

Mayor David Browning, Seat 4  
Vice Mayor Jim Rockett, Seat 2  
Councilman Tom Goltzené, Seat 5  
Councilman Ronald. D. Jarriel, Seat 1  
Councilman Ryan Liang, Seat 3



**Town of Loxahatchee Groves**  
**Planning & Zoning Board/LPAMeeting**  
**Thursday, March 14, 2013 at 7:00 p.m.**

Central Palm Beach County Chamber of Commerce – West Office  
13901 Southern Boulevard, Loxahatchee Groves, FL33470

Chair Dennis Lipp  
Vice Chair Robin Crawford  
Board Member Lawrence Corning  
Board Member Keith Harris  
Board Member Grace Joyce  
Alternate Member #1 Veronica Close  
Alternate Member #2 Byrnes Guillaume

Town Manager Mark Kutney  
Town Clerk Susan Eichhorn  
Town Planner JimFleishmann

**MINUTES**

**1. OPENING**

1. Call to Order & Roll Call

Chair Dennis Lipp called the meeting to order at 7:00 p.m. Upon roll call, the following members of the Planning and Zoning Board were present: Chair Lipp, Vice Chair Crawford, Board Members Keith Harris, Grace Joyce and Alternate Member Byrnes Guillaume. Committee Member Lawrence Corning and Alternate Member #1 Veronica Close were not in attendance.

The Agenda was approved through motion of Board Member Joyce, seconded by Vice Chair Crawford. The motion carried unanimously.

2. MINUTES

- a. Planning and Zoning Board Minutes for Approval -  
January 10, 2013

**Motion: Vice Chair Crawford made a motion to approve the minutes of the January 10, 2012 Planning and Zoning Board meeting. The motion was seconded by Alternate Member Byrnes Guillaume. The motion carried unanimously.**

3. OLD BUSINESS - *None*

1. NEW BUSINESS –*None*

2. LOCAL PLANNING AGENCY

Old Business–*None*

New Business

- a. Ordinance No. 2013-02

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING PART III, ENTITLED “SUPPLEMENTAL REGULATIONS,” ARTICLE 80, ENTITLED “CONDITIONAL USES,” SECTION 80-020, ENTITLED “RESIDENTIAL ENTERPRISE,” OF THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE TO PERMIT A LIMITED NUMBER OF CUSTOMERS TO TRANSACT BUSINESS AT THE LOCATION OF A RESIDENTIAL ENTERPRISE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Town Manager Kutney provided the background for the proposed ordinance.

Chair Lipp requested that the clerk read the comments of Planning & Zoning Board Alternate #1 Veronica Close (who was not present) and had sent her comments via email:

“Please convey that I have read the proposed change, and have the following concerns:

1. The addition of commercial/retail (allowing customers) for non-ag/non-permitted uses may necessitate a Comp Plan amendment to allow commercial in our residential districts.
2. I do not know how this could be monitored/enforced.
3. I’m concerned about the increased amount of disruption that could be caused by the steady traffic that may result, depending on the type of goods that may be sold. For example, if someone operated a bakery from their house, I could definitely see a lot of activity (even with a limit of 3 customers at a time) – also very hard to monitor.

Since I will not hear the presentation, I do not know if these concerns have been addressed elsewhere.”

Discussion then took place regarding concerns that, with this ordinance, the Town would now be opened for any type of enterprise throughout the Town.

Board Member Joyce requested an explanation of the process of how someone who is in violation of the code is allowed to go to the Town Council to remedy their violation. She questioned if this was standard operating procedure for the Town, and now that is known that someone is operating illegally, has a cease and desist order been entered.

Town Manager Kutney replied that based upon staff’s assessment, The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) did not really consider him in violation, it was just that they wanted to ensure that he was meeting all of the municipality’s rules. The person in violation had gone and talked to some of the council members and it was brought up on the Town Council agenda. The Town Council discussed the matter, and it was found that state requirements do not allow a special exception in this case. Planning Technician Garrett stated that the resident was not operating at this point, because he was aware of his violation and the ATF was waiting to see the Town Code as well.

Board Member Joyce explained that the intent of residential enterprise was to help a home occupational use. She expressed concern that by allowing clients to come in, this use would change from a residential use to a commercial-type use. Because customers would now be allowed there are things that would need to be addressed, such as signs, parking requirements for retail environments; the accessory building now becoming a primary use; ADA requirements; Building Code requirements, and would it affect the Comp Plan.

Alternate Board Member Guilluame asked if the origination of this was that the gun dealer wished to increase the number of customers. Mr. Garrett responded that, at this point, he could not have anyone on the property.

Town Manager Kutney explained that, in this Town, residential enterprise was basically a home occupation. We require that the activity take place in an accessory structure.

Public Comment:

Marge Herzog, 966 A Rd.: Commented that when the Town was incorporating there had been a list of all the businesses in Lox Groves, and there were over 100 of them.

In response to Board Member Harris as to how business enterprise related to hay sales, Town Manager Kutney explained that the hay sales ordinance was tabled at the March 5, 2013, Town Council meeting. At the February meeting the Council had asked staff to take the ordinance to the Unified Land Development Code (ULDC) Review Committee and at that meeting one of the members raised a proposal for an historical legacy concept, which pretty much was what the Town did when it first incorporated. Staff brought the suggestion to the Town Council for review, and the Council tabled the hay sales ordinance. The current residential enterprise was basically used for a home occupation type that were sold online, etc. With the hay, that was actually having folks come to a residence.

Town Planning Consultant Fleischmann explained that hay sales was not a home occupation. There was a specific definition for residential sales and service. It was not in the category of residential enterprise.

Board Member Joyce stated that she thought this ordinance changes the intent of residential enterprise, because it would allow running a commercial business out of an accessory building. She suggested that more information is gathered from building code requirements and ask the question if the public is allowed to enter a building for a retail use, what is required. Would the Town be liable for issuing a license for a business that is in a building that is non-compliant.

Chair Lipp suggested creating a home based business category in the ULDC. He suggested that the Board provide a list of concerns to pass on to the Town Council.

**Motion: Motion was made by Board Member Joyce to deny the ordinance based upon the following unanswered questions: by allowing customers to go into the accessory buildings are we changing the occupancy of the accessory building from residential to commercial, and if so, what building code requirements would need to be addressed, ADA, signage, Also there is no language that refers back to the Comp Plan that this amendment is consistent with it. There are no hours of operation or limitations addressed in the ordinance. There is no way to enforce the number of clients at one time, We are creating more work for ourselves,. There are unintended consequences where we are creating commercial uses to occur throughout the residential community. The motion was seconded by Vice Chair Crawford. The motion carried 5/0.**

Town Manager Kutney noted that the ordinance would be set for first reading at the Town Council meeting to be held on March 5, 2013.

b. Report Regarding Manure Ordinance (verbal) – *Mark Kutney, Town Manager*

Town Manager Kutney reported that Ordinance No. 2012-03 has been included review. He explained that in 2012 & 2011 there was concern that the Town may be facing an onslaught of manure dumping. A problem for the haulers was related to the fees. What had happened was that Don Ramon, with 100 acres of farm indicated that they needed the manure and this ordinance was causing a problem. Town Attorney and staff looked at it, and talked about a number of different options. Staff reported to the Town Council that the issue would be discussed with the Planning and Zoning Board. Staff will come back with another ordinance for review and then take the Planning and Zoning Board recommendations to the Town Council.

Chair Lipp commented that the Town will allow an untold amount of manure to go on to Don Ramon's property because it was a banana farm on 100 acres. He said that he had been told that they have less than 100 trees on that property.

Mr. Garrett explained that the location being referred to by Chair Lipp was the North Road location was a separate property and they are now turning it over to a banana farm.

Board Member Joyce commented that citizens had brought up the North Road location before, and there was a concern that it seemed to be a receiving site, rather than a nursery that needs that much manure. She stated that she had a concern that an item like this that was brought up at a Town Council meeting, then at that meeting, a zoning in progress was put into place, with no notice, and that she was concerned about transparency.

Town Manager Kutney replied that he appreciated that concern. Sometimes council members will request items to come on the agenda, and then they look for a motion. He advised that he was going to try to write a policy that when something is put on the agenda, there needs to be some type of back up.

Chair Lipp read a statement from resident Virginia Standish into the record, regarding the North Road nursery location, which he provided to the Town Clerk for the record.

**Comments from Town Planning Consultant Jim Fleischmann:**

Town Planning Consultant Jim Fleischmann: Announced that we have a moratorium on land use plan amendments, so that the staff and Town Council and the Planning and Zoning Board have a chance to look at the Comp Plan and make some amendments as relates to commercial development on Okeechobee and Southern Blvd. corridor. At the Southern Blvd. workshop, last month, he noted that he had mentioned that the Florida Department of Transportation (FDOT)

was getting ready to make a decision regarding drainage ponds along Southern Blvd., and over the course of the next couple of months they will have a series of meetings in order to make decisions about where these ponds are going. They have identified multiple potential sites. The first workshop is Tuesday, March 19, 2013, and all meetings would be available via teleconference to listen and participate. The meetings are all in Ft. Lauderdale. Once they have made a decision as to where the ponds will be located, they will have a public meeting.

He provided the meeting dates:

March 19, 2013 @ 3:30

April 4, 2013 @ 3:00

April 23, 2013 @ 10:00 am

May 8, 2013 @ 3:00

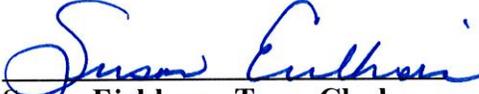
The calling number: 866-590-5055, and the access code: 9407976. Anyone could listen and ask questions and there would be a procedure to follow.

### **3. COMMENTS FROM THE BOARD**

Board Member Joyce made the following comments to her fellow Board Members. We were involved in something that was a perfect example of transparency. There has been a lot of talk about a referendum and Palm Beach State College. The issue at hand is not the State College, because the way that Loxahatchee Groves land use goes is that it could go anywhere in our Town. The issue that they are bringing up is actually a change to the land use. If a referendum was to go forward and a vote was to be taken, and it was to be reversed, we would actually be taking a step backwards. If the college is reversed, then we will be allowing commercial to go back on that piece of land. If people understood that, they would feel differently about it. It is difficult to have this type of conversation at a Town Council meeting. The issue is not the use. The use is allowed anywhere in our community.

**4. ADJOURNMENT**

There being no further business, the Planning and Zoning Board meeting was adjourned at 9:00 p.m.

  
Susan Eichhorn, Town Clerk

  
Dennis Lipp, Chair

(SEAL)

**The next Planning & Zoning Board meeting is  
Tentatively scheduled for April 11, 2013 at 7:00 p.m.**