



*Minutes
Loxahatchee Groves
Regular Town Council Meeting
October 7, 2008
Location: LGWCD*

Members Present:

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

Members Absent:

Dave Autrey, Council Member

Others Attending:

Dr. Irv Rosenbaum, Interim Town Manager (NCS)
Matthew Lippman, Interim Town Clerk (NCS)
Michelle Kantor, Interim Assistant Town Clerk (NCS)
David Tolces, Esq., Town Attorney
Members of the Public

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

Mayor Browning called the meeting to order at 7:00 p.m. He then requested the roll call by Town Clerk Lippman. Town Clerk Lippman noted that Councilman Autrey was absent and that Councilman Louda would be a little late. Upon completion of the roll, Mayor Browning requested everyone stand for the Pledge of Allegiance and Invocation.

5. Approval of Agenda

Vice-Mayor Herzog MOTIONED to approve the Agenda, SECONDED by Councilman Lipp and the MOTION passed unanimously 3-0, with Councilman Autrey and Councilman Louda absent.

CONSENT AGENDA:

6. Approval of Town Council Meeting Minutes:

- a. September 2, 2008: Solid Waste Assessment Hearing

- b. September 2, 2008: Regular Town Council Meeting
 - c. September 3, 2008: 1st Budget Hearing
 - d. September 16, 2008: Final Budget Hearing & Regular Town Council Meeting
7. **PBCWUD Water Connection Request:** Jason Dendy 15620 North Road
 8. **Monthly Financials:** September, 2008
 9. **Town Attorney Invoice:** September, 2008
 10. **District Offices Contract (Independent Study):** Approval

Vice-Mayor Herzog noted she had emailed her corrections to the minutes earlier.

Councilman Lipp commented that he had a question on one of Councilman Autrey's comments from the September 16, 2008 meeting but noted he was not here to respond.

Vice-Mayor Herzog MOTIONED to approve the Consent Agenda with changes to the minutes as sent in earlier, SECONDED by Councilman Lipp and the MOTION passed unanimously 3-0, with Councilman Autrey and Councilman Louda absent.

REGULAR AGENDA:

Mayor Browning introduced a Member of the Public, Joseph Abruzzo, Democratic Candidate for State House 85.

Joseph Abruzzo- thanked the Mayor and Council for allowing him to address the Public. He explained I am the Democratic Nominee and am running with the support of Shelley Vana, our current State Representative. He said if I am fortunate to be elected I will help the Town in any way necessary. He said I know you have some issues with the Drainage District. He said I am going door to door meeting people and I know some want to keep this a rural area and some would like to see the roads paved. He said I will lend my assistance with this.

11. Presentation: "Let Us Vote" Palm Beach County Charter Initiative

Town Clerk Lippman introduced Earl Moore, the retired City Manager of The City of Atlantis for 15 years. He explained Mr. Moore is here to remind us of The Let Us Vote initiative that will be on the upcoming ballot.

Earl Moore- said I think you are all aware of the relationship between the County and the cities having you all went through incorporation. He said we are a Charter County which means we have a Constitution that can be changed by amendments and if an amendment passes by 51% of the people County Wide than it is in effect.

Mayor Browning announced for the record that Councilman Louda had arrived-7:04pm.

Mr. Moore continued and said a group came up with an idea called Let Us Vote which means if an amendment comes up it would be voted on separately by each municipality and would have to pass within the municipality by 51%. He said there are brochures that explain this also at the back of the room tonight.

Councilman Lipp asked how it has been going with getting the word out.

Town Clerk Lippman said they have sent videos out to all the municipalities explaining this and they have really gotten the word out.

Mr. Moore responded as long as we get the people out to vote and I think we will have a good turnout this year. He said this won't affect the people in the County but will affect the people in each city to decide whether they want to do what the County does or not.

Councilman Louda asked Vice-Mayor Herzog how the League of Cities felt about it.

Vice-Mayor Herzog said the League of Cities is in favor of it. She said it is a spin-off of the League of Cities and it originated at one of our meetings but we can't be of political action on it.

12. Presentation: Loxahatchee Equestrians Development on the S.E. Corner of B Road and Southern Blvd.

Town Clerk Lippman introduced the group from O'Dell Land Planning and Design and said they are here following up on a project they have. He said I apologize for the misprint on the Agenda Item-it should read on the N.E Corner of B Road and Southern Boulevard. He explained that they don't have an active application with PBC or a DRO process going on but this is just a conceptual idea that they are bringing to you to get some ideas and so you can ask questions.

Terry Burton, Principal of Loxahatchee Equestrian Partners, LLC- introduced himself and his company and said we own the 90 undeveloped acres on Southern Boulevard between B and C Roads. He said we are trying to work with the Town's ideas and visions for Southern Boulevard. He said during the Visioning Process the need for an adult congregate living facility was identified by Vice-Mayor Herzog and others. He said our property was highlighted as the preferred location for this facility and we intend to partner with an experienced and high quality operator for senior living facilities and it will be something that aligns with the Town's visions and goals. He said the project would be diverting traffic away from the letter roads so that traffic does not migrate into Loxahatchee Groves, and has the signal at B and Southern as the outlet for both right and left turns. He said this project will create a property tax base and will introduce low impact, low traffic generating properties South of Collecting Canal which again was one of the goals developed through this process of the past few months.

Mike O'Dell, O'Dell Land Planning Group-introduced himself and said during part of the process we went through we noticed we needed to provide for a transitional site for activities from the North of the property going south to Southern Boulevard. He said he had 2 options of plans he wanted to go over with the Council. He said we were looking for some interconnectivity between the roadway systems. He said in the 1st layout there would be a buffer to the property to the North and we would continue with the Non-Residential uses along Southern Boulevard while extending the line down to B Road. He said the 2nd concept is almost the same but allows for some Non-Residential uses on either side of the road way. He said in both cases they would be extending Tangerine through the property from C Road to B Road.

He said we are proposing to formulate one of these options as a land use amendment which would then process and a submittal would occur that we could present to you the 1st week of December. He said we think we have met the Town's Goals, Objectives, and Policies with this

and we would like to move forward. He also said we believe we will comply with the Rural Vista Guidelines on this.

Town Attorney Tolces said I don't think their goal of the 1st week of December would work because we will just be getting the ORC Report back then and we have a current Moratorium in place which we need to discuss that you might extend.

Council Questions:

Councilman Lipp asked about the layout and if there would be a nursing home.

Mr. Burton said whether there would be a nursing home would be dependent on the partner we come up with and through some quick research I understand there is a current Moratorium on nursing home licenses in the State of Florida.

Councilman Lipp said as far as the connection to Southern Boulevard you might want to take some time with Calvin-Giordano because they are doing the Southern Boulevard Corridor Study and DOT gave us some direction to try and keep the number of connections to Southern Boulevard at its current limit. I like the Tangerine idea and may have seen something similar at the Workshops.

Mr. Burton responded we got as many ideas from the Workshops and Visioning as we could.

Councilman Louda asked what will the front of the property be between B and C.

Mr. Burton responded honestly we haven't identified uses for the front yet other than it wouldn't be Commercial other than maybe an institutional use like a daycare or school.

Councilman Louda asked about the name Loxahatchee Equestrian Partners, LLC, and noted there is nothing Equestrian about this project.

Mr. Burton responded it is a historical legacy and there is nothing equestrian about this project other than maybe to tie it in to the Town's trail.

Vice-Mayor Herzog said you have taken title to these pieces of property or contingent upon the plan going through.

Mr. Burton replied we own the 90 acres of property.

Mayor Browning asked how many residents are you talking about.

Mr. Burton replied we haven't gotten that far ahead in terms of density or anything like that. He said we will be looking at some comparable properties.

Mayor Browning said I have built several of those and I am in construction. He said my main concern is most of those were closer to Towns and we are a rural community. He said if we get something like 1000 residents they could all go and register to vote and control our rural community. He commented we all know what Boca is like.

Mr. Burton said I certainly don't think it would be close to 1000 residents and the good thing is a lot of these people don't drive.

Mayor Browning said they don't drive but they vote and literally could change the entire look of our Community in the polling place. He said we are a very rural community with large lots and all of a sudden we are bringing in a voting bloc that could all be convinced to vote one way.

Mr. Burton said I was thinking it would be a lot of seniors already living in the Community who can't live on their own anymore.

Vice-Mayor Herzog said transportation in PBC with the link system coming to the Western Area should solve some of that problem.

Councilman Louda said the big thing would be the number of residents per acre because this is going to be a big change. He said the concept is good we just need the details.

Mr. Burton said we need to look at comparable facilities and instead of focusing on density numbers we will look at the kinds of Communities you want to see here.

Vice-Mayor Herzog said there are rural standards for congregate living facilities too, and maybe you should look into that.

Mr. Burton said we will.

13. RFQ 2008-002 Emergency Debris Removal: Selection of firm to negotiate contract

Town Clerk Lippman said at the previous Town Council Meeting you had the opportunity to meet the companies who submitted bids and you chose the top 4 firms to come back with price proposals and answers to the questionnaire provided by Calvin-Giordano. He pointed out that with the pricing they are giving you the whole list of equipment and you probably wouldn't use everything on that list. He said after you make a motion to use a company I suggest you make a second motion to negotiate with a back-up firm like most other Communities do.

Councilman Louda asked if he could make a motion to have them come back with more apples to apples pricing and said I can't pull the # out of these weeds.

Town Clerk Lippman said when you look at it across the board and take some of the common types of equipment I was able to compare with the basic core equipment pieces we would need.

Councilman Louda said the next factor to me would be the efficient use of time meaning how far they have to go to take it back to their collection site.

Councilman Lipp said we have an ILA with SWA for use of their dump site at 20 mile bend so we don't have to pay to set up a temporary dump site if we can use the County's. He said other than that, I was most impressed with AshBritt because they were good at answering the questions line by line.

Councilman Lipp MOTIONED to direct Staff to negotiate a contract with AshBritt, SECONDED by Councilman Louda and discussion was then continued:

Vice-Mayor Herzog commented I was at a League of Cities function today and I brought up the subject what service do the other Towns around us use and the City of Atlantis said they use Phillips & Jordan and highly recommended that we go with them. She said I did have some issues with the way their response was written up but when I speak to the other municipalities who are using them it stands to reason to go with them since they are close by and have the County contract.

Councilman Louda noted that Phillips & Jordan primary subcontractor is in Wellington. Mayor Browning said when I looked at these I liked Phillips & Jordan but I thought their prices were kind of high. He said Grubbs looked like they were just looking for subcontractors and the pricing was high. He said I agree with Councilman Lipp that AshBritt answered all the questions and had more reasonable pricing. He said I hope we never use them but I think AshBritt did a good job in answering all the questions.

Councilman Louda agreed that AshBritt was straight forward and when you asked them a question they answered it directly.

Town Clerk Lippman said the firms all listed debris sites they are already authorized to use.

Mayor Browning asked if there were any comments from the Public.

Ron Jarriel, 2800 161st Terrace North- said I don't know if John Choquette will be able to stay in business or not but he actually worked for all these companies. He said AshBritt gave the best presentation but asked are you able to open the bidding process again so John could submit a bid.

Mayor Browning responded we have already gone through the process, but the good thing is all of these companies would use local subcontractors.

Town Clerk Lippman said when we negotiate the contract we can emphasize the use of the people within our municipal boundaries.

Mr. Jarriel said yes, but they will pay John \$6 a cubic yard and make \$18 a cubic yard.

Councilman Louda said to me one of the biggest things is they will have to have a good link with FEMA to recoup the funds.

Town Attorney Tolces said we will work with them, however, I don't know about putting specific language in there restricting them to the trade use of our subcontractors.

Mayor Browning said I want to be careful because cheaper may reflect how they would look after us in the longwise.

Vice-Mayor Herzog said I also want to point out that Phillips & Jordan is a sister company of Palm Beach Aggregates therefore they are closer to us.

The MOTION passed unanimously 4-0, with Councilman Autrey absent.

Vice-Mayor Herzog MOTIONED to direct Staff to negotiate a back-up contract with Phillips & Jordan, SECONDED by Councilman Louda and the MOTION passed unanimously 4-0, with Councilman Autrey absent.

14. Resolution 2008-030: State Mutual Aid Agreement

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING AND RATIFYING THE STATEWIDE MUTUAL AID AGREEMENT BETWEEN THE TOWN AND THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Tolces conducted the reading of Resolution 2008-030.

Councilman Louda MOTIONED to approve Resolution 2008-030-State Mutual Aid Agreement, SECONDED by Vice-Mayor Herzog and the MOTION passed unanimously 4-0, with Councilman Autrey absent.

15. Political Flyer (unincorporation): Discussion (*requested by Councilman Louda*)

Town Clerk Lippman said it was at the request of Councilman Louda that this was put on the Agenda this evening for discussion. He said the Town Office had received a flyer that went out to the Community about an unincorporation effort.

Councilman Louda said he had written a response letter and passed out a copy of the letter he sent to Eric Marple pointing out his erroneous facts that were extremely misleading to the Public.

Mr. Eric Marple
P.O. Box 104
Loxahatchee Groves, FL 33470-4852

Re: Tax Reform for Loxahatchee Groves Mailer 4 October 2008

Dear Mr. Marple;

Previously I had felt that you had a good analytical mind and would not likely be swayed by hyperbole, which apparently has happened.

Your flier, in my opinion, is quite strange to say the least. "*The State of Florida recently held a vote to reduce taxes on the average of \$250.00 per household, which passed by 64% of the vote.*" This is completely non sequitur to the Town of Loxahatchee Groves as each household here benefited as well-look it up! If you feel or felt that this statement was at all germane to any argument or position that you have or

wish to have then perhaps you should have explained how that statement contradicts the operation of the Town of Loxahatchee Groves or the well being of its citizenry.

During the incorporation effort, Supervisors of the Loxahatchee Groves Water Control District (LGWCD, aka the District) actively and openly campaigned against incorporation and the present Council. During and following that period it became clear that they realized that once there was a town, outside officials, newspapers and others would not call on them as 'representatives' of the community.

During the incorporation, campaign and for most of the first year of incorporation I truly felt that the Town and the District governing bodies could and should work on parallel individual tracks. I also realized that in the future, at that time I thought "the future" to be 5-10 years, an amalgamation of these 2 entities would likely lead to a more streamlined and fiscally beneficial final product.

Within the past several months I have been proven wrong about my faith in the ability of the District to work cooperatively with the town. First, we could not come to consensus on the authority of the gas-tax revenues, in spite of the fact that Town qualifies for these and the District does not. Secondly, when the District heard that the Town's consultants had requested that the Town seek a short moratorium on road changes in order to complete a comprehensive road, trail and greenway study, the District took a pre-emptive stand and sent notice to the Town that they would not even consider this. Had they at least had the common courtesy to hear the request and weigh the reasons before saying no, I would not be as disillusioned with the LGWCD. Thus, I reversed my stand and firmly feel that the Town should initiate and fund an independent study to ascertain whether the District (a) remain independent (=as is), (b) become a dependent district, or (c) follow any other alternative fate. Once this study is completed and if a change is recommended, then I have already made the motion that we should put the actual decision to a referendum vote of the electorate in Loxahatchee Groves. You see, this change would be too divisive / controversial for 3-5 people to make alone. Thus, this is a choice that the electorate must make; I will not participate in a vote from the dais to do this. However, I voted to do the study so we can have a referendum with an informed electorate. The recommendation to change would only be acknowledged if the study shows that (1) governmental processes become streamlined **and** (2) there was a substantial cost benefit (= lower taxes/assessment) to the landowners.

What your letter does is totally mislead the uninformed reader into believing that de-incorporating would reduce taxes. First, our solid waste bills are lower as a Town than they would be if still in unincorporated Palm Beach County. Second, and more importantly, is your large group of "sins of omission". That is, you fail to inform your reader that nearly \$ 500,000.00 in gas-tax monies would NOT come into Loxahatchee Groves. Oh yes we could beg the BCC for a pittance but look at their budget-they will keep it all, as well they should, given their budget cuts. You fail to mention the monies coming into the Town from utility and communication taxes as well as many other revenue sources not only our resident's tax bills. All of these provide services to enhance life here *without* direct taxation on our residents.

Lastly, the most important thing that would be lost if de-incorporation were to actually occur would be self-determination. We would revert to the whims of the BCC and LUAB in determining our growth patterns, our land uses, our zoning, and every aspect of life would be under someone else's control. Oh except, of course, the maintenance of the roads and the provision of drainage. But even here, remember, the District can only work on "District" roads and rights of way, whereas the Town has jurisdiction over all roads and can offer assistance to those on non-district roads as well.

Recall that the Town is governed by those elected by resident electors (popular vote, 1 person-1 vote) whereas the District is elected by a "special interest" block. You ask, what "special interest block"? You do realize that the voting system of the LGWCD is an acreage vote (1 acre – 1 vote). Thus large landowners, a good many of which do not reside in Loxahatchee Groves (e.g. Sandy Simon, etc., etc.), elect the supervisors by a 1 vote per acre proxy system. As you are an educated man, you should recall the governing policies of the Middle Ages? Does feudalism ring a bell? That is, rule by the landed gentry.

Presently, we are just completing the comp Plan process, we have just initiated a roads/trails study, and we will soon turn to zoning issues. Once the Town is stabilized, with all the t's crossed and the i's dotted, will the benefits of actually being a Town come to fruition. The Town, as is, is experiencing growth pains and I would have expected you, as a scientist, to have been able to observe, analyze and conclude in a more meaningful manner.

Disappointedly yours,
Dr. J. William Louda
Seat #2, Town Council

Councilman Louda noted what Mr. Marple failed to put in his letter is that everyone in Loxahatchee Groves received the same benefit for part of the State. He said now that this is out in the Public's eye, we need to do some damage control. He said if there were any valid arguments in that they wanted to present then I wouldn't have a problem with it because everyone has their own opinions-but this is of no substance. He said I think we possibly need to get a flyer out there black and white detailing and spell out the difference between what is going on and put in the Non Fiscal thing which is the most important part of incorporation-self determination. He said the project we just had presented to us, if this was still the County that could be your 1000 people. He said I think this has gone down a dangerous road and we need to do something about it.

Councilman Lipp said I would ask Town Attorney Tolces to explain for the record how the sort of an action would transpire in order to unincorporate the Town.

Town Attorney Tolces responded the referendum process Councilman Lipp is referring to is the process for amending the Charter. He said you can amend the Charter through a local

referendum process but you can't just put on for a local referendum to unincorporated. He said the same process would have to be followed as we did to incorporate to unincorporated.

Councilman Louda said I have one legal question. He asked if what it said at the bottom of Mr. Marple's letter was legal.

Town Attorney Tolces said there are different types of organizations and entities and this issue currently isn't on the ballot.

Councilman Louda asked to present it this way it does it have to be registered with any governmental entity.

Town Attorney Tolces responded with respect to just going out and seeing if there is any interest in moving forward with a specific issue, I am not sure if there are any specific requirements to register. He said I would have to follow-up with Tallahassee and the Division of Elections to whether or not this letter does violate any specific rule.

GENERAL CONSENSUS WAS GIVEN FOR TOWN ATTORNEY TOLCES TO CALL THE DIVISION OF ELECTIONS TO SEE IF THERE WAS ANY VIOLATION OF ELECTION LAW OF THE STATEMENT AT THE BOTTOM OF ERIC MARPLE'S LETTER, "THE POLITICAL ADVERTISEMENT PAID FOR AND APPROVED BY ERIC MARPLE."

Councilman Louda said if it just said, an initiative paid for by Eric Marple, but it said, the political advertisement paid for and approved by Eric Marple.

Mayor Browning said one of my concerns is the disinformation. He said this is not fair or accurate information on the taxes and some other things and asked if there is some way we can send a letter out to the residents addressing these things.

Town Clerk Lippman said on your email you will see a copy of the newsletter set to go out this Friday which will address these points.

Councilman Louda said if you look at the taxes a resident pays out here and take the taxes and pull out the number a resident pays because we are a Town compared to what they would pay if we weren't a Town.

Town Clerk Lippman said if you take the gas tax money we are receiving, it basically washes out the millage. He said if you look at the revenue the Town is receiving and take out the gas tax it leaves the amount of basically running the Town.

Vice-Mayor Herzog said and the fact that we would have to beg for gas tax money from our County Commissioner is (she didn't finish the sentence).

Councilman Lipp said when we first got this started I was talked to by the Town Attorney on directing Staff to do things and that is a no no for the Town Council to direct Staff and it should be directing the Town Manager and I would like Town Attorney Tolces to reiterate on that.

Councilman Louda said you are supposed to address Irv and all my emails do so.

Town Clerk Lippman said the point I am making is Town Manager Dr. Rosenbaum and I control that newsletter and no one interferes with the information that goes in the newsletter and the items in there are completely separate from each other.

Mayor Browning asked for comments from the Public.

Ron Jarriel, 2800 161st Terrace North- said I feel a little guilty because I talked with Mr. Marple after I got the survey in the mail and he said when I spoke to the Town Council at the meeting and asked the question if we could dissolve the Town at the same time we talked about the LGWCD and he said it got him thinking. He said the County dropped our taxes this year because the homes have dropped in value and you did good holding at 1.5 but you didn't drop. He said Mr. Marple put the letter out to do a survey to see if other people are upset about what is going on and I don't think it is a problem. He said I know his heart was in the right place. He said I say wait until the survey is over. He asked the attorney if it would cost anything for him to check with Tallahassee.

Town Clerk Lippman said I will do it for free. He said on the County tax Bill some of the items increased by 1.5% and the overall impact on the PBC tax bill was many of the factors on it increased this year and I think it would be inaccurate to say that the County dropped the taxes. He said we got notices at the Town Office letting us know of the increases that were on there.

Howard Voren, 1538 E Road- said I actually agree with Ron Jarriel on something. He said I think this whole thing is dead in the water and we shouldn't send out a letter like Councilman Louda is suggesting and I think it was a mistake to even bring it up tonight because the press is here and will probably write about it. He said the people who want to talk bad about you are out there yelling. He said I think this newsletter needs to be written showing what has been done and a perfect example would be the \$392,000 gas tax money the LGWCD couldn't get and the Town will. He said it is a poorly brought out Eric Marple and Mr. Marple has never come out to one Town meeting to get involved in Community affairs. He said he is a one issue guy and all he knows is the LGWCD paved his road for free and why are we talking bad about these guys.

Vice-Mayor Herzog said as far as Council Members tooting their own horns, I don't think a leader should have to toot their own horn and a leader will be recognized by their own actions.

Mayor Browning moved to Item #16.

16. Process for Permitting Uses that are Currently Non-Conforming: Discussion

Town Clerk Lippman said it was discussed at the last meeting that there are non conforming uses in our Town that serve the Community in some purpose, shape, or form in a positive way. He said I think if there was discussion to talk about a process for the Town to come up with to establish a variance process for these businesses we could work on that. He said if you choose to explore the variance process then I would work with the Town Attorney to see what we can come up with. He said one item to consider would be the business tax license and if we are going to be in the actions of possibly issuing variances on some businesses we have to be in the loop of the issuing of Business Tax Receipts because it can confuse PBC tremendously. Town Attorney Tolces said we put this on the Agenda because at the last meeting the concept came up because there wasn't really any discussion and we put it on the Agenda tonight to get some direction from you. He said the legal issues we need to look at are we have uses that are not consistent with the Land Uses we have. He said the question is, are they legally non

conforming but were legal at one time and now with the changes in zoning or land use are now illegal or are they illegal from the start and were illegally established. He said if we are going to set up a variance process are we going to allow all non conforming uses to come in and make a request or are we going to require some sort of proof they were at one point in time legal before and at no fault of their own they wound up sitting in a land use not allowing them to do what they have been doing for 20-30 years. He said we also need to look at what they are doing on their property and how much does it impact the property next door is an issue. He said you don't want to put anyone out of business but is what they are doing legally established. He said there are a lot of different possibilities for this process and I need to present them to you so just are aware of the issues.

Councilman Lipp said I was wondering how Town Attorney Tolces got into my notes. He said I think a letter needs to go out to everyone just saying if you are operating a business you might not be conforming to the current land uses and zoning come and register with the Clerk. He said if Mr. Choquette goes to all his neighbors and asks if they mind him doing it and there are no environmental hazards then that should be part of a variance process.

Councilman Louda said PBC when they look for a variance they notify properties within 500feet. He said we have to go to at least 1500 feet (3 lots each way) for a survey whether to grant it or not. He said we absolutely have to protect the people who are here because we have the legally non conforming, the illegally non conforming, and the County and don't give a damn that is how most of this got here through no fault of their own and they weren't told.

Town Attorney Tolces responded ignorance of the law is no excuse.

Councilman Louda said when the Choquette's were here I kept asking about Note 28. He said it says a conditional use approval could be granted for this. He said but I do think we need neighbor approval.

Town Attorney Tolces said with respect to the 1500 feet, typically they would draw a circle from some point on the property. He said they can get a conditional use for this.

Mayor Browning said I think 1500 feet from each property line.

Vice-Mayor Herzog said that would make it fairer.

Town Clerk Lippman said one thing to keep in mind also is this should only apply to existing businesses but if we get the information out and there are 30-40 businesses that for some reason we grant the permission to do it, the more variances we grant, the more confusing it will be to the people running our ULDC, which is the County. He said I think it is important we do, but we have to be prepared to take some of this on ourselves.

Town Manager Dr. Rosenbaum said as we get down the road this will get more and more complicated. He said people will come up with creative ideas

Councilman Louda said in granting a variance there is rules and regulations for each type of use on a certain property (setbacks/buffers) and the variance does not get granted unless those are complied with.

Town Attorney Tolces said that is what I was talking about with respect to compatibility issues.

Vice-Mayor Herzog asked are we talking about open door policy with new things coming in or are we going to be looking at someone who has been here for more years and are we going to set a limit.

Councilman Lipp said sometimes the answer would be no.

Councilman Louda suggested using before the date of incorporation.

Town Clerk Lippman said the language used is long standing and not someone who has been here for 2 years or so. He said I think you have to set a time limit you need to have been a resident of the Groves for a certain amount of time. He said I think the time could be a very important factor.

Councilman Lipp said these are resident businesses and I think it gets a little murky when people use Loxahatchee Groves as an industrial park.

Town Manager Dr. Rosenbaum said the key to this is how well you administer it.

Councilman Lipp said I think Town Clerk Lippman is right and we need to have the business tax licenses here.

Town Clerk Lippman said the reason we are working on Article 14 is that ERM came to us and said we are not going to handle this for you anymore, but the minute we change a word in the ULDC we are taking it into our own hands.

Town Attorney Tolces said you will be able to develop a much simpler ULDC which deals with uses and conditions.

Councilman Louda said if we picked a particular time in point, someone could come forward and say it is arbitrary because you know so and so and they started at that time. He said I think we should use the date the Bill was signed to become a Town which was June 2006.

Mayor Browning said my thought is we are protecting businesses who have been here a long time like 10/15/020 years not the ones who came out here right before we incorporated. He said if you do right before incorporation than Valley Crest would be in.

Town Attorney Tolces said you will have to have some rationalization on why you picked that date.

Mayor Browning asked for comments from the Public.

Howard Voren, 1538 E Road- said I side with the Mayor on this thing. He said I don't know why we can't go ahead and set a number like 20 years or 25 years which is the number I had in my mind. He said I believe if you look at this problem, it will be a finite # of people and we need to look at the people who have been here in long standing. He said Mr. Choquette was here over 30 years ago when I moved here.

Councilman Lipp asked where is the Choquette location and when did he start here.

Mr. Voren responded when I moved here it was Rackley and Choquette and those were the 2 names given to me.

Councilman Lipp said he bought the property in 1983. He said when you go to the property appraiser's website it says this.

Sharyn Browning, 3056 D Road- said I would ask you to consider when you are limiting it to the 1500 feet the ones that are 1500 feet might not object to the use because they stand to gain from more Commercial on that road as well. She said I think some of the element of that discussion should be the impact on the Community itself and not just the immediate neighbors.

Town Attorney Tolces responded in addition to a mailing notice, there will be Public Hearings and Public Advertising for Public Comment for each situation.

Ms. Browning said my point is that the people around them might have something to gain that the rest of the Community would not appreciate.

Councilman Lipp said this is a variance just for that property and not for everyone on the street.

Ron Jarriel, 2800 161st Terrace North- said if we keep stretching the footage pretty soon it will be out of Loxahatchee and we won't have to worry about it. He said before we incorporated it the saying was love it and leave it alone and for the County you used to have to get all your neighbors approval in a 360 degree to have a mobile home on your property and if you didn't want to then you couldn't have it. He said I know the nudist colony has 40 acres and is zoned Agricultural and what bothered me the most was in your Comprehensive Plan that you sent off to the State, under Land Use it says existing naturist resorts may remain (legal) when we say legal I know John Choquette has had an occupational license since he has been in business and I'm sure the nudist colony has some sort of license and I put them in the same book as John Choquette and all these people. He said I don't like that because you showed favoritism to a nudist colony rather than to Mr. Choquette who took his father's business and he carried it on. He said I guess it is too late to take that out of the Comprehensive Plan about the nudist colony and it showed favoritism while these other people are trying to fight for their lives. He said we talk about so many people per household and there are a lot of people on that 40 acres track out there. He said I do think it is good for the Community and they need to be left alone but please do not show favoritism and keep making it harder and harder for these people and a variance with footage farther and farther away.

Town Clerk Lippman responded and said Sunsport Gardens is zoned Recreational not Agricultural. He said I will clarify this with Shelley but the County classifies them as other, and by putting it in there it allows them to continue. He said in reference to why it was put in there he is in a Misc. Category that is just floating in the air and they had to put it somewhere.

Elise Ryan, 3508 A Road- said I was on the incorporation committee when we first got it started and there was discussion about these small businesses and that we were going to help them, not that we were going to go and look for them. She said I am talking about the mom and pop businesses on a 5 acre property. She said I didn't get comfort tonight when I heard the 10 year thing, she said if anyone is watching we are having some really tough times here and I just can't imagine a local government going after people just trying to work for a living. She said it was not what we promised in incorporation. She said I don't care if someone moved out here 1

year prior to incorporation they did what they saw. She said I would hope you would look at that, these people work hard and are not trying to get away with everything.

Councilman Louda said I agree with her on a lot of the stuff, especially the time and I think we need to pick some date that is definitive and that means something to the Community and incorporation was the date when we went from County to Town officially.

Councilman Lipp said I would like to throw in a different idea and I think any time line we have in there is not a good idea but maybe giving points for the length of time they have had their business established is something that could go in toward their favor. He said I don't know if it is something we can turn into a quantitative issue and I think looking at the impact on the Community, and if there is very little impact on the Community I think we need to look at it and say good, but if someone lives 2 miles down a dirt road and they have 15 trucks making 3 trips a day down the dirt roads I think we need to look at that very carefully.

Town Attorney Tolces said with respect to the time period, when you consider and ultimately adopt this ordinance, you will have to establish this time frame or the points system and as long as it is fairly debatable. He said we will make sure that you have the facts and that whatever decision you make will be supported by the facts you have.

Town Clerk Lippman said it has been stated before and again tonight and the Town Council as a whole is being accused of shutting down businesses and I feel I need to respond. He said Code Enforcement is done off a complaint basis and when a Member of the Public calls we file a complaint and I don't remember the Council voting to proactively go after anyone in this Town.

Mayor Browning said I am in agreement with Elise Ryan and when we did the Neighborhood Plan we had the intention of protecting the mom and pop-home based businesses. He said there is a difference between the big commercial operations who are taking advantage of what we have here and should be in an industrial park. He said we do want to protect those who are not impacting their neighbors.

Vice-Mayor Herzog said another person is John Hitchcock who restores old fire engines. She said the County came in and classified his property as Commercial and he is just about taxed out of the area.

Councilman Lipp asked where is Mr. Hitchcock located.

Councilman Louda asked we have had at least close to 102 Code Enforcement complaints.

Town Clerk Lippman responded yes, and at this point we need you to give Town Staff direction regarding this.

Councilman Lipp MOTIONED to direct the Town Attorney to draft an Ordinance to adopt a process to allow non conforming businesses that have been found non compliant by the Special Magistrate to petition the Town for a variance, and for Town Staff to work with the Town Planners to come up with a variance process, SECONDED by Councilman Louda and the MOTION passed unanimously 4-0, with Councilman Autrey absent.

Town Clerk Lippman said we will build the foundation.

Councilman Louda asked what are we doing about complaints.

Town Clerk Lippman said as of November 1, 2008, anonymous complaints will be allowed to be taken at the office again.

Town Attorney Tolces said the next round of Special Magistrate cases is set for October 16, 2008 and I will go through the cases with Town Clerk Lippman and the Code Enforcement officer and if there are cases that may be impacted by this ordinance we may make the administrative decision to continue them.

Vice-Mayor Herzog asked is there a way to establish these complaints are coming in from residents of the Town.

Town Clerk Lippman said I can tell you to date there has only been 1 complaint from outside of the Town and that was from Royal Palm Beach. He said legally though we have to take complaints from anywhere.

Vice-Mayor Herzog asked if the names and addresses of who called in the complaints are available.

Town Clerk Lippman responded it is Public Record.

Councilman Louda said if you set up something that doesn't identify who set up the complaint or who it is against.

Town Attorney Tolces said that is something any resident can determine if they ask for any records regarding any complaint that has been made and certainly if anyone comes forward to Special Magistrate with a violation and they don't feel they have committed one they can explain that to the Magistrate.

Vice-Mayor Herzog said I think what they are just saying they will provide the data and you do with it what you want.

Mr. Voren said Town Clerk Lippman said as of November 1, 2008 anonymous code complaints will be allowed again unless you guys get together and discuss suspending the anonymous complaints again for a certain time period.

GENERAL CONSENSUS WAS GIVEN TO DIRECT STAFF TO BRING THE TOPIC OF ANONYMOUS COMPLAINTS BACK TO THE NEXT MEETING AS AN AGENDA ITEM.

17. Town's Comprehensive Plan Amendment No. 08-01: Discussion

Town Attorney Tolces said this pertains to the Town's LUPA which is currently pending before administration in Tallahassee. He said I have been working on the manner and have reached a conclusion and made a recommendation to the Town Council that it would be appropriate and in the Town's best interest to commence the process for repealing the LUPA which has been transmitted to DCA. He said the reason for that is due to the timing of the transmittal of the

Comprehensive Plan and the timing of the final hearing for the LUPA it appears you are going to be duplicating your efforts with respect of what you are looking for with the 1-5. He said that time and money could be better spent in preparing and responding comments for DCA with response to the Comprehensive Plan. He said I provided you with a Memo that describes my firm's opinion on the issue. He said it would still have the proposed change within your Comprehensive Plan which you have transmitted to DCA and we are looking to adopt sometime in January or February 2009.

Town Clerk Lippman said I had the opportunity to speak with Shelley and Lorraine about this as well and due to the unfortunate timing of the intervener to the North, the important thing is to understand this is part of the Comprehensive Plan and is not going away.

Vice-Mayor Herzog asked what are the savings we will see.

Town Attorney Tolces said my offices fees would be about \$20,000 to prepare for the hearing. He said I feel that rather than potentially spend money twice in an effort to just get one Comprehensive Plan adopted and that is essentially what it is we can focus on just the Comprehensive Plan.

Vice-Mayor Herzog asked the timeline basically won't be altered that much and the end result would be we would get the 1-5 at around the same time and we would save money.

Councilman Lipp said I have always wanted to fight this and this neighbor to the North is spending all this money that we don't have to fight this and begrudgingly I see Counsel's part. He said one thing I want to hear from Calvin-Giordano is that this is being done now so when this comes back in an ORC we are not going where is the data.

Town Attorney Tolces said I know they should be able to use the data from the road plan in respect to traffic. He said I would like to fight this too and I think it is a good fight but if we need to fight let's fight it as part of our Comprehensive Plan.

Councilman Louda said the MREG study hopefully is being done with projections where all 10 and above properties have been split down to 1-5 already.

Town Clerk Lippman said yes that is correct, the Comprehensive Plan was written as 1-5 and the MREG is proceeding under the premise of 1-5.

Councilman Lipp MOTIONED to direct Town Staff and Town Attorney to take any necessary action to repeal the LUPA, SECONDED by Councilman Louda and discussion was then continued:

Councilman Louda asked can you give me the timeline again.

Town Attorney Tolces responded the ORC report is due back November 23, 2008 and then we send it back and it would be adopted in January 2009.

Councilman Louda asked immediately upon adoption can people come forward to split.

Town Attorney Tolces responded it needs to be 20 days after DCA issues the notice of intent after the Town adopts it, and if any affected party can file a petition and if they don't then on the 21st day it is adopted.

Councilman Louda asked once it is adopted how soon after that can someone file to split.

Town Attorney Tolces responded they could file the next day.

Town Clerk Lippman said there is a process with the County they can go through. He said as far as the platting regulations the Town and the County would each handle half of the process. He said this is the part of the puzzle that I would like to still put together for you and you have a lot of things on the horizon that the County won't be involved in and we really need to move forward.

Vice-Mayor Herzog asked is there going to be a need to readdress running these ourselves.

Town Clerk Lippman said it is something the Town needs to consider and I understand the County provides a free service to us, but as far as for planning our own destiny it does come with a little bit of a price and I think we need to discuss the process of taking some of this on ourselves.

Vice-Mayor Herzog asked how would this violate our government light status that seems to be the banter on the emails.

Town Clerk Lippman said it will cost a little bit more money to the tax payers for us to have more services that help us to control our own destiny.

Vice-Mayor Herzog noted there are times the County will say no and then we will have to shuffle quickly and get ourselves in order and she asked is this something we already have figured in our Budget numbers.

Town Clerk Lippman said no, that was pulled out per the request of the Town Council.

Town Attorney Tolces mentioned the Cost Recovery Ordinance and said when someone applies they will have to pay.

Town Manager Dr. Rosenbaum said we are going to do this in a government light fashion that will be contracted with someone rather than an employee, but the most important thing is you are able to get something for a cost effective price like being able to take a look at what goes on in the Community.

Mayor Browning said government light is 2 things, keeping cost down and intervention down.

Mayor Browning asked for comments from the Public.

Ron Jarriel, 2800 161st Terrace North- asked if large acre tracks like 80 or 100 acres would be able to split into 5 acre tracks.

Mayor Browning responded yes.

John Ryan, 3508 A Road- said I remember Jeff Maxwell indicated the traffic study wouldn't be done until March 2009.

Town Attorney Tolces said this would be a different traffic study.

Mr. Ryan asked are you going to be physically better off having faced up to a pointed issue where you have County data and support on your side and where we already have ground work started with DCA or are you going to bog the entire Comprehensive Plan down with this argument. He said I think you are wasting your time and money trying to bog it down with the Comprehensive Plan. He said I think you are going to have issues with the Comprehensive Plan and you don't need this as a full blown issue at one time.

Town Clerk Lippman said the same County Data and Analysis that the DCA approved and supports is the same for the Comprehensive Plan. He said the first hearing for the LUPA wouldn't be till the end of January or February 2009 and that could drag out for months and months and it is the same fight in the Comprehensive Plan for \$20,000 less.

Town Attorney Tolces said certainly if I wasn't getting questions from DCA I wouldn't be here tonight asking for this action.

Bill Gurney, 1453 E Road- said I think John Ryan made a very good point to the Council. He said in terms of a traffic study we have one going on right now and asked if we would need another one.

Town Clerk Lippman responded we have the Southern Boulevard Corridor which is almost completed and the MREG which just started.

Town Attorney Tolces said we are looking into that and right now we need to talk to DCA to get a better idea.

Town Clerk Lippman said our hope is what we have going on is enough.

Mr. Gurney asked when do we feel we will have the study completed for DCA to look at.

Town Clerk Lippman responded Town Attorney Tolces is going to find out what DCA is looking for and if there is information required that we are not already doing then we are going to have to speed things up to get it.

Mr. Gurney asked what were the objections of the third party.

Town Attorney Tolces responded certain facts supplied by the DOT that raised questions about some of the data we got from the County with respect to the LUPA. He said there have been some suggestions that the data and analysis we provided is not sufficient or satisfactory to support the LUPA.

Mr. Gurney asked did we have some approval from DCA in the past that the 1-5 was acceptable.

Town Attorney Tolces said they issued their notice of intent to find it compliant.

Mr. Gurney said I take it that is a good thing. He said was there an issue at that time.

Town Attorney Tolces said we were not aware that there were any issues at that time.

Town Clerk Lippman said the petitioner filed at 12 noon on the last day of intent.

Mr. Gurney said as far as the traffic study how does that work as far as the type of traffic involved. He said I am curious as to how the commercial traffic would affect the traffic study and DCA's approval or disapproval based on total traffic. He said during that time we have additional commercial traffic coming into the community at even a higher level than we have now and I am just curious as to how this whole thing works.

Town Attorney Tolces said I am not a traffic engineer but the analysis will likely have to look at the impacts of Okeechobee potentially going to Crestwood and West to Seminole Pratt. He said they will look at all types of traffic. He said it should support the finding that there is no impact and it is nothing to do with widening roads or providing for mitigation for traffic.

Councilman Lipp made a MOTION to end the debate with no 2nd.

Mr. Gurney said my concern is that I believe the Town should act post haste to get a study right of way and not wait till January or February.

Town Clerk Lippman said that is definitely what our intent is.

Mayor Browning said I find it very ironic they go from 10- 1.25 and have a problem with us going to historic 1-5.

Town Attorney Tolces said they haven't complained about the change but are complaining about the process and the information they have to provide.

Councilman Louda said the MREG is for the Town's vision and we need a study on traffic impact. He said the Sluggett property had done a study on the impact of their property on our roads.

Town Clerk Lippman said the goal is to take everything out there and come forward as a Town and go from there.

The MOTION passed unanimously 4-0, with Councilman Autrey absent.

Councilman Louda noted he voted for it reluctantly because he didn't really see a change in the timeline.

18. Code Enforcement Contract with C.G.A.: Approval for renewal

Town Clerk Lippman said the Code Enforcement Contract with Calvin-Giordano is up for automatic renewal. He said the only 2 changes they put in there are a \$141.00 per month

increase for a 3% cost of living and they put in a new provision that they put in all of their agreements that we are not allowed to hire any of their employees for a year.

Councilman Lipp said I would like to see us if there is any item over a certain benchmark that it really needs to go out for bid and I think we owe that to our taxpayers to ensure that we are still getting the biggest bang for our buck. He said I think we need to move forward and if Calvin-Giordano bids and comes in as the appropriate bid and not necessarily the lowest bid then that would be it.

Vice-Mayor Herzog said I believe when we listened to all the groups present Calvin-Giordano was the best and I wouldn't think it would flip flop much in a year.

Mayor Browning asked how many hours do we use Code Enforcement a week. He said we are paying \$1200 a week for part time of 16 hours and asked if we could get something negotiated by the hour.

Town Clerk Lippman said it is being presented as a figure here but Code Enforcement Officers get paid from \$65-\$125 per hour. He said one thing I can tell you is this is a learning standpoint and just as the hearings are getting to the point where we had a very successful Special Magistrate Hearing and we are able to save time and money I would just hate to disrupt that.

Councilman Lipp asked how many Code Enforcement officers have we used.

Town Clerk Lippman responded 2. He said Ted Licitra was first and now it is Cary Tullos. He suggested directing Staff to renegotiate with Calvin-Giordano for no increase.

Councilman Louda MOTIONED to direct Staff to renegotiate the contract for Code Enforcement with Calvin-Giordano removing the Cost of Living increase, SECONDED by Vice-Mayor Herzog and discussion was then continued:

Mayor Browning noted I think Councilman Lipp brought up a good point and we need to establish a policy for certain Budget amounts where every year or 2 we go out for bids.

Councilman Lipp requested that be an Agenda Item in the future.

Mayor Browning asked for comments from the Public.

Ron Jarriel, 2800 161st Terrace North- said I agree with Councilman Lipp and the Mayor and I think the times are hard out there. He said I sat in on a Special Magistrate Hearing and basically it was cut and dry. He said if this firm wants to hold onto our business they will bid like everyone else and hopefully give us a low bid and I think when a contract is up you keep the public satisfied and go out for bid.

Cindy Corum, 2452 C Road- said I just wanted to make the point that we started the year paying \$1500 per month for Code Enforcement and now we are paying \$1200 per week.

Town Clerk Lippman said the reason why the amount went up is because the Town Council requested more time because of the number of complaints and keep in mind, if you choose to extend the anonymous complaints moratorium than I can go back and drop it down. He said

it was not Calvin-Giordano going after a bigger paycheck it was what the Council needed. He said the first step is to negotiate the COL out and then let's see what you decide with the Anonymous and then I can go back and ask for fewer hours.

Councilman Lipp asked would it be appropriate to have a complaint fee.

Town Attorney Tolces responded I never heard of that but I am not going to say it can't be done.

Councilman Lipp said I seldom agree with Howard Voren, but I do on this because anonymous complaints run up our bill.

Town Attorney Tolces said some municipalities require 2 people call in a complaint instead of 1.

Mayor Browning said I think that is an excellent idea. He said you have 2 different addresses and 2 people in agreement.

Town Clerk Lippman said I do agree if you want to make it a little more difficult than getting 2 different names would be important. He said I can tell you this, when we did go to suspending the anonymous complaints it cut down the case load by almost 75%.

Mayor Browning said one of the things we don't want is a battle between 2 neighbors to where one neighbor says I don't like this about you and all of a sudden we are paying for a battle between 2 neighbors and I think if we require 2 people calling in the complaint it might cut down like cutting out the anonymous did.

Town Clerk Lippman said once you go through these cases for the next Special Magistrate the number of active cases will be under 12.

Councilman Louda said I wouldn't mind seeing it go to 3 because we need to keep complaints to things that are really agreed to and potential hazards.

The MOTION passed unanimously 4-0, with Councilman Autrey absent.

Town Clerk Lippman said I will speak with Shelley Eichner and come back to you at the next meeting. He said I don't want to speak for them, but I am pretty sure this will go and if not then I recommend going out for bid.

19. N.C.S. Contract Addendum for E.O.C. Services: Approval

Town Clerk Lippman said this is not an opportunity for NCS to make more money but an opportunity to recognize only when the Town EOC is activated and we are need to be here 24/7. He said we are asking for \$150 hourly rate for anything over 50 hours per week which can be reimbursed by FEMA.

Councilman Lipp said Vice-Mayor Herzog and I went through the courses and I asked Jeff Goldberg when we are putting together an EOC what levels of training need to be done for FEMA reimbursement. He said when we go to ask for reimbursement they are going to ask are these people certified.

Town Clerk Lippman responded I am confused because we did indicate we are doing online training and when I went to the EOC I was under the impression the 100 and 200 courses were the required first steps.

Town Manager Dr. Rosenbaum said the answer is yes, we are ready to commit to this.

Councilman Lipp said if you could get a letter that you don't need the 400 and functioning as a Staff for the EOC would be compliant for the management level.

Councilman Lipp MOTIONED to approve the addendum to the NCS Management Contract for Emergency Disaster services and the management fee increase, SECONDED by Councilman Louda and the MOTION passed unanimously 4-0, with Councilman Autrey absent.

Town Clerk Lippman repeated this is only for when the Town EOC is activated and if we don't need the Town EOC this doesn't kick in.

20. Resolution 2008-011 (Community of Hope): Clarification of Conditions of Approval

Town Attorney Tolces said you have already approved the Resolution for Community of Hope and the applicant just wants to clarify the conditions of approval. He said upon speaking with the applicant's representative who is here tonight, the actual requirement in the Rural Vista Guidelines for providing pervious surfaces but is not required in all areas.

Councilman Lipp MOTIONED to follow the highlighted portion on pervious parking found on Page 210, SECONDED by Vice-Mayor Herzog and the MOTION passed unanimously 4-0, with Councilman Autrey absent.

Chris Barry, Jon Schmidt & Associates- introduced himself and said that works.

Town Clerk Lippman said when the County Staff Report was issued it combined the sales and amusements. He said the Report says 6 Special Events per year and the Codes say 3 Sales Events.

Councilman Lipp asked do you need a Special Permit through the Town to have the pumpkin sales.

Mr. Barry replied yes, from the County.

Vice-Mayor Herzog MOTIONED to allow for 6 Special Events and 3 Temporary Sales per year for a total of 9 events, SECONDED by Councilman Louda and the MOTION passed unanimously 4-0, with Councilman Autrey absent.

Town Attorney Tolces said we will get a letter out to you.

Mr. Barry thanked Town Clerk Lippman and Town Attorney Tolces for working so diligently on this.

21. E.O.C. Facility Use at L.G.W.C.D.: Discussion

Town Clerk Lippman said as a by-product of the Workshop we did at the EOC, Clete and I discussed it and he came up with the details and provided it to the Town Attorney and I wanted the Council to review it.

Councilman Lipp MOTIONED to approve the agreement for the use of the LGWCD facility as the Town's Emergency Operations Center, SECONDED by Councilman Louda and discussion was then opened:

Vice-Mayor Herzog asked is there going to be any issue with the restriction on the hours.

Town Clerk Lippman responded we don't want to limit ourselves, but if we need to be here, they are going to need to be here too. He said as far as an EOC, I feel very confident our schedules will mirror each other and if for some reason we are required to be here longer than they are then Clete, the Mayor and I will have to work something out.

Vice-Mayor Herzog asked is there a cost to the Town for this.

Town Clerk Lippman responded there will be a cost for a separate phone line dedicated to the EOC phone # and if we have to keep the center open longer than they are here. He said as long as we keep it to the times they are here there will be no fee.

Vice-Mayor Herzog said on #5 on Page 214 it says, (The Town shall limit its use of the District's facilities so that it does not interfere with the District's operation. This includes public meetings of the Board of Supervisors.) She asked why this was in here because the operations would usually be from 9-5pm and the meetings are at night.

Town Clerk Lippman responded they are indicating we have to be here when they are here. He said the key thing is this is a Town building and we all have to work together but this is their home.

Vice-Mayor Herzog asked if Staff felt comfortable with #7 in the contract.

Town Clerk Lippman responded although I don't like the language and wish it wasn't in there we can work with it.

Mayor Browning asked for comments from the Public.

Ron Jarriel, 2800 161st Terrace North- said it is nice to see we finally pull something off that everyone agreed on whole heartedly for the Community so maybe things are starting to look up.

The MOTION passed unanimously 4-0, with Councilman Autrey absent.

22. Administration Update:

a. Speed Enforcement Patrol: Report

Town Clerk Lippman said we have one more week left that we are going to get extra patrol. He said the data is on line and available to the Public. He said they followed exactly what I asked them to do and I know some people questioned why they were on Folsom but when the activity was not on the dirt roads they shifted over to where the activity was. He said they said they felt very welcome and we learned we probably could catch more people if they were stationed in a dirt driveway but I think we started somewhere and made a dent and got the point out there. He said they wrote a lot of citations and we can probably get even more next time. He said as Councilman Lipp pointed out, we now have the flexibility to do this 1 week a month with the Budget. He said I think it was very positive.

Councilman Lipp said one of the comments that came from Deputy Paul Rabino who lives out here is they need to start at 6am instead of 7am.

Town Clerk Lippman said we are going to make that change next time.

Councilman Lipp mentioned the litter that goes on with people dumping their boxes and beer bottles around.

Mayor Browning said if we can break the cycle that is what we want to do.

b. Waste Pro: Transition

Town Clerk Lippman said there are a few things to keep in mind. He said the change from unlimited debris removal to 6 cubic yards is a big shock and they are trying to be a little lenient with us on that. He said ONYX did not do a bad job while they were here but they inherited a lot of bad habits. He said we have to break these but at the same time there are mistakes that are going to happen. He said they are working hard and are out in the Community, but you have to remember you had a company for 5 years and these people have been here for less than a week.

Councilman Louda asked what is the vegetation pick-up schedule.

Town Clerk Lippman responded that the schedule is posted on the website for the Public and the scheduled day for vegetation is still Wednesday.

Vice-Mayor Herzog noted this should be a pretty smooth process because a lot of the Waste Pro workers were hired directly from ONYX.

Town Clerk Lippman said I can tell you the very first day they were out here till 8pm trying to get it right-but they need to get it right.

c. Dust Mitigation: Update

Town Clerk Lippman addressed Councilman Louda directly and said I have your list of the products you requested to have tested, and at the October 21, 2008 meeting I will have the pricing information and at that time if the Council wants to move forward with it I will get with Clete to see how it should be done. He said the direction from the Council was to move forward and to come to you with specific prices of what it would cost for each of these test strips to be done.

Councilman Louda said primarily pick out one South of Okeechobee and one North of Okeechobee. He said let Clete pick the 2 worst sections.

Mayor Browning suggested maybe you could pick the same area and put all 3 products down.

Town Clerk Lippman said when it comes to the execution of it; I will need to work with Clete.

Councilman Lipp commented on dust abatement and said the dust doesn't come from parked cars or even from cars going 20 miles an hour. He said it comes from cars going 35-50mph. He said I would like to throw in the mix now since we have control over the traffic issues, let's pick a part of a road and spend some gas tax money on some installable speed tables and see if there is a way to put a speed table on a dirt road. He said I think when you look at the very least traveled roads you don't need to grade them every other day.

Vice-Mayor Herzog asked what the liability of a speed table on a dirt road is.

Town Attorney Tolces responded and said if there is any need to warn individuals then you put up appropriate signs. He said the same thing with respect to one lane roads, you can design one and you won't necessarily be responsible for the design.

Mayor Browning asked are you going to come back to us with some ideas on that.

Town Clerk Lippman responded yes and we will use the ideas from Councilman Louda and Councilman Lipp.

d. Bridge/Culvert on Biddix and E Road: Update

Town Clerk Lippman said just to give you an update, we were contacted by PBC Fire Rescue about a potentially unsafe bridge/culvert on Biddix and E Road and in interacting with Clete he said they are going to put it on their Agenda for October 13, 2008 for discussion. He said I got a chance to look at it myself and hopefully we can work together to get the matter resolved.

Mayor Browning asked when will we get an update.

Town Clerk Lippman said I know there has been some email traffic on it and when something is brought to our attention by PBC Fire Rescue we need to give it our attention.

Mayor Browning asked if there were comments from the Public.

Ron Jarriel, 2800 161st Terrace North- said the bridge/culvert has been there a long time and they had a rescue call and the 3000 gallon tanker couldn't make it over it. He said our routine is

if an engine crosses a bridge and they feel the tanker is not capable of making it, then the tanker stands by and they hook a line into it. He said what we talked about in the past is these grandfathered bridges until they cause a water flow problem with our drainage our hands are tied. He said the speed enforcement patrol, a lot of people have been complimenting on that and they think the traffic has actually been reduced because of it and I think it works good. He said when I compare what we will pay for the dust control prices compared to PBSO; I would rather pay PBSO for that. He said I would think it would be safer and cheaper. He said I think we should wait until November with the dust mitigation, and see what the Public has to say about it especially with the cost and all. He said with the speed humps you have what is called red neck engineering out here in Loxahatchee and trust me there is no way you could put a speed hump on a dirt road and have it stay there. He said it would be a good idea if it was pavement and would be a different story. He said if we can slow it down with PBSO that would be better.

23. Public Comments

Ron Jarriel, 2800 161st Terrace North- said we had 2 comments tonight about the funds we (LGWCD) got from the County. He said I am the one who went to the Commissioners and I finally realized all we had to do for it was ask. He said back then we didn't know how much to ask for. He said I just wish we would have started asking them because they did get a lot of our gas tax money that we could have gotten back if we had done it earlier. I mentioned before that the LGWCD has submitted a cost proposal for 24th Court North and I want to thank Councilman Lipp and his wife for helping us out, because after we had rain and winds we had 3 gates open and water flowing out and for the 1st time I saw a road North of Okeechobee getting higher. He said we opened the 4th gate and Clete educated us as to why we didn't do it initially because those are automatic. He said we put in a request to the Town with both a quick fix price and then a price of what it would cost to do it right with the drainage and to bring the road up. He said the other thing is Tangerine Drive which they are grading and bringing to a crown which is right but there is a 3-4inch lip where they graded which could use some fill which would make it safer when it rains.

Howard Voren, 1538 E Road- said there were 2 methods mentioned today in order to try and control frivolous Code Enforcement complaints and Councilman Lipp mentioned one that I had mentioned almost a year ago. He said no, you shouldn't have to pay to complain but there are filing fees that have to often be paid. He said the other option that was mentioned by the Mayor and when you walk it out in your head I don't think it will really work, because now you are going to have to have a neighbor sign on that might not have wanted to complain in the first place. He said it is real hard to ask your neighbors to sign off with you to make that legitimate complaint, but on the other hand, why not pay a minimal \$25 for it, as mentioned by Councilman Lipp. He said but with requiring more than one signature on a complaint you will find there will be many instances where that is not going to be fair and workable.

John Ryan, 3508 A Road- said I would like to present you with a letter from the LGWCD that opposes the District Offices Contract and at the last Town Council meeting Clete stated some concerns on whether the study was consistent with Statute 189. See the letter below:

have only 34 days from contract award to final presentation. This is a ludicrously short time in which to do an evaluation of intergovernmental relations -unless the outcome is already largely established.

6. The scope of work is vague and open ended. This is evidenced in the huge variance among the three bids submitted: \$43,440.00, \$22,875.00, and \$5,000.00 -an 800% discrepancy between the lowest and highest bids.

7. The Town continues to disregard the requirements of and the evaluation criteria established in Chapter 189, Florida Statutes, which provides a uniform framework for oversight and review of special districts by general purpose local governments throughout the State of Florida.

The Loxahatchee Groves Water Control District has repeatedly stated its willingness to cooperate with the Town of Loxahatchee Groves in matters of mutual concern. A truly cooperative approach would better serve the interests of the Loxahatchee Groves community. The Town, however, insists on a unilateral, dictatorial approach that denies the legitimacy of the District's viewpoint, unnecessarily generating conflict and confrontation. The Consolidation Study is fundamentally flawed on many levels --motive, concept, and implementation. The public has legitimate concerns regarding the "cost-effectiveness" of the governmental services provided by their tax dollars. Unfortunately, we predict that the results of the Consolidation Study will only serve as a 'means' to a politically motivated and predetermined 'end' that will exacerbate the community's diminished repose and trust in the Town's governance.

Sincerely,

LOXAHATCHEE GROVES WATER CONTROL DISTRICT

David DeMarois

Board Chairman

cc: Board of Supervisors Clete J. Saunier, P.E. Mary M. Viator, Esquire

He said our primary concern is District Offices disclosed some past work with Town Staff and they submitted a very low price compared to the other bidders for the project. He said the District Offices company is in the business of doing outsource Special District Management work. He said certainly this is an appearance question related to our letter. I would like to remind you it was a 3-2 vote to do the study, and Councilman Louda recently wrote a letter recently where he emphasized that he voted to have the study done after stressing repeatedly it had to be done by outsiders, without their own Agenda, with no ties to any Council member. He said attached to Councilman Louda's letter is a copy of the ethics code that was adopted by the Town and in that there are references that appearance is a disqualifying factor.

Councilman Louda said if you read the contract the duty says do the study to see how we consolidate.

Town Attorney Tolces said that is what they are doing.

Councilman Louda said that the wording in the contract presupposed the outcome. He said that wasn't the study I wanted to do. He said that is not what this contract says and asked if Staff He said it is presupposing there would be a consolidation and that isn't the study I asked for. He said that is not what this contract says and asked Staff if they had any follow up on Mr. Ryan's comment.

Town Attorney Tolces responded it is not worth any comment.

Mayor Browning responded that is a very hard comment to make David. He said we were very careful in asking questions that they weren't tied with anyone and if the guy is in the business to come in and outsource and run Water Control Districts why wouldn't that be a problem.

Town Manager Dr. Rosenbaum said just for the record we have not done any business with them.

Mayor Browning said I have a concern too that we have a contractor that is in the business. He said we were trying very hard to get a fair assessment.

Town Clerk Lippman responded I respect that but one of the things I feel confident with is if you look in the proposal summary; the opening line says they are in the business of running Public Districts so there was no deceit.

Vice-Mayor Herzog commented we knew they did Indian Trails.

Councilman Louda said they have said in studies like this previously they have gone both ways and have recommended no change before. He said whatever they recommend I would never think of getting anyone else to run the District. He said I am not going to vote on it, I want the people to vote on it.

Town Clerk Lippman said what they come back with is just a recommendation.

24. Town Clerk Comments

Town Clerk Lippman said for the next Agenda we are going to talk about anonymous complaints in Code Enforcement, and ERM Regulations and the next steps. He said I know Vice-Mayor Herzog went on 24th Court North and almost got stuck out there. He said I had the opportunity to go out there as well and met with property owners from that street today in my office and we are going to come up with recommendations based on what we have heard this far. He said what I explained to them is we have no policy for emergencies and I assured them this will be an upcoming Agenda Item and we will make a decision with the policy on how to spend the money. He said they will be at the next meeting and after we make the decision to spend the money they will put in their request.

Vice-Mayor Herzog said I think it is good that we have something if we go to that topographical map back there it must be something with the soil in that area.

Town Clerk Lippman said you will need to come up with a policy on how you want to spend the money. He said I sent you the newsletter and I need a comment from you Mr. Mayor and would hopefully like to get that out before the end of next week. He said we would like to send a letter to Clete just to clarify their position and intent with respect to traffic control devices and equestrian trails. He said I think it is important for the Town to get what their official position of how they want to move forward and handle it. He said I am looking for consensus to send the letter to get clarification on what their position is with installing traffic control devices and the developing of equestrian trails with the information at the MREG Workshop.

GENERAL CONSENSUS WAS GIVEN TO SEND A LETTER TO CLETE AND THE LGWCD TO SEE HOW THEY ARE MOVING FORWARD WITH THE INSTALLATION OF TRAFFIC CONTROL DEVICES AND THE DEVELOPMENT OF EQUESTRIAN TRAILS

Town Clerk Lippman said in reference to the newsletter, it is not us –vs.- Eric Marple or us –vs.- LGWCD, all we are trying to do is to provide real, accurate, and honest information. He said we need to provide accurate and correct information and that is my goal.

Mayor Browning said I agree.

Vice-Mayor Herzog commented we are not here to win any popularity contest, it is about a job.

25. Town Attorney Comments

Town Attorney Tolces said I provided you with a Memo concerning the new Ad Valorem Tax Exemption for conservation properties since Councilman Autrey had asked a question about it. He said we mentioned we are going to have to bring back discussion of extending the Moratorium and we will bring back that Ordinance to you at the next meeting or the first meeting in November. He said the Legislature has set their hearing dates for this Legislative session and they start November 10, 2008 and end January 23, 2009 and any local bills need to be filed by December 4, 2008. He said I would like to apologize to the Council and to any Members of the Public who didn't like my comment earlier about with respect to the District Offices Contract but I would request the personal attacks to myself and my firm cease. He said I am more than happy to speak to anyone on the phone.

Councilman Lipp asked if this Amendment doesn't pass, does that preclude the Town from offering its own conservation tax break.

Town Attorney Tolces said that is solely left to the State Legislature. He said the Legislature could authorize municipalities to adopt a program to do that but unless the Legislature has authorized the exemption or it is in the Constitution you can't do that.

26. Council Member Comments

Councilman Louda said I want this to be an Item on the Agenda next time and handed out a letter to the Council and Public. He explained the letter is a map of 40th Street North where Mr. Morley Schloss of Sunsport Gardens made the suggestion of this part of 40th Street North being a 1-laned (2-way) road with a parallel bridle patch next to the Southern hedge. He said the equestrian path would be separated from the road by a fence. He proposed the Town work with LGWCD to get this done as soon as possible. He also proposed that we install OGEM on this 1-laned road and culvert crossing to minimize the need for a grader to operate on the road. At the bottom of the map was a diagram explaining all of this.

Vice-Mayor Herzog said you need a very high hedge because the horse riders sit very high.

Councilman Louda thanked Staff for following up on everything and thanked the citizens for coming.

Vice-Mayor Herzog said I would like to say good meeting and remind everybody the League of Cities Golf Tournament is Friday.

Councilman Lipp asked when the Audit would be discussed or if a vote was needed on it. He asked should we direct any questions to Staff.

Town Clerk Lippman responded yes.

Mayor Browning thanked Town Manager Dr. Rosenbaum, Town Clerk Lippman, and Town Attorney Tolces and I appreciate all your efforts. He said I would encourage everyone to clear out as soon as possible because I promised Clete I would get his employee all the way back to Okeechobee.

27. Adjournment

Councilman Lipp MOTIONED to adjourn the meeting, SECONDED by Vice-Mayor Herzog and the Motion passed unanimously 4-0, with Councilman Autrey absent.

There being no further discussion and no additional public comment the meeting was adjourned at 10:28 p.m.


MAYOR DAVE BROWNING

ATTEST:


Matthew Lippman, Town Clerk

10/21/08
Date Approved