

**TOWN OF DAVIE
OPEN SPACE ADVISORY COMMITTEE (OSAC)
MONDAY, OCTOBER 24, 2011 – 7:30 P.M.
ROBBINS LODGE, MAIN HOUSE
4005 HIATUS ROAD, DAVIE, FLORIDA**

MEMBERS PRESENT

Kathy Cox, Chair
Linda Greck, Vice Chair (arr. 7:43 p.m.)
Wayne Arnold
Donald Burgess
Donna Evans
Mark Sierens
Toni Webb (arr. 7:32 p.m.)

MEMBERS ABSENT

Christine Pellicane
Mary Pence

STAFF AND GUESTS PRESENT

Phillip Holste, Intergovernmental Affairs Manager
Rick Lemack, Town Administrator
Mitch Taylor, Administration
Barbara Hartmann, Prototype, Inc.
Mr. Todd Evans, Guest of Donna Evans
Bill Leibowitz, Resident

MOTIONS INDEX

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1. ROLL CALL

Chair Cox called the meeting to order at 7:30 p.m. Following a roll call, it was determined a quorum was present.

Chair Cox welcomed the Town Administrator, Rick Lemack, who expressed appreciation for the Committee's service. He invited Committee members to call him if they have any concerns or questions.

[Ms. Webb arrived at 7:32 p.m.]

[Mr. Lemack left at 7:32 p.m.]

2. APPROVAL OF MINUTES

2.1 September 26, 2011 Minutes

Chair Cox said that in the 5th paragraph on p. 2, she was not clear on the “over-excavated canal bank.” She asked if Mr. Pursell had said it would be filled in “the weeks to come” for the entire length of the canal. Mr. Sierens thought it was only to the section they were referring to, not the entire section. Chair Cox stated they did not have a permit, and doubted it would be filled in “the weeks to come.” Mr. Holste suggested putting a period after “the water’s edge” and stopping there. Chair Cox thought that the minutes need to reflect that if it were to be filled in, that it would be filled in from Robbins to the section by the lychee grove. Mr. Holste then suggested saying: “to be filled in 10 to 15 feet on the water’s edge from Robbins to the lychee plat.” Mr. Holste said that earlier in the day, Mr. Pursell said they were still going through the Central Broward Water Control District variance process.

Chair Cox then brought up in the 7th paragraph on p. 2, “two survey stations 75 feet east of Hiatus Road.” She asked what those were. Mr. Holste said he would ask staff to review that portion of the audio.

Motion by Mr. Burgess, seconded by Mr. Sierens, to defer the approval of the minutes for the September 26, 2011, minutes. In a voice vote, the motion passed unanimously.

3. LIAISON UPDATE

Mr. Holste introduced Mitch Taylor, Grants Coordinator, who has been helping with Open Space, and may at some point become the Committee Liaison.

C-11 Equestrian Culverts. The culverts have been approved by Central Broward Water Control District and South Florida Water Management. There is a slight delay with South Florida Water Management – Central Broward had to be added as a co-permittee. They are preparing final construction documents for submittal through Engineering. Once approved, they will go to bid.

Peaceful Ridge Trail Re-location. He said they were still waiting for the variance process to be completed.

Devine Parcels. This project is currently being reviewed through the Health Department, and once approved, the project will go through the Town permit review process.

Golf Course. He said the golf course, formerly know as “Arrowhead Golf Course” is now being called “Davie Golf and Country Club.” A ribbon cutting will occur November 4, from 4:00-6:00 p.m., and all Committee members will receive invitations. The course will be open for play on November 5. In response to a question by Mr. Sierens, Mr. Holste said he has not seen a rate sheet, but said fees will probably be in the \$30-35 range. A discount will be built in for Town residents. The course will be run by Greenway Golf Management, who was selected by the Town Council, under a five-year agreement. The general terms of the contract provide the Town with 5% of the gross revenues, and 20-25% of the net operating account. The Town does not bear any risk, and Greenway pays all the expenses and collects revenues.

Sunny Lake Expansion. All invasive vegetation has been removed from the property, and final grading and site preparation will occur soon.

Old Davie School Addition. Construction has started for the new park.

4. OLD BUSINESS

4.1 Bar-B-Ranch

Chair Cox said that at the last meeting they discussed possibly approaching the Ranch and discussing how they might use part of the Town's trail system for their trail rides.

Mr. Sierens reported that he talked with them and found that the waiver they have does not list the Town.

[Vice Chair Greck arrived at 7:43 p.m.]

Mr. Sierens said that the person he spoke with Jason Hurley was not very pleased that the Committee is looking into this matter, and thought that Bar-B-Ranch was being singled out. However Mr. Hurley had no issue adding the Town of Davie to the waiver to remove the liability issue.

Chair Cox reviewed the option discussed at the last meeting for dealing with the issue.

Mr. Holste said he spoke to Mr. Hurley and told him the Committee wanted to brainstorm on the topic and informed him he may be invited to the next meeting to provide feedback. Mr. Holste continued that they need to look at a general policy and be careful not to focus on one entity. Secondly, Mr. Holste said that the Hurleys do not have any liability insurance, but rely on the Florida Statutes. They feel that the Statutes provides them with the appropriate legal liability coverage in terms of not being held liable for that type of activity. Mr. Holste said the Town could not be added as an "additional insured" unless it required them to have liability insurance to go on the Town's trails. He also said that the Hurleys would not have any issues adding the Town as an entity on its "hold harmless waiver." Mr. Holste said they would have that go through the Town's Risk Management department for review.

Ms. Webb questioned the value of a "hold harmless" waiver, as she thought a person could not sign away their rights. Mr. Holste posed the same question to the Town's Risk Manager and she said it does make a difference in legal cases. He said the Risk Manager will provide a copy of the Florida Statute to the insurance company for feedback.

Mr. Sierens relayed that prior knowledge of faulty equipment or a dangerous trail condition could cause the Hurleys to be held liable. Mr. Sierens continued that Mr. Hurley told him that if they see something in the trail, they will clear it out and also send people out (after trail use) to remove manure from the roads. He does not go into an area for maintenance where the Town is supposed to be providing maintenance. Mr. Hurley said he thought the trails were in excellent condition. Lastly, regarding the sand that was going off the trail to the road, Mr. Hurley commented that the trail was lower than the road and rain washes the sand onto the road, not the horses.

Ms. Evans said she was at Robbins on the previous Thursday and Sunday, and the trails there were in "deplorable condition." At some points, the horse would have to take leaps to go up or down. She said the back trail was almost impassable, and a rider has to go on the concrete to get over the bridge due to a washout and plant encroachment. She showed photos of the washout. She said she had spoken to Public Works about it, and they were out there today. Ms. Evans remarked that that problem was not caused by the Ranch. On Sunday, she saw 15 or 16 groups from Bar-B-Ranch riding and said they are advertising it

heavily on their website as their main place of business. She suggested they give something back to the Town on a seasonal basis, such as loads of sand.

Mr. Sierens remarked that while the Ranch may be using the Park for their profit, at the same time, other companies use the Park for profit also and do not pay the Park themselves. An example would be a bounce house. He said it could be very detrimental to small businesses in Davie who want to come in, knowing they have to pay for that type of thing. Bar-B said they do not have an issue in paying/contributing, as long as it is across the board. Mr. Sierens said that Mr. Hurley would be at the next meeting.

Ms. Evans stated that they are on the Committee to protect the Town of Davie and the parks.

Vice Chair Greck thought it was important that as they move forward with any policy that they consider it as a policy that affects the whole, not one particular user or non-user. She has seen Bar-B cleaning up the trail and thought they were good equestrian citizens who bring goodwill to the Town of Davie. She thought their promotion of the Town's open spaces and equestrian lifestyle is beneficial to the Town. However, other entities in the Town that have an impactful activity on everyone in the Town have some type of permit or guidelines to follow, particularly entities using the Town's resources for profits. She suggested moving towards some type of business permit being applied, graded by the amount of impact. That could apply to anyone. She acknowledged the significant impact on the Town's resources by Bar-B-Ranch, but also acknowledged their willingness to help mitigate that impact. Vice Chair Greck continued, recommending that the Town move towards some type of annual permit or mitigation item.

Ms. Webb suggested restricting use of the more delicate areas (the loop beside Flamingo Gardens) – maybe there could be re-routing to keep impact off those areas.

Mr. Holste said that the Parks and Recreation Board is asking for this Committee's thoughts on the Town charging a trail use fee to help offset trail maintenance. Some agencies charge a modest annual vendor trail use permit fee, and some have vendors do in-kind trail maintenance work. Mr. Holste was dubious about non-Town entities doing the maintenance. He thought an annual type of fee/contribution would work fairly well for trail use, rather than something on a single use basis.

Mr. Holste mentioned that Bar-B-Ranch does pay a business tax receipt to the Town, but he did not know the amount. He pointed out that in some cases where there is a business having an event at a facility, they have rented it. Therefore, the business is already paying for the usage, and that covers the Town impact.

Mr. Sierens remarked that there are so many trails and parks, that he thought it would be a bureaucratic nightmare to try to get all the different organizations (who use the trails to make money) to pay for usage. He maintained that it seems wrong to him to target one organization, such as Bar-B-Ranch. He said the Ranch brings people into the Town who spend tax dollars, and Bar-B also shows off Robbins.

Mr. Burgess said if they were excluded from using Robbins, he wondered where they would go. He thought that by allowing them to use Robbins, the Town provides a safe place for people to ride their horses that is off the streets. He suggested having a Volunteer Day where everybody who uses the parks comes in and contributes something in lieu of a fee.

Vice Chair Greck wondered how the County handles the pony rides in Tree Tops every weekend. Chair Cox said they have a contract. The County collects all the money and A&D gets a portion of it. They have to provide insurance and much more, and they stage in Tree Tops.

Vice Chair Greck asked Mr. Sierens to name any other vendor (besides Bar-B-Ranch) who does similar activities in the parks. Mr. Sierens said he could ask people, but as a private party he might not be appreciated doing so.

Mr. Sierens noted that Coral Springs used to have a fee for bounce houses, but eventually the houses stopped going there because of it. He did not want to see that happen in Davie. He thought that a fee would be too hard on a small business.

Ms. Webb agreed that Bar-B-Ranch is being targeted because they are the only ones doing what they are doing. However, she added that that damage caused by their business is more significant than that caused by a bounce house. She reiterated her concern with the trail loop beside Flamingo Gardens. Chair Cox said that part of the problem with that loop is that Public Works cannot get back in there to fill it. She thought it was not fair to blame it all on Bar-B. She asserted that if it is closed to Bar-B, it should be closed to everybody: hikers, bikers, and equestrians.

*The floor was opened for **Public Comment** at 8:10 p.m.

Mr. Evans wondered how someone coming into the park with 15-horse trailers to run their business could be stopped. Chair Cox thought it could not be policed, unless a ranger sits out there every weekend, which is not cost-effective.

Mr. Evans reported that on the previous Sunday, there were two groups of 18 people riding. He added one was a small child that "did not know what he was doing." He wondered what would happen if that child got thrown off the horse.

Ms. Evans said that if a temporary use permit was issued to everyone coming out, and if a person shows up with a 15-horsetrailer every week, someone would notice it and direct the person to the Town Hall and get the permit. Mr. Sierens said they would then move to another park. He asserted that the people who would be impacted are those who are "trying to do right by the Town." He suggested shutting down the damaged portion of the trail for part of the year to allow it to recover. Chair Cox said it is not a recoverable trail – it would have to be filled.

Vice Chair Greck thought there was some threshold by which a commercial entity is seen as exploiting a public resource. She expressed positive thoughts about Bar-B-Ranch, but said she did not know of another entity that has that excessive, significant impact on any of the Town facilities for commercial purposes. She said they were willing to work with the Town, and the Town should come up with something that is reasonable. She said the Ranch advertises with the County's tourism office, and many people come for rides who otherwise would not come to Davie. She likened it to people who stop here on a cruise and pay port fees, and reiterated that there is room for a reasonable policy for the impact on the one park. She said the policy should work for any business conducting that type of activity.

Mr. Holste suggested that staff look at this issue, contacting neighboring municipalities for ideas on policy.

Ms. Evans stated there is she is not against Bar-B-Ranch, and suggested looking at the Tree Tops trail maintenance for ideas.

Chair Cox disagreed, noting that Tree Tops is a different situation. She said some trails are heavily impacted and Tree Tops does not get to those trails. She suggested that the best place to look for a policy would be Wellington. Vice Chair Greck also suggested looking at the protocols at other parks throughout the State.

Chair Cox stated that Mr. Hurley does not “trailhead out of” Robbins Park, which is different from Tree Tops. She thought Mr. Sierens was right when he commented that the Town needs to think about how much they want to get and how they are going to get it. She purported that there would be difficulty from a cost-effective standpoint, because the Town would not be able to police it – it would cost more for a staff person to sit there and collect the money than the amount of money they would collect.

Chair Cox wondered if the Town wanted to charge the Trail Riders for using the Park, as well as bike riders, or if they would be asked to buy a trail permit fee. She said Bar-B-Ranch provides an opportunity for the Town’s residents to experience horse back riding that they cannot otherwise afford or be able to do. She thought that was important to the Town.

Mr. Evans pointed out that Trail Riders is not a business, but it was noted they do charge dues, and they use the trails. Mr. Sierens suggested that Mr. Evans look at more than one park in Davie, and perhaps then they would not be targeting Bar-B-Ranch.

Chair Cox again suggested that Mr. Holste look at Wellington, Tradewinds and the area at Lockahatchee. Vice Chair Greck suggested businesses on the outskirts of Ocala National Forest which run private businesses using public resources.

Mr. Holste commented that the end result of this from the Town’s perspective is that the minimum they would be adding is the “hold harmless.”

Chair Cox suggested checking into an Ag exemption, to see how that affects the issue.

4.2 Draft Declaration of Restrictive Covenants – Veterans Park

Chair Cox doubted that a camping ground at Veterans Park was realistic, saying the park was too small and there is not much parking. Mr. Holste said he is not aware of anyone camping there on a regular basis, and he took it out of the DRC.

Mr. Burgess asked if there were volleyball courts and playgrounds there, and Mr. Holste replied there had been a sand volleyball court, but he was not sure if it was still there. There currently are playgrounds.

Chair Cox asked about the fishing pier, but Mr. Holste did not know if it was still there. Mr. Burgess noted that the website says there is one there.

Mr. Holste said that on p. 2, paragraph 1(a), he would put a comma between “fishing facilities” and “trails.”

Regarding the trails, Mr. Holste said it would be more along the order of a sidewalk, not a regular trail meandering through the park.

Mr. Burgess proposed a change on the third WHEREAS – delete the word “and.” Also, on the bottom on p. 3, #10, the last four words should be, “in full force and effect”

Motion by Mr. Burgess, seconded by Mr. Sierens, to approve the DRC for Veterans Park with the changes noted. In a voice vote, the motion passed unanimously.

4.3 Draft Declaration of Restrictive Covenants – Wolf Lake Park

There was a short discussion on the fishing at Wolf Lake Park.

Mr. Holste suggested that on #1(a), they might want to change it to “multi-use trails” instead of “multi-use recreational trails.”

Mr. Burgess brought up the campground facilities. Chair Cox said the Boy Scouts have “an interest in” or connection with the Pavilion, and he thought there was room there for small camping activities there. Mr. Sierens said that when he was a Boy Scout, they camped out at Wolf Lake.

Chair Cox noted that there are no plans to remove the exotic vegetation at Wolf Lake Park.

Vice Chair Greck commented that none of the uses addressed the presence of a large lake; in other words, there were no water uses mentioned. Chair Cox suggested fishing and non-motorized boating. Mr. Sierens mentioned that horses go wading there. Mr. Sierens wondered if dogs are also allowed to swim, and commented that he was called on for taking his dog in the water. Chair Cox noted that swimming (for humans) is not permitted, due to dangerous items that have been dumped in the water and microbial issues.

Mr. Holste then said he would add equestrian and canine activities to Section 1.

Mr. Holste asked for feedback on Section 3 (regarding buildings). He said he overlooked restroom structures and said it will have to be corrected to read, “Existing residential structures and improvements, consisting of a restroom structure and mobile home...” He explained that the Davie police use a mobile home. He commented that he limited expansion of new buildings or structures at the site to 1,000 square feet of impervious surface.

Chair Cox said that the restroom structure includes a small kitchen and picnic pavilion. Mr. Holste said he did not include the pavilion, because it is not an enclosed structure. Vice Chair Greck suggested an even smaller footprint than 1000 square feet, given the size of the park. Ms. Webb said the pavilion is about 20' x 30' and Mr. Sierens said the trailer has to be more than 400 square feet.

Ms. Webb suggested an aggregate of 1000 square feet for anything that is added. Mr. Holste said that was the intention. After discussion, the Committee decided on, “total not to exceed an aggregate surface area of 1000 square feet.”

Mr. Sierens verified that the stipulations would not prevent the police officer from expanding or replacing the current trailer with a somewhat larger one. Mr. Holste said that square footage also does not include any parking there.

Regarding parking, it was noted that part of the current parking lot is paved on the west side against the fence, but the access to it is not.

Vice Chair Greck mentioned that #11 has the same typo as #10 in the DRC for Veterans Park. Mr. Holste said he would change that, and also the “and” at the end of the third WHEREAS.

Chair Cox was curious what Public Works would do about all the items they dump there. She also wondered if they want to preserve the “mountain of fill” at the northwest corner. Mr. Sierens said he has noticed people using it as a mountain bike trail, and Chair Cox said it is also used for a horse trail. Ms. Evans said that #2 (d) covers it if the mound is considered part of the surface.

A lengthy discussion ensued regarding how to address the issue in the DRC. Chair Cox related that the fill in the northwest corner is fill that was removed the rock pit (which is now the lake), and that has “historically” been there. Then, Public Works dumped asphalt, dirt, concrete and other piles of debris under the power lines. It was generally agreed that the debris could go, but not the “hill.” Chair Cox suggested saying “in such manner as to affect the surface or the current trail topography;” in Item #2 (d).

As for the piles of fill that Public Works has brought in, Mr. Holste said he would alert Public Works to the problem and ask them to remove the piles.

Motion by Ms. Evans, seconded by Mr. Sierens, to approve the DRC for Wolf Lake Park with the noted changes. In a voice vote, the motion passed unanimously.

5. NEW BUSINESS

None.

6. SUBCOMMITTEE REPORTS

Chair Cox brought up the definition of community gardens, and whether or not someone would be able to sell for profit what they had grown in a community garden.

Chair Cox also mentioned the use of Project Stable’s facilities at the Farm Park, and said that Mr. Holste had provided her with a memorandum that speaks to the fact that the public is supposed to have access to those facilities. Mr. Holste will email that memo to the Committee so that they are familiar with the parameters for use of that property. Ms. Webb asked if the public has access, and Chair Cox replied that they do, but she did not know the details. There was a short discussion about the use of stables.

7. AGENDA ITEMS FOR NEXT MEETING

Vice Chair Greck requested an item on the Farm Park agreement with Project Stable.

Mr. Holste noted that the next meeting, November 28, will be the last meeting of the year, and he suggested that whatever topics the Committee wishes to cover should probably be done next month. He said if the agenda gets too long, perhaps they should move up the meeting time.

Chair Cox announced the following items for the next meeting:

- The Memorandum of Understanding for the Farm Park
- Information on other contractors that use public facilities

Vice Chair Greck asked if the golf course was considered part of the Town's parks, and Mr. Holste said it was considered part of the parks/open space system but was a public/private partnership and residents cannot just walk around on the golf course. He noted there are already restrictions in effect for the golf course, such as environmental and drainage. Vice Chair Greck said she was thinking in terms of development. Mr. Holste said that there is a DRC being approved by the County that limits the use of the property to a golf course. There is also a separate restriction related to the drainage. He added, however, that sometime in the future, if the Town wished to change the land use, they could do an environmental cleanup and potentially do something else with the land. Vice Chair Greck requested that the golf course be in the queue for DRCs that the Committee will review. Chair Cox asked Mr. Holste to email the DRC to the Committee.

Mr. Burgess reminded the Committee that any of the DRCs could be lifted or modified by a 4/5 vote of the Town Council.

8. COMMENTS AND/OR SUGGESTIONS

Mr. Sierens said that Battens Farm is now serving more of a variety of cooked foods and samples of exotic foods.

Ms. Webb brought up the balloons at the front of the equestrian park and wondered if that was enforceable. She said it was a problem again. Chair Cox emphasized that if anybody sees something going on that they do not like at the parks, they need to call the Park Ranger or Public Works. Chair Cox thought the prohibition against using balloons was in the permit for using the facility.

9. ADJOURNMENT

Motion by Mr. Arnold, seconded by Mr. Sierens, to adjourn the meeting at 9:07 p.m.

[Minutes prepared by J. Rubin, Prototype, Inc.]

Approved

Chair/Committee Member