



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, March 4, 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 7:00 p.m. Present were Mayor Browning, Vice-Mayor Jarriel, Councilmen Goltzené, and Rockett. Councilman Ryan Liang was absent at this time. Also present were Town Manager Mark Kutney, Town Planning Consultant Jim Fleischmann, Town Attorney Cirullo, and Town Clerk Janet K. Whipple.

- b. Pledge of Allegiance & Invocation – Mayor Browning
- c. Approval of Agenda

Motion: Councilman Rockett made a motion to approve the Agenda, as presented. Vice-Mayor Jarriel seconded the motion. Upon vote, the motion passed 4/0.

2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Medical PODS (Point of Dispensing) - Consideration of a Transmittal of Memorandum of Agreement between the Town of Loxahatchee Groves and the Florida Department of Health in Palm Beach County for Support Services for Emergency Dispensing of Strategic National Stockpile.

Motion: Councilman Rockett made a motion to approve the Consent Agenda. Vice-Mayor Jarriel seconded the motion. Upon vote, the motion passed 4/0.

3. PUBLIC COMMENT - None

4. PRESENTATIONS - None

5. COMMITTEE REPORTS

Elise Ryan, 3508 A Road, and Financial Advisory and Audit Committee (FAAC) Member provided reports on the following:

- a. Approval of the January 2014 Financial Report.

Motion: Councilman Rockett made a motion to approve the January 2014 Financial Report. Vice-Mayor Jarriel seconded the motion. Upon vote, the motion passed 4/0.

- b. Consideration to retain the Town's external auditors Nolen, Holt, Miner, P.A.

Mrs. Ryan reported the FAAC voted 5/0 to support Staff's recommendation to retain the Town's external auditor Nolen Holt and Miner, P.A., for an additional three (3) years. In the packet provided to Council was Management's letter recommending retention of the audit firm, a letter from the audit firm including a schedule of proposed fees, and a copy of the current contract with the audit firm. The cost to retain (keep) Nolen Holt and Miner P.A. will be \$16,700 per year for the next 5 years, which is the current contract rate. The Town will actually go six (6) years without an increase of payment.

Town Attorney Cirullo asked Council if they wanted Staff to bring back a renewal agreement with the Auditors, or go through a selection process. According to the Florida Statutes, the Town can renew with the auditors.

It was the consensus of the Council for Staff will bring a renewal agreement for approval of the current external auditors, Nolen, Holt, and Miner, P.A. to the next Town Council Meeting.

- c. Discussions relative to options for municipal financial systems software.

Note for the Record: Councilman Liang arrived at 7:10 p.m.

Cost consideration and additional information will be brought back to Council as an entire package.

- d. FAAC Power Point Presentation requesting reconsideration on the use of Town reserves.

Mrs. Ryan provided a PowerPoint – "The Road Ahead". The Topics were:
General and Transportation Fund Revenue by Category

Trend Chart – Revenue for Prior 4 years
Revenues by Category Fiscal Year 2010-2013
General Fund Expenditures by Category – Fiscal Year 2010-2013
Assessed Taxable Value and Millage Fiscal Year 2010-2013
Estimated Fiscal Year 2014 Fund Balances vs Fund Balances with Applied Fiscal Policy & GAAP
Challenges
Opportunities
Recommendations for 2014-15 Budget

Bill Underwood, from Underwood Management Group, stated that if any property has not received a Certificate of Occupancy (CO) by January 1st, the CO will not be effective until 2016.

Maintain Current Fiscal Policy for Reserves

The FAAC recommends that Council reconsider the \$1.8 mil Capital Budget, and is requesting a Workshop to review and revise capital budget.

Council discussed capital expenditures, not putting a hold on any project at this time, commitment to the residents of Collecting Canal Road, Compton Road, Bryan Road, and Marcella Boulevard, fair assessment fees, and reserves and line of credit (which will need a referendum).

Motion: Vice-Mayor Jarriel made a motion to have a Workshop on March 18, 2014, at 6:00 p.m. followed by the Regular Town Council meeting at 7:00 p.m. Councilman Liang seconded the motion. Upon vote, the motion passed 3/2 with Councilman Goltzené and Mayor Browning casting dissenting votes.

6. **RESOLUTIONS** - *None*

7. **ORDINANCES**

ORDINANCES: PUBLIC HEARING

a. **ORDINANCES 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; 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; TO REQUIRE REVIEW AND INSPECTION BY THE TOWN; PROVIDING THAT CERTAIN USES ARE NOT ELIGIBLE FOR APPROVAL UNDER THIS SECTION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE. (This will be a 2nd First Reading for lack of consistency in title advertisement.)

Town Attorney Cirullo read title of Ordinance No. 2013-11.

Jim Fleischmann, Town Planning Consultant, provided a staff report and explained why Ordinance No. 2013-11 has come back again for first reading. Mr. Fleischmann referencing that Section 75-035(C), page 96 of the Agenda Packet is the Council requested change. Homestead Exemption should state in Loxahatchee Groves.

Council discussed with Town Attorney Cirullo special exception, quasi-judicial proceedings, lack of special notice to neighbors surrounding the areas of concern, clarity of the ordinance, and the ordinance being placed on Consent Agenda for approval.

Motion: Councilman Liang made a motion to accept Ordinance No. 2013-11 on its 2nd First Reading. Councilman Goltzené seconded the motion. Upon vote, the motion passed 5/0.

b. ORDINANCE NO. 2014-01 / SECOND READING / PUBLIC HEARING (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 Cirullo noted that this was second reading, and a public hearing. He proceeded to read the title of Ordinance No. 2014-01.

Jim Fleischmann, Town Planning Consultant, explained the purpose of Ordinance No. 2014-01. The Planning and Zoning Board had recommended approval, with six (6) conditions. *(Page one-hundred (100) of the Agenda Packet)*

Council had deliberations on the conditions.

Nancy Drysdale (Applicant), and her son Glen, came forward and agreed with all the conditions except number one (#1). They have a developer, (whom they cannot disclose at this time); their concerns were with the ratio limiting the maximum number of square feet for a commercial space to 28,532 square feet, on the commercial property. It was noted that Ms. Drysdale bought the property twenty-five (25) years ago, and has lived in Loxahatchee Groves for thirty-five (35) years.

Jim Fleischmann stated that is was the maximum the Comprehensive Plan allows at this time. This could be an issue for the applicant. Looking at the Southern Boulevard Plan, one of the recommendations was that the Town could raise the ratio along Southern Boulevard; however, the Drysdale property would still fall under the original Comprehensive Plan. The applicants would have to come back through the Comprehensive Plan Amendment process just to make the change. It is still limited to point-one percent (.1%) of the maximum.

Council discussed the ratio.

Town Attorney Cirullo stated the Town can take this out as a condition, but the restrictions are still limited to point-one percent (.1%) of the FAR (Floor Area Ratio).

Councilman Goltzene made a motion to adopt Ordinance No. 2014-01 as amended. Vice-Mayor Jarriel seconded the motion, with comments that he hopes the Applicant understands even though the sentence is removed the point-one percent (.1%) ratio is still in effect.

Upon further discussion by Council, Councilman Goltzené as willing to change his motion and remove the first sentence in Condition number one (1), that states the “development of the property shall be limited to a maximum of 28,532 square feet of commercial space”. Vice-Mayor Jarriel’s second will stand.

There were three (3) additional comments concerning the FDOT (Florida Department of Transportation) ponds.

Upon vote the motion passed 5/0.

Mayor Browning called for a five minute break, 8:55 – 9:00 p.m.

ORDINANCES – QUASI-JUDICIAL

c. ORDINANCE NO. 2014-02 / SECOND READING/QUASI JUDICIAL HEARING: (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 Cirullo read the title of Ordinance No. 2014-02 and stated anyone who wished to speak on this ordinance must be sworn in.

Jim Fleischmann, Town Planning Consultant, provided staff recommendations.

Town Attorney Cirullo asked the Applicants if they wished to speak, and they did not.

Mayor Browning opened the Quasi-Judicial Public Hearing at 9:01 p.m. There being no one to speak, Mayor Browning closed the Quasi-Judicial Public hearing at 9:02 p.m.

Motion: Councilman Goltzené made a motion to adopt Ordinance No. 2014-02. Councilman Liang seconded the motion. Upon vote, the motion passed 5/0.

8. ADMINISTRATIVE UPDATE – Town Manager Kutney

a. IGC (Intergovernmental Coordination Committee)

Mr. Kutney stated that for the IGC Meeting on March 26, 2014, the time will be at 8:30 a.m., and Councilman Goltzené will stand in for Councilman Rockett as the Town’s representative, through May.

b. Traffic Study Meeting

c. Western Communities Council

d. Update on Compton Road

9. OLD BUSINESS

- a. Draft ordinance for discussion of issues regulating Town moratorium on manure hauling.

Town Manager Kutney reported that Town Attorney Cirullo provided a memo and a draft ordinance for Council to review concerning the moratorium on manure hauling. As enforcement of the manure issues are critical, today (March 4, 2014) Mr. Kutney attended a 1:00 p.m. meeting at the Central Palm Beach County Chamber of Commerce with Lt. Combs, from the Palm Beach County Sheriff's Office (PBSO); Town Attorney Cirullo via phone; Frank Schiola, Town Public Works Supervisor; Braeden Garrett, Town Planning Technician; and Russ Elgin, Town Code Enforcement Officer. Lt. Combs brought along Steve Wilson, and Bryan Evert and Bart Arnold from the PBSO Environmental Unit. Mr. Kutney stated enforcement is extremely important; the code states from sunrise to sunset and many of the complaints are concerning haulers after sunset. Town manager Kutney is willing to pull permits if the haulers are in violation, and noted some regulations that he feels might be a good idea.

Town Attorney Cirullo explained that he had been in contact with the State Attorney's Office in order to determine what it would take, or what rules the Office feels are lacking from the Town's prospective, in order for them to prosecute a case, and what the Town would need to do. It is an open and shut case if a property owner is not aware that the dumping is occurring on their property. It is less of an open and shut case if the property owner allows the dumping and is not complying with the Town requirements/permitting, even though the Town Code states that is a violation of State Statutes.

Council discussed sticking with the original plan of no dumping in the Town of Loxahatchee Groves, pulling permits if haulers violate moratorium, and Council responsibilities toward illegal dumping.

Town Attorney Cirullo stated that if a permit had been granted under the current state of law, and there is no reason, the Town does not have the authority to revoke the permit at this time.

Motion: Councilman Goltzené made a motion to give Town Manager Kutney the authority to pull permits from unlawful haulers. Councilman Liang seconded the motion.

Council again discussed hauling issues, concerning motorcycle police officers to monitor hauling from outside the Town limits, pulling and refunding permit fees.

Town Attorney Cirullo stated that the Council would have to determine that if a hauler was in violation of the Town ordinance; what is the repercussion for the owner of the property, and what is the repercussion for the hauler.

Council recommended closing the door on all haulers coming into the Town, approve the ordinance before the Town commences with any regulations, and notify any landowners who are receiving the manure that they may be responsible for the cost of any pollution that is determined as an environmental hazard in the canals, even though this will be difficult to determine.

Town Attorney Cirullo verified suggestions from Town Manager Kutney, which were: Restricted hours from 9:00 a.m. to 4:00 p.m. Monday through Friday; logs needed for pickup and drop off (and

completed logs returned to the Town Hall); permits that must include all properties and limit fifty (50) loads per year, and above that each load will cost \$25.00 per load.

Town Attorney Cirullo will bring the ordinance back for first reading on March 18, 2014.

John Ryan, 3508 A Road, this is an enforcement nightmare, and reported on environmental protection agency this needs to be a misdemeanor not code enforcement. And if they are caught we can confiscate their truck(s). We need to shut everyone out. This ordinance will not work.

Town Attorney Cirullo stated the Town will call the haulers and receivers.

Lt. Combs state that officers will not stop haulers until the State Attorney's Office signs off and gives permission.

Town Attorney noted that whatever he can do legally after talking with the State Attorney's Office he will do.

Ken Johnson, 15409 Collecting Canal Road, was glad to see that Council is collectively doing something about this problem. We have to stop this.

No vote was taken on the motion.

b. Update of Priorities List for Council Review

Councilman Rockett asked Town Manager Kutney to separate items on a yearly basis, completely in their own category.

Town Manager Kutney will provide a memo, revised list to Council.

c. Florida Department of Agriculture and Consumer Services: "Water Quality/Quantity – Best Management Practices for Florida Equine Operations" (2011 Edition) (Receive and File)

The Best Management Practices were attached to the Agenda Packet.

d. Discussion of Speed Humps, and Template from Simmons and White.

Town Manager Kutney reported that Simmons and White, the Town's Traffic Engineers, reviewed the speed humps on Sycamore Drive and on 44th Road, east of 140th Drive, and they are essentially the same type of speed humps.

Council discussed the speed humps.

Motion: Councilman Rockett made a motion to accept the speed humps as presented. Councilman Liang seconded the motion. Upon vote, the motion passed 5/0.

10. NEW BUSINESS

- a. Town-District Funding ILA (Interlocal Agreement) for District Road/Canal Maintenance – Fiscal Year 2013-2014

Town Manager Kutney provided background, and stated that this was the amended Interlocal Agreement as it relates to the \$150,000 Council set aside for road/canal maintenance. The Loxahatchee Groves Water Control District (LGWCD) approved this Interlocal Agreement during their February 10, 2014 meeting.

Councilman Goltzené did not feel that it was appropriate to make this decision tonight based on the Financial Report. This cost would impact other paving projects.

Town Manager Kutney stated this was for the 2013/2014 Fiscal Year. The allocation was approved during the budget process.

Vice-Mayor Jarriel stated the funds would only be spent as the work is done.

Council discussed the agreement and its purpose.

Motion: Councilman Rockett made a motion to accept the Interlocal Agreement with the Loxahatchee Groves Water Control District (LGWCD). Vice-Mayor Jarriel seconded the motion. Upon vote, the motion passed 5/0.

11. CLOSING COMMENTS

- a. Public - None
- b. Town Attorney
 - Town of Loxahatchee Groves (“Town”) adv. Todd McLendon, Palm Beach County Circuit Court Case No. 502013CA011543XXXXMB (AY) Petition for Writ of Mandamus.

Town Attorney Cirullo reported on Case No. 502013CA011543XXXXMB(AY) and asked Council to confirm his authority to resolve the Petition for Writ of Mandamus concerning Todd McLendon.

Motion: Councilman Rockett made a motion give Town Attorney Cirullo permission to resolve the petition. Councilman Liang seconded the motion. Upon vote, the motion passed 5/0.

Town Attorney Cirullo stated two (2) bills were filed for the roadways, yesterday March 3, 2014; House Bill 1335 for District roads and House Bill 1337 for the canal easements.

Town Attorney Cirullo, concerning a discussion with Councilman Goltzené regarding gun ranges and regulating guns, suggested that Council review the Town’s ULDC (Unified Land Development Code).

Councilman Goltzené requested Staff bring information regarding gun ranges and guns, back to Council at the next meeting.

Town Attorney Cirullo stated that he would need a Motion to Direct in order to go through the process.

Councilman Goltzene made a Motion to Direct Town Attorney Cirullo to proceed with the process for gun regulations and gun ranges. Vice-Mayor Jarriel seconded the motion. Upon vote, the motion passed 5/0.

c. Town Council Members

Councilman Rockett thanked everyone for coming.

Councilman Liang thanked everyone for coming, and requested Staff draw up a letter in support of Palm Beach State College. Send the letters out to the Governor and interested parties, and bring the information back at the next meeting.

Vice-Mayor Jarriel thanked everyone for coming and for them to be careful going home.

Councilman Goltzené thanked everyone for coming and would see them next time.

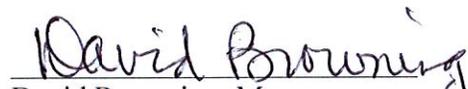
Mayor Browning also thanked everyone for coming. He received call from Julie at the Farmer's Daughter Garden Center about the F Road access. He noted on the site plan for the Medical Center on Southern Boulevard, F Road around the business has been blocked off. Vehicles now have to go around, and have no access from F Road. Business is suffering.

Town Manager Kutney will look into the site plan approval.

12. ADJOURNMENT

There being no further business before the Town Council, Mayor Browning adjourned the meeting at 10:20 p.m.


Janet K. Whipple, Town Clerk


David Browning, Mayor

(SEAL)

These minutes were approved at the April 1, 2014, Town Council Meeting.