



Town of Loxahatchee Groves

Regular Town Council Meeting

Tuesday, September 8, 2016 at 7:00 p.m.

MINUTES

1. OPENING

a. Call to Order & Roll Call

Vice Mayor Goltzené called the meeting to order at 7:03 p.m. Present were Mayor David Browning (by telephone), Vice Mayor Tom Goltzené and Council Members Todd McLendon, Ronald Jarriel and Ryan Liang. Also present was Town Manager Bill Underwood, Town Attorney Michael D. Cirullo, Jr. and Town Clerk Virginia Walton.

b. Pledge of Allegiance & Invocation

c. Request Participation by Telephone Due to Scheduling Conflict – Mayor Dave Browning

Motion: a motion to approve the Mayor's request for participation by telephone was made by Council Member McLendon and seconded by Council Member Liang. Motion passed 5 – 0.

d. Approval of Agenda

Addendums #1, #2, #3, #4 and #5 were acknowledged and added to the agenda.

Item #4f was pulled from the consent agenda for discussion and re-numbered item #6e.

Item #4g was pulled from the consent agenda for discussion and re-numbered item #6f.

Motion: a motion to approve the agenda as revised was made by Council Member Jarriel and seconded by Council Member Liang. Motion passed 3 – 0.

2. PUBLIC COMMENTS

Lawrence Corning, E Road, stated that he had read that the spraying agent to kill the Zika virus was harmful to other insects, and the Town had many beekeepers within the boundaries.

Mark Jackson, D Road, provided photos of his gate and wanted the Town to pay for a new gate since it was damaged when removed. The photos were received and filed.

Marge Herzog, A Road, announced the Landowner's Association was making a 10th Anniversary calendar and hoped businesses would sponsor either a photo of the month or space in the advertising section.

3. BUDGET HEARINGS

Manager Underwood presented a power point presentation showing the revenue, solid waste, ad valorem and millage trends for from 2008 through present. Revenues were down 25% from 2008, but were coming back up; ad valorem started in 2008 at \$516,000 and was now \$361,000. There was a 25% increase in land values, which had gone from \$314,000 in 2008 to \$445,000.

a. RESOLUTION NO. 2016-63 (Final Solid Waste Assessment)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE PROVISION OF RESIDENTIAL SOLID WASTE COLLECTION SERVICES IN THE TOWN OF LOXAHATCHEE GROVES, FLORIDA; APPROVING THE ASSESSMENT RATE FOR RESIDENTIAL SOLID WASTE COLLECTION SERVICES FOR FISCAL YEAR 2016-2017; IMPOSING A RESIDENTIAL SOLID WASTE COLLECTION ASSESSMENT AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF LOXAHATCHEE GROVES FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2016; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

There were no comments from the public or the Council. Overall presentation had been made by the Manager. The solid waste assessment would stay the same as last year at \$256.27 per dwelling unit.

Motion: a motion to approve the resolution and approving the assessment rate was made by Council Member Liang and seconded by Council Member McLendon. Motion passed 5 – 0.

b. RESOLUTION NO. 2016-64 (Tentative Millage Rate)

A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING THE TENTATIVE MILLAGE FOR THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PURSUANT TO THE BUDGET SUMMARY FOR THE FISCAL YEAR 2016-2017, IN ACCORDANCE WITH CHAPTER 200, FLORIDA STATUTES, AS AMENDED; SETTING FORTH THE DATE, TIME AND PLACE FOR THE SECOND AND FINAL PUBLIC HEARING TO ADOPT THE TOWN'S MILLAGE RATE FOR THE FISCAL YEAR 2016-2017 AND DIRECTING PUBLICATION OF NOTICE THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

The tentative millage rate was proposed at 1.4718, which was 14.79% above the rollback rate of 1.2822. This was the same millage rate as last year. There were no comments from the public or the Council. There were no comments from the public or the Council. Overall presentation had been made by the Manager.

Motion: a motion to approve the resolution and the tentative millage rate was made by Council Member Liang and seconded by Council Member Jarriel. Motion passed 5 – 0.

c. RESOLUTION NO. 2016-65 (First Public Hearing-Budget)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A TENTATIVE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016 AND ENDING SEPTEMBER 30, 2017; SETTING FORTH THE DATE, TIME AND PLACE FOR THE SECOND PUBLIC HEARING FOR THE ADOPTION OF THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016, ADOPTING THE FISCAL POLICIES; AND DIRECTING PUBLICATION OF NOTICE THEREOF; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

There were no comments from the public or the Council. Overall presentation had been made by the Manager. Council Member McLendon stated the spreadsheet he provided to Council tonight showed that the amount that should go to the Water Control District for roads was different than what was in the line item of the budget, and felt the line item should be modified to match the spreadsheet. Manager Underwood clarified that the budget was off a couple of percentages because some OGEM'd roads had mistakenly been included. The budget stated \$77,764 and the spreadsheet stated \$70,073. Manager Underwood stated an adjustment to the General Fund transfer line item would also need to be made.

Motion: a motion to approve an amended resolution making the changes to the line item for the WCD and the General Fund transfers was made Council Member Liang and seconded by Council Member McLendon. Motion passed 5 – 0.

4. **CONSENT AGENDA**

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

- a. Minutes: July 7 2015 Town Council Meeting (jw)
- b. Minutes: July 21, 2015 Town Council Meeting (jw)
- c. Minutes: August 2, 2016 Special Town Council Meeting
- d. August Invoices for Goren, Cherof, Doody & Ezrol, PA
- e. Consent for Use of Town Logo by Loxahatchee Groves Landowner's Association

This item was pulled from the consent agenda for discussion as item #6e

- f. RESOLUTION NO. 2016-62 (Support WCD)

This item was pulled from the consent agenda for discussion as item #6f

- g. RESOLUTION NO 2016-69 (Appropriations)

Motion: a motion to approve the Consent Agenda, as revised, was made by Council Member McLendon, and seconded by Council Member Jarriel. Motion passed 5 – 0.

5. OLD BUSINESS

a. RESOLUTION NO. 2016-66 (Annexation Area)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, EXPRESSING THE DESIRE OF THE TOWN TO HAVE COUNTY-OWNED PROPERTY GENERALLY BOUNDED ON THE NORTH BY 40TH STREET NORTH, ON THE EAST BY THE WESTERN BOUNDARY OF ROYAL PALM BEACH, ON THE SOUTH BY NORTH ROAD AND ON THE WEST BY THE EASTERN BOUNDARY OF THE TOWN OF LOXAHATCHEE GROVES (COUNTY PROPERTY) VOLUNTARILY ANNEX INTO THE TOWN OF LOXAHATCHEE GROVES; WAIVING COST RECOVERY FOR ANNEXATION APPLICATIONS SUBMITTED FOR THE PROPERTY SUBJECT TO THIS RESOLUTION; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THIS RESOLUTION; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICT, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

This was a natural area east of E Road. Council was in agreement this would be good for the Town. Nina Corning, E Road, wanted assurances that the property could not be split up and developed. Council assured her this was zoned conservation and would be put in the Comp Plan as such to protect it.

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

Mayor Browning stated that he was having difficulty hearing the meeting and signed off at 7:44pm.

b. RESOLUTION NO. 2016-67 (Annexation Area)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, EXPRESSING THE DESIRE OF THE TOWN TO HAVE THE SOUTHERN BOULEVARD RIGHT OF WAY FROM THE WESTERN BOUNDARY OF THE TOWN TO THE WESTERN BOUNDARY OF ROYAL PALM BEACH VOLUNTARILY ANNEX INTO THE TOWN OF LOXAHATCHEE GROVES; WAIVING COST RECOVERY FOR ANNEXATION APPLICATIONS SUBMITTED FOR THE PROPERTIES SUBJECT TO THIS RESOLUTION; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THIS RESOLUTION; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICT, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Goltzené stated he had requested this item in order to have some control over possible billboards, roadside people selling fish and cars, etc.; and would like to see in the future expanding to include the Water Control District property, since there had been some talk of using that site for large advertising, as well as expanding to the Wellington boundary and the canal. Town Attorney Cirullo stated the resolution could be amended prior to signature.

Motion: a motion to amend this resolution to expand the annexation area to include the canal up to the Wellington boundary was made by Council Member McLendon. Motion failed for lack of a second.

Nina Corning and Marge Herzog, both had public comments on clarification of the intent of the resolution and any costs there might be to the Town. Council Member McLendon stated that the only cost might be from PBSO for increased traffic control.

Motion: a motion to approve the resolution as presented was made by Council Member Liang and seconded by Council Member McLendon. Motion passed 4 – 0.

c. RESOLUTION NO. 2016-68 (Annexation Area)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, EXPRESSING THE DESIRE OF THE TOWN TO HAVE CERTAIN PROPERTIES LOCATED IN UNINCORPORATED PALM BEACH COUNTY AND ADJACENT TO THE SOUTHEAST BOUNDARIES OF THE TOWN AND ALONG FOLSOM ROAD VOLUNTARILY ANNEX INTO THE TOWN OF LOXAHATCHEE GROVES; WAIVING COST RECOVERY FOR ANNEXATION APPLICATIONS SUBMITTED FOR PROPERTIES SUBJECT TO THIS RESOLUTION; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THIS RESOLUTION; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICT, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

There were several parcels along Folsom Road, one of which had already requested annexation into the Town. There were no comments from the Council or the public.

Motion: a motion to approve the resolution was made by Council Member McLendon and seconded by Council Member Liang. Motion passed 4 – 0.

d. Review and Selection for Special Magistrate Code Hearing Services

Three Applicants responded to the Letter of Interest; Gary Brandenburg, Esquire, Paul Nicoletti, Esquire, and Keith Davis, Esquire. Council directed that Staff set up interviews for the three candidates at the September 20, 2016 Council Meeting.

Vice Mayor Goltzené called a break at 7:57pm. The meeting reconvened at 8:07pm

6. NEW BUSINESS

Vice Mayor Goltzené stated he had a conflict with the next three items on the agenda and would be abstaining from discussion and voting. The gavel was passed to Council Member Liang to officiate on these items. Town Attorney Cirullo advised the Council and Applicants that the

Town Charter called for three votes to pass a quasi-judicial item, and there were only three members present on the Dais; therefore, it would take a unanimous vote to pass the next three items. The Applicants agreed to continue.

a. RESOLUTION NO. 2016-59 (Site Plan Amendment) **QUASI-JUDICIAL HEARING**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE LOXAHATCHEE GROVES COMMONS OUTPARCEL "F" MEDICAL OFFICE SITE PLAN AMENDMENT, FOR LAND OWNED BY ATLANTIC LAND INVESTMENTS LLC, CONSISTING OF 21.73 ACRES MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND "B" ROAD LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT "A" TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Thomas Mullin, Esquire, and Joe Lelonek for the Applicant; Town Planning Consultant Jim Fleischmann and resident Bill Louda were all sworn in to give testimony. Mr. Lelonek stated that Building F had a designation on the approved site plan for retail/restaurant use, and this request was just an administrative change to add another already permitted use in the Town's ULDC for medical office. The medical office has a less intensive use for traffic approvals. Planning Consultant Fleischmann advised the Council that this was not administrative, but a full plan amendment. Staff and the Planning & Zoning Board had recommended approval at their meeting on August 18, 2016.

Council Member McLendon was not in favor of this approval because there were already medical office buildings within the Town with vacancies, and he didn't want to expand the areas allowed to have medical. There were several urgent care facilities already within a five mile radius of this site; and even if approved, this should be inside the plaza rather than taking up the outparcel sites. Bill Louda, E Road, asked the Council not to make a decision that would open the Town up for a lawsuit.

Motion: a motion to approve the resolution and the site plan amendment request was made by Council Member Jarriel and seconded by Council Member Liang. Motion failed 2 – 1, with Council Member McLendon dissenting.

b. RESOLUTION NO. 2016-60 (Site Plan Amendment) **QUASI-JUDICIAL HEARING**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE LOXAHATCHEE GROVES COMMONS LOCAL RETAIL BUILDING "B" CHLORINE TANK SITE PLAN AMENDMENT, FOR LAND OWNED BY ATLANTIC LAND INVESTMENTS LLC, CONSISTING OF 21.73 ACRES MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND "B" ROAD LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT "A" TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Lelonek, for the Applicant, stated this was a pool supply company which would occupy Bay #110. The Tank would be located in the rear of the building, would have a containment tank surrounding the chlorine tank, a chain link fence surrounding all sides and bollards on the north side to prevent any vehicle from hitting the tanks. There would be a landscape hedge on the north and east sides. Mr. Lelonek asked that staff condition #2 be revised to reflect what was approved at the P&Z Board Meeting. The 8ft. high wall on the north side was discussed but was not voted as part of the motion. Planning Consultant Fleischmann responded that Mr. Lelonek was correct. The wall had been suggested by the Health Department comments; however, the Town Engineer, the County and the SFWMD had all indicated the fence would be better. Bill Louda, E Road, agreed that a fence would be preferable so that any vapors could drift away.

Motion: a motion to a motion to approve the resolution and site plan amendment, subject to the change in staff condition #2, was made by Council Member Jarriel and seconded by Council Member McLendon. Motion passed 3 – 0.

c. RESOLUTION NO. 2016-61 (Sign Variance) **QUASI-JUDICIAL HEARING**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE LOXAHATCHEE GROVES COMMONS OUTPARCEL “F” SIGN VARIANCE, FOR LAND OWNED BY ATLANTIC LAND INVESTMENTS, CONSISTING OF 21.73 ACRES MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND “B” ROAD LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT “A” TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Lelonek, for the Applicant, stated the Dunkin Donuts Store was proposed for 1800sf. In the Building “F” outparcel. The menu sign would be directly behind the building, with the dumpsters enclosed in walls hiding the sign from plaza traffic, and directly in front of the FP&L box. The Applicant had asked for a 46sf. Sign with wings; but after the P&Z Board meeting, they were presenting a 31.80sf. sign without any wings. Planning Consultant Fleischmann stated the Town’s ULDC had a maximum sign of 12sf. and very strict criteria for a variance. Staff did not feel the Applicant had met the criteria and recommended denial. The P&Z Board had denied the 45sf. Variance; but had recommended approval of a 24sf. Variance. Steve Kemp, with Kemp Signs, and Steve Rubiano, owner of Dunkin Donuts, also spoke on reasons for requesting the variance. Council was not in agreement with either variance. After further discussion, Applicant requested that this item be continued.

Motion: a motion to continue Resolution No. 2016-61 (sign variance) to the September 20, 2016 meeting was made by Council Member McLendon and seconded by Council Member Jarriel. Motion passed 3 – 0.

Vice Mayor Goltzené called a break at 9:30pm. The meeting reconvened at 9:39pm.

d. Discussion and Direction for Commercial Enterprise Enforcement Policy

Manager Underwood stated Staff needed some clarification in order to properly proceed with proactive code enforcement. Should they differentiate between residential with homestead or residential with rentals? Between Residential only, or Residential Ag, or Commercial? Council felt code enforcement should look at properties that are openly advertising for business when their property does not have correct zoning for this; those that are using Town's public roads for their parking lots; those that are openly posting signs for selling products or services; illegal restaurants; all of this without going through the proper process. Manager Underwood stated Staff would try to interpret Council's wishes and come back for additional clarification if needed.

This item was pulled from the consent agenda for discussion as item #6e

f. RESOLUTION NO. 2016-62 (Support WCD)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA EXPRESSING ITS CONTINUING SUPPORT FOR THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT ACTIVITIES TO ELIMINATE FENCES AND GATES WITHIN THE DISTRICT'S MAINTENANCE BERMS; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Council Member McLendon stated there had been a unanimous vote at the last IGC Meeting on this resolution. Council Member Jarriel stated that this should not have come before Council for a vote yet because the WCD had not voted on asking for Town's support and Town had not directed Staff to bring this resolution forward. John Ryan, A Road, gave comments on what he said the Water Control District felt on this issue.

Motion: a motion to approve Resolution No. 2016-62 was made by Council Member McLendon and seconded by Council Member Liang. Motion failed with 2 – 2 vote, Council Member Jarriel and Vice Mayor Goltzené dissenting.

This item was pulled from the consent agenda for discussion as item #6f

g. RESOLUTION NO 2016-69 (Appropriations)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THREE HOUSE APPROPRIATIONS REQUEST FORMS FOR FISCAL YEAR 2017, ATTACHED HERETO AND IDENTIFIED AS (1) HOUSE APPROPRIATION REQUEST FORM FOR ROAD AND DRAINAGE IMPROVEMENTS, (2) HOUSE APPROPRIATION REQUEST FORM FOR GUARDRAIL IMPROVEMENTS, AND (3) HOUSE APPROPRIATION REQUEST FORM FOR TRUNK WATER LINE IMPROVEMENTS; PROVIDING FOR DELIVERY OF THE REQUEST FORMS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Manager Underwood stated he had attended a meeting with Commissioner McKinley and she had recommended the Town ask for a one year funding, rather than the entire project amounts. Discussion was about whether to take out some of the items requested or just reduce the amounts for the three projects. Nina Corning and Lawrence Corning commented on their concerns.

Motion: a motion to approve the resolution, and amend the appropriation forms to reflect reduced amounts, was made by Council Member McLendon and seconded by Council Member Liang. Motion passed 4 – 0.

Motion: a motion to extend the meeting for 5 minutes in order to vote on item #9d from the Manager's Report was made by Council Member Jarriel and seconded by Council Member Liang. Motion passed 4 – 0.

9d. Direction on Joint Meeting with Water Control District on Roads

Motion: a motion to schedule a joint meeting on October 4, 2016, at Town Hall, was made by Council Member Jarriel and seconded by Council Member McLendon. Motion passed 4 – 0.

7. COMMITTEE REPORTS – none scheduled

8. PRESENTATIONS – none scheduled

All items, with the exception of item #9d, will be continued to the 9-20-2016 agenda

9. MANAGER'S REPORT – Town Manager Underwood

- a. Agenda Item Report – Updates on various activities and issues concerning the Town
- b. Direction on Okeechobee/Folsom Speed Signs for FY 2016/2017
- c. Direction on CODE RED Notification Software System
- d. Direction on Joint Meeting with Water Control District on Roads
- e. Council Meeting Schedule for Oct. to Dec. 2016 and Jan. to Sept. 2017
- f. Palm Beach County Sheriff's Office District 15 Monthly Report for July 2016
- c. Palm Beach County Fire-Rescue Monthly Report for July 2016

All items for #10 will be continued to the 9-20-2016 agenda

10. COUNCIL REPORTS

- a. Council Member Ron Jarriel
 1. Discussion and direction on Assessment of Roads by Bergeron
- b. Vice Mayor Goltzené
 1. Discussion and direction on Charter Amendments
 - a) Canvassing Board
 - b) Manager Duties
 - c) Debt Financing

11. CLOSING COMMENTS

- a. Public
- b. Town Attorney

Today was Town Attorney Cirullo's daughter's birthday – Happy Birthday Katy!

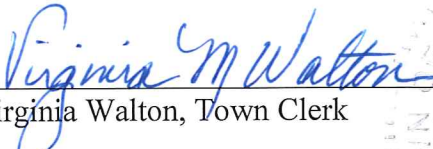
- c. Town Council Members

Council Member Jarriel stated he had been on some of the Town roads today and there were large potholes that needed repair. He understood Bergeron was on standstill on repairs, hedging and road rock, and thought they should not be restrained.

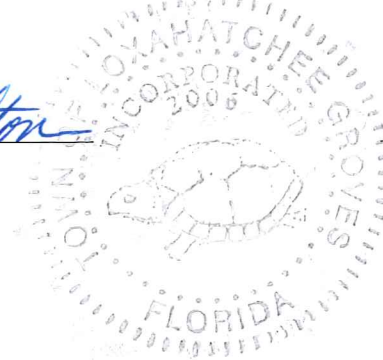
Council Member Liang thanked everyone for coming and Go Gators!

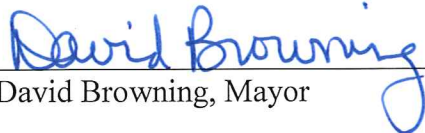
12. ADJOURNMENT

Hearing no further business, a motion to adjourn the meeting was made at 10:31 PM.



Virginia Walton, Town Clerk





David Browning, Mayor

These minutes were approved by the Town Council on Tuesday, 9-20 2016.