

Town of Loxahatchee Groves

Regular Town Council Meeting

Tuesday, November 1, 2016 at 7:00 p.m.

MINUTES

1. OPENING

- a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 pm. Present were Present were Mayor David Browning, Vice Mayor Tom Goltzené and Council Members Ryan Liang, Todd McLendon and Ronald Jarriel. Also present was Town Manager Bill Underwood, Town Attorney Michael D. Cirullo, Jr. and Town Clerk Virginia Walton.

- b. Pledge of Allegiance & Invocation – Mayor Browning

- d. Approval of Agenda

Motion: a motion to approve the agenda, with Addendum #1 and #2 and add-on item #5b, was made by Council Member Liang and seconded by Council Member McLendon. Motion passed 5 – 0.

2. PUBLIC COMMENTS

Marge Herzog, stated the County had released the funds for the two approved grants for the park/easement at 22nd & C Road. Mr. Carlton, adjacent property owner on north side, was clearing his property and stated he was willing to clear the Town property as well; and also remove the culvert at Mr. Lopez's property and install a new culvert. In exchange, Mr. Carlton was asking for the ability to use the new culvert for access to his property, to have his address changed to 22nd Road instead of 24th Court, and to have a letter issued stating his donations and volunteerism for IRS purposes. Mayor Browning stated this would have to be brought back as an agenda item at the next meeting.

Bill Louda, thanked the Underwood Group for tonight's event prior to the meeting and sent his apologies that he was unable to attend this Saturday.

3. CONSENT AGENDA

(Public Comment will be permitted on consent agenda items prior to Council vote)

- a. Approval of October 2016 Goren Cherof Doody & Ezrol Invoices

b. Resolution 2016-73 (Engaging Code Enforcement Special Magistrates)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, TO PROVIDE FOR AND TO APPOINT CODE ENFORCEMENT SPECIAL MAGISTRATES; APPOINTING PAUL J. NICOLETTI AS CODE ENFORCEMENT SPECIAL MAGISTRATE; APPOINTING KEITH W. DAVIS AND JENNIFER ASHTON AS ALTERNATE FOR KEITH W. DAVIS OF THE LAW FIRM OF CORBETT, WHITE, DAVIS AND ASHTON, PA, AS CODE ENFORCEMENT SPECIAL MAGISTRATE; PROVIDING FOR TERMS OF SERVICE; APPROVING RETAINER AGREEMENTS WITH PAUL J. NICOLETTI AND CORBETT, WHITE, DAVIS AND ASHTON, PA; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

c. Resolution 2016-74 (Adopting FY 2016 Budget Amendment)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A BUDGET AMENDMENT FOR THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2015 AND ENDING SEPTEMBER 30, 2016; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

d. Resolution No. 2016-75 (Keshavarz Change Order for B Road Improvements)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING CHANGE ORDER #3 FOR "B" ROAD IMPROVEMENTS, TO KESHARARZ & ASSOCIATES, IN THE AMOUNT OF \$11,050.50; AND PROVIDING FOR AN EFFECTIVE DATE.

e. Resolution No. 2016-76 (Hardrives Change Orders #5 and #6)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING CHANGE ORDERS #5 AND #6 FOR "B" ROAD PAVEMENT SURFACING, TO HARDRIVES OF DELRAY, INC. d/b/a HARDRIVES, INC., FOR A NEW TOTAL CONTRACT PRICE OF \$1,129,230.80; AND PROVIDING FOR AN EFFECTIVE DATE.

f. Authorization to engage a Bond Counsel and Structure Referendum Language for Road Construction Bond

g. Authorization for Town Manager and Town Attorney to take whatever steps necessary to establish the intent for a non-ad valorem assessment for non-residential solid waste to be placed on the tax bills commencing in 2018.

Motion: a motion to approve the consent agenda as presented was made by Council Member Liang and seconded by Council Member McLendon. Motion passed 5 – 0.

4. PRESENTATIONS – none scheduled

5. OLD BUSINESS

(continued from 10/18/2016 agenda)

- a. Discussion and Responses to OIG Audit Report 2016-A-0004 - Town of Loxahatchee Groves Audit of Contracts, Vendors and Fixed Assets.

Manager Underwood presented a power point presentation responding to each of the findings of the IOG, showing discrepancies between what was sent to the IOG and their findings. Regarding lack of documents, when actual receipts were not in the file, there was emails authorizing the work or purchase and ones confirming completion of the work or purchase, along with invoices. These were not accepted by the IOG. Some were online registrations or purchases and only email confirmations were available. Invoices without Manager signature were minimal, not extensive as quoted by IOG. Late fees and invoices paid late were based on assumption by IOG that invoices were due 30 days from invoice date instead of 30 days from actual receipt of invoice. Payment of mileage and Notary application/renewal costs were historically always paid by Town, even if not specified in policy. Charter calls for “telephone quotes”, but Town has historically erred on the safe side by obtaining written quotes. Finding that Manager’s contract was not in line with Town Charter was already known and had been addressed in charter amendment ballot question on August 30, 2016 primary election. Insurance certificates lacking was something that was being corrected. Inventory was listed but not tagged. This also is being worked on.

After discussion between Council, Town Attorney and Town Manager, Council agreed there were some recommendations that warranted further research and discussion, but most of the other recommendations were minor and had already been addressed by Staff. Town Attorney would draft a formal response to the IOG and present at the December 6, 2016 meeting.

John Ryan presented a letter and a copy of the older version of the Town Charter, which he asked be received and file into the record. Mr. Ryan read the letter, mostly dealing with Town Manager’s contract and duties.

Motion: a motion to receive and file was made by Council Member Liang and seconded by Council Member Jarriel. Motion passed 5 – 0.

Virginia Standish, stated that this report seemed to be suggestions for best practices. It was her understanding that another investigation was still ongoing with regard to Waste Monitoring. As a former FAAC member, Ms. Standish stated that if the current committee suspects something is wrong and their concerns are not addressed, they had the authority to take the complaint to the FDLE.

Dennis Lipp, stated he was in agreement with Vice Mayor Goltzené’s comments. Also, remember that one County Commissioner was jailed because they had violated the non-interference with staff clause. The Council also has that clause and they should refrain from going out into the field and trying to run the Town.

Add-On Item:

- 5b. Resolution No. 2016-78 (Hardrives Change Order #7)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING CHANGE ORDER #7 FOR "B" ROAD PAVEMENT SURFACING, TO HARDRIVES OF DELRAY, INC. d/b/a HARDRIVES, INC., FOR AN INCREASE OF THIRTY-SIX (36) DAY TIME EXTENSION TO THIS PROJECT ; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Liang left the room. Council Member McLendon asked if the new extension date of January 7, 2017 was still within the B Road Developers Agreement. Manager Underwood stated it was. There were no other comments.

Motion: a motion to approve the resolution and Change Order #7 was made by Council Member McLendon and seconded by Council Member Jarriel. Motion passed 4 – 0.

Mayor Browning called a break at 8:58pm. Meeting re-convened at 9:07pm.

6. NEW BUSINESS

- a. Approval of LRM Work Order – Comprehensive Plan Amendments

The Work Order consisted of \$10,000 for Comp Plan Amendments and \$20,000 for ULDC meeting attendance and revisions based on the meetings. Council had several questions about the text amendment they had previously authorized for Okeechobee Boulevard, how many ULDC meetings were included in the amount stated, was the product coming out really accomplishing anything, as several of the committee members had spoken to Council and stated the final product was not what they had agreed to. Mr. Fleischmann responded that he had planned for two meetings per month, and the product he produced was based on what was voted on at the committee meetings. Manager Underwood added that staff was keeping the meetings very focused on allowed uses, and each of those had a comp plan element attached to it.

Motion: a motion to approve the Work Order was made by Council Member McLendon and seconded by Council Member Liang. Motion passed 3 – 2, with Vice Mayor Goltzené and Council Member Jarriel dissenting.

- b. ORDINANCE NO. 2016-09 (FIRST READING) (continued from 10/18/2016 agenda)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA COMPREHENSIVE PLAN, IN ACCORDANCE WITH SECTION 163.3184(3) FLORIDA STATUTES TO ADD SPECIAL POLICY 1.15.7 TO THE TEXT OF THE FUTURE LAND USE ELEMENT RELATING TO FUTURE LAND USE WITHIN THE AREA DEFINED BY THE FOLLOWING FEATURES: COLLECTING CANAL (NORTH); SOUTHERN BOULEVARD (SOUTH); "C" ROAD (EAST); AND "B" ROAD (WEST); PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The Applicant, Seth Brier, and his Attorney, Al Malefatto, stated this change to the property was due to the changes in land use and zoning for all the properties surrounding him. Two issues had gone before the P&Z Board, but the land use amendment one had been tabled. Mr. Brier stated he had spent a large amount of money in renovations and was trying to survive with his residential home, his stables and his arena; but the development now surrounding him was making things difficult. Mr. Fleischmann stated there were originally three parts to the change in land use request: 1) change RR5 land use to commercial; 2) existing businesses stay as non-conforming; and 3) old businesses would not count towards any new development. This element was denied by the P&Z. They felt there was existing issues already on the site and tabled the land use map amendment. Mr. Fleischmann wanted to make an addition to the Exhibit A, Special Policy, to allow property owners in this block be allowed to apply for multiple lost use.

Council had several questions and real concerns that by approving this ordinance, it would open the possibility of other property owners requesting the same thing. Uses that were allowed in CL districts being permitted on properties not fronting Southern was a real concern. Mr. Fleischmann assured the Council that this was an issue for this specific property based on what Council had already done to surrounding sites; and other areas within the Town might not fall under the same criteria. Council also discussed revising the Special Policy to not allow all categories. Council was not really in favor, but realized they could not deny the request as it met the code's requirements; however, reserved the right to address the land use and any site plans in the future.

Dennis Lipp, stated the P&Z Board had reviewed the things items referenced, but all other requests depended on this one. They were not happy with "super blocks" and wondered if this particular site could be handled by a variance. Town Attorney stated a variance would not apply.

Motion: a motion to approve the ordinance on first reading was made by Council Member Liang and seconded by Council Member Jarriel. Motion passed 4 – 1, with Council Member McLendon dissenting.

This item was continued to the Dec. 6, 2016 agenda

c. ORDINANCE NO. 2016-10 (FIRST READING)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE TOWN'S UNIFIED LAND DEVELOPMENT CODE; AMENDING PART I, ENTITLED "ADMINISTRATION AND DEFINITIONS," ARTICLE 10 ENTITLED "DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS", SECTION 10-015, ENTITLED "DEFINITIONS," TO DELETE THE DEFINITION OF MOBILE HOME AND ADD THE DEFINITIONS OF MANUFACTURED HOME AND MODULAR HOME, AND TO AMEND PART II, ENTITLED "ZONING DISTRICTS," ARTICLE 20 ENTITLED "RESIDENTIAL ZONING DISTRICTS," SECTION 20-015, ENTITLED "PERMITTED USES" BY DELETING MOBILE HOME AND CONGREGATE LIVING FACILITY, TYPE I AS PRINCIPAL USES AND ADDING

MANUFACTURED HOME AND MODULAR HOME AS PRINCIPAL USES IN THE AR ZONING DISTRICT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

- d. 8th Place North Access Restriction (this item continued to Dec. 6, 2016 agenda)
- e. Hiring of outside Counsel and Code Investigator – Re: McLendon Code Enforcement Case (this item continued to the Dec. 6, 2016 agenda)

This item was continued to the Dec. 6, 2016 agenda

- f. Resolution No. 2016-77 (Phase 2 Proposal for Road Maintenance Maps)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING PREPARATION OF PHASE 2 SURVEYS FOR ACQUISITION OF ROAD RIGHT-OF-WAY TO KESHARARZ & ASSOCIATES, IN THE AMOUNT OF \$98,542.40; AND PROVIDING FOR AN EFFECTIVE DATE.

7. COMMITTEE REPORTS

- a. FAAC Report for June and July
Chair: Anita Kane

Chair Kane stated a report was not required and requested the Council approve the reports for June and July.

Motion: a motion to accept and approve the FAAC reports for June and July was made by Council Member Liang and seconded by Council Member McLendon. Motion passed 5 – 0.

Motion: Council Member Liang left council chambers. A motion to extend the meeting for 10 minutes to accept final public comment was made by Council Member Jarriel and seconded by Vice Mayor Goltzené. Motion passed 4 – 0.

- b. RETGAC Report (continued to the Dec. 6, 2016 agenda)
Chair: Bill Louda

These items were continued to the Dec. 6, 2016 agenda

8. MANAGER'S REPORT – Town Manager Underwood

- a. Agenda Item Report – Updates on various activities and issues concerning the Town
- b. Revised Preliminary EAP – FEMA (For Information Purpose Only)
- c. Request by Loxahatchee Groves Water Control District to hold a Joint Meeting on November 14, 2016 at 6:30 PM at Water Control District Offices.

These items were continued to the Dec. 6, 2016 agenda

9. COUNCIL REPORTS

- a. Councilman Ron Jarriel
 - 1. Discussion and direction on possible Interlocal Agreement with Loxahatchee Groves Water Control District for grading, hedging, mowing and emergency call in services.
- b. Councilman Todd McLendon
 - 1. Discussion and direction on Model Zoning Code Ordinance – Re: Reducing pollution
 - 2. Consideration to authorize Town Attorney to prepare necessary language that would allow Town residents to opt out of Florida State Statute Chapter 381.00655 “Connection of existing onsite sewage treatment and disposal systems to central sewerage system; requirements.
 - 3. Authorization for Town Attorney to prepare necessary language relative to streamlining ULDC Committee
- c. Vice Mayor Tom Goltzené
 - 1. Discussion and direction on possible new Land Use and Zoning Districts

10. CLOSING COMMENTS

- a. Public

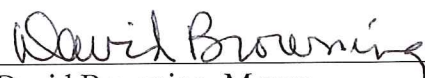
Brenda Amerson, Marianne Miles and Joey Quinn all stated they had come to comment on Ordinance No. 2016-10, amending the code to delete mobile homes and add modular and manufactured homes. They all had or wanted to have mobile homes for caretaker’s quarters. Council requested they return for the Dec. 6, 2016 meeting when this item would be heard.

- b. Town Attorney - none
- c. Town Council Members - none

12. ADJOURNMENT

Hearing no further business, a motion to adjourn the meeting was made at 10:33 PM.


Virginia Walton, Town Clerk


David Browning, Mayor

These minutes were approved by the Town Council on Tuesday, DEC. 6, 2016.