



# Town of Loxahatchee Groves

## Town Council Meeting

Tuesday, January 14, 2014 at 7:00 p.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 Janet K. Whipple  
Town Attorney Michael D. Cirullo, Jr.

### MINUTES

#### 1. OPENING

- a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:07 p.m. Present were Mayor Browning, Vice-Mayor Ronald D. Jarriel, and Councilmen Tom Goltzené, Ryan Liang, and Jim Rockett. Also present were Town Manager Mark Kutney, Town Attorney D. J. Doody, Town Planning Consultant Jim Fleischmann, and Town Clerk Janet K. Whipple.

- b. Pledge of Allegiance & Invocation – Mayor Browning

- c. Approval of Agenda

- Request by Town Manager Kutney to amend the Agenda and combine:

- 1.) **6.b.** – Resolution No. 2014-02 – Terminating for Convenience, the Agreement with Sirdar Trucking, Inc.
- 2.) **9.a.** – Retain Sirdar Trucking for mowing and hedging only in Loxahatchee Groves (Vice-Mayor Jarriel).

**3.) 9.b.** - All costs incurred with the Sirdar Trucking investigation and termination (example: legal fees, Engineer studies, all investigations by Town Staff & Public Works Director). (*Vice-Mayor Jarriel*) (Costs will be provided at meeting).

**Motion:** Councilman Liang made a motion to amend the agenda per Town Manager Kutney's request. Vice-Mayor Jarriel seconded the motion. Upon vote, the motion passed 5/0.

## **2. CONSENT AGENDA**

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: December 3, 2013
- c. **RESOLUTION NO. 2014-01: Budget Amendment Fiscal Year 2013/2014.**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A BUDGET AMENDMENT FOR THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2014; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

**Motion:** Vice-Mayor Jarriel made a motion to approve the Consent Agenda. Councilman Liang seconded the motion. Upon vote, the motion passed 5/0.

## **3. PUBLIC COMMENT**

Marge Herzog, 966 A Road, wanted to make sure the Town Council Meeting is posted prior to a meeting. She noted that during the LGLA (Loxahatchee Groves Landowners Association) meeting on Thursday, January 23, 2014, the PBSO (Palm Beach County Sheriff's Office) will provide a Plan of Action Report on the course of action of what happened at the Loxahatchee Groves Plaza.

Phyllis Maniglia, 359 West D Road, appreciated that the golf cart signs have been put up, and would like to have horse caution signs put up as well; maybe combine caution/right-of-way signs for both golf carts and horses and place them at the other end of D Road. On 6<sup>th</sup> Court North there is a ditch that she does not remember being there, she suggested maybe a culvert and dirt for better access.

## **4. PRESENTATIONS**

- a. John Carter, Vice-President of Minto Communities and Don Hearing, Co-Owner of Coutler Hearing-Landscape Architects, will provide a power-point presentation on Minto West (Callery Judge) Development.

**Councilman Goltzené declared a Conflict of Interest for 4.a.**

Don Hearing, Co-Owner of Coutler Hearing, made introductions, and spoke on the conceptual plan for the Minto West project. The plan will find a program that will fit within the western communities and also provide a non-residential element, and a facility of higher education. There will be two main thoroughfares; one 60<sup>th</sup> Avenue to the north, and a parallel road to the south which will connect Persimmon Boulevard and Orange Grove Boulevard. The concept proposes walking and golf cart pathways, waterways, and bridle trails. The company would like opportunities to work with the Town, and noted they are available to collaborate.

Council discussed different facets of the project with Mr. Hearing and their concerns with density issues, and the impact on Okeechobee Boulevard.

Howard Voren, 1538 E Road, asked Mr. Hearing if he had meetings with any Council Members.

Mr. Hearing stated that during separate individual meetings to look at the property, he met with Vice-Mayor Jarriel, Councilman Goltzene, Councilman Liang, and Town Manager Kutney.

Members of the audience provided opinions on the proposal.

Mr. Hearing noted the property could accommodate a spring training area. Drainage needed to be addressed, and suggested they could return for updates.

- b. Joe Doucette, Chief of Operations, from the Inspector General's Office to provide a PowerPoint presentation to the Town Council concerning contract piggybacking.

Hank Nagel from the Office of the Inspector General (OIG), provided guidance and insight on piggybacking, and provided a basic fundamental element of sound procurement practice. The OIG procurement ordinance covers most all information needed. He suggested the Town review the Palm Beach County Purchasing Code, and provided the theory behind piggybacking on contracts. The National Association of State Budget Officers (NASBO) created state policy. He noted piggybacking is efficient, and encourages open procurement for transparency. It also saves resources. He encouraged open competition, and recommended getting three (3) to four

(4) quotes. If the bids are lower than piggybacking, then go with that. Limit piggybacks to identical items. He provided how to properly piggyback.

Mayor Browning called for a four (4) minute break 7:52 – 8:00.

**5. COMMITTEE REPORTS – NONE**

**6. RESOLUTIONS**

a. **RESOLUTION NO. 2014-02: Acceptance/General Release for Sirdar Trucking:**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, TERMINATING FOR CONVENIENCE THE AGREEMENT FOR MOWING AND VEGETATIVE REMOVAL SERVICES BETWEEN THE TOWN OF LOXAHATCHEE GROVES AND SIRDAR TRUCKING, INC.; PROVIDING FOR DELIVERY OF THIS RESOLUTION; PROVIDING FOR SEVERABILITY, CONFLICT, AND AN EFFECTIVE DATE.**

Town Attorney Doody read title of Resolution No. 2014-02.

Town Manager Kutney explained Resolution for Termination, and included 9.a. and 9.b. of the Agenda to be included in this discussion.

**Motion: Vice-Mayor Ron Jarriel made a motion to approve Resolution No. 2014-02 for termination. Councilman Liang seconded the motion.**

Howard Voren, 1538 E Road, suggested that instead of hedging trees just cut them down.

**Upon vote, the motion was approved 5/0.**

**7. ORDINANCES**

a. **ORDINANCE NO. 2013-11 / FIRST READING / PUBLIC HEARING:**  
**(Historical Legacy):**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO HISTORICAL LEGACY USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 75-035, ENTITLED “USES AS OF OCTOBER 1, 2006” TO ADD THE TERM HISTORICAL LEGACY TO THE SECTION TITLE; TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO REQUIRE THAT THE PROPERTY ON WHICH THE USE IS LOCATED SHALL HAVE BEEN OWNED AND SUBJECT TO A HOMESTEAD EXEMPTION IN THE NAME OF THE OPERATOR OR HIS OR HER DIRECT RELATIVE RELATED BY BLOOD OR MARRIAGE; TO REQUIRE THAT THE USE DOES NOT PRESENT A THREAT TO PUBLIC HEALTH; TO REQUIRE THAT THE USE HAS NO HISTORY OF CODE VIOLATIONS OR THE USE HAS BEEN BROUGHT INTO CODE COMPLIANCE; TO REQUIRE THAT THE OWNER-OPERATOR SUBMIT AN AFFIDAVIT STIPULATING TO COMPLIANCE WITH CERTAIN CONDITIONS; AND TO REQUIRE REVIEW AND INSPECTION BY THE TOWN; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Doody read the title of Ordinance No. 2013-11.

Jim Fleischmann, Town Engineering Consultant, provided background information.

**Per consensus of Council, better definitions will be included for second reading along with clearer reference to homesteaded properties.**

**Motion: Councilman Goltzené made a motion to approve Ordinance No. 2013-11 on first reading, as amended; simplified, in that Jim Fleischmann will bring about the definition section; reference Palm Beach County Code relevant to junk yards; note businesses must have existed continuously before and still be in business; and owners were and still are residents. Councilman Liang seconded the motion.**

Howard Voren, 1538 E Road, discussed with Council public safety, and time frames.

John Ryan, 3508 A Road also discussed with Council having a business and homestead on same property may be impractical.

Dennis Lipp, 13402 North Road, Chair of the Planning & Zoning Board, stated that the Board did not take a close look at the ordinance and too much is being added. If property is sold it will be selling the property not the business. He feels the ordinance should go back to Planning & Zoning for review, prior to second reading.

Council discussed additional changes that might be made.

Council Member Rockett requested that Ordinance No. 2013-11 be brought back to Council with the changes, made by the staff, prior to second reading.

**Upon vote, the motion passed 5/0.**

**b. ORDINANCE NO. 2014-01 / FIRST READING / (Drysdale – Comprehensive Plan Amendment):**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING AN AMENDMENT TO THE TOWN OF LOXAHATCHEE GROVES ADOPTED COMPREHENSIVE PLAN, IN ACCORDANCE WITH CHAPTER 163, FLORIDA STATUTES, CONCERNING A SMALL-SCALE LAND USE PLAN AMENDMENT APPLICATION PROPOSED BY NANCY C. DRYSDALE THE APPLICANT AND PROPERTY OWNER TO CHANGE THE DESIGNATION OF THE SUBJECT USE OF LAND FROM RURAL RESIDENTIAL 5 (1 DU PER 5 ACRES) IN THE TOWN'S ADOPTED PLAN, TO COMMERCIAL LOW (CL) FOR FUTURE DEVELOPMENT OF PROPERTY ON 6.55 ACRES MORE OR LESS LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND LOXAHATCHEE AVENUE, LOXAHATCHEE GROVES, FLORIDA (AMENDMENT 2013-02), LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT "A" TO THIS ORDINANCE; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE**

**PLAN TO REFLECT SUCH CHANGE;PROVIDING FOR CONFLICTS;PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Doody read the title of Ordinance No. 2014-01.

Jim Fleischmann explained that Ordinance No. 2014-01 and Ordinance No. 2014-02 were related to the same property so he only prepared one staff report. The first Ordinance is for a small scale amendment to the Comprehensive Plan, and the second was for a zoning change. He provided background information on the property.

Council Member Goltzené suggested the Town needed adequate buffering when the site plan is presented in order to not impact the neighborhood, as commercial designation will impact the quality of life.

Town Attorney Doody suggested the Council adopt the Ordinances at first reading and later reconsider the conditions of one (1) thru six (6) on page ninety-three (93).

**Motion: Councilman Rockett made a motion to approve Ordinance No. 2014-01 with exclusion of conditions one (1) thru six (6). Vice-Mayor Jarriel seconded the motion.**

John Ryan, 3508 A Road, wanted to make sure it will be the Town Council's intent that the property owner is responsible for fees incurred from staff time.

Upon vote, the motion passed 5/0.

c. **ORDINANCE NO. 2014-02 / FIRST READING: (Drysdale – Zoning Change):**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE REZONING OF LAND CONSISTING OF 6.55 ACRES, MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND LOXAHATCHEE AVENUE, LOXAHATCHEE GROVES, FLORIDA (REZ 2013-03), LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT "A" TO THIS ORDINANCE, FROM TOWN OF LOXAHATCHEE GROVES ZONING DESIGNATION AGRICULTURAL RESIDENTIAL (AR) TO THE TOWN'S ZONING DESIGNATION COMMERCIAL**

**LOW (CL) IN ACCORDANCE WITH A SMALL-SCALE LAND USE PLAN AMENDMENT APPLICATION BY NANCY C. DRYSDALE , THE APPLICANT AND PROPERTY OWNER THROUGH ORDINANCE 2014-01; PROVIDING FOR THE APPROPRIATE REVISIONS OF THE ZONING DISTRICT MAP; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Doody read the title of Ordinance No 2014-02

**Motion: Councilman Liang made a motion to approve Ordinance No. 2014-02 on first reading. Councilman Rockett seconded the motion. Upon vote, the motion passed 5/0.**

Mayor Browning called for a short break.

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

- a. Representative Pafford Town Hall Meeting.

Town Manager Kutney mentioned that on January 23, 2014, Representative Mark Pafford will be holding a Town Hall Meeting between 6:00 and 7:30 p.m. at the Town of Royal Palm Beach Cultural Center, 151 Civic Center Way. Also Lt. Combs from the Palm Beach County Sheriff's Office (PBSO) requested Town Manager Kutney advise Council that on January 23<sup>rd</sup> the PBSO (Palm Beach County Sheriff's Office) will be conducting a presentation to the Loxahatchee Groves Land Owners Association (LGLA) on the Palms West Project Crime Prevention Efforts, especially concerning issues around the Plaza and the A&G Market area.

- b. December 26, 2014 letter from the Office of the Inspector General (OIG).

Town Manager Kutney reported that Town Council received a letter from the Office of the Inspector General (OIG) on December 26, 2013, due to a complaint they received relative to the December 3, 2013, meeting where Mr. Kutney's credibility was challenged. The letter stated the comments Mr. Kutney made were correct, despite the negative remarks to the contrary.

Council discussed golf cart signage, and restrictions.

Town Manager Kutney responding to a comment by Vice-Mayor Jarriel concerning a letter dated November 19, 2013, from the engineers concerning the red light at D Road and Okeechobee Boulevard, stated that he will send a letter to Palm Beach County to start a dialog on that matter and he will copy the Town Council.

**9. OLD BUSINESS**

- a. Retain Sirdar Trucking for mowing and hedging only in Loxahatchee Groves. (Vice-Mayor Jarriel)
- b. All costs incurred with the Sirdar Trucking investigation and termination (example: legal fees, Engineer studies, all investigations by Town Staff & Public Works Director). (*Vice-Mayor Jarriel*) (Costs will be provided at meeting).
- c. Replacing Culvert on F Road and Compton Road. (*Vice-Mayor Jarriel*) Presentation by Town Engineers, Keshavarz & Associates, Inc. who will be reviewing culvert and roadway conditions on Compton Road.

Town Manager Kutney stated that he had inspected the conditions of Compton Road with members of Keshavarz and Associates, the Town Engineers. He then introduced Maziar Keshavarz, who provided an in-depth report on the findings.

Following the report from Mr. Keshavarz, Council discussed the poor conditions of the Compton Road culvert; and a common theme that poor drainage was causing road deterioration, which was prevalent on all three roads (Compton Road, Bryan Road and Marcella Boulevard); The length of time OGEM has been on these roads, and the cost of Keshavarz fees were also discussed. The application of sealed bids was brought up, along with the names of two local contractors who could do the road work. There were conflicting thoughts as to whether the Town needed an Engineer prior to any actual road work.

The Engineers should provide specs before any road work is commenced. Discussion followed on trimming the thick vegetation along the roadways; one of the reasons water cannot drain.

Members of the audience, suggested to Council that roads flood due to clogged culverts, and the Town's district and non-district roads have never had engineering seals.

Harold Murphy, 13245 Compton Road, said he was the one who said he would fix the culvert but the Town has not done their part yet.

Jeff King, North Florida Emulsions, went to Compton Road, and offered his opinion.

Town Manager Kutney reaffirmed that Council gave him two (2) directives: One to inquire about piggybacking for OGEM surfaces, and he is working with Volusia County for that information; and two, to acquire three (3) quotes to do the culverts.

Discussion ensued concerning public roads verses private property roads and the due process to notify the private owners that the private part of the roads may be resurfaced.

Christine St. John, 14220 43<sup>rd</sup> Road North, did not want the Town to trespass on her private road.

The specifications from the Loxahatchee Groves Water Control District (LGWCD) were discussed as the reference for road evaluation use, instead of hiring an outside Engineering firm.

Members of the Council apologized to Mr. Keshavarz if anything they said may have offended him during the discussion of hiring an Engineer to review the road matters.

- d. Consideration of Contracts with North Florida Emulsions concerning Compton Road, Bryan Road, and Marcella Boulevard. (Vice-Mayor Jarriel) (Documents will be provided by addendum, if time permits.)
- e. Contract with Vacant Registry Company. (Vice-Mayor Jarriel) (Documents will be provided by addendum, if time permits.)

Town Manager Kutney explained the piggybacking contract with Vacant Registry.com (Federal Property Registration Corporation). Wordage for Section 1.e. of the original contract with the City of Lakeland will be modified for the Town of Loxahatchee Groves.

**Motion: Councilman Liang made a motion to accept the agreement with Federal Property Registration Corporation as amended. Councilman Rockett seconded the motion. Upon vote the motion was approved 3/2 with Mayor Browning and Councilman Goltzené casting dissenting votes.**

- f. Discussion of Home Occupations / Home Business / Residential Enterprise - Billy Kline (*Vice-Mayor Jarriel*)

After Town Manager Kutney explained the Billy Kline matter, Councilmembers and members of the audience discussed commodity sales within the residential area; and if there was a possibility that Mr. Kline could sell his product at a commercial storefront or at the Red Bard. The topic of cost recovery can up, and also the fact that Mr. Kline could not fall under the “Historical Legacy” umbrella, since his residency could not been grandfathered in.

Billy Kline, 3191 E Road, stated he was in compliance with the Town. He does not stock items he only orders item.

Town Manager Kutney, per Council's request, will send a letter concerning Highland County and Port St. Lucie's ordinances relating to Home Occupational Licenses to the Planning and Zoning Board for review, to see if the regulations could be applied to the Town of Loxahatchee Groves.

- g. Continued Discussion for Continuance of ULDC (Unified Land Development Code Review Committee).

Town Manager Kutney reported that Council had directed him to return with items that still needed to be addressed by the ULDC. The items left to address are: ULDC Article 75 - Non Conforming Uses; ULDC Article 87 - Native Tree Preservation, Soil Stabilization, and Invasive Exotic Removal, and ULDC Article 90 - Sign Provisions. If Council directs, the two ordinances from Highlands County and Port St. Lucie could be brought before the Board for review as well. He reported the costs.

Council discussed with Town Manager Kutney, whether Article 87 needed to go to the ULDC at all; whether Council or Staff needs to select necessary items for the Committee to review; the review of new shopping center signs; bringing one item at a time to the committee; and to keep the Committee in existence for one year, and have them convene when necessary; and bill hourly.

**Motion: Councilman Rockett made a motion to adopt Resolution No. 2014-03, with changes Council made for the record; to extend the ULDC until December 2014. Councilman Liang seconded the motion.**

Discussion from members of the audience ensued, concerning FEMA, and the number of staff members attending committee meetings.

**Upon vote, the motion passed with changes, 5/0. (Funding on a meeting by meeting basis)**

Councilman Goltzene stated he will be running again for Town Council, and left at 11:30 p.m.

## **10. NEW BUSINESS**

- a. Discussion and direction to the Town Manager, Town Attorney, and Town Staff regarding future hearings related to Minto West.

Town Manager Kutney provided background and what will be required by Council in the future, and that he will keep them informed.

**Motion: Councilman Rockett made a motion to authorize Mayor Browning, to retain the services of the Town Attorney in the amount up to \$20,000 to represent the Town in order to monitor the Minto West project. The motion failed for lack of a second.**

**11. CLOSING COMMENTS**

- a. Public - None
- b. Town Attorney

Town Attorney Doody stated he had no comments, but thank Council for the opportunity to attend the meeting.

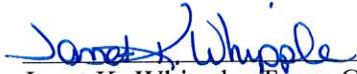
- c. Town Council Members

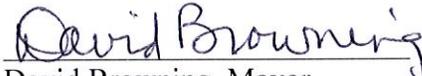
Vice-Mayor Jarriel wished everyone a safe journey home.

Councilman Liang thanked everyone, and hoped they had a Happy Holiday, and Happy New Year.

Councilman Rockett also thanked everyone for coming.

**12. ADJOURNMENT**

  
\_\_\_\_\_  
Janet K. Whipple, Town Clerk

  
\_\_\_\_\_  
David Browning, Mayor

(SEAL)

**These minutes were approved at the February 18, 2014, Town Council Meeting.**