

TOWN OF ST. LEO
REGULAR COMMISSION MEETING
August 12, 2013
7:00 PM

This meeting began at 7:05 PM following a 5:30 PM Budget Workshop.

OPENING Mayor Gardner

INVOCATION AND PLEDGE OF ALLEGIANCE – Commissioner Hallett

ROLL CALL Donna DeWitt, O.S.B. – Commissioner
James Wells – Commissioner
John “Jack” Gardner – Mayor
James Hallett, O.S.B. - Commissioner
Robert Inslee – Mayor Pro Tem

STAFF Joan Miller - Town Clerk
Patricia Petruff, Esquire – Attorney
Jan Norsoph – Town Planner
Andrea Calvert – Assistant Clerk
Janet Kato – Records Manager

GUESTS Deputy Barry Arnew, Jeanne Plecenick, Jose Caban, Jake Varn, James Adcock,
Tom Weiland, Fay McKean, Kyle Christmas, Hutch Brock, Ronnie Deese,
multiple members of the press and approximately 30 citizens attended.

MINUTES **MOTION: TO APPROVE THE MINUTES OF THE COMMISSION MEETING HELD ON JULY 10, 2013.**

MOTION: Commissioner Wells

SECOND: Commissioner Hallett

Discussion.

VOTE: Unanimous for Approval, 5/0

EXPENSES AND BUDGET REVIEW

MOTION: TO ACCEPT FINANCIAL REPORT DATED AUGUST 12, 2013.

MOTION: Commissioner Inslee

SECOND: Commissioner Hallett

Discussion.

VOTE: Unanimous for Approval, 5/0

MAYOR’S REPORT- none

COMMISSIONERS REPORT

Municipal Association of Pasco

Commissioner Hallett reported on the Municipal Association of Pasco meeting he attended in Zephyrhills on August 1, 2013. Extensive discussion on the gas tax issue occurred. The six Pasco cities wish to continue going forward as a group to make this a higher profile issue and to address questionable decisions being made by Pasco County Commissioners.

ATTORNEY REPORT

Gas Tax Interlocal Agreement

Attorney Petruff noted that last month the Town approved a resolution which has been amended at the request of Attorney Joe Poblick (City Attorney for Zephyrhills and City of New Port Richey). All municipalities will likely be approving this document.

MOTION: TO APPROVE AND AUTHORIZE THE MAYOR TO EXECUTE THE LATEST AMENDMENT TO THE INTERLOCAL AGREEMENT FOR THE DISTRIBUTION OF PROCEEDS OF THE LOCAL OPTION GAS TAX AND TO RESCIND THE PRIOR AMENDMENT TO THIS AGREEMENT WHICH WAS VOTED UPON BY THE COMMISSION AT THE JULY 8, 2013 COMMISSION MEETING.

MOTION BY: Commissioner Wells

SECOND BY: Commissioner Inslee

DISCUSSION.

VOTE: Unanimous for Approval, 5/0 Vote

Letter to the Attorney General

Attorney Petruff spoke about proposed changes to the Attorney General letter. The purpose of the letter is to have the Attorney General's Office weigh in on the legality of residents removing themselves from the Town, even if the area meets the requirement for annexation pursuant to section 171.000 of FL Statutes.

Commissioner Wells asked if the Burks Grove court case was important to include in this letter. The previous court case is possibly not relevant. The map shows how the Burks Grove property interfaces with platted lots of the Lake Jovita Subdivision. The Burks property appears to encompass the area of the Lake Jovita Subdivision that is presently in the Town of St. Leo.

Inslee questioned if the Burks Grove court case map was appropriate to include since the use of that area was so different in the 1970's. The name of the lake (which is also now the name of the subdivision) is written on the map and could cause confusion.

Due to the fact that there is a previous legal decision on the property, it was decided that it is appropriate to include the past court case decision. The map will not be included.

2013 Legislative Session Update

Attorney Petruff spoke about recent changes that are directed toward municipalities.

Fire Rescue Combat Service Amendment

Fire Rescue Combat Service Amendment to the Interlocal Agreement for Fire Suppression and First Responder Service.

MOTION TO APPROVE THE AMENDMENT AND DIRECT THE MAYOR TO EXECUTE.

MOTION: Commissioner Inslee
SECOND: Commissioner Hallett
VOTE: Unanimous for Approval, 5/0

National League of Cities

The League of Cities has provided for their members, an arrangement for a discount prescription card. If the commissioners are interested in more information on this topic please contact the Town Clerk. It can be discussed at the September meeting.

PLANNERS REPORT

RES 13-13 Major Modification # 1 to the Original PUD 10-A of Saint Leo University Campus. Clerk Miller swore in participants for this portion of the meeting. Participants included Jeanne Plecenik, Dan Fowler and Jan Norsoph. The Public Hearing was opened. During the Staff Report, Planner Norsoph introduced the topic which included the “new” west campus area, recently purchased from Holy Name Monastery. Dan Fowler presented the request of modification to the Town Commission. Planner Norsoph recommended approval of the modification, with all previous conditions remaining in effect. He stated that any new site plans will be reviewed under LDC Article 10 at a future public meeting. Resolution 13-13 would expire June 4th 2020. The Public Hearing was closed.

MOTION: TO APPROVE RESOLUTION 13-13 PUD #10-A, MAJOR MODIFICATION #1 SAINT LEO UNIVERSITY CAMPUS MASTER PLAN RELATED TO EXPANSION OF THE CAMPUS BOUNDARY, UPDATING THE PROJECTS LIST AND PUD DATA TABLE.

MOTION BY: Commissioner Inslee
SECOND BY: Commissioner Hallett
Discussion.
VOTE: Unanimous for Approval, 5/0

RES 13-14 **MOTION TO APPROVE RESOLUTION 13-14 APPROVING SAINT LEO UNIVERSITY INC., PLANT OPERATIONS PROJECT SITE PLAN (SPR#13-B) WITH CONDITIONS AMENDING CONDITION #8. CONDITION #8 SHALL READ, ALL OTHER APPLICABLE STATE OR FEDERAL PERMITS MUST BE OBTAINED BEFORE COMMENCEMENT OF THE DEVELOPMENT.**

MOTION BY: Commissioner Hallett

SECOND BY: Commissioner DeWitt

Discussion included tree placement and possible placement of shrubs. As long as code is met, no variance would need to be applied for.

VOTE: Unanimous for Approval, 5/0

Amphitheater Jeanne Plecenick introduced the Saint Leo University Amphitheater Concept. This project will be located near the library and be built into the slope of the hill. It will not jeopardize any trees. The amphitheater can be used for small concerts and gatherings. A preliminary meeting was held with the building and fire inspector. Lighting, ADA and other safety issues (including requiring an action plan) have been discussed. Plecenick hopes that the amphitheater could be completed by Veterans Day. Jan asked if the commission would require the University to return for their approval or, if found acceptable, he (Jan) could sign the approval when all concerns are met.

MOTION: TO AUTHORIZE PLANNER NORSOPH TO DETERMINE IF THE FINAL AMPITHEATER PLANS CAN BE APPROVED RATHER THAN HAVE THIS PROJECT COME BEFORE THE COMMISSION AGAIN.

MOTION BY: Commissioner Inslee

SECOND BY: Commissioner DeWitt

Discussion included having the commission review the Town noise ordinance at a later date.

VOTE: Unanimous for Approval, 5/0

OLD BUSINESS

DEANNEXATION OF LAKE JOVITA SUBDIVISION

A packet was received from residents of the subdivision to the Town which included an ordinance for contraction, a legal description, and signed petitions in favor of contraction from town municipal boundaries.

The signatures are subject to verification by the Supervisor of Elections Office. Petruff stated that after a brief inspection of the submitted documents, some documents appear to have discrepancies in the legal descriptions (book and map pages), and the document cites incorrect references to Florida Statutes and subsections. Petruff specified the FL Statutes that applied to the discussion for de-annexation. After signatures are verified, it is up to the commission to accept or reject the ordinance as written. Currently, there appear to be flaws in the

submitted ordinance . An ordinance cannot be adopted that conflicts with Florida State Statute.

Dissolution of Town

A separate petition to dissolve the town has also been received. Although the ordinance appears to be correct, the petition for dissolution does not comply with charter requirements in the creation of the petitioners committee.

Commissioner Inslee returned to the discussion of the de-annexation petition. He stated that the commission could act on what the residents of Lake Jovita are interested in accomplishing. He said two organized governments within Lake Jovita subdivision is very confusing to the people that live there. He thinks that it is possible for the commission to adopt the de-annexation ordinance.

Petruff again referred to FL Statute 171.052, and stated that only the areas which do not meet the criteria for annexation in FL Statute 171.043 may be considered for exclusion from a municipal boundary. The letter to the Attorney General, requested by the Town Commission, will give official opinion as to whether or not the de-annexation is legal.

Attorney Petruff reminded the commissioners that they (as she did) took oaths to uphold the US Constitution, the State Constitution, the Town Charter and the “laws of the land”.

Commissioner Wells asked if the commission could vote and de-annex an area from the municipality without the petition. Petruff said that they could vote, or call for a referendum, however, the ordinance must comply with state law. If such a vote was taken, the ordinance could be challenged and set aside by a court. Wells then questioned if the ordinance was not challenged what would happen. Petruff stated that she did not feel comfortable giving a legal opinion on what the consequences might be if the commission chooses not to follow legal advice.

Commissioner DeWitt did not think that it was appropriate for the residents of Lake Jovita Subdivision to threaten to dissolve the town if the subdivision cannot de-annex from the municipal boundaries. It was each of the citizens’ choice to live in the portion of the subdivision within Town boundaries.

From the audience, Ronnie Deese who is not a citizen (but acts on behalf of the residents via the Lake Jovita Homeowner’s Association) stated that no one is trying to dissolve the town and that the commissioners should find a way to allow the subdivision to de-annex.

Deese asked what the flaws were in the “petitioners committee form” to dissolve the town. Petruff again stated that the Town Charter requirements are clear.

Commissioner Wells asked about the problems with the de-annexation petition/ordinance. He asked if he correctly understood the following; that legal descriptions needed clarification, the FL Statute citation in the ordinance was flawed, and the critical language at the end of the document must be considered. Petruff confirmed this to be true.

Deese again asked about the flaws regarding the dissolution petition. Petruff read the Town Charter, Section 5.03 to Deese. Although the charter sounds unreasonable, it is how it was amended by ordinance.

Commissioner Wells stated that as commissioners they should listen to the people/citizens (on de-annexation of the town), and the commissioners should be bound to what the people want. He asked what the consequences would be if the commission decided to vote to de-annex the subdivision and it was not challenged.

Commissioner Inslee wanted to know where the commission stood on the subject and wanted to take a vote. Petruff said a vote was not possible this evening as appropriate notice to the public is required.

Commissioner Hallett asked if the commission should take the vote and take their chances on having no legal consequences, or wait to hear from the Attorney General. He said that he is in support to move forward to resolve the problem and have Lake Jovita subdivision de-annexed.

Commissioner Wells made it clear he did not say he wanted to dissolve the Town but if a qualified petition came forward he would be obligated to vote for the referendum of the people.

Resident Shelia Smith asked why problems could not be corrected instead of de-annexation or dissolution of the Town. Petruff stated that the Town could create municipal service taxing units and attempt to balance fees for service issues.

MOTION: TO DIRECT ATTORNEY PETRUFF TO BE AGGRESSIVE IN PURSUING DEANNEXATION.

MOTION BY:

Commissioner Hallett

SECOND BY:

Commissioner Inslee

VOTE:

Unanimous for Approval, 5/0 by Role Call

Clarification of Information Submitted by Ronnie Deese

Information that Ronnie Deese provided to the citizens of Lake Jovita Subdivision and Town Hall in September of 2012, could not be verified by the Town Clerk's Office.

In response to that data submitted to the Town in September 2012, Assistant Clerk Calvert submitted a spreadsheet which includes verifiable data showing millage rates, actual cost for law enforcement, the cost per resident that would be incurred for new sanitation service outside of municipal limits, and the actual ad valorem taxes paid by local institutions.

Town Clerk Miller provided history of contraction considered by the Town in 2006. She stated that local government is needed at this time to control future growth/ development and it is the residents' duty to participate in the Town in which they invested.

One third of inquiries/concerns and complaints received at Town Hall are from residents of the Lake Jovita Homeowners Association which confirms they depend on the agreements, contracts, ordinances and Town Comprehensive Plan to protect their rights.

The average amount of taxes paid by all town residents is approximately \$180.00. Mr. Deese claimed that the average of \$905 is paid by each Lake Jovita resident. The discrepancy between these figures may be his inclusion of taxes such as sales/use and intergovernmental revenue that all residents pay to Pasco County regardless of where they live. The value of this municipality is that much of those revenues are directed back to this area of Pasco County.

CLERKS REPORT

IEMO Clerk Miller presented Commissioner Wells and Commissioner Inslee with a certificate of completion for their attendance at the Beginners Institute for Elected Municipal Officials in June of this year.

Budget Workshop

The last budget workshop will be held at 6PM on September 9th.
The first readings of Budget Ordinances will be held during the Budget Hearing which begins at 7pm on the same date. The second and final Budget Hearing will be held on September 23rd at 7pm.

2nd Option Gas Tax

The Municipal Association of Pasco has concern regarding the 2nd Option Gas Tax. Information will be delivered to commissioners as it is received.

NEW BUSINESS

Iafrate Application for Voluntary Annexation

An application for voluntary annexation has been received by Town Hall. The application appears to be sufficient. Jake Varn of Fowler White Boggs law firm spoke on behalf of the Iafrate family. Wishing to proceed with the voluntary annexation, he stated that at this time, there are no particular plans for utilization of the property. Discussion included compatibility with the Town Comprehensive Plan. The Town has rules and regulations to control land use and zoning.

Commissioner Wells referred to his future (as a commissioner based on the potential de-annexation) as questionable and asked Attorney Petruff if he could abstain from voting on an issue that determines the future of the Saint Leo Community. Petruff cited Florida Ethics Code, Chapter 112, the only way to abstain from a vote is if you (or a named relative) have a financial interest or if you have financial gain or loss as a result of a vote, then you are required not to vote and to make a disclosure and file that disclosure. She stated that a commissioner could not abstain because he/she may not be a commissioner in the future. Wells stated that he did not feel comfortable voting on something that has a twenty year impact if in six months, or three months from now, he may not be a commissioner.

Commissioner Wells stated for the record that he would be silent on this (application for voluntary annexation) and would vote the same way that the two non-Lake Jovita Commissioners vote.

Petruff cautioned Wells, that his vote would have to take place after his due consideration of all the evidence presented to him with regard to whether or not the proposed annexation complies with the law, and that his thought process that he just disclosed may not be in his best interest.

Attorney Petruff addressed the commission and said that if they wished to proceed with the annexation that Mr. Varn should prepare the public notice and the proposed ordinance for her to review. There are also specific deadlines that must be met in order to proceed.

ADJOURNMENT

MOTION: TO ADJOURN MEETING AT 10:25 P.M.

MOTION BY: Commissioner Wells

SECOND BY: Commissioner Inslee

Discussion.

VOTE: Unanimous for Approval, 5/0

Respectfully, Joan Miller, M.M.C.