



# Town of Loxahatchee Groves

## Town Council Meeting

Tuesday, April 15, 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 7:05 p.m. Present were Mayor David Browning, Vice-Mayor Ron Jarriel, Councilmen Tom Goltzené, Ryan Liang and Jim Rockett. Also present were Town Manager Mark Kutney, Town Planning Technician Braeden Garrett, Town Attorney Mike Cirullo, and Town Clerk Janet K. Whipple.

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

**Vice-Mayor Jarriel made a motion to approve the agenda.**

Councilman Goltzené requested to move 10.a. up on the agenda to precede 9.a. Administrative Update.

**Vice-Mayor Jarriel then made his motion to approve the agenda as amended. Councilman Liang seconded the motion. Upon vote, the motion passed 5/0.**

## 2. CONSENT AGENDA

a. Minutes for Approval:

- 1) **March 18, 2014 Special Workshop**
- 2) **March 18, Regular Town Council Meeting**

**Motion: Councilman Goltzené made a motion to remove 2.b., and move it as a regular agenda item following the Consent Agenda, and then approve the Consent Agenda as amended. Councilman Liang seconded the motion. Upon vote, the motion passed 5/0.**

b. Raymond Road (Swerdlin) (*Town Attorney Cirullo*)

Town Attorney Cirullo explained as this was a request from a property owner at 13105 Raymond Road to build a fence in an easement on the persons own property, in an area that is not being used for road purposes. Additional details are involved in the agreement with the property owner.

Thais Gonzalez, 13090 Raymond Drive, Encroachment Agreement, provided history on her involvement the road and fence matter with asked Town Attorney Cirullo how he determined her road was a public road. She had sent him a letter with her questions.

Town Attorney Cirullo stated that typically he only answers questions and gives legal advice to Council. Mr. Cirullo explained the determination, and continued in discussion with Mrs. Gonzalez.

Council discussed the Gas Tax Map and the determination of roads whether they should be on or off the map.

Town Attorney Cirullo stated this item could be brought back if necessary; however, it was not a Town issue.

The attorney for the Swerdlins (no comment card) agrees with Council that the owner can put the fence in his own easement as the property is not on the Gas Tax Map.

Town Attorney Cirullo requested this item be formally pulled from the agenda.

## 3. PUBLIC COMMENT

Phyllis Maniglia, 359 West D Road, wanted to know why Code Enforcement had designated her house as unsafe.

Reverend Pearl Rauberts, 14280 43<sup>rd</sup> Road North, stated the Town is maintaining her road and she would like for the maintenance to continue.

Frank Schiola, 13434 Marcella Boulevard, stated in reviewing the drawing from Keshavarz and Associates, there is an island in front of his house and there is no place for the water to go. He is not going to build a swale for the Town; also, the swale needs a culvert to drain the water.

#### **4. PRESENTATIONS**

- a. Christine Davis, Vice President, Loxahatchee Groves PTO, requesting consideration of a tax deductible monetary donation from the Town, as a sponsor for the Loxahatchee Groves Elementary School's Annual Spring Carnival and Silent Auction. **Donations must be decided on or received by May 2, 2014.**

Christine Davis, Acting Vice-President for the Loxahatchee Groves Elementary School PTO (Parent Teacher Organization) Board, requested from Council, a \$500.00 donation (which was the same amount the town donated last year) for the school's Spring Carnival.

**Motion: Councilman Goltzené made a motion to donate \$500 to the Loxahatchee Groves Elementary School Spring Carnival. Vice-Mayor Jarriel seconded the motion. Upon vote, the motion passed 5/0.**

#### **5. COMMITTEE REPORTS – NONE**

#### **6. RESOLUTIONS - NONE**

#### **7. ORDINANCES**

##### **ORDINANCE NO. 2014-03 2<sup>nd</sup>/FINAL READING/PUBLIC HEARING (Livestock Waste haulers)**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO COMMERCIAL HAULING OF LIVESTOCK WASTE WITHIN THE TOWN; PROVIDING FOR DEFINITIONS; PROVIDING FOR PERMITS AND PERMIT FEES; PROVIDING FOR THE DISPOSAL OF LIVESTOCK WASTE WITHIN THE TOWN; PROVIDING FOR PERMITTED HOURS OF COMMERCIAL HAULING OF LIVESTOCK WASTE WITHIN THE TOWN; PROVIDING FOR REQUIRED RECORDS AND AUDITING OF SUCH RECORDS BY THE TOWN; PROVIDING FOR CHANGES TO LIVESTOCK WASTE REGULATIONS; PROVIDING FOR REVOCATION OF PERMITS AND ENFORCEMENT; EXEMPTING LIVESTOCK WASTE SELF-HAULERS AS DEFINED HEREIN FROM THIS ORDINANCE; PROVIDING FOR CONFLICTS; PROVIDING**

**FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo read the title of Ordinance No. 2014-03.

**Motion: Councilman Goltzené made a motion to adopt Ordinance No. 2014-03 on second and final reading. Councilman Liang seconded the motion.**

Councilman Rockett had typographical error notations, and wanted to add on Best Management Practices, where applicable, to Ordinance No. 2014-03.

Councilman Goltzené was okay with the addition.

Mayor Browning opened the floor for Public Comments.

Frank Schiola, 13434 Marcella Boulevard, referencing the City of Wellington's livestock waste ordinance, he feels without the City's enforcement, the City is one-half (1/2) the problem and the haulers are the other one-half (1/2); as, once haulers come to Southern Boulevard many come into Loxahatchee Groves to dump waste whether it is a legal dump site or not.

John Ryan, 3508 A Road, handed documents to Council as *receive and file* on two particular sections within Ordinance No. 2014-03 that he will be addressing in his presentation.

**Motion: Councilman Rockett made a motion to receive and file documents from Mr. Ryan. Councilman Liang seconded the motion. Upon vote, the motion passed 5/0.**

Mr. Ryan reported he found two (2) serious weaknesses in Ordinance No. 2014-03.

Councilman Goltzené reference the water quality issues, and for the Town to quit regulating residents, just keep haulers out of Loxahatchee Groves. He also noted Mr. Ryan is constantly sending emails to Town Attorney Cirullo.

Mr. Ryan continued his presentation.

Mayor Browning stated the Town will be notifying haulers there will be no more hauling into the Town of Loxahatchee Groves.

Mr. Ryan concluded his comments.

Councilman Goltzené again asked if citizens are allowed to send emails to the Town Attorney. He would also like to recommend citizen comments be limited to three (3) minutes.

Keith Harris, 2580 C Road, expressed his concerns with the use of *Best Management Practices*.

Nina Corning, 2834 E Road, stated there are other contaminates other than manure; she also referenced the Best Management Practices concerning spreading/composting manure.

Mayor Browning closed the Public Comments.

Town Attorney Cirullo stated if there are any sections in Ordinance No. 2014-03 that *Best Management Practices* will apply, it will be added.

Town Attorney confirmed the motion to add the BMP's (*Best Management Practices*) as proposed and amend the two sections in A paragraph 2 presented by Councilman Rockett.

**Upon Roll Call Vote, the motion to approve Ordinance No. 2014-03, as amended passed with all five (5) Council Member voting for the motion.**

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

Town Manager Kutney reported that Tomas Ruiz from the Southern Boulevard Project had relocated to Snubs Construction but is still working with FDOT (Florida Department of Transportation), and requested attendance. Once Town Manager Kutney went to the site team meeting on April 17, 2014, he would report back to Council on any changes for the Southern Boulevard Project. Town Manager Kutney did ask Council if they were still interested in the Joint Use of the pond site with FDOT. Mr. Ruiz did confirm the median changes coming onto Southern Boulevard from D Road would remain the same as proposed. The proposed signal light on Okeechobee Boulevard and D Road had been sent to Commissioner Santamaria's office with approval from Palm Beach County. Town Manager Kutney believed the cost to be around \$299,000 from start to finish for a string arm. Funding may be a concern.

Council advised Staff to move forward.

Town Manager Kutney reported on taking the Port St. Lucie and Highland County ordinances for review by the Planning and Zoning Board, as is related to Business Regulations. Board Member Joyce requested the original report submitted by the Planning and Zoning Board be resubmitted to Council, as they had already made their findings. On March 14, 2012, and September 12, 2013 the Board made motions to deny the Ordinance. It is their opinion that they have advised the Council twice, and Council now will have to decide to take or not take the Board's recommendation.

Grace Joyce, 3886 147<sup>th</sup> Avenue North, and Board Member on the Planning and Zoning Board provided background on the Board's decisions.

Town Manager Kutney also reported that Staff is still working on the livestock waste issue, and will be working with the PBSO (Palm Beach County Sheriff's Office and members of the Environmental Unit to discuss tactics, and the Town Attorney on conference call. Town Manager Kutney requested from Council if they would be willing to fund the PBSO for assistance that they can provide.

**Motion: Councilman Goltzené made a motion to authorize the Town Attorney to draft paperwork for up to \$10,000 to pay PBSO, and additional Deputies for their assistance. Councilman Rockett seconded the motion.**

Member of the audience expressed their opinions.

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

Mayor Browning called for a break, 8:13 – 8:17 p.m.

## **9. OLD BUSINESS**

Council discussed with Town Attorney Cirullo on Invitation to Bid for drainage on Town roads; ownership of who will pay for the drainage, the Town or homeowners; and removing and replacing sod.

- a. Gas Tax Map Modification (moved from 10.a. New Business)

Town Attorney Cirullo explained the ten (10) roadways taken off the gas tax map. Christine St John had sent a request to have her road removed from the Gas Tax map, and another request for removal had been received from another resident. Vice-Mayor Jarriel had signed off for removal of five (5) roads when Mayor Browning was out of Town.

Council discussed with Town Attorney Cirullo cost versus mileage of roads on Gas Tax Map, roads that were not mentioned on the map, the new requests for roads to be removed from the map, notification of residents if their road is removed from the Gas Tax Map, and itemized roads of concern.

Town Planning Technician, Braeden Garrett and Frank Schiola, Town Public Works, assisted in the explanation of keeping or removing roads on the Gas Tax Map.

**Motion: Councilman Goltzené made a motion to remove reported roads from the Gas Tax Map (10 plus 1). Councilman Rockett seconded the motion.**

Town Attorney Cirullo named the roads which can be included.

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

Town Attorney Cirullo reported that since Councilman Rockett lives on 43<sup>rd</sup> Road North he would have to abstain from voting when decisions on 43<sup>rd</sup> Road North came before Council. He will file a form and give it to the Town Clerk this evening. Councilman Rockett did call Florida Commission of Ethics for advice on Florida Statute 112.

Christine St John, 43<sup>rd</sup> Road North, stated 43<sup>rd</sup> Road North is a private road; she would like a copy of the policy for placement or removal of roads on the Gas Tax Map; and she hopes the Town is not making fraudulent claims regarding the road.

Town Attorney Cirullo stated Council can make determination to remove a road based on the Gas Tax Map.

Council further discussed roads on the Gas Tax Map.

Councilman Goltzené requested 43<sup>rd</sup> Road North be brought back for discussion on the next agenda.

Council again discussed roads to be removed from the Gas Tax Map.

**Motion: Councilman Goltzené made a motion to investigate the circumstances bring 43<sup>rd</sup> Road North, and 25<sup>th</sup> Place North, back to another Council Meeting for review. Councilman Liang seconded the motion.**

Keith Harris, 2580 C Road, 25<sup>th</sup> Place North stops just short of his property, those properties in question are not on the Gas Tax Map.

**The motion failed for lack of a vote.**

Mayor Browning called for a break, 9:10 – 9:15 p.m.

- a. Discussion relative to Future Town Management Services

Council discussed the number of meeting the Town Manager is required to attend, hiring full time employees, and what the Town can do to get the most service for the cost.

**Motion: Councilman Goltzené made a motion to renew the management contract with Underwood Management Services, at the same cost. Councilman Liang seconded the motion.**

Council then discussed sitting down with the management company to discuss employment; the possibility of having a strong mayor form of government, term limits, the possibility of going out for an RFP (Request for Proposal), the level of professionalism that Underwood Management has provided, changes/negotiations in the current contract (which will require mutual agreement-

per the Town Attorney), conversation made by Underwood Management Services during the Landowners Meeting, pensions, from the Town Attorney, who noted the contract is for two (2) one-year term renewals, concerns with Town Manager Kutney, what items the Town can reduce, or do differently, to free up funds, and the fact that Council has no idea what Staff does for the Town.

Members of the audience also expressed their opinions concerning change, putting performance measures in place to follow, and the good work Town Manager Kutney has done working with the community.

Town Attorney Cirullo asked what the initial motion was. Was it to extend for two years and did it include discussion with Underwood Management Services.

Bill Underwood, Underwood Management Services, relative to the negotiations he would like to include discussion for significant changes. Referencing the multiple meetings, the Town does not pay for anyone else to be in attendance. If there is something to be cut, Mr. Underwood did not see it. He would like to negotiate. Mr. Underwood stated that Underwood provided one-thousand (1000) hours a year not paid for by Council. He did note that there are a lot of things that are not productive.

Council then reviewed the need for emergency management, again going out for an RFP and its alternatives.

Mr. Underwood stated Underwood Management Services would help in any transition.

Perla Underwood, Underwood Management Services, advised Council that part of her job is to deal with the citizens who have been receiving mis-information. Council was specific on the original RFP; three (3) committees were to be included: Planning and Zoning, RETGAC (Roadway, Equestrian Trails, and Greenway Advisory Board), and the FAAC (Financial Advisory and Audit Committee). The Town does not pay for those meetings, Underwood Management does. Mrs. Underwood also reported the Company works approximately two-hundred, ninety-nine (299) hours per week, after hours, weekends, and nights. The Management Company and Staff have moved mountains, and have accomplished much. Underwood Management Services pays for the Town's consultants. The workload is more than forty (40) hours per week. Mrs. Underwood stated that Underwood Management works for the entire Council, and she does not want the Council to be confused about Underwood's functions.

Council discussed the fact that if they chose to go out for an RFP, staff will be looking for new jobs.

**Motion: Councilman Goltzené revised his motion to include retaining Underwood Management Services for two (2) years. Councilman Liang seconded the motion. Upon vote, motion failed 2/3, with Vice-Mayor Jarriel, Councilman Liang and Councilman Rockett casting dissenting votes.**

**Motion: Councilman Goltzené made a motion to renew Underwood Management Services for one (1) year. Councilman Liang seconded the motion. Upon vote, the motion passed 4/1 with Councilman Rockett dissenting.**

Mayor Browning called for break, 9:58 – 10:03.

Mayor Browning requested a workshop, and felt that Town Manager Kutney had gone overboard to help.

b. Financial System Software Request for Proposal (RFP)

Bill Underwood explained the financial system needed, the costs and requirements involved, and that the Town should go out for an RFP.

**Motion: Councilman Liang made a motion to send an RFP out for a Financial System Software Program, and then bring the responses back to Council. Councilman Goltzené seconded the motion. Upon vote, the motion passed 5/0.**

c. Discussion of Road Improvement Policy

**It was the consensus of Council to table the Road Improvement Policy discussion until the May 20, 2014, Town Council Meeting.**

d. Approval of Piggyback Procurement – North Florida Emulsions (NFE)

Town Attorney Cirullo stated everything for the contract was in order. The Town will have to wrestle with the specifications in order for someone to sign off after the work has been completed.

Council had discussions on cost of inspections, who would sign off, and chain of custody.

Town Manager Kutney will research these items, and, in response to a question from Councilman Rockett explained a timeframe involved in order to complete the contract process.

Council deliberated on which roads would take priority for repairs.

Town Manager Kutney noted there are drainage issues on all three roads and that is where road failure is now. Keshavarz says we could have ten years on the roads if the roads were done according to specifications.

**Motion: Councilman Rockett made a motion to accept the North Florida Emulsions Contract for Bryan Road and Marcella Boulevard. Councilman Liang seconded the motion.**

Vice-Mayor Jarriel wants to approve the contract and let the contractor make the decisions, then go out for bid on drainage for the south side of Compton Road. Referencing the islands,

Keshavarz wanted to cut each end of the island. The priority is to get the roads resurfaced before the hurricane season. The Town needs a Notice to Proceed for North Florida Emulsions.

Town Manager Kutney stated, in terms of application on roadway, it is not just a matter of coverage there are extenuating matters. According to Steve Yohe, LGWCD District Administrator, there are a lot of changes to the base before resurfacing can be done.

**Upon vote, the motion passed 4/1, with Councilman Goltzené casting a dissenting vote.**

Vice-Mayor Jarriel stated this will be a Notice to Proceed for the patchwork for the islands, and the contractor needs twenty (20) foot of clean road. The LGWCD can take care of hedging repair work and road preparation.

**Motion: Councilman Liang made a motion for a Notice to Proceed for patchwork on the islands on Compton Road and to prepare the full road bed for resurfacing. Vice-Mayor Jarriel seconded the motion.**

**Upon vote, the motion passed 4/1 with Councilman Goltzené casting a dissenting vote.**

- e. Speed Humps (*discussion continued for 04/01/2014 Town Council Meeting - no back up provided*)

Council discussed the various distances speed humps should be on the road and off of each turn.

**Motion: Councilman Goltzené made a motion to place speed humps one thousand (1,000) feet apart. Councilman Liang seconded the motion. Upon vote, the motion passed 5/0.**

## **10. NEW BUSINESS**

- b. Marianne Miles, 3413 B Road, requesting consideration for residents who have direct access on and off B Road to have OGEM placed on that portion of the Road. (*Vice-Mayor Jarriel*)

Marianne Miles, 3413 B Road, came before Council to request reconsideration of having B Road resurfaced with OGEM. She brought extensive documentation from other residents on the road who would also like the road resurfaced. Ms. Miles was told by a former employee of the Loxahatchee Groves Water Control District (LGWCD) that B Road would need twelve (12) inches of fill prior to resurfacing.

Mayor Browning advised Ms. Miles that B Road was a LGWCD Road and that the Town could not own it unless it was resurfaced with OGEM. He suggested Ms. Miles attend LGWCD Board Meeting with her presentation.

Town Manager Kutney read into the record letters from Ronald T. Gibson, 2869 B Road who is opposed to the OGEM; Lisa Hyslop, 3828 B Road, who is in support of the OGEM, but would

**Consensus of Council was to hold the Shade meeting on May 6<sup>th</sup> at 6:00 p.m.**

c. Town Council Members

Councilman Goltzené wants to reinforce that the first Council Meeting of the month needs to be for Town business and Special Events for the second meeting. Be more circumspective of what goes on agenda.

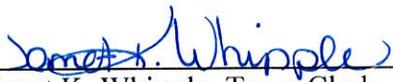
Vice-Mayor Jarriel asked Marge Herzog to congratulate the kids that assisted in the Town Clean-up.

Councilman Liang thanked everyone for coming.

Mayor Browning thanked everyone for coming and noted the Town needed a louder alarm for with a three (3) minute timer.

**12. ADJOURNMENT**

**There being no further business to come before Council, Mayor Browning adjourned the meeting at 11:30 p.m.**

  
Janet K. Whipple, Town Clerk

  
David Browning, Mayor



*These minutes were approved during the May 6, 2014 Town Council Meeting.*