

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



Town of Loxahatchee Groves
Planning & Zoning Board/LPA Meeting
Thursday, September 12, 2013 at 7:00 p.m.
Central Palm Beach County Chamber of Commerce – West Office
13901 Southern Boulevard, Loxahatchee Groves, FL 33470

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 Jim Fleishmann

MINUTES

1. OPENING

a. Call to Order & Roll Call

Chair Dennis Lipp called the meeting to order at 7:00 pm. Upon roll call, the following members of the Planning and Zoning Board were present: Chair Lipp, Vice Chair Crawford, Board Member Harris, Alternate Board Members Veronica Close and Byrnes Guillaume. Board Member Lawrence Corning arrived at 7:10 p.m. Board Member Grace Joyce was not in attendance. Also in attendance were Town Manager Mark Kutney, Town Planning Consultant Jim Fleischmann, Town Planning Technician Braeden Garrett, and Town Clerk Susan Eichhorn.

b. Approval of Agenda

Motion: Vice Chair Crawford made a motion to approve the Agenda. The motion was seconded by Alternate Board Member Close. The motion passed 5/0.

2. MINUTES

a. Planning and Zoning Board Minutes for Approval - June 13, 2013

Motion: Alternate Board Member Close made a motion to approve the Minutes of June 13, 2013. The motion was seconded by Vice Chair Crawford. The motion passed 5/0.

3. OLD BUSINESS - *None*

4. NEW BUSINESS – *None*

5. LOCAL PLANNING AGENCY

Old Business – *None*

New Business

a. ULDC Text Amendment 2013-03 – Special Exception Uses

Board Member Harris recused himself, and declared a voting conflict regarding special exception uses, as he was a commercial equine operator.

Town Planning Consultant Jim Fleischmann provided the staff report and analysis. He summarized that staff recommended approval of the proposed ULDC text amendments as presented in Attachment A.

Discussion took place regarding the special exception process, and the proposed special exception categories. Mr. Fleischmann responded to questions from the Board.

Mr. Fleischmann referred to pages 13 and 14 of the back-up material, wherein the action of the ULDC Review Committee was cited. He noted that they recommended approval of Article 170 (Special Exception Uses), subject to the changes that they had recommended.

Mr. Fleischmann advised that staff recommended approval of the proposed ULDC text amendments, as presented in Attachment A.

In response to questions regarding a rodeo event, Town Planning Consultant Fleischmann stated that it is very clear in the definition of outdoor events that a rodeo would be considered an outdoor event, which is subject to a Category B Special Exception approval. The Town Manager could always bump up any event to require a Category A Special Exception approval.

Public Comment

Keith Harris stated that his conflict was commercial equine operations. He explained that he had campaigned this issue to the Town Council to remove commercial equestrian operations from the special exception use requirement. He addressed the definition of commercial equestrian operations, and noted that there were some 37 properties within Loxahatchee Groves offering commercial equestrian operations, and that he himself trained horses and rented out stalls. He noted that he was classified as agriculture by the Palm Beach County Property Appraiser, and that he was a bona fide farm operation, and Florida State Statutes prohibits regulation of bona fide farm operations.

Nina Corning, E Rd: Commented that if small mom and pop horse operations were made into commercial entities you would have a lot of people in violation right now. There is a difference between having a horse show and renting out stalls, etc. There needs to be some sort of separation so that those things don't fall into the commercial special exception category.

Mr. Fleischmann responded to further questions and suggestions from the Board. He explained that a zoning confirmation request would first be requested by an applicant. The zoning confirmation response would identify the specifics of what was required of the applicant, and a meeting with the applicant and staff would be held to review what type of special exception would be required.

Public Comment:

Nina Corning, E Rd.: Commented regarding a rodeo that was being planned and suggested that the Board think about what would be done with that sort of thing.

Virginia Standish, 15410 North Rd.: Commented as Chair of the Unified Land Development Code Review Committee (ULDCRC), regarding outdoor events because that was discussed at the ULDCRC. The ULDCRC was in favor of agriculture and the difference between agricultural outdoor events and commercial outdoor events were very different. Many well established agricultural enterprises were under attack under the current ULDC code and the Committee believed they should be protected if they are agriculture. She noted that they are also protected by the Florida Statutes. She noted that the Committee believed there were already regulations that addressed private events.

Town Manager Kutney commented that he did not see that such a use would be permitted in the AR Zoning District, and suggested that an event such as a rodeo may need to be called out in the Code. Mr. Fleischmann stated that it was clear that such an event would be considered an outdoor event.

Motion: Alternate Member Close made a motion recommending approval to the Town Council of the proposed changes to special exception uses with the addition of language including rodeo as a Category A Special Exception under permitted uses and inserting the language outlining the criteria to be used in making a decision on Category B special exceptions. Vice Chair Crawford seconded the motion. The motion passed 5/0.

b. ULDC Text Amendment: Section 80-20 – Residential Enterprise

Town Planning Consultant Fleischmann addressed the text amendment, noting that at the August 6, 2013, Town Council meeting staff was given very specific direction by the Town Council as to what they wanted to see when the ordinance came back. Essentially the only change to the existing ordinance was to revise subsection (h) to read: Customers or Clients: up to three clients or customers may be present at the same time to transact business on the premises.

Alternate Member Close expressed concern about opening up residential enterprises to retail sales, and stated that she was opposed to that.

Mr. Fleischmann stated that, as the code is written right now, the definition of residential enterprise is a low impact home based business on property that has a homestead exemption. There were other conditions as well.

Discussion took place.

Mr. Fleischmann stated that there is a distinction between home operation and residential enterprise in the Code. Home occupation is a business that occurs within your residential structure Residential Enterprise is allowed to occur in a separate building other than the home. There are other criteria, such as size, and such as how the product is delivered to the business; it also regulates commercial vehicles. The regulations are not specific with definitions in terms of what kind of businesses.

Motion: Alternate Member Close made a motion to recommend to the Town Council that they NOT approve the change in Section 80-020 (h) to the Code. The motion was seconded by Board Member Corning. The motion passed 5/0.

Town Manager Kutney noted that staff did advise the Town Council that at some point the whole issue of residential enterprise, home office, etc. – all of those uses needed to be looked at again; at some point, regardless of what the Planning & Zoning Board did with the text amendment

tonight, staff will need to address the uses on a property, when the Town Council gives the direction.

c. Comprehensive Plan Amendment: 2013-01

Town Planning Consultant Fleischmann explained that the Town's Capital Improvements Element (CIE) in the comprehensive Plan, as adopted in 2009, indicated no scheduled capital projects for the ensuing five-year planning period. The law requires that, on an annual basis, a town take a look at capital improvements that are needed over the ensuing five year period, and since the Town had no five year capital improvement schedule, it was decided that a determination would be made as to what capital improvements would be needed over the next five years, and to incorporate a schedule of improvements, as well as make text amendments to the Comprehensive Plan. The Town Council adopted Ordinance 2013-04 which created the first five-year schedule of capital improvements, and by adopting that Ordinance the Town is now compliant with F.S. Section 163.3177(3)(b).

The five year schedule of improvements has already been adopted. It can be adopted by a simple ordinance procedure, and that is what was used. Text amendments to the Comprehensive Plan have to go through a much more extensive review process, including review by the Local Planning Agency, two public hearings, and State comments, and then come back for final adoption. This was the first step in that process.

The complete versions of all of the four elements are on pages 41-69 of Agenda Packet. He provided a summary of the highlights of each element, transportation element, drainage sub-element, recreation and open space, capital improvement element – those amendments are primarily oriented to establishing a definition of the term “capital improvement,” and also establishing a system of priorities for the Town to use as the basis to determine the priority of capital improvements. The changes are oriented to updating and upgrading the Town's policies towards capital improvements.

Alternate Member Close expressed concern regarding page 46 of 77 in the Agenda Packet, under Policy 2.7.1, in the last paragraph of that section. Discussion took place and there was no change to the wording.

Mr. Fleischmann explained that the way this process would normally happen is that the text and schedule of improvements either goes together, or text is updated first, then the schedule of improvements at a later time, but because of the need to get improvements in place prior to this budget year, the Ordinance with the schedule of improvements was approved first. That was not the way the process would happen in the future.

Board Member Corning stated that the language was extremely important to him, and suggested that the Comprehensive Plan Amendments are delayed so that more time can be spent on the document.

Mr. Fleischmann explained that the only difference between the text amendments and the Comprehensive Plan are the strike outs/additions. Everything else was already in the Comprehensive Plan and had been there since 2009.

Town Manager Kutney explained the connection between the 5 cent gas tax and the capital improvement plan.

Board Member Corning brought up the equestrian trails and suggested that some time frame is identified in the Comprehensive Plan.

Mr. Fleischmann advised that when the amendments go to the State and the State reviews it and it comes back, the Town Council will have another hearing. At that time the Town Council could make changes. In the meantime, if the Planning & Zoning Board wanted to take this up again and make changes prior to the second reading, that could be done. Changes could be made in between first and second reading.

Town Manager Kutney stated that he sensed Board Member Corning's frustration and there has been a lot of criticism because there were rules that told every planner in every city what they had to do. Just as the Town was incorporated there were two major bills to attempt to get rid of some of the onerous requirements that were in place. Things were changing now, and a municipality may have the opportunity to be a little more creative.

Veronica referred to Policy 2.4.4. and questioned whether the Roadway, Equestrian Trails, Greenway Advisory Committee (RETGAC) had addressed an equestrian trail south of Okeechobee Blvd.

Nina Corning, Chair of RETGAC, addressed the Planning & Zoning Board, stating that there were some concerns of RETGAC on Policy 2.4.4., and suggested that the comments of RETGAC should be obtained.

Board Member Close pointed out that Policy 2.4.4. said that the equestrian trails and greenways project shall be pursued by the Town until such time that a master plan pursuant to Policy 2.3.3. is completed, so the Town would be following the old plan until a new plan was adopted.

Nina Corning responded that recommendations had been made by RETGAC to the Town Council, however, to date they had not yet been adopted by the Town Council. She explained that there was an effort to connect the trails throughout the Town, and that she would be speaking at the next Loxahatchee Groves Water Control District (LGWCD) meetings and Intergovernmental Coordination Committee (IGC) meetings.

Motion: Motion made by Board Member Corning to postpone this matter so that he can obtain more information.

Chair Lipp asked Board Member Corning to hold his motion for the time being.

Public Comment:

Virginia Standish, 15410 North Rd.: Commented that she sits on both the Finance Advisory & Audit Committee (FAAC) and the ULDCRC and takes the time to attend the Town Council meetings, and LGWCD meetings and she hears how the opinions and suggestions of Boards and Committees are interpreted. She encouraged that the expectation of a new master plan by the Planning & Zoning Board or RETAG is made clear to the Town Council. She referred to Policy 2.1.5., and asked the Board to clarify if this policy affected all properties or just commercial. She asked if it would be possible to be a bit more detailed in that section. Town Planning Consultant Jim Fleischmann advised that the Town follows Palm Beach County Code in that particular policy; it was a County-wide ordinance. Ms. Standish replied that it was difficult for a resident to understand when the Town follows the County Code and when it follows the Town ULDC. She referred to policy sections regarding OGEMing roads, and the inconsistency in how the infrastructure is presented to the community. She expressed concern regarding money being spent on OGEM, and the fact that the culverts under the roads cause the roadways to collapse. She suggested that in planning for the community, the overall infrastructure is considered.

Nina Corning referred to Policy 2.7.1.4. and expressed concern regarding development coming in, and suggested that section is reviewed.

Keith Harris suggested that the Comprehensive Plan amendments are tabled and have it reviewed by RETGAC.

Town Manager Kutney commented that the Town Management is doing all of this under a Work Authorization, and if it starts going back to other boards, we are going to have to request more money from the Town Council. He advised that he was looking at his contractual responsibilities and we will definitely bust that budget if we add another process that was not envisioned. He advised that the Board can recommend a review by RETGAC and staff will take it back to the Town Council.

Chair Lipp commented that we were instructed by the Town Council not to ask for any more money to be spent.

Town Manager Kutney suggested that the Board could have its regular meeting in October and could invite the members of RETGAC to join the meeting. In the meantime, staff could try to put together more information to address some of the concerns stated tonight.

Nina Corning, Chair of RETGAC, suggested that this matter be added to the upcoming RETGAC Agenda for October 23, 2013.

Motion: Motion made by Board Member Corning to continue consideration of the Comprehensive Plan amendments until after RETGAC meets and then the Planning & Zoning Board will invite RETGAC to meet collectively. The motion was seconded by Board Member Harris.

Alternate Board Member Close suggested that it would be helpful to her if she understood what Mr. Corning's concerns were. She suggested that Mr. Corning amend the motion to get his

specific concerns to the Town Manager or Town Planner, so that the rest of the Board could review his concerns.

Board Member Corning accepted the amendment to his motion.

The motion passed 5/0.

Alternate Member Close clarified that she was only suggesting that Mr. Lawrence address his concerns as to the underlined portions of the Comprehensive Plan amendment at this time.

6. COMMENTS FROM THE BOARD

There were no further comments.

7. ADJOURNMENT

There being no further business, the Planning and Zoning Board meeting of September 12, 2013, was adjourned at 10:30 p.m.


Susan Eichhorn, Town Clerk


Dennis Lipp, Chair

(SEAL)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Alan Scott Harris, hereby disclose that on SEP 12, 2013:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

SPECIAL EXCEPTION USE REVIEW AMENDMENTS OF THE TOWN OF LOXAHATCHEE GROWB UTILIZED LAND DEVELOPMENT CODE.

SEP 13 2013
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.