

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



Town of Loxahatchee Groves
Planning & Zoning Board/LPA Meeting
Thursday, April 10, 2014 at 7:00 p.m.

Central Palm Beach County Chamber of Commerce – West Office
13901 Southern Boulevard, Loxahatchee Groves, FL 33470

Chair Dennis Lipp
Vice Chair Robin Crawford
Board Member Lawrence Corning
Board Member Keith Harris
Board Member Grace Joyce
Alternate Member #1 Veronica Close
Alternate Member #2 Byrnes Guillaume

Town Manager Mark Kutney
Town Clerk Janet K. Whipple
Town Planning Technician Braeden Garrett
Town Planning Consultant Jim Fleishmann

The Planning & Zoning Board meets on the 2nd Thursday of each month subject to the filing of applications. It also acts as the Local Planning Agency (LPA). Items for each body are noted on the agenda.

MINUTES

1. OPENING

- a. Call to Order & Roll Call

Chair Dennis Lipp called the meeting to order at 7:08 p.m. In attendance were Chair Lipp, Board Members Keith Harris, Grace Joyce, and Alternate Board Member Veronica Close. Vice-Chair Robin Crawford, Board Member Lawrence Corning, and Alternate Board Member Byrnes Guillaume were not in attendance at this time. Also present were Town Manager Mark Kutney, Town Planning Consultant Jim Fleischmann, and Town Clerk Janet K. Whipple.

- b. Approval of Agenda

Motion: Board Member Close made a motion to approve the Agenda. Board Member Joyce seconded the motion. Upon vote the motion passed 4/0.

2. MINUTES

- a. Planning and Zoning Board Minutes for Approval – **March 13, 2014**

Board Member Harris made a motion to approve the March 13, 2014, Minutes, as presented. Board Member Close seconded the motion. Upon vote, the motion passed 4/0.

3. OLD BUSINESS

- a. Discussion of Home Occupations / Home Businesses / Residential Enterprises

Town Manager Kutney provided background and an update for discussion.

Jim Fleischmann, Town Planning Consultant, brought a consolidation of the topics to discuss. There were four (4) basic parts of the handout: (1) key definitions from the ULDC (Unified Land Development Code) pertaining to the issue; (2) two was an excerpt from the AR (Agriculture Residential) District which shows home offices and residential enterprise are permitted accessory uses in the AR District, subject to a list of conditions listed in Article 80 of the ULDC; (3) conditions listed in Article 80 of the ULDC referencing home offices and residential enterprise; (4) ordinances from Port St. Lucie and Highlands County that might provide provisions which could be brought over to the Loxahatchee Groves Code.

Alternate Board Member Guillaume arrived at 7:16 p.m.

Board Member Joyce questioned as to the whereabouts of the extensive draft report the Planning and Zoning Board prepared for Town Council. She felt this report should be resubmitted to Council rather than prepare something new, and eliminate additional waste of time and resources.

Motion: Board Member Joyce made a motion to resubmit the original draft report to the Town Council, and hopes it will not be sent back to the Planning Board. Board Member Harris seconded the motion, and asked for discussion.

The Board Members discussed with Mr. Fleischmann what additional information was being offered and if Council had specific directions.

Jim Fleischmann suggested three (3) items for the Board to consider if there were going to be any further discussions; and those are employees, sales of goods and services, and customers.

Board Member Joyce stated that decision has already been made and there was nothing new that would change her mind. The board tried to help the gun person, and at this point she feels Council has to step up to the plate and make a decision.

Board Member Close referencing the three (3) items Mr. Fleischmann brought up for discussion felt those items are not appropriate.

Chair Lipp told the Board to vote as they see fit, and he handed out a listing of home occupational language for reference.

Members of the Board discussed the constant lack of indecision on items coming from Council.

Board Member Harris felt that it was during the September 12, 2013, Planning and Zoning Meeting that the Board turned this item down.

Board Member Joyce restated her motion that the Board not re-review this item or that the Board’s position on the Home Occupations remains the same as it was during the Planning and Zoning Board Meeting of September 12, 2013. Board Member Harris agreed with his second.

Upon vote, the motion passed 5/0.

Chair Lipp requested the previous report be used for backup in the presentation to Town Council.

4. NEW BUSINESS – None

5. LOCAL PLANNING AGENCY

a. **OLD BUSINESS - None**

b. **NEW BUSINESS**

1) ORDINANCE NO. 2014-04 (Livestock Waste – Property Owners)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE USE OF LIVESTOCK WASTE WITHIN THE TOWN; AMENDING THE TOWN’S UNIFIED LAND DEVELOPMENT CODE BY AMENDING PART III ENTITLED “SUPPLEMENTAL REGULATIONS,” ARTICLE 50 ENTITLED “PUBLIC NUISANCES” BY ADDING A NEW SECTION 50-035 TO BE ENTITLED “USE OF LIVESTOCK WASTE;” PROVIDING FOR DEFINITIONS; PROVIDING THAT THE USE OF LIVESTOCK WASTE IS A PUBLIC NUISANCE EXCEPT AS PROVIDED BY THIS SECTION; PROVIDING FOR REGISTRATION AND PERMITS, REQUIREMENTS AND LIMITATIONS ON THE DELIVERY AND USE OF LIVESTOCK WASTE; PROVIDING FOR REPORTING AND NOTICE

REQUIREMENTS; PROVIDING FOR REVOCATION OF PERMITS AND ENFORCEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Board Member Close requested that Staff provide backup reports when items come before the Board.

Town Manager Kutney provided background on the livestock waste hauling Ordinances (2014-03 (haulers), and 2014-04 (property owners).

Adverse effects of the manure dumping were discussed.

Board Member Crawford arrived at 7:48 p.m.

The Board Members made the following corrections/notations within Ordinance No. 2014-04:

1. Page 3 of 12, A.4. Wording should state, **“within a period of ninety (90) days”** (instead of a period of 30 to 90 days).
2. Page 4 of 12, A.11. *Public Nuisance*; **that section needed to be more specific. (Town Manager Kutney stated this was the definition in Black’s Law)**
3. Page 5 of 12, F.1. the definition for bona fide agriculture was already covered under number two (2) definitions.
4. Page 5 of 12, referencing when owners advise the Town – **the suggestion was “at time of application”**.
5. Page 6 of 12, number 6, **change “City” to “Town”**.
6. Page 7 of 12, I, **add..... does not dump livestock waste.**
7. Page 9 of 12, O, **the reference to Delivery Records should be a little less specific.**
8. Page 9 of 12, Q, **change reference from ~~property owner~~ to property.** (use property control number)
9. Page 10 of 12, T.1. **Start fee schedule at: First Offense \$350; Second Offense \$400; Third Offense \$450; and All Additional Offenses will remain at \$500.**

10. Page 11 of 12, 4. U. add “Town” toState, County and Town regulations.
11. Page 5 of 12, F.1. (7th line down) **How does the Town determine a “good faith” effort and should there be a time frame. (Suggestion was to provide documentation to the town that a bona fide agriculture designation has been obtained/applied for.)**
12. Page 7 of 12, G. **If haulers do not comply, their permit is immediately revoked.**
13. Page 9 of 12, L. **What are the remedies if crops can’t be planted after spreading? Add if non-compliant designations that permit will be revoked and no new permit will be issued (maybe for ninety (90) days).**
14. Formatting preference beginning with page 4 of 12, **Put items in order of importance: Letter E should become C; Letter F becomes D; Letter C would become E; Letter D would become F.**

Motion: Board member Harris made a motion for approval of Ordinance No 2014-04, as amended. Board member Joyce seconded the motion. Upon vote motion passed 5/0.

2) ORDINANCE NO, 2014-05 (Guns, Firearms, Gun Range Regulations)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN’S UNIFIED LAND DEVELOPMENT CODE TO ELIMINATE REGULATIONS RELATING TO GUNS, FIREARMS AND GUN RANGES TO ADDRESS STATE PREEMPTIONS OF THE REGULATION OF THESE SUBJECTS; PROVIDING FOR INTENT OF THE TOWN TO COMPLY WITH THE STATE’S PREEMPTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Kutney deferred the explanation of Ordinance No. 2014-05 to Town Planning Consultant Jim Fleischmann who handled the history.

Town Planning Consultant Jim Fleischmann stated the history of Ordinance No. 2014-05 was basically stated in the Whereas Clauses number two (2) and three (3). Council had directed staff to take out of the Code any reference of gun/shooting ranges. Page 3 of 6, under Section 25-015 – *Permitted Uses within the Commercial Low Zone*, ~~Shooting Range-Indoor~~ was removed and replaced with Archery Range. Page 4 of 6, 35-015 *Permitted Uses within the Parks and Recreation Zone*– ~~Gun or~~ was removed and replaced with Archery Range. Page 5 of 6, Section 80-040, all of the reference to gun/gun ranges were stricken. Page 5 of 6, Under Section 95-010, the reference to guns was stricken. According to the Town’s Unified Land Development Code (ULDC), all proposed changes need to be sent to the Planning and Zoning Board.

The Board Members made the following corrections/notations within Ordinance No. 2014-05:

Board Member Joyce stated she understands State Statutes, and printed out the section relevant to discussion. She did want to know who asked for these changes and did the Town Attorney agree.

Mr. Fleischmann was not sure if the Town Attorney agreed, he followed directions.

Board Member Joyce when reading the Statutes; Section 790.33 actually refers to the sale of guns and ammunition and then it lists all things pertaining to the sales, and its exceptions. She would like to recommend the Town Attorney look at this, and section 790.333 and have him determine what would be the unintended consequences of removing this from the Town's Code. Board Member Joyce does not feel the Town is in violation of that particular State Statute as it was written, maybe just an misinterpretation. She would like the Town Attorney to review this, and made a determination if that is possible to request, as she feels there is not a need to change the code.

Town Manager Kutney stated if that was the Board's recommendation the Staff would pass it on.

Board Member Joyce is not sure this is a necessary amendment justification that the State Statute said is only referring to the preemption of a municipality as it relates to the sale of guns.

Board Member Joyce felt the Board should table the Ordinance No. 2014-05 and have the Town Attorney look at the Statute to see in fact if this is a change that needs to be done.

Chair Lipp stated the statute is going back and forth. He read from the Attorney General Opinion page four (4), which is his opinion the Town is not doing anything wrong.

Town Manager Kutney answering a question from Board Member Joyce as to the concerns ATF (Alcohol, Tobacco, and Firearms) had; he reported that ATF was okay with the residential enterprise unless the individual was receiving foot traffic, this was against the Town Code, then ATF had a problem with the issue.

Board Member Close felt that the Town Attorney should review the Ordinance and it should come back to the Planning and Zoning Board before going on to Council.

The Board discussed the various proposed changes to Ordinance No. 2014-05, and the possibility that the Town Attorney may need to review Ordinance No. 2014-05 and compare to State Statutes 790.33 and 79.333; and the consequences of removing these items from the Town's Code.

Motion: Board Member Close made a motion to table Ordinance No. 2014-05, have the Staff/Town Attorney make corrections, and then bring the Ordinance back for Board review. Board Member Joyce seconded the motion. Upon vote, the motion passed 5/0.

6. COMMENTS FROM THE BOARD

There were no additional comments from Staff.

There were no additional comments from Board Members.

7. ADJOURNMENT

There being no further business before the Planning and Zoning Board, Chair Lipp adjourned the meeting at 8:33 p.m.



Janet K. Whipple, Town Clerk



Dennis Lipp, Chair

These minutes were approved during the May 15, 2014 Planning and Zoning Meeting.