



Town of Loxahatchee Groves  
Town Council Meeting

Tuesday, September 2, 2014 - 7:00 p.m. to 10:30 p.m.

*(Times established by Resolution No. 2014-08... commencing at 7:00 p.m., and ending no later than 10:30 p.m., which can be extended by motion of the Council.)*

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 7:06 p.m. In attendance were Mayor David Browning, Vice-Mayor Ron Jarriel, Councilmen Tom Goltzené, and Jim Rockett. Councilman Ryan Liang was not present at this time. Also in attendance were Town Manager Mark Kutney, Town Attorney Mike Cirullo, and Town Clerk Janet K. Whipple. Jim Fleischmann Town Planning Consultant was in the audience.

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

Town Manager Kutney introduced Addendum #1 to be placed under 4.a. *Presentations*: Randy Wertepny, Sr. Project Manager, Keshavarz and Associates would also provide information on the National Pollutant Discharge Elimination System (NPDES). Also, Addendum #2 to be placed under 8. *Administrative Update*: Town Manager Kutney will provide a status update on the Chamber of Commerce Building.

**Motion: Council Member Rockett made a motion to approve the Agenda as modified. 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.

**Motion: Council Member 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

Keith Harris, 2580 C Road, commented on recent gas map discussion, and assessment rates. He encouraged the Town to take control for all roads and trails.

## 4. PRESENTATIONS

- a. Randy Wertepny, P.E., Sr. Project Manager, Keshavarz & Associates, Inc., to provide tutorial on the Federal Emergency Management Agency (FEMA) Flood Map process.

Town Manager Kutney provided an overview and mentioned dates and locations of meetings for Flood Map review and discussion.

Randy Wertepny provided updated information on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM). New flood elevations have been established, and Mr. Wertepny listed all upcoming meeting dates for residents, and who will be in attendance. He explained what is required for application, and what is required for any revisions that might need to be made through the Letter of Map Revision (LOMR).

Council discussed with Mr. Wertepny the various flood plains and discharge of water. It was mentioned that the Town could make application as a whole to challenge the flood map designations. Weir gates for flood control were also discussed, as well as flood insurance and flood elevations.

Members of the audiences expressed their comments and concerns.

**Addendum #1 Item:** Randy Wertepny also spoke on the National Pollutant Discharge Elimination System (NPDES).

Town Manager Kutney explained another government requirement. The Town needs to get involved in this program, or apply for a waiver.

Randy Wertepny explained the NPDES program which started about five (5) years ago. There are two (2) NPDES programs; one if you are a new developer and the other for municipalities. The Town could apply for a waiver for exemption if classified as an Urban Designated Community (UDC) based upon the 2010 census. He mentioned others, and suggested the Town adopt some Best Management Practices.

## 5. COMMITTEE REPORTS

- a. Virginia Standish, Chair of the Financial Audit and Advisory Committee (FAAC) to provide a status report on the proposed Road Improvement Policy and the draft Purchasing Ordinance. *(No Backup Material)*

Virginia Standish provided a bank account balance and noted Financials are not available this evening. Several items were reviewed. Transfer of \$40,000 from the Loxahatchee Groves Water Control District (LGWCD) had been accomplished, all documents will be included. The FAAC Board is reviewing a Purchasing Policy and once completed, will be presented to Council. Cost sharing was addressed concerning acreage. Ms. Standish also addressed the fraudulent checks matter, and stated it was resolved.

**Mayor Browning called for a break at 8:14. Residents reviewed their properties on the electronic Geographic Information System (GIS) map provided by Mr. Wertepny.**

## 6. RESOLUTIONS – *NONE*

## 7. ORDINANCES - *NONE*

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

**Addendum Item:** Status Update on Chamber of Commerce Building

Town Manager Kutney provided an update and mentioned On August 5<sup>th</sup> Council had directed staff to work with the Central Palm Beach Chamber of Commerce for options to purchase and/or lease the Chamber of Commerce building located at 13901 Southern Boulevard, Loxahatchee Groves, Florida. He met with the Chamber CEO Wayne Burns on August 20, 2014, and this included a conference call with Town Attorney Mike Cirullo. Correspondence has been going back and forth and on August 2<sup>nd</sup> there was an additional conference call between Town Manager Kutney, Wayne Burns, Town Attorney Cirullo and his partner Attorney D. J. Doody, who specializes in real estate. The Chamber offered three options; an outright sale, a lease with option to buy, and a straight lease. Many options were discussed, and it was recommended that the Town would need a ninety (90) day period for due diligence research and for the Town and the Chamber to work together. During that time the Town would have to get its own appraisal, a survey, and an inspection of the property, and any additional information needed to make a decision. There are a number of ways to structure whichever option Council chooses to go with. According to the Town Attorneys, the Town's Charter allows a lease with an option to buy, but the limit is thirty-six (36) months; otherwise the Town would have to go to a referendum. Town Manager Kutney suggested a proposal could be brought before Council prior to a Shade meeting

that is tentatively scheduled for September 16, 2014. He felt it would be in the best interest of both parties to proceed and move forward with some sort of agreement prior to the November, Palm Beach County Commission elections.

Council Member Goltzené expressed his opinion concerning the deficiencies of the current Town Offices location and that they are not conducive to a municipal facility. He felt this proposal was contrary to the original idea of the Town, and he was not sure buying/leasing property was the best idea for spending the Town's money. He also did not like buying/leasing a property that is sitting on someone else's land, and he felt a long term lease was a better idea.

Mayor Browning noted this was really a preliminary phase. The Chamber of Commerce made an offer and we are just thinking about the idea.

Town Attorney Cirullo, in response to a question by Mayor Browning concerning the ninety (90) day due diligence, the reason the agreement should be done before November (Elections) is that the proposal will need to go before the Palm Beach County Commissioners for approval, as well as, a lease mortgage from a bank for the change of occupancy. The agreement that would be brought back to Council would include a ninety (90) day inspection period which would include all necessary approvals, and inspection of the building. The due diligence would have to be completed in order to make the presentation. Town Attorney Cirullo wanted to make sure there was enough direction from Council in order to bring back a complete document, which would be about ten (10) days in order to have it ready for the Palm Beach County Commission review.

**Mayor Browning noted for the record that Council Member Liang arrived at 8:35 p.m.**

Council Member Goltzené would rather see the traffic light in place before the Town asks for anything else.

Council Member Rockett would like Staff to move forward, and continue with the information gathering.

Town Attorney Cirullo stated the Council did not necessarily need to pick a "branch" or type of proposal at this time but give Staff direction to prepare something that would help with a decision.

Mayor Browning referred to a discussion he had with Town Manger Kutney. Mayor Browning's thoughts were to build a four thousand (4,000) square foot two story concrete building on the LGWCD site at \$75 per square foot, and back it up to Boonies Restaurant and Bar. The cost would be approximately \$300,000 which could be split between the Town and the Loxahatchee Groves Water Control District (LGWCD). If the Town Hall offices were moved to the Chamber

building, he expressed concern that the municipality would then be housed in two separate locations. The Chamber location is a beautiful facility, but practically he does not know how we can make the move now.

Councilman Goltzené suggested going with a straight lease, and make a more permanent decision in the future.

Mayor Browning stated if the Town could lease for what we are spending now then it is a no brainer. The cost is a factor, what will it cost to build a new structure.

Council Member Rockett stated the Town could lease with an option to buy; but that does not mean the Town has to buy. Take the lease then get a cost of building a structure. We also had subleasing considerations, and the Town could look into those options. He would like to proceed with the lease and option to buy.

Vice-Mayor Jarriel agreed with Council Member Rockett on a lease with option to buy. He sees a lot of potential for the Chamber building; it is only five (5) years old. Referencing the location of the District, he noted that most of the municipalities' shops are not where the Town Center is located. He wanted to know how long we had to walk through a pig sty, when it is raining, to come to a meeting, and have people standing outside during a major discussion who cannot even hear what is going on. The Town has problems they are not solving. With all the entities who are meeting at different locations, the Chamber building is already equipped. The \$75 or even \$85 per square foot does not include everything that has to be done on the inside; i.e. electric etc. The only route that he would indorse is the lease with an option to buy. Thirty-six (36) months will give the residents of Loxahatchee Groves an idea of what they would like. Loxahatchee Groves needs a good Town Center. Vice-Mayor Jarriel asked Attorney Cirullo if we leased with an option to buy would the Town still have inspections.

Town Attorney Cirullo stated that once the lease was up and it was time to exercise the option to buy the Town would have to do their due diligence at that time. The only inspections needed would be those required for the lease.

Vice-Mayor Jarriel felt there is so much that can be done with the Town Center (Chamber of Commerce building) that the residents could enjoy. If the Town could lease with an option to buy without the extra expenses while we decide what is best for the people, then we take that route. There is so much we can do with that Town Center (Chamber building). Our volunteer committees have a decent place to go. Vice-Mayor Jarriel asked Mr. Burns if the Town could sublease rooms out to the Chamber, if the Town went with a lease with an option to buy.

Mr. Burns stated it could be possible for a sublease situation; however, from a security prospective it would be better for the Town to have the whole building.

In answer to a question from Vice-Mayor Jarriel, Town Attorney Cirullo stated that, assuming the Town would be leasing the whole building, the Town would still be governed by whatever agreement is already in place from Palm Beach County. We would be subleasing from the Chamber who is leasing the land from Palm Beach County. He is not sure the Chamber would be released from that agreement it would be a part of the approval process. That would apply as well for a sub sublease as well.

Mr. Burns felt like it would be simpler to go to Palm Beach County with an agreement in hand, such as a lease with an option to buy from Loxahatchee Groves. It would be a structural change. Once the Town occupied the building, negotiations could be conducted along the way until a final decision could be made. The Chamber would support a lease with the option to buy, even though it would not be their first preference.

Mr. Burns replying to a question from Vice-Mayor Jarriel stated the appraisal of the building was \$630,000.

Town Attorney Cirullo stated that at that price the Town would have to get two (2) appraisals, per Florida Statutes.

Vice Mayor Jarriel reference the volunteer hours spent.

Mr. Burns based the \$630,000 amount on the building structure, not having anything to do with the land itself for obvious reasons. If all other amenities are added in the cost would be considerably more, more like \$85.00 per square foot.

Vice-Mayor Jarriel noted that the Town pays for storage due to security reasons. He had acquired all the current costs from Mrs. Underwood for rent etc., and what the Town pays per year with all the hassles. He then asked Mr. Burns if the Town went with a lease with an option to buy, had Mr. Burns come up with any numbers for cost per month.

Mr. Burns had not come up with any numbers, as yet. If that is the option of the Council he can take that back to the Board, and return with something to discuss with Mark.

**Motion: Vice-Mayor Jarriel made a motion to direct staff to talk with the Chamber of Commerce in order to find out everything the Town needs to know, especially what it would cost the Town monthly for a lease with an option to buy; therefore, the Town has**

**thirty-six (36) months to decide so we do not have to rush. Council Member Liang seconded the motion. Discussion followed.**

Town Attorney Cirullo questioned the lease with the option to buy and compared it to a lease purchase. After clarification from Vice-Mayor Jarriel the Town would lease with it written in the contract that the monies already spent would apply to the purchase price.

Vice-Mayor Jarriel stated to leave the lease term up to staff, the longer the better. Council member Liang was in agreement but added that when the Chamber, returns with a hard number then it can be “bounced” to the Finance Advisory and Audit Committee (FAAC) to have them look at it, they can present it to Council, and Council can go from there.

Vice-Mayor Jarriel agreed to definitely run it through the Finance Advisory and Audit Committee (FAAC).

Virginia Standish, 15410 North Road and FAAC Member, thought a workshop would be good. The building is a government building and no other tenants should be housed. She had other comments concerning the proposal. If a workshop is scheduled, staff better tell us what the Palm Beach County has said. Don't go negotiating a lease without talking to Palm Beach County because the Town may be in for a big surprise. She would not like to come to a Town Hall with large equipment close by. She also wanted to know who paid for what, between the State and the Landowners.

Mr. Burns responded to Ms. Standish's comments.

Keith Harris, 2580 C Road, there are a lot of financial considerations to make. A workshop is a good idea. He appreciates Town Management investigating this matter, it needs a thorough review.

Sharon Browning, 3056 D Road, compared the Chamber of Commerce building with the Loxahatchee Groves Water Control District (LGWCD) Meeting Room. She likes the Town the way it is.

**Upon vote, the motion passed 4/1 with Council Member Goltzené casting the dissenting vote.**

Town Attorney Cirullo if Council wants the FAAC to review this matter, a Special Meeting will have to be called.

Mayor Browning stated at this time, the Town is discussing leasing. A Special Workshop is not needed for that.

Councilman Goltzené noted other places might be available.

Town Attorney Cirullo will try to have the information for the Town Council Meeting scheduled in three (3) weeks, on September 23, 2014, or as soon as possible.

**9. OLD BUSINESS - NONE**

**10. NEW BUSINESS - NONE**

**11. CLOSING COMMENTS**

a. Public

Keith Harris, 2580 C Road, reference the National Pollutant Discharge Elimination System (NPDES), and the work on Bryan Road, Compton Road and Marcella Boulevard. There are many other roads in the Town that have drainage issues.

Frank Schiola, 13434 Marcella Boulevard, mentioned that Loxahatchee Groves Boy Scout Troop 199, is working on their merit badges and he would like them to attend a Town Council Meeting. There are approximately thirty (30) Scouts.

**It was the consensus of the Town Council to invite the troop to come.**

Mayor Browning spoke of bringing, and honoring, Quasi Modo to the October 4, 2014 Town Council Meeting. Quasi Modo won 2<sup>nd</sup> place in the World's Ugliest Dog Contest, and is a resident of Loxahatchee Groves.

b. Town Attorney

- Request for Town Council to schedule a closed door meeting to discuss litigation in Day v. Town of Loxahatchee Groves, 15<sup>th</sup> Judicial Circuit, Palm Beach County, Florida, Case No. 502012CA014543MB.

Town Attorney Cirullo requested September 16, 2014, any time after 2:00 p.m.

**It was the consensus of the Town Council to hold the closed door meeting at 7:00 p.m. on September 16, 2014, in the Town Hall offices.**

Town Attorney Cirullo also stated "Go Gators" with qualifications.

c. Town Council Members

Councilman Rockett thanked everyone for coming.

Councilman Liang apologized for being late, and also thanked everyone for coming.

Vice-Mayor Jarriel, thanked everyone for coming, and wished them to be safe going home.

Councilman Goltzené also thanked everyone for coming, and will see everyone next week.

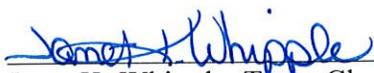
Mayor Browning stated “to you a good night”.

Council Liang stated that he would be appointing his representative to the Finance Advisory and Audit Committee (FAAC). Her name is Anita Kane.

**It was the consensus of the Town Council to accept Councilman Liang’s appointment of Anita Kane to the FAAC Board.**

## **12. ADJOURNMENT**

There being no further business to come before the Town Council, Mayor Browning adjourned the meeting at 9:26. p.m.

  
Janet K. Whipple, Town Clerk

  
David Browning, Mayor



*These minutes were approved during the November 18, 2014 Town Council Meeting.*