

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
Special Magistrate Hearing
Wednesday, March 20, 2013 at 10:00 a.m.
Central Palm Beach County Chamber of Commerce,
13901 Southern Blvd., Loxahatchee Groves, Florida 33470

Special Magistrate, William Doney

Town Manager, Mark Kutney
Town Clerk, Susan Eichhorn
Code Enforcement, Tew & Taylor, Inc.

MINUTES

1. CALL TO ORDER

Special Magistrate William P. Doney called the meeting to order at 10:00 a.m. Present were Town Manager Mark Kutney, Town Clerk Susan Eichhorn, Beverly Tew, President of Tew & Taylor, Inc., Code Enforcement Officer Russell Elgin. Also present were Respondent Todd McLendon, Complainant Mr. Lawrence Lefkowitz, and Architectural Acoustics Consultant Edward Dugger.

2. SWEARING IN OF ALL WITNESSES

Special Magistrate Doney administered the oath to all witnesses.

3. FINE/LIEN CERTIFICATION - *None*

4. ORDERS OF VIOLATION

a. Case 2012-298 Town of Loxahatchee Groves Florida (Petitioner) vs. Todd and Shire McLendon

PCN: 41-41-43-17-01-332-0010

Location: 3481 D Road, Loxahatchee Groves, FL 33470

Violation: Birds on property that excessively screech, chirp, crow and make loud noises.

Referenced Code: Loxahatchee Groves Unified Land Development Code Article 80 Conditional Uses section 80-50 Aviculture (B) (4 & 6) and Article 50 Public Nuisances section 50-10 Excessive Noise.

Corrective Action: Relocate offending birds away from residential properties to the maximum extent possible and/or employ such methods that will reduce the sound levels generated by the aviculture activity by February 14, 2013.

Ms. Tew presented an overview of the case on behalf of the Town. She presented Exhibits 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, that were admitted into evidence by Special Magistrate Doney.

Respondent Todd McLendon responded with questions.

Russ Elgin, Code Enforcement Officer, responded to questions from Mr. McLendon regarding the noise measurements that had been taken, explaining the sound measurements taken, following the procedures set forth in the ULDC. He indicated the noise level during the measurement period, taken at different times of the day. He noted that the high readings seemed to come out late in the afternoon or early evening.

Edward Dugger, Acoustical Consultant testified in regard to acoustic measurements he had taken on the property in question. His report and findings, was submitted as Town Exhibit 5 and admitted into evidence by Special Magistrate Doney.

Respondent McLendon was provided the opportunity to question Acoustical Consultant Dugger.

Special Magistrate Doney offered Complainant Lefkowitz the opportunity to testify, which was accepted. Mr. Lefkowitz then provided his testimony.

Respondent McLendon presented his case. He presented Exhibits 1 through 5.

Mr. Tew asked questions as rebuttal to the testimony of Respondent McLendon.

Respondent McLendon submitted his questions to Mr. Tew on her rebuttal.

Special Magistrate Doney's Findings:

Special Magistrate Doney noted that he would read through the Exhibits presented, and research the Florida Right to Farm Act, and that he would then provide an Order by the end of the month.

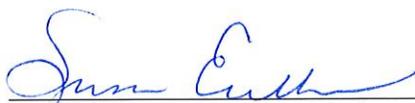
5. FINE REDUCTION HEARINGS - None

6. STATUS UPDATE

Ms. Tew provided an update on the active case with Magic Properties, noting that they were put on an indefinite stay, so that the case was still active, however, they have proceeded forward in good faith. Their site plan was approved by the Town Council on March 5, 2013 through Resolution No. 2013-02. She also reported that the case would come back to the Special Magistrate at some point.

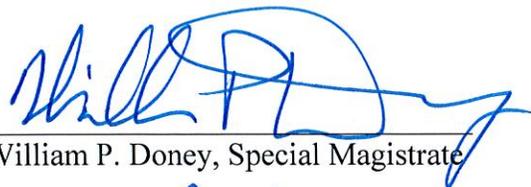
7. ADJOURNMENT

It was noted that the next Special Magistrate Hearing would take place on April 24, 2013. The Special Magistrate Hearing of March 20, 2013, was then adjourned at 1:00 p.m.



Susan Eichhorn, Town Clerk

(SEAL)



William P. Doney, Special Magistrate

Date Signed: April 2, 2013