erosion on District Roads, and bringing it to the attention of the Intergovernmental Coordination Committee.

John Ryan, 3508 A Rd.: Commented regarding obtaining an acknowledgement from Palm Beach State College that they will not claim an exemption for assessments from the District.

b. Town Attorney

c. Town Council Members

Councilman Goltzené: Thanked everyone for coming and thanked the Town Council for considering his concerns.

Vice Mayor Jarriel: Requested consensus from the Town Council for support on a Petition for a red light at D Rd. and Okeechobee Blvd., imprinted with the Town logo. **It was the consensus of the Town Council to support the Petition and the use of the Town logo.** Vice Mayor Jarriel read into the record a letter to Town Manager Kutney from the Florida Forest Service in support of installing a traffic light at D Rd. and Southern Blvd.

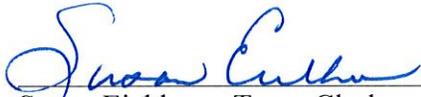
Councilman Liang: Thanked everyone.

Councilman Rockett: Thank everyone.

Mayor Browning: Reported that potholes on D Road, on the east side, are causing a wash out between Alton and Okeechobee Blvd. Somebody needs to get some rock in there to fill them up until they can be repaired. Thanked everyone.

13. ADJOURNMENT

There being no further business, the Town Council Meeting of July 16, 2013, was adjourned at 10:25 p.m.


Susan Eichhorn, Town Clerk


David Browning, Mayor

(SEAL)

These minutes were approved by the Town Council on August 20, 2013