



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, August 6, 2013 at 7:00p.m.

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

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

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

MINUTES

1. OPENING

a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 p.m. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzené, Ryan Liang, and Jim Rockett. Also present were Town Manager Mark Kutney, Town Clerk Susan Eichhorn, Town Attorney Michael D. Cirullo, Jr., and Town Planning Consultant Jim Fleischmann.

b. Pledge of Allegiance & Invocation – Mayor Browning

c. Approval of Agenda

Vice Mayor Jarriel requested the deletion of Item 10.b. Old Business [Discussion Regarding Previous Road Rock Material Request for 161st Terrace N.]

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

2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: July 16, 2013

Mayor Browning noted that there was an additional invoice from Goren, Cherof, Doody & Ezrol, P.A. in the amount of \$750.00 that was not included in the back-up, and would be included in the Consent Agenda.

Councilman Rockett suggested that the minutes from the July 16, 2013 Town Council needed to be modified and that the minutes should be removed from the Consent Agenda.

Motion: Councilman Goltzene made a motion to approve the Consent Agenda, as modified, with the inclusion of the additional invoice in the amount of \$750.00 from Goren, Cherof, Doody & Ezrol, P.A. The motion was seconded by Vice Mayor Jarriel. The motion passed 5/0.

Discussion ensued related to the minutes of the July 16, 2013 Town Council meeting. Councilman Rockett referred to Item 3. Public Comment, and the statement made by Ms. Riccio in regard to Sirdar Trucking relative to the suggestion that they do mowing and hedging on a 45-day recurring basis, and also expressed concern regarding Item 11. New Business, a. Annual Management Team Evaluation relative to the discussion that had occurred, suggesting that the minutes were not complete in either regard.

It was the consensus of the Town Council that the minutes would be tabled and revised according to the recordings of the meeting.

3. PUBLIC COMMENT

Phyllis Maniglia, 359 West“D” Rd.: Commented regarding the drinking loitering and trash in the Loxahatchee Groves Plaza and in the A & G Market area. She noted that two Sundays ago she was in the area and there were two persons standing in front of the tackle store drinking and there were also used cases of beer all over the Plaza. She also said that the postal employees often have to clean up bodily fluids in the area. She suggested that the area should be cleaned up and said that she would be willing to volunteer her time to help in that regard.

Councilman Goltzené concurred with the observations that Ms. Maniglia made.

Mayor Browning requested that Town Manager Kutney address this situation and alert the Sheriff of the situation.

Keith Harris, 2580 “C” Rd.: Commented that at the April 2, 2013, meeting of Town Council he requested relief for commercial equine operations from the special exception use requirement of the Town’s ULDC, as it was in conflict with State Statutes. In June he forwarded a Palm Beach County attorney’s office email to the Town Manager, and the contents of that confirm that the State Statutes also made his commercial equine operation exempt from the Palm Beach County Commercial Stables Permit requirement and the \$400 permit fee is available for refund. His property is zoned agricultural residential and has been classified agricultural by the Palm Beach Property Appraiser. He said that he had filed a Notice of Intent to implement best management practices for Florida equine operations with the Florida Department of Agriculture. He stated that he is a bona fide farming operation. He stated that recently, the Town demonstrated that they could process a ULDC text amendment in two months’ time. It has been five months since he asked for help from his Town government.

Penny Riccio, 12795 71st Place N.: Speaking on behalf of her employer, Sirdar Trucking and Tractor Service. We were quite pleased to win the bid to do the mowing and vegetative removal and disposal. In clarification to the 45 days it was our expert opinion what should be, in order for you to maintain a schedule. Prior to the Council hiring us, it was an on demand situation when you did the mowing, the vegetative removal and the disposal. So when you hired us as experts to do that work, we worked very diligently, having detailed hand written records. We

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started our job on July 5th. We can understand concerns from the Council as well as the Town Manager as well as the Town Public Works Coordinator. Our operations today as of August 7, at 5:00 p.m. this afternoon were suspended by your Town Manager, and I would ask that this item in full disclosure, in sunshine, in open government, be placed on the Agenda this evening, so we can have open discussion, as opposed to one on one discussion, because we were not given a reason for why the operation was shut down.

Mayor Browning replied that the Agenda had already been set for this evening, and the request would need to be put on the next meeting's Agenda,

Councilman Goltzene commented that he would object to putting it on the Agenda right now, or actually in the future. He stated that he thought that the Town Manager should deal with the issue, and he should recommend any Town Council action.

Town Manager Kutney clarified that we asked them to cease and desist until we have a meeting that we have called for next Wednesday, because we have some concerns regarding the billing they submitted to us yesterday. Staff needs the time to review it and sit down with them. He stated that he did not think it is appropriate to put the Council in the middle of this.

Virginia Standish, 15410 North Rd.: Speaking as chairman of ULDC Review Committee to address the concerns of Mr. Harris and also commenting on what has been going on. She stated that she was stunned that a text amendment can be done for a pool so quickly, when equestrians of this community have for years been asking that equestrians be considered a permitted use. It seems to take eons to accomplish that, but the pool text amendment would probably happen very quickly for one property. The ULDC Review Committee did ask that equestrian commercial be considered a permitted use, and voted on that. She stated that she had asked at the last ULDC Review Committee when that was going to be presented to the P & Z Board. The reply had been that it had been postponed to be discussed in the agricultural section, so she is confused. She stated that she believed that the Committee specifically requested that equestrian commercial be a permitted use.

Town Manager Kutney responded that he did report on the activities of the ULDC Review Committee. He noted that commercial equine was discussed initially at the ULDC Review Committee meeting, however there was not a formal motion made. So, the subject was brought back at the next ULDC Review Committee meeting, where a formal motion was made to recommend that commercial equestrian be a permitted use. It was now being addressed as part of the amendment that Town Planning Consultant Fleischmann was working on now, according to the direction of the Town Council.

Councilman Goltzene commented that the way we addressed the pool issue was that it was made a zoning in progress, which he would be glad to have that be the situation for this issue, if it is in process anyway. He noted that Mr. Harris had previously indicated that there was a time frame, but that time frame had some time to go before he got into some problems.

Virginia Standish clarified that her point was that in general the entire community would like to see it done as soon as possible and that she would like to see this moved up to be done before the pool.

Town Planning Consultant Jim Fleischmann explained that the ULDC Review Committee did recommend that commercial equestrian operations be a permitted use and not require special exception. Staff was addressing that item at the same time as they were addressing the broader issue of special exceptions. Staff was in the process of writing up the amendments right now. The special exception amendments are essentially finished. Staff was hoping to take both of the amendment packages (the special exception and commercial equestrian) to next month's Planning & Zoning Board meeting.

Keith Harris further commented that it took me 3 months going through the ULDC for this issue, and that the July and August meetings of the Planning and Zoning Board had been cancelled.

4. PRESENTATIONS - None

5. COMMITTEE REPORTS - None

- a. Finance Advisory & Audit Committee (FAAC) Report and Approval of the June 2013 Financial Reports – *Committee Member Virginia Standish*

FAAC Committee Member Virginia Standish provided the FAAC report. She noted that Chair Chiu specifically asked that two things were brought forward to the Town Council: the suggestion for a business plan priority list – he suggested using other factors that would help you identify your priorities: cost of each item, time line of each item, whether it could be done in house or contracted when you are ranking your priorities. He was also very concerned about the property tax value, and related to property taxes, she noted that there were properties that were claiming agriculture exemptions that were actually industrial businesses.

Motion: Councilman Rockett made a motion to accept the report and approve the June 2013 Financial Reports. The motion was seconded by Councilman Liang. The motion passed 5/0.

6. PUBLIC HEARINGS (Ordinances 2nd Reading)–

a. Ordinance No.2013-04

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, UPDATING THE FIVE-YEAR SCHEDULE OF IMPROVEMENTS FOR THE CAPITAL IMPROVEMENTS ELEMENT OF THE TOWN OF LOXAHATCHEE GROVES COMPREHENSIVE PLAN PURSUANT TO STATE STATUTE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Ordinance No. 2013-04 by title, on second reading, as printed above.

Mayor Browning opened the public hearing.

Councilman Rockett suggested that there be \$250,000 in 2014 for the traffic light and that would be all we have on that line. The amount for 2014 and 2015 would be eliminated. Town Manager Kutney explained the \$250,000 was a planning number, not a budget number.

It was the consensus of the Town Council that there would be \$250,000 in 2014 for the traffic light, with the amounts for 2014 and 2015 eliminated.

Mayor Browning requested any other public comments. There were none. The Public Hearing was closed

Motion: Councilman Rockett made a motion to adopt Ordinance No. 2013-04, with the changes made regarding the traffic light (\$250,000 in 2013 only). The motion was seconded by Councilman Liang. On roll call vote, the motion passed 5/0.

7. ORDINANCES (1st Reading) - *None*

8. RESOLUTIONS

a. Resolution No. 2013-09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ACCEPTING THE QUIT CLAIM DEED FROM THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT FOR PORTIONS OF NORTH "A" ROAD, SOUTH "C" ROAD, NORTH "C" ROAD, AND NORTH "D" ROAD AS LEGALLY DESCRIBED IN THE QUIT CLAIM DEED, ATTACHED HERETO AS EXHIBIT "1"; PROVIDING FOR THE RECORDING OF THE QUIT CLAIM DEED AND AUTHORIZATION TO TAKE STEPS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; PROVIDING FOR MATTERS RELATING TO THE ROADS; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

Town Attorney Cirullo read Resolution No. 2013-09 by title, as printed above.

Town Attorney Cirullo clarified that this Quit Claim Deed would transfer the LGWCD interest in these particular roads. These were the roads that were the subject of the Special Act to the Town. It was on the LGWCD Agenda for next Monday. He pointed out, for the record, there was a typo in his memorandum in the second bullet point: it should say a quarter mile in each direction from "C" Road. He requested that the Town Council consider adoption of this Resolution. Upon execution by the LGWCD, the Quit Claim would be recorded in the public records.

Councilman Goltzene questioned the missing sections of North Road that are not included in the Special Act or in this.

Town Attorney Cirullo responded that was not one of the items that we had direction on, or even had asked for from the LGWCD. The Town Council could discuss whether it wanted to authorize him to work on that, and that same motion would be needed from the LGWCD on Monday night, so that we could get moving on that too.

Town Attorney Cirullo clarified that he would like to talk about North Road separately, because tonight we were dealing with just the Special Act Roads (the letter roads).

Motion: Councilman Rockett made a motion to adopt Resolution No. 2013-09. The motion was seconded by Councilman Goltzené.

Councilman Rockett commented that we could include the other pieces in the future; the other thing is Collecting Canal and when that is done, he would like the Town Council to consider the 600 feet or so of roadway that we did not pave. Those were pieces that the LGWCD could be asked to handle the same way and quit claim deed it to the Town.

John Ryan, 3508 A Rd: Commented that the way the LGWCD understood and was coordinating with the Town and the Town Attorney was that they were looking at two pieces to complete by September 30 – the first piece was what is before the Town Council tonight. The two oddball items that were also involving OGEM road segments were the fill ins on North Road and north “F” and south “F”. The way the LGWCD was proceeding with this was because of the history and involvement of the LGWCD in the various OGEM road segments that are being paved, including the fact that the LGWCD has escrowed funds for the portion of “F” road from Collecting Canal to Southern. We were timing the Quit Claim Deeds when we completed the OGEM work, so that we would not get further confused in terms of whether surveys were complete, whether maintenance maps were recorded, and whether funds needed to be transferred to complete the work. He stated that it was realized that there was a deadline of September 30, 2013, to complete the North Road and the “F” Road segments.

Phyllis Maniglia, 359 West “D” Rd.: Commented regarding opening the gates once access to those roads is obtained, in order to do some horse trails through there.

The Motion made by Councilman Rockett, seconded by Councilman Goltzené to adopt Resolution No. 2013-09, passed 5/0.

Motion: Councilman Rockett made a motion to authorize Town Attorney Cirullo and staff to take whatever steps are necessary to work with the LGWCD on the North Road and “F” Road segments. The motion was seconded by Councilman Liang. The motion passed 5/0.

9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

- IGC Committee meeting on July 26th – discussed continuing issues which have been roadway discussions, drainage policies, and also discussed the FEMA maps.
- Regarding the FEMA maps: July 23rd meeting attended by himself and Town Engineers. Palm Beach County has been fighting for more time for FEMA to adjust the maps. FEMA has indicated that they will look at additional data. The public comment meetings are still scheduled to start September 9th. The concern is that the maps should not be put out until the data is complete and accurate. Our Town Engineers have drafted a letter giving a quick review.
- Notices to Proceed to LGWCD relative to road grading and road repair. Compton Road needed some road repair and it has been reported that it was patched and filled. The hedging, is supposed to start after one complete pass throughout the Town.
- Update on Bryan Road – needs some resurfacing. A Notice to Proceed to LGWCD will be issued, although technically the Town does not own Bryan Road yet. Mr. Kutney noted that would be the call of the Town Council -- whether you want the Town to expend funds to do improvements at this point or wait until we own the road.

Town Attorney Cirullo advised that the title work did reflect that there was an easement in the area where Bryan Rd is. A surveyor will just have to confirm that the road lies within that access easement, and once we confirm that the road is there, we need to get the similar work that was done for Compton and Marcella. The next step would be to get the surveyor to meet with us and go over the documents we have so that they can find the most cost effective way of confirming that the road is there; it will take some time to get it done. We have enough information to meet with the surveyor.

Vice Mayor Jarriel commented that we had a responsibility as a Town; we are getting gas tax money for that road, and we need to get it fixed, because those people need a safe road to ride on.

Motion: Vice Mayor Jarriel made a motion that the Town Council allow management to go ahead and do the same notice with the LGWCD as they did with Compton for repair work. The motion was seconded by Councilman Rockett.

Town Manager Kutney replied that he would issue a Notice to Proceed to the LGWCD. In the meantime, the Town Attorney and he would work on the second notice to proceed with the surveyor doing the appropriate survey work.

The motion passed 5/0.

Public Comment:

Ken Johnson, Collecting Canal Rd.: Comment regarding insurance rates for flood insurance being raised, and whether was any law in effect that would prevent insurance companies from raising their rates prior to the flood Insurance issues being resolved.

Town Manager Kutney responded that the State of Florida writes the most flood insurance policies throughout the nation. The Flood insurance program is not solvent. We have heard that you could be looking at a 25% increase for flood insurance rates, and we also hear that there will be another 25% insurance hike within the next four or five years.

10. OLD BUSINESS

a. Status of Residential Enterprise Ordinance (*Vice Mayor Jarriel*)

Town Attorney Cirullo advised that he had reviewed the Minutes of the April 2, 2013, Town Council meeting and the motion to approve the proposed Ordinance 2013-02 failed, and the process for that ordinance is now gone. We would need authorization from you so start a new process and whether you want to go through the process again with the stricken language or if you want to give us direction to go a different way to accomplish this.

Town Manager Kutney discussed the options available, noting that there were inherent issues and problems with residential enterprise and home office in the Town's ULDC.

Motion: Councilman Goltzené made a motion that the Town Council uses the stricken language that was contained in the original amended ordinance.

Discussion took place.

Town Planning Consultant Fleischmann explained that the historical legacy was a separate issue from the residential enterprise. The historical legacy deals in general terms with uses that exist in the Town but are not permitted by the Code and how we are going to make them even. He suggested that there was a fairly simple way of addressing that by going back to that existing section in the Code that provided a way of addressing those issues early on, except that the time frame in the Code has now expired.

Town Attorney Cirullo clarified that the provision that Mr. Fleischmann was talking about, which was existing uses were allowed, where legality could be confirmed. If the six month period was removed, so that people could still apply it at any time, then if Mr. Kline could demonstrate that his business was in existence, and that it had this characteristic, he would fall within that if he got a special exception. A special exception, right now, is very onerous, so if you were going to make that a more streamlined process, you would also provide a change to the special exception process for this type of relief, that would be administrative, to confirm basically the existence as of the date of incorporation.

Councilman Goltzené commented that he did not think historical legacy would solve this problem. Mr. Kline needs foot traffic, and that is what would solve his problem.

Town Manager Kutney explained that the only reason that Mr. Kline was made residential enterprise was because that was the only way we could sanction, but then the foot traffic was the issue. He stated that he did not want to jeopardize the entire residential enterprise for one person.

Councilman Goltzené withdrew the motion.

Town Manager Kutney explained that the other issue is that the ULDC Review Committee did not discuss the Kline issue from the focus that we are talking about tonight. There is the option to take this whole issue back to the ULDC Review Committee and talk to them about it and see what kind of recommendation they could bring back to you, if you are so inclined to do that.

It was the consensus of the Town Council to refer the issue back to the ULDC Review Committee for review and recommendation.

Public Comment:

John Ryan, 3508 A Road: Commented as a member of the ULDC Review Committee that he had an understanding that he thought was a way to go forward on this. A simple solution for immediate action would be to eliminate Item H of the residential enterprise section of the ULDC, regarding customer on the premises. The Planning and Zoning Board had raised serious concerns when we started talking about broader issues. They said that the changes over and above just eliminating Item H would have unintended consequences that would allow any residential property to effectively be commercial. That would just destroy the whole concept of Loxahatchee Groves. He suggested that for now the focus could be on taking out item H in the residential enterprise section and rely on the simplification of special exceptions to deal with any additional issues that come up. He stated that he thought Mr. Kline's problem was that selling guns was not exempted under Right to Farm.

Motion: Councilman Rockett made a motion to strike the ULDC language regarding foot traffic in the current residential enterprise ULDC section, and bring it back as the change that we want to pursue, with it going to the Planning and Zoning Board, and then back to the Town Council. The motion was seconded by Councilman Liang. The motion passed 5/0.

- b. Discussion Regarding Previous Road Rock Material Request for 161st Terrace N on 6/20/13 (*Vice Mayor Jarriel*)

Removed from Agenda

11. NEW BUSINESS- None

12. CLOSING COMMENTS

- a. Public

Frank Schiola, Marcella Blvd.: Commented that the Wellington Holiday Parade is December 8th and hopefully we can get the same team as we had last year. If the Town Council wants to do it

this year, Mr. Choquette will let us use his truck and trailer. Also commented regarding licensed drivers for golf carts, dune buggies, etc., and that people operating those types of vehicles on the road needed to use common sense.

b. Town Attorney

a. Report Regarding Research on Golf Carts, UTV's and Side-by-Sides

Town Attorney Cirullo provided a report on what type of vehicles were permitted on Town Roads, noting that golf carts and dune buggies would require direction and action by the Town Council.

Motion: Councilman Goltzene made a motion that the Golf Cart, UTVs and Side-by-Side issue is brought back as an agenda item at the next Town Council meeting. The motion was seconded by Councilman Liang. The motion passed 5/0.

Town Attorney Cirullo advised that there had been a request by a property owner that a road be abandoned that is on our public roads. It was 13th Place North. He stated that he would work to put together a process, but at the end of the day the Town Council would need to authorize vacating a road that had been designated as public.

c. Town Council Members

Councilman Goltzene: Thanks for coming.

Vice Mayor Jarriel: Asked for prayers for Supervisor Robert Snowball, who was ill; suggested that residents contact their insurance companies in August to see if they could get a better rate because there was now a better rating system for the western communities. He also mentioned the Petition for a red light at Southern and "D" Road was available for signing after the meeting.

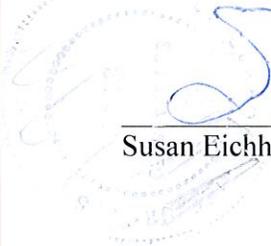
Councilman Liang: Thanks for coming.

Councilman Rockett: Thanks everyone for coming. Asked the Town Council if we are looking for manager evaluation as called for in the contract, or does the Council not care to have that done this year. That would include an annual report.

Mayor Browning suggested having a form provided to each Town Council member in the future, that would list all required duties and 1-5 rating scale for each duty.

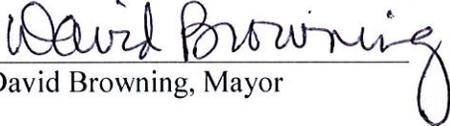
13. ADJOURNMENT

There being no further business, the Town Council meeting of August 6, 2013, was adjourned at 8:45 p.m.





Susan Eichhorn, Town Clerk



David Browning, Mayor

(SEAL)