



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, September 17, 2013 at 7:00 p.m.

Loxahatchee Groves Water Control District, 101 West "D" Road

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

Town Manager Mark Kutney
Town Clerk Susan A. Eichhorn
Town Attorney Michael D. Cirullo, Jr.

MINUTES

1. OPENING

a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 pm. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzene, Ryan Liang, and Jim Rockett. Also present were Town Manager Mark Kutney, Perla D Underwood, UMSG, Town Attorney Michael D. Cirullo, Jr., and William F. Underwood, UMSG, and Town Clerk Susan Eichhorn.

Town Manager Kutney reported that the minutes for approval should include only the Minutes of August 6, 2013, and September 10, 2013. The remainder of the minutes listed on the Agenda were not part of the Agenda packet and would be listed for approval on future Town Council Agendas

Motion: Councilman Liang moved to approve the Consent Agenda as amended. The motion was seconded by Councilman Goltzené. The motion passed 5/0

3. PUBLIC COMMENT

Marge Herzog, A Rd.: Commented that this Saturday there will be the “Adopt a Road” program to clean up Okeechobee Blvd. The National Honor Society will be there, and pick-up trucks are needed to help. Also, on September 26, 2013, the Landowners’ Association will have George Voren presenting the Scripps grant program that he works under that deals with smoke cessation.

Vice Mayor Jarriel commented that he would like to see the National Honor Society get some recognition.

Ms. Herzog replied that the way the “Adopt a Road” program works is that an organization brings in the workers and they are given as much publicity as possible by putting it in the newspaper, etc. They are getting credit for being there and doing the work.

4. PRESENTATIONS - None

5. COMMITTEE REPORTS -None

6. PUBLIC HEARINGS – Second and Final Public Hearing 2013-2014 Millage and Budget

a. Resolution No. 2013-13

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING AND ADOPTING THE FINAL MILLAGE FOR THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PURSUANT TO THE BUDGET SUMMARY FOR THE FISCAL YEAR 2013-2014, IN ACCORDANCE WITH CHAPTER 200, FLORIDA STATUTES, AS AMENDED;

PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

b. Resolution No. 2013-14

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A FINAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2014; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Town Manager Kutney reported that because of an advertising deadline, the Budget Hearing will be scheduled to occur on Friday, September 20, 2013 at 6:30 p.m. in the Meeting Room of the Loxahatchee Groves Water Control District, 101 West "D" Road.

Motion: Councilman Rockett made a motion to continue Res. 2013-13 and 2013-14 until September 20, 2013, in the Meeting Room of the Loxahatchee Groves Water Control District. The motion was seconded by Councilman Liang. The motion passed 5/0.

7. PUBLIC HEARINGS (Ordinances 2nd Reading) – None

8. ORDINANCES (1st Reading)

a. Public Hearing:

Ordinance No. 2013-05

[Text Amendment re: Residential Enterprise. This matter is on The Planning & Zoning Board Agenda for 9-12-13 – will be included as an Addendum to this 9-17-13 Town Council Agenda]

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 Attorney Cirullo advised that Town Council had requested an amendment to the residential enterprise ordinance. He read Ordinance No. 2013-05 by title as set forth above.

Town Planning Consultant Jim Fleischmann provided the staff report regarding the text amendment, and reviewed the proposed revisions to Ordinance No. 2013-05. He noted that the amendment was an amendment to Section 80-020, and this item had been discussed at several previous Town Council meetings, the latest of which was August 6, 2013, and at that meeting the Town Council had directed staff to make revisions to sub-section 80-020 (H) of the ordinance to permit up to three customers to be present on site at any given time. He explained that the current proposed amendment was reviewed by the Planning and Zoning Board on September 12, 2013, and they had made a two-fold recommendation:

1. Recommended denial on a 5/0 basis
2. Referred the entire residential enterprise issue back to the ULDC Committee for further review.

The basis for denial was not necessarily the fact that you would be adding the ability for customers to be present on site; so much as it was with the concept of residential enterprise in the first place. They felt that there was not a clear definition of what residential enterprise was, and that may allow the proliferation of retail businesses to locate in the Town that would not be consistent with the character of the Town.

Based on the fact that this item has been in front of the Town Council at several previous meetings and at previous Planning & Zoning Board meetings, and based on the fact that Town Council directed staff to draft this language, staff recommends approval.

Councilman Rockett read from the minutes of the August 6, 2013 Town Council meeting, and said that the motion in regard to the text amendment was to strike the ULDC language regarding foot traffic, and what is being presented is modified text.

Town Planning Consultant Fleischmann replied that staff struck the language that deals with foot traffic in the code at this time. Based on addressing the Council in discussion that led to that, staff added the ability for three customers to be on the site.

Town Attorney Cirullo explained that he thought the Town Council wanted staff to bring back the first reading ordinance that was brought forward in April, and if that was not the direction, he was responsible for the ordinance that is being presented.

Discussion took place.

Motion: Councilman Goltzene made a motion to eliminate Item H completely from Section 80-020.

Councilman Goltzene commented that Planning & Zoning was really against this, and suggested that the ULDC look at residential enterprise and home office from the bottom up and talk it through.

Motion: Councilman Goltzene amended the motion to adopt Ordinance No. 2013-05 including the language relating to a limit of three clients/customers in Section 80-020, per the recommendation of staff, and that we prioritize this as something for the Unified Land Development Code Review Committee to discuss. The motion was seconded by Councilman Liang.

Councilman Rockett commented that if foot traffic was just eliminated, it would take the restriction away that Mr. Kline is facing.

Upon roll call vote, the motion passed 5/0.

Town Attorney Cirullo advised that October 1, 2013, will be the second public hearing of Ordinance No. 2013-05.

9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

- Staff met with Mr. Yee, pursuant to your direction, and we discussed issues at the Plaza Center. Mr. Yee indicated that he wants to comply and that he is also looking at making improvements to the center. I will work out a timeline with him so that I can report back to you as to how soon he can make the improvements.
- Evaluation form to review the Management Company. I will bring it back at the October 1, 2013, meeting.
- We will try in October/November to not have the second Town Council meeting. We may have to have a second meeting in October to discuss the PUDs that are coming before you in the near future.

- A letter from Steve Abrams mayor of Palm Beach County is being distributed tonight to the Town Council relating to contributing funding for the Office of the Inspector General. Staff is in the process of getting additional information, which we will provide at the October 1, 2013, meeting for review.
- The RETGAC members have been operating with three people for the last six or seven meetings. We did a review and it appears that Mr. Painter and Mr. Miles have not attended four meetings in 2013, and none in May or April of 2012. Resolution No. 2011-005 governs RETGAC, and provides that a member shall be removed by the Town Council if he/she misses five consecutive meetings within a twelve month period.

Motion: Councilman Liang made a motion to vacate the seats of Patrick Painter and David Miles from the Roadway, Equestrian Trails and Greenway Advisory Committee. The motion was seconded by Councilman Goltzené. The motion passed 5/0.

Councilman Goltzene appointed Jo Siciliano. Councilman Liang appointed Keith Harris.

- Southern Blvd. workshop was held on September 5, 2013, and staff is getting feedback relative to a survey that was sent out prior to the workshop.
- Stantec Consulting has made contact to request a meeting to talk about if the Town has any input to lighting design and aesthetics on Southern Blvd. Requested Town Council comments.

Councilman Goltzene is concerned about light pollution and noise pollution, so whatever they can do as far as treatment of the area. Mayor Browning says that we have information in our rural vista guidelines too. Vice Mayor Jarriel would like to see a sidewalk if there is room so that people could walk and bike. Councilman Liang commented that height limitations should be considered.

- Requested any other items that you would like staff to take to the ULDC Review Committee. We are getting ready to hit the period where we might do two meetings per month to allow the Committee to finish their work.
- Administrative Policy 3-13 – concern that we have items on the agenda without back up. Suggests that in the future if there is not back up, we can write into the policy that we can put the request on the agenda, but no action could be taken until back up is furnished.

Discussion took place, and it was the consensus of the Town Council that the policy would be left as is.

- Referred to the August 20, 2013, meeting wherein Councilman Rockett asked that staff look at foreclosure issues. Would the Town Council want to give consensus or would Councilman Rockett want to give more information.

Councilman Rockett stated that if you have a property that is in foreclosure mode we may have certain things we could do.

Discussion took place. Town Manager Kutney advised that he had been requested to look into this issue before, and had gotten the information from Royal Palm Beach and provided it to the Town Council on December 29, 2011, At that time he had asked for comments, and there had not been any direction given.

It was the consensus that staff would look into this issue, and that Town Manager Kutney will provide copies of the material he had previously gathered to the Town Council.

Vice Mayor Jarriel addressed the administrative update by the Town Manager, and commented that the Town Council does not know the subjects he is talking about until we come to the meeting. He requested that the Town Manager add the subjects he will be discussing under the Administrative Update on the Agenda. Town Manager Kutney replied that he would be happy to list the items. Most of them were informational; however, if something comes up on the Monday or Tuesday before the meeting he needs the ability to bring that up too.

It was the consensus of the Town Council that the subjects would be listed under the Administrative Update portion of the Agenda, and that Town Manager Kutney would have the ability to bring any item forward that came up after the Agenda was published.

10. OLD BUSINESS

a. Clarification of Valley Crest Development Matter (Cost Recovery Fee)

Town Manager Kutney referred to his Agenda Report, Town Attorney Cirullo's report, and correspondence from Attorney Coviello.

Attorney David Coviello, on behalf of Valley Crest, addressed the Town Council, stating that the violation issued to Valley Crest was in error, and there had always been the opportunity to operate a landscape company on a stand-alone basis. Valley Crest went through a two and a half

year process scrambling to do a nursery. Valley Crest would have only had to come before the Town Council one time, but for that error. Valley Crest had already paid \$16,000 in fees for the first time, and was asking for relief on the second time.

Discussion took place.

Motion: Councilman Goltzene made a motion to proceed and not consider this any further.

Mayor Browning advised that if we make no motion at all the fees are not waived.

Councilman Goltzene withdrew his motion.

- b. Discussion of Okeechobee and "D" Road Traffic Light (*Councilman Rockett – back-up not provided*)

Councilman Rockett advised that he added this item to see if we can move this object forward to install a light, which would not be a mast arm. He suggested that the Town Council direct management staff to move forward with this as a top priority and focus our resources accordingly. He added that he would want weekly activity to see that this moves forward. The intent was to identify this as top priority and to get Town Council to so direct staff to treat it as top priority, and that includes weekly activity on it.

Motion: Councilman Rockett: made a motion that we identify this as a top priority, that we move this top priority to a weekly activity. Councilman Liang seconded the motion.

Discussion:

Councilman Goltzene suggested that the Town engineer complete a study to determine the costs and requested that Councilman Rockett accept that as an amendment to his motion. Councilman Rockett replied that he would not accept it.

Town Manager Kutney stated that staff has done a lot of work on this issue. Simmons & White engineers have looked at a potential piggy back process. The issue was that the light was going to cost \$250,000, but that was based upon the design and installation of the signal only. When discussed with Palm Beach County, there were some other issues, such as site improvements. There were funds in the CIP. He offered that he could do a notice to proceed to Simmons & White and have them move forward, if so directed.

Public Comment:

Frank Schiola, Marcella Blvd: Agrees that we need to know how much it is going to cost, or the requirements of the County. Suggests a traffic count be done.

Ken Johnson, Collecting Canal: Multi-faceted problem here. We need a light at D Road and Okeechobee and D Road and Southern as well. We also need speed control on Okeechobee Blvd. I am hearing that we cannot use the existing culvert under Okeechobee. Maybe that could be a blessing if we need a culvert.

Todd McLendon, 3481 D Rd.: I live on D road north off Okeechobee Blvd. and I don't see the need for a traffic light there. I know that there is only one Council member who lives there and agrees with me that it is not needed. The people that live there do not see the need for it. The equestrian trails would love to have that money for their trails.

Phyllis Maniglia, 359 West "D" Rd.: Please move forward with the equestrian trails; no light at D and Okeechobee Blvd.

Loring Hart-Woods, 15201 Timberlane Pl.: Move forward on equestrian trails rather than spend money on D and Okeechobee Blvd.

Rockett amended his motion to include that an engineering cost estimate would be one of the first reports. The amended motion was agreed upon by the seconder, Councilman Liang. The motion passed 3/2 with Councilman Goltzene and Mayor Browning casting dissenting votes.

Town Manager Kutney advised that he would negotiate a fee with the Town engineer – the first notice to proceed will be for them to give us their best cost estimate to move forward with a cable signal cost.

*****Break at 8:50 p.m. Reconvene at 8:55 p.m.*****

- c. Letter from Town Attorney Cirullo concerning Florida Department of Revenue revenue sharing (*Vice Mayor Jarriel*)

Vice Mayor Jarriel referred to the memorandum from Town Attorney Cirullo, included in the back-up material. He stated that he wanted the taxpayers to know one reason why we did not raise the ad valorem taxes this year is because we get credit for the LGWCD revenue sharing. The LGWCD is helping us to keep the taxes low.

- d. Discussion Regarding Grading and Road Rock Letter to Proceed for 161st Terrace N (*Vice Mayor Jarriel – back-up not provided*)

Vice Mayor Jarriel stated that after our last Town Council meeting it was agreed that 161st Terrace would get graded once per week. He stated that he had more information that he would bring back at another time and that he would have back up material.

11. NEW BUSINESS

- a. Mowing and Cleaning Out of Drainage Ditch on South Side of Okeechobee Blvd., from "A" Road to Folsom Road (*Vice Mayor Jarriel- back-up not provided*)

Vice Mayor Jarriel stated that LGWCD put in a request to Palm Beach County regarding the drainage ditch on the south side of Okeechobee, and the County did it the next day. They have a schedule that they follow and it so happened that a County vehicle was present nearby. He hoped that the Town can send a letter that they did a good job and they did it quickly. They can do weed control too. As far as cleaning the ditch out, if we are lucky, we will get that done once a year. He requested consensus of the Town Council that we send Palm Beach County a letter that we appreciate them mowing the ditch bank and they did a good job.

Motion: Vice Mayor Jarriel made a motion that the Town send Palm Beach County a letter addressed to the Superintendent of Roads and Bridges (John Brand). The motion was seconded by Councilman Rockett. The motion passed 5/0.

- b. Grading and Road Rock for Casey Road (*Vice Mayor Jarriel*)

Vice Mayor Jarriel commented that it seemed that Town Management has agreed that every Town road will be graded twice per month.

Town Manager Kutney replied that staff had received a request relative to Casey Road and the Town Public Works Consultant did an inspection with a LGWCD employee and it was his understanding that they are both in agreement that Casey Rd. needs six loads of rock. He advised that he would issue a Notice to Proceed and move forward with the work.

Councilman Goltzene commented that he would like Steve Yohe to have a letter.

Town Manager Kutney commented that he would call Mr. Yohe tomorrow, and tell him a Notice to Proceed would be forthcoming and can he get started.

Public Comment:

Raul Valiente, Casey Road: Commented that a request had been made in the past to have the road graded. Recently the same spot got graded, and his car was stuck in the road and a neighbor had to pull him out. He said that when they grade, they come in reckless, and that if they do not continuously work on it, the road will look the same as it is now.

Town Manager Kutney responded that the Town Council did not want to do the quadrant plan, which was to eliminate situations like Casey Road situation. If the Town Council wanted maintenance on that road he would need specific direction.

Mayor Browning commented that the only problem he had with the quadrant plan is that some of our roads have gone years without being maintained at all. He stated that he did not see the need for grading those twice a month, and would like to see those roads graded on an as needed basis.

Town Manager Kutney replied that staff can go ahead and amend that plan to address if there are some roads that don't need the grading.

Councilman Liang commented that he understood that the quadrant plan was first to grade all roads and see the condition of them, and then grade on a maintenance program.

Town Manager Kutney responded that if was initially desired to do a first pass on the Town and then assess. Now he needed to know what the direction is.

Councilman Rockett referred to the policy that the Town Council had endorsed for years which said that residents call in and go through the process.

Town Manager Kutney replied that the policy went aside when we did a bid, and we have a new process in place.

Councilman Goltzene commented that he thought that at this time Town Manager Kutney and Frank Schiola are trying to work something out. He would really like them to have the opportunity to do that, and did not think people should call in. Also, there is an issue through the whole Town. The roads are not up to any standard. What standard is there? We don't have a standard width, etc. There are differences in the roads and there is no one size fits all, but it should not be based on calls.

Mayor Browning commented that he thought the grid system put together is an excellent start; go through the quadrants and evaluate them.

Public Comment:

Frank Schiola, Marcella Blvd.: Commented that the quadrant system was done so that all the roads would get graded at least once for one month, and then go back and reassess how often each road needed to be done.

Ken Johnson, Collecting Canal: Commented that he heard that the assessment on this quadrant plan was going to be done twice for a base assessment. Then they would decide how often the other roads within that quadrant would need to be done. Someone needs to do an assessment to find out where deep holes are and then fill them in when it dries out.

Todd McLendon, 3481 D Rd.: Commented regarding what the LGWCD thought of this. They have had 100 years of experience. Allow them to just maintain the roads and give us a bill. They know what roads need to be maintained. He referred to the calling in process and asked if that also applied to 161st also, or if you are a Council member you get it done once a week -- other than that someone would have to call in.

Mayor Browning commented that he does not want to go with a schedule for any of the roads. I want to be able to take care of roads that are needed.

Town Manager Kutney replied that staff will get together and can modify the plan so that it is not necessarily a schedule, but it is not people calling in.

12. CLOSING COMMENTS

a. Public

Nina Corning, E Rd: Has met with Mr. Yohe and will be at the IGC meeting as a guest speaker and will also be present at the next LGWCD meeting. It is so difficult to get things moving with the two government entities, and it is the beginning of that discussion to see what concerns are there.

Harold Murphy, 13245 Compton Rd.: Commented regarding drainage.. It needs to be opened up so that it can drain properly. When are the holes on Compton going to be fixed. The fill is gone. The holes on that road are unbelievable. Someone could hit one of the holes and go into the canal. Get the road fixed and get the canal open.

Town Manager Kutney advised that he would send someone over to look at Compton.

Keith Harris, 2580 C Rd.: Commented that he wanted clarification on the motion earlier this evening on residential enterprise. It was explained to him that the Town Council approved the staff recommendation.

b. Town Attorney

c. Town Council Members

Councilman Rockett requested an update on Bryan Road. Town Attorney Cirullo replied that a notice to proceed was issued to the surveyor to look at all documents and to stake it out and figure out if the road is where it is supposed to be. Once we have that we will need to go to each individual property owner. Town Manager Kutney advised that he and the Town Attorney did meet with the surveyor and the surveyor has a Notice to Proceed.

Councilman Rockett reported that the viper protection has expired on his Town computer and asked if there was a problem could staff take a look at it. He would bring his computer in and he suggests that the other members of the Council do so as well. He thanked everyone for coming

Councilman Liang: Thanked everyone for coming, and he is happy that empty spots were filled in on RETGAC.

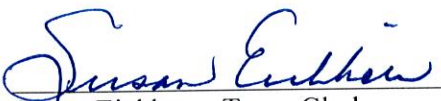
Vice Mayor Jarriel: Thanked everyone.

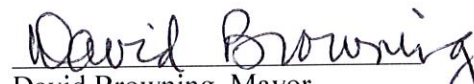
Councilman Goltzene: Thanked everyone

Mayor Browning: Thanked everyone.

13. ADJOURNMENT

There being no further business, the Town Council meeting of September 17, 2013, was adjourned at 9:37 p.m.


Susan Eichhorn, Town Clerk


David Browning, Mayor

(SEAL)

These minutes were approved at the October 1, 2013, Town Council Meeting.