



**Loxahatchee Groves Town Council**  
**Workshop on the Development of Town Code of Ordinances**  
**Tuesday, October 9 2007**  
**Loxahatchee Groves Water Control District Council Chambers**  
**7:00 PM – 10:00 PM**

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**Members Present:**

Dave Browning, Mayor  
Marge Herzog, Vice Mayor  
Dave Autrey, Council Member  
Dennis C. Lipp, Council Member  
Dr. J. William Louda, Council Member

**Members Absent:**

None

**Others Attending:**

Jacob Horowitz, Esq., Goren, Cherof et. al.  
Michelle Kantor (NCS)  
Matthew Lippman, Interim Town Clerk (NCS)  
Dr. Irv Rosenbaum, Interim Town Manager (NCS)  
Members of the Public

A meeting of the Loxahatchee Town Council; "Council" or "Committee" was held at 7:00 p.m. on Tuesday, October 9, 2007 at the Loxahatchee Water Control District Council Chambers; 101 D. Road, Loxahatchee, FL.

**1. – 4. Call to Order/Roll Call/Pledge of Allegiance/Invocation**

Mayor Dave Browning called the meeting to order at 7:01 p.m. He then requested the roll call by Vice-Mayor Herzog. Upon completion of the roll, the Mayor requested everyone stand for the Pledge of Allegiance and Invocation. Upon seating, Town Clerk Matthew Lippman requested a moment to recognize that Vice-Mayor Marge Herzog went out and got some party supplies to celebrate the town's 1 yr anniversary. Mr. Lippman then handed these out to the Council.

## **REGULAR AGENDA:**

### **5. Defining "Rural"**

Town Clerk, Matthew Lippman began by yielding the floor to Attorney Jacob Horowitz to help set the meeting in the right direction.

Mr. Horowitz began by saying that in defining the term "Rural" the town has a lot of flexibility in doing so. He said the general definition for census purposes is 100 people per square mile. He said the information Town Clerk Lippman provided for the meeting gives good ideas to helping define the term. He posed the question to the council as what do you want the term to mean with the purposes of Loxahatchee Groves.

Town Clerk Lippman then said that Item 5 was put on the agenda to lead into Item 6. He explained that the definition of the word rural will be helpful when doing the comp plan, visioning, and strategic plans in the future and where it will be more appropriate. He then asked Mr. Horowitz to explain Item 6 on the Agenda.

Mayor Browning then asked the Council members if there were any questions or comments regarding to the Definition of "Rural".

Councilman Louda asked if they were done already with Item 5, and Mr. Lippman apologized and said that if there was discussion now would be the time to do it. Mr. Louda said that he researched the definition of rural on the internet and it came back with 1163 hits. He continued to read off several definitions of the term and then stated that the definition he liked the best the type of area concept rather than a specific area outlined on a map. He referred to what Councilmen Lipp had brought from the State of Washington and said that was an excellent overview of defining a rural community. He said as far as he can tell everyone is different.

Mr. Horowitz referred to what Mr. Lippman said about how the concept of rural will really help in the future with the deciding of the comp plan and visioning, and strategic plans.

Mayor Browning then said he noticed in the handout that Councilmen Lipp had provided was it stated that what previous generations enjoyed in an area would help define the term "rural". He said, the town of Loxahatchee Groves has been here since the 1920's and what previous generations of Palm Beach County have enjoyed in Loxahatchee Groves.

Councilmen Autrey said that he thinks we needed to move to Item 6 and Vice-Mayor Herzog agreed and said that she thought Item 5 was more for the visioning process then this evening.

Councilmen Lipp said that we would have to grapple with some really tough choices since our community has gone from being primarily agricultural to equestrian and what our community looks like and that he drove around the neighborhood and find things that are not pretty. He referred to the vacant school bus that has been sitting on property since at least 2005.

Mayor Browning asked if any other Council Members had anything to say.

Councilman Louda said not with the definition of "rural," that it belongs with the vision.

Mayor Browning then moved on to Item 6.

## **6. Referencing of Right to Farm Act and how it applies to our Town**

Mr. Horowitz started by saying that he wanted to reference the memo sent over earlier by Town Attorney David Tolces regarding the Right to Farm Act and how it relates to Palm Beach County.

Town Clerk Lippman asked Mr. Horowitz to discuss the zoning map and how the fact that we are zoned Ag-Res applies to the Right to Farm Act. Mr. Lippman asked if this means that every resident in Loxahatchee Groves is protected by this Act.

Mr. Horowitz replied that if at the time it was established it was not declared a public nuisance, then yes, under these circumstances they would be protected by the Right to Farm Act.

Mayor Browning then asked for comments from the Council.

Councilman Louda started by saying that he had sent a letter to our Town Attorney, David Tolces, asking if aviaries were protected under the Right to Farm Act. He added that he wanted someone to explain to him the difference between a commercial aviary and a commercial dog kennel.

Mr. Horowitz replied that nothing under the act says the property has to be commercial and that both he and Mr. Tolces don't see anything that would preclude an aviary to the Right to Farm Act.

Councilman Louda stated that the reason he brings this up is because we have had some problems generated and more to come. He continued to say that when looking at the county code it lists aviaries as permitted uses or "hobby", while kennels are noted to be commercial.

Mr. Horowitz said that the language in the code is included but not limited to.

Councilman Louda then referred to Howard Voren, saying that he is always talking about his protection being included in the Act and he didn't find it.

Mr. Horowitz said that knowing this is a hot topic for the town and that both he and Mr. Tolces looked particularly at this issue. He continued by saying that the code states any plant or animal that is useful to humans, and that what is useful to one human might not necessarily be to another human.

Councilman Autrey stated that we have to look at what the county has created and what they say we can and cannot do.

Councilman Louda then referred to footnote #19 under agriculture, which says no a hobby defines not selling more than 24 birds a year.

Mr. Horowitz responded that the term "hobby" is a questionable term.

Councilman Louda said, well this is what we have to get defined, so that when new aviaries come in to our community and be conforming as to what we come up with.

Mr. Horowitz once again referred to the Right to Farm act and how it states that it applies to those who have been in business for over a year and that any new aviaries would not meet this criteria.

Mayor Browning asked that since Howard's operation has been here several years if it would be protected by the Act, while someone with a new one would not.

Mr. Horowitz replied that is correct and anyone operating for less than a year would not fall under the Right to Farm Act in regards to possibly being declared a public nuisance.

Mayor Browning said that Councilman Louda had been referring to was commercial kennels need a DRO.

Mr. Horowitz said that the Right to Farm Act does not require a commercial endeavor and there is no need to profit to be covered by the Right to Farm Act.

Mayor Browning noted that his concern is feed lots that have always been outlawed.

Mr. Horowitz said that there is no reason for the town to exclude or include that. He said the county code gives you a framework of where to start.

Mayor Browning did say that birds are generally quiet and while the sun is down the birds don't usually make noise.

Town Clerk Lippman said that it is important to look at the past but we need to say this is what we want and we are okay with it. Although it would be nice if a checklist could just be followed and we were done. This is the opportunity for the town to decide what we want to do.

Mayor Browning said he agreed with Mr. Lippman but to add the need to protect it.

Mr. Lippman said that the issue Councilman Louda has raised has triggered a thought process on which direction the town needs to go.

Mayor Browning said he had a few comments from the Public. He first called John Ryan to the podium.

**John Ryan, 3508 A Road** stood up. Mr. Ryan said he had a few comments in response to the county wording relating to the land use or agricultural exemption. I don't believe equestrian use qualifies for Ag-Exemption and aviaries might.

Mr. Horowitz replied that there is different analysis from the property appraisers' standpoint.

Mayor Browning then called Howard Voren to the podium.

**Howard Voren, 1538 E Road** stood up. Mr. Voren addressed Councilman Louda saying that what he was missing under hobbies was comparing the kennel issue that evolved and kennels were here before birds and dogs. He went on to say that aviculture came after the fact and one of the first questions asked was do they make noise at night. You could hear a pin drop they are so quiet. The county went in after the fact to say inclusive of aviculture. He said that he submitted a letter to Town Attorney, David Tolces. He wanted to go on record saying that the attorneys' presentation of the 1 yr law shows in areas that have gone to more residential. He ended by saying that if Loxahatchee Groves allows that type of philosophy to stand then we are saying that any farm that is here can stay here but any new farm that comes in could be shut down within the first 12 months.

Councilman Louda asked if it was a state or county definition of Ag. He referred to Footnote 19 on page 16 of 249 of the ULDC, saying that under Ag-Res an aviary is a permitted use.

Councilman Autrey asked if we were going to get into this in more detail.

Councilman Louda said since this is a hot item we should have a workshop on it and get the community involved.

Mayor Browning said that this protected usage.

Town Clerk Lippman said that referring to Councilman Louda's question if commercial is covered under the Right to Farm Act that he thinks that the Act allows aviaries. As far as

aviculture, the county codes might not spell it out but commercial and hobby are acceptable by either Right to Farm or by county code.

Councilman Lipp mentioning he was off topic, asked if we have an ILA with Animal Control.

Councilman Autrey said he had seen them out here since we incorporated.

Vice-Mayor Herzog said in response to Dennis's question they picked up 3 pig carcasses on A Road and an alligator out of the canal with no tail.

Councilman Louda asked Howard Voren if aviaries get an Ag-Exemption and Mr. Voren answered yes.

Councilman Autrey said that he thought we were going to use tonight to solve certain issues that have come up and that we can't talk specifically about this case. He said that there are inconsistencies in county code with feeding stations, setbacks.

Ms. Herzog said there is nothing saying the council can't set their own requirements for setbacks.

Councilman Autrey said we can't get species specific and would need to have the same setback requirements for everybody.

Councilman Louda said he saw no problem for requiring a setback for a building or structure.

Mr. Horowitz again said what works for the county might not necessarily work for the town. He also said that the Town can change a setback requirement but a percentage of the property needs to maintain that use.

Town Clerk Lippman said that there are two things to consider here, one is setbacks and you would have to change both the ULDC and the Code of Ordinances. You have to determine if you want to hold water to the percentage of the land or the setback. If you lean more toward the percentage then the setback just becomes a mathematical formula.

Mayor Browning called Howard Voren to the stand. He said that if you go to reasonable setbacks depending on the parcel size you can come up with figures that won't take a high percentage of land from the owners.

Town Clerk Lippman said the challenge we have in the Groves is that some people here are just residential. We have to find a happy medium. Farming to one person can mean plants, to another person, pigs, to another person, birds, which is why we need to find a way to make everyone happy.

Mayor Browning asked if any other Council Members had anything to say.

Councilman Autrey said we need to develop our own interpretation and definitions and go from there. If we are going to have setbacks does that automatically take away from their land?

Mr. Horowitz said setbacks are generally used as silent space without any structures. I don't believe it would be factored in total percentage of farming.

Town Clerk Lippman then recommended setting up a meeting between Town Management, a Town Council Representative and Jon MacGillis. He also recommended a meeting with Bob Clark from the Department of Agriculture and said that he and Councilman Autrey could do this. He said that the people from Planning and Zoning will give us honest perspective. He went on to say that we are unique and we have to exist in our world and their world. He feels that the two perspectives from these meetings would help the Town.

Councilman Lipp suggested not using the word setback and could we say permanent structures.

Mr. Horowitz said the term setback is a term of art in Florida Building Code and is a generally accepted consistent term.

Town Clerk Lippman agreed and said to be consistent with the ULDC we would have to use the word setback.

Mayor Browning called on Todd McClendon who had turned in a comment card.

Todd McClendon, 3451 D Road, said that since he is only using one acre to one acre and a half on his property he can only get an Ag-Exemption on that percentage of the land.

Mayor Browning called John Ryan to the podium.

**John Ryan, 3508 A Road**, said the big concern is noise and nuisance, and in his experience sometimes you can come up with a term of art that is confusing enough it will solve the problem.

Mayor Browning then moved on to Item 7.

### **7. Distinguishing Bona Fide Ag vs. Ag/Res when referring to the Code of Ordinances & ULDC**

Town Clerk Lippman said that with the matrix we use there is a clear definition of bona fide ag in the ULDC.

Mayor Browning agreed with Mr. Lippman.

Town Clerk Lippman referred to most of the calls coming in to the office saying that the population knows that they are Ag-Res and many think that this means they can do what they want.

Mayor Browning then moved on to Item 8.

### **8. How to establish a height restriction on buildings in our Town.**

Town Clerk Lippman started by saying that if you look at Agenda Memo 8-Item 3, the fact that we are zoned Ag-Res means they won't come in and build a 100 feet high office building. He said that if the Town Council wanted to change the maximum height restrictions we could get with the attorney and his team to see what we could do. Mr. Lippman said he put this on the agenda for two reasons. The first being that Councilman Louda and Mayor Browning had mentioned at previous meetings about how to stop people from coming to the Groves and building structures of 100 feet. The second was because if as a Council you don't agree with

the fact that if you are bona fide Ag you can build a structure of 100 feet then you need to decide a number of feet a structure can be built to.

Vice-Mayor Herzog asked if this would apply to communication towers.

Town Clerk Lippman said no that these are on the exemptions list.

Councilman Autrey asked if the list of exemptions can be changed.

Mr. Horowitz said they could look into the flexibility in the list of exemptions.

Town Clerk Lippman said he would look into it to see what is realistic and what we can and cannot pull from the list.

Mayor Browning said he had no problem with a three story home because around here the trees would hide it. His concern would be anything above the tree canopy line. He suggested maybe they agree on 50 or 60 feet and anyone else would have to present themselves to the Council for special exemption.

Mr. Horowitz said what buildings are already here would be grandfathered in.

Mayor Browning then moved on to Item 9.

## **9. Rubbish and Garbage**

**a. Chapter 14 Housing Code, Article 1 Property Maintenance Code, Division 3 General Requirements, Sec. 14-35 Rubbish and Garbage**

Councilman Louda handed out his suggestions to adjusting this code.

Councilman Lipp had Mr. Lippman put on a slide show of images he had taken in the Groves of good rural –vs.- bad rural in regards to properties in violations of code.

Councilman Louda discussed what an eyesore was and said he was worried about the accumulation of trash.

Town Clerk Lippman said in dealing with outdoor storage you can be very specific if there are certain things you want to allow or not allow as a Council. You can say what doesn't belong here.

Mayor Browning said that this should be addressed from a safety, pollution, health approach with common sense.

Mr. Lippman said that if a resident needs something like scrap metal picked up that they can call the town office and be pointed in the right direction on what to do. He said there are two things to consider, first not to just accept things and second to develop language across the board to recommend outdoor structures and to identify items that the Council has a problem with or needs Code Enforcement to become involved with. This followed with discussion about old cars that aren't running being on properties. The general consensus was as long as they didn't hold any fluids that could be leaking or hazardous to the environment of the town, then it was acceptable. He said the Council wouldn't be able to leave today with an answer, but perhaps a direction in which to plan toward. He also suggested getting advice from nearby municipalities.

Councilman Louda asked how we define a junkyard.

Town Clerk Lippman referred everyone to the screen and the listed definition of junk.

Councilman Lipp asked if there were standards to declare something as a toxic hazard.

Town Clerk Lippman showed the definition of toxic on the screen.

Mayor Browning asked for any further public comments.

**Howard Voren, 1538 E Road**, said what do we mean by screened off because I understand because I am here people might think this to be screen enclosure.

Town Clerk Lippman asked Councilman Louda to address item C on his handout.

Councilman Louda said that hopefully some of this will be resolved when we go with our new SWA contract.

Town Clerk Lippman said that our responsibility at the Town Office is to research services on how to help people out.

Councilman Lipp talked about a company called Southern Shavings that resident Ken Johnson used to have over 100 trees taken off his property.

Town Clerk Lippman said that Onyx will pick up three tires at a time. He had a lady call the Town Office and he told her to put out three tires at a time. She had eighteen tires to be picked up, so with two pick-ups per week, the tires were gone in six weeks.

Town Clerk Lippman then said to review that we could strike the additional language Councilman Louda had suggested on his handout.

The Mayor moved on to Item 10.

**10. Manure Storage**  
**a. Chapter 4 Animals, Section 4-23 Kennel, excess animal habitat, pet shop, grooming parlor and commercial stable permits.**

Town Clerk Lippman said that Councilman Autrey had brought up this topic at the last meeting.

Councilman Autrey said referring to Ordinance 6-42, I do not understand why manure which has been removed from stalls and paddocks shall be maintained for at least seventy-five feet from the nearest animal stall. Why was this put in here?

Town Clerk Lippman asked if we have commercial stables within our boundaries and the Town Council answered, yes of course.

Mayor Browning asked if we could take the first part of that and leave it only as manure shall be situated so as to assure there shall be no run off into canals or retention ponds.

Vice-Mayor Herzog asked that after the word maintained could we add impervious structure.

Mr. Horowitz asked if they wanted to strike that sentence.

Councilman Autrey replied, yes.

Town Clerk Lippman said he would speak with his contacts at the county to know what their thought process was and why they put it on there.

The Mayor moved on to Item 11.

**11. Overspill of Lighting**  
**a. Chapter 7 Buildings and Building Regulations, Article X Building Security Code, Division 4. Lighting Requirements and Section 7-354 Overspill**

Councilman Louda said he needs to go out and do some measuring at night.

Vice-Mayor Herzog said that one light on C Road is so bright you can see it on Southern.

Councilman Lipp said he hopes the town accepts the county lighting standards.

Mayor Browning asked for any public comments.

**Sharron Browning, D Road**, said the lights affect most of us. I understand the desire for security, but can the lights be directed down. The mayor said to make a complaint and we would have code enforcement check it out.

Town Clerk Lippman said if it is not broken don't fix it till it becomes a problem.

## **12. Public Comments**

### **Items at the Request of the Public**

**Howard Voren, 1538 E Road**, said that he wanted to comment on statements on the 1 year in the Right to Farm Act and that it is not changeable. It takes away the right from residents to complain about anyone who has been in operation for over one year. We should put in our visioning statement and let it be known that anyone that lives here must realize that people with agricultural pursuits will be living around them.

### **13. Town Clerk Comments (workshop announcements)**

Town Clerk Lippman said that he thinks we are moving in the right direction. There are two things that might not fall under ordinance. The first is that it is our duty to educate the public on what the rules are and to follow them. The second is to get our name out there. What are the Groves, what are we about. The Palms West Chamber of Commerce should know where we are located. People should be able to click on a website and learn what the town is about. We want to clean up the town, yet keep it rural. A realtor needs to sell the town as it is, not what they want it to be.

### **14. Council Member Comments**

Councilman Louda-Nothing

Vice-Mayor Herzog-I am glad to see we are going slow and steady and what implication of change can be. The fact that we are analyzing everything is good to see.

Councilman Autrey-I echo what Howard said-Did they move to the farm or did the farm move to them? Matthew is dead on the money with his idea. We should have a motto contest with the

Town logo contest. We need a brochure that explains our history. I agree with Marge, slow and steady.

Councilman Lipp-I can't believe it's been a year since incorporation. In trying to define rural it is almost impossible. As we become more comfortable in the process our vision will be more clear as to what rural will be.

Mayor Browning-I want to thank those that came out tonight. Please encourage the people of the Groves to clean it up. It is slow but sure, we will get there.

### **15. Town Attorney Comments**

Town Attorney Assistant Jacob Horowitz-The definition of nuisance in the Groves is not the same as in Lauderdale. Go through the specific setback issue and how it affects the percentage of farms. Work on ordinance addressing garbage and rubbish. Work on manure ordinance. Work on height restrictions. Things are moving forward and that is a good thing.

### **16. Adjournment**

**There being no objections or further business to discuss and no additional public comment, Mayor Browning adjourned the meeting at 9:40 p.m.**

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MAYOR DAVE BROWNING

ATTEST:

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Matthew Lippman, Town Clerk

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Date Approved

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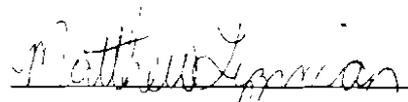
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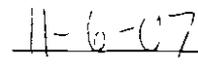
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Matthew Lippman, Town Clerk

  
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Date Approved