

Loxahatchee Groves Local Government



COST BENEFIT ANALYSIS
of
CONSOLIDATING THE
TOWN GOVERNMENT
of
LOXAHATCHEE GROVES
and
LOXAHATCHEE GROVES
WATER CONTROL DISTRICT

OCTOBER 21, 2008

Prepared By:


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MANAGEMENT



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Table of Contents

	Page	
Introduction	1	
Today's Challenges	2	
District Background	3	
Town Background	6	
The Project	8	
Alternative #1	9	
Alternative #2	13	
Alternative #3	20	
Alternative #4	24	
Summary	27	
Index		Tab
Loxahatchee Groves Water Control District 2008 Annual Legal Report	1	
Loxahatchee Groves Water Control District 2008 Annual Engineer's Report	2	
Town of Loxahatchee Groves Charter	3	
Town of Loxahatchee Groves Budget 2009	4	
Incorporation Feasibility Study	5	
Loxahatchee Groves Water Control District Legislative Change 2004	6	
Town of Loxahatchee Groves Legal Opinion	7	



Introduction

The Town of Loxahatchee Groves is working to fulfill both the intent of the recent incorporation and the responsibilities that are placed on such an entity by the State of Florida. With empowerment comes responsibility. Residents expect incorporation to protect the rural lifestyle of the community. The task at hand is to balance the intent to protect and preserve the rural character with the responsibilities placed upon the Town by the State to plan and provide key services at acceptable levels.

This rural lifestyle epitomizes independent, self-sustaining residential and agricultural related entrepreneurial businesses. Their unique community character can trace its roots back to the early 1900's. Loxahatchee Grove's rich history is peppered with actions and events celebrating an independent, non-conforming approach to local service delivery as well as a rambunctious lifestyle.

With an abundance of dirt roads, broad tolerance to their neighbors lifestyle choices, more horses than cars, acceptance of natural growth and pasture as compatible with lawns and landscape, almost no recognizable national commercial business chains and an unfaltering practice and acceptance of the power of each residents voice, the Town of Loxahatchee Groves now represents a sanctuary from the chaos of urban life based on common sense and the power and rights of the individual,

Balancing issues such as the required Comprehensive Plan with protection and preservation of the existing rural character of the Town is daunting at best, but Loxahatchee Groves has met similar challenges many times in their past. The newly established Town is facing such a challenge now.

Today's Challenge

The transportation and traffic elements of the comprehensive plan require roadways and the capital necessary to build and maintain them, be designated. The Town currently receives gas tax revenues through an inter-local agreement with the County and other municipalities and percentages of other sales tax revenue from the State that are restricted for roadway and comprehensive plan compliance. They cannot be used for any other purpose. The Town Council has approved their budget which allo-

ates these revenues to roadway and comprehensive plan compliance within the recently submitted Town Proposed Plan.

Prior to the establishment of the Town of Loxahatchee Groves, the Loxahatchee Groves Water Control District constructed and/or maintained roads in the community. Funding for these community roads came from special benefit assessments, maintenance assessments and/or through an inter-local agreement for any available County funds. Designation or priority of roadway installation was decided through landowner petition versus a comprehensive plan.

With the new inter-local agreement between the Town and the County, funding for roads within the District through the County is no longer available. The Town and the District may enter into an inter-local agreement wherein the Town funds community roads through the District as long as the Town's comprehensive plan is in compliance, which allows the Town to receive such revenue sharing from the State and County.

At conflict is the District's policy of constructing roadways prioritized by landowner petition and the Town's obligation to build roadways prioritized by the transportation and traffic elements of their Comprehensive Plan. Effectively, this conflict prevents a convergence between the Town and District for the benefit of the residents in regards to community roadway construction and maintenance.

The Town of Loxahatchee has initiated and funded an evaluation of options that may resolve the current conflict through clear direction and consideration by the residents in evaluating the alternatives and providing feedback on their preferences. The District has elected to not participate in this project as is their right. The project is designed to provide options for careful consideration and debate, not ultimatums. It is the intention of the Town of Loxahatchee Groves to encourage the District to participate and consider any option that may benefit the residents of the community, through-out the process.

District Background

As stated earlier, the Loxahatchee Groves Water Control District has elected to not participate in this analysis of inter-local efficiencies at this time. The following information concerning the District has been gathered from general information available to the public from their web site and other publicly disseminated documents and our firm's experience with special districts within the State of Florida with similar responsibilities.

The District's website describes their services and area as follows:

"The Loxahatchee Groves Water Control District - known as LGWCD - provides surface water management and road maintenance services for the Loxahatchee Groves community and a portion of Royal Palm Beach".

"This is an area of 12.5 square miles with 29 miles of unpaved roads and 30 miles of canals".

"There are more than 1,200 homes in the District with a population of approximately 3,500. There are also churches, a shopping center, school, commercial centers, and recreation areas".

The Water Control District has been managed in a traditional manner, with dedicated management and operational staff. This arrangement has served the district well for many years and continues to be desirable. The District Board requires dedicated presence from the in-house staff in order to provide management stability and consistency in the daily operations of their service responsibilities.

Surface Water Management responsibilities are described as:

"In surface water management, the District's main responsibilities are the maintenance of secondary and primary drainage systems within our service area boundaries. The regional surface water management system is operated by the South Florida Water Management District (SFWMD). SFWMD does not get involved with the day to day operations of LGWCD. However, they do have permitting authority over outfall sites, allowable discharge rate, water use, and water quality".

"The District builds, operates, and maintains canals and water control structures. In Loxahatchee Groves, seven north-south canals drain to the south into the C-51 Canal that flows west to the SFWMD's Stormwater Treatment Areas and east to the Intra-coastal Waterway".

"The District is continually working to keep canals clean of refuse and regularly sprays to control aquatic weeds".

Water management services in south Florida are essential and represent the primary infrastructure for all practical land use. The topography dictates that drainage and water management be the first consideration in infrastructure improvements as all other services are contingent upon the system's ability to maintain flood control.

The Loxahatchee Groves Water Control District has been providing this primary infrastructure need since 1917. Over the years and as the population of South Florida has grown, the task of managing surface waters has evolved into an extremely complex set of inter-related principles and rules of operation and design. The continued pressures of increased population, water quality concerns and our responsibility to the natural environment require that future stewardship of this primary infrastructure responsibility be held in the hands of those most capable of meeting the challenge. The Loxahatchee Groves Water Control District, with its long history, efficient governance and allotment of costs based on benefit and maintenance assessments has proven to be the most capable entity for provision of this foundational infrastructure service.

Road Paving and Stabilization

"Petitions are used by landowners requesting their road to be improved either by paved or stabilizing with open grade emulsion. A majority of landowners must sign a petition requesting the specific road be paved or stabilized. The District prepares an engineering plan for construction including cost estimates. A referendum is then held with landowners voting for or against the improvement. If the road improvement is approved, landowners will be assessed their proportionate share of the paving or stabilization costs".



Water control districts building and maintaining roads dates back to the construction of flood control elements necessitating the need for access to build, monitor and maintain such improvements. As the first infrastructure improvement to raw land, this responsibility naturally evolved to include roads serving private property as such development routinely included secondary systems of swales, culverts, bridges and other associated water management improvements tied to the base or primary water management infrastructure system.

Until the establishment of the Town of Loxahatchee Groves, the District was the only governmental entity providing public roads within the community with the exception of Palm Beach County which built major arterial roadways through the area.

The emphasis in road building by such drainage districts has historically, centered on their core responsibility of obtaining access capabilities to the water management facilities. As such, district road quality is typically of a standard sufficient for this basic requirement and not generally in conformance with urban standards for traffic and transportation. In Loxahatchee Groves, the typical district road is dirt/gravel or open grade emulsified mix (OGEM).

The District road program is defined further:

"There are over 29 miles of unpaved roads to be maintained in the District".

"LGWCD adheres to a regular maintenance schedule for its roadways. Due to weather conditions and other factors, additional road work is performed in addition to the regular maintenance schedule".

"To accomplish the major responsibilities of road maintenance, LGWCD uses several heavy pieces of equipment such as graders and tractors that operate throughout the District".



Town Background

The Town Charter defines their central purpose as:

"The Loxahatchee Groves area in Palm Beach County includes a compact and contiguous rural community of approximately 3,120 persons who are experiencing certain impacts, such as the destruction of rural habitats and the threat to equestrian, farming, and nursery businesses, resulting from urbanization in the surrounding areas. The residents within the town would like to control the effects of those impacts through the incorporation of the town and its continued existence as a historic, rural community with the benefits of self-determination".

Through incorporation, the Town controls, as much as allowed, how Loxahatchee Groves addresses the issues enumerated in the Charter. Additionally, by incorporating, the Town accepted the responsibilities of governance and service level delivery as defined by the State of Florida. To fund such mandates, the State granted the Town the ability to raise funds through taxation, assessments, fees and charges. As a municipality, the Town receives several shared revenues from existing sources for the purposes that such funds were intended to service.

The Charter speaks to this intent:

"It is in the best interests of the public health, safety, and welfare of the residents of the Loxahatchee Groves area to form a separate municipality for the Loxahatchee Groves area with all the powers and authority necessary to provide adequate and efficient municipal services to its residents".

The primary intent to preserve and protect the Loxahatchee lifestyle was not intended to be limited by the acknowledged service responsibilities but rather, served by an innovative approach to such service responsibilities as exemplified in the Charter as follows:

"It is intended that this charter and the incorporation of the Loxahatchee Groves area will serve to preserve and protect the distinctive rural characteristics of the community, such as low density, minimal lot coverage, substantial open spaces, agricultural and nursery interests, and rural habitats, and to acknowledge its close ties to the agriculture and equestrian industries within the boundaries of the town".

The incorporation proposed that these intentions be fulfilled through continual public participation reflecting the changing needs of the residents upon whom such self determination had been placed.

"It is the intent of this charter and the incorporation of the town to secure the benefits of self-determination and affirm the values of representative democracy, citizen participation, strong community leadership, professional management, and regional cooperation".

The Town has adopted a business model that fulfills their responsibilities through contract services, when practical, providing a continuing option to consider in-house programs as the services of the newly formed municipality become stabilized or become institutional in nature. Additionally, the incorporation foresaw the Loxahatchee Groves Water Control District as a necessary and efficient partner in the delivery of services.

The sharing or combining of revenue and expenses with other governmental entities, namely the Town and the District represents an opportunity to bring the best use of both approaches to meet the needs of the Community. The challenge of such a business model is to provide to the residents increased service delivery, by the knowledgeable and experienced staff and services of the District, through the revenue capability and comprehensive plan of the Town, without the burden of additional taxes or assessments.

The Town is currently submitting it's first Preliminary Comprehensive Plan to the State. The balance between the responsibility of governance and the preservation of the community's lifestyle has been the challenge in the preparation. As this program matures, along with this report's considered efficiencies between the Town and District, continued public involvement to protect and preserve the community of Loxahatchee Groves will be essential as will most all such considerations into the future.

The Project

ANALYSIS OF THE POTENTIAL CONSOLIDATION OF THE TOWN GOVERNMENT OF TOWN OF LOXAHATCHEE GROVES AND THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT.

The scope of the project contemplates analysis and feasibility of several considerations as follows:

- ALTERNATIVE 1: Making the Loxahatchee Groves Water Control District a dependent district of the Town.
- ALTERNATIVE 2: Limiting the role of the Loxahatchee Groves Water Control District to its original water management and drainage functions under Chapter 298 and have it remain an independent district.
- ALTERNATIVE 3: Not make any changes in the respective authority of the Town of Loxahatchee Groves and the Loxahatchee Groves Water Control District.
- ALTERNATIVE 4: Other recommendations that may not be listed.

The study will involve an analysis of each of the above alternatives. It will address cost and staffing analysis, management costs, and services planning, as well as governance issues.

The study will note the advantages and disadvantages of each of the service delivery options noted above.

The study will examine current and future facility needs over a ten-year period and possible funding sources to sustain current operations and future service delivery, and the funding of long term capital needs in Loxahatchee Groves.

Finally, the study will outline legislative steps needed to accomplish the changes noted in each alternative.

Alternative #1 Making the Loxahatchee Groves Water Control District a dependent district of the Town

A dependent district is defined by the Florida Department of Community Affairs as a special taxing authority which has its budget approved by the Town and/or has its Board appointed by the Town.

Currently, the Loxahatchee Water Control District is an independent taxing authority controlling its own budget and Board subject to direct oversight by landowners within the District. This independence was established by the Florida legislature and can only be amended by their actions.

Changing status from independent to dependent would require a special bill requesting such a change, sponsorship, and finally, legislative approval. Converting the Loxahatchee Groves Water Control District to a dependent district of the Town without the District's positive involvement or a strong mandate from the residents would be problematic at best. Several attempts by other municipalities to have such districts involuntarily converted to dependent status have not been successful.

The legislature has typically rejected such controversial actions recommending instead that the entities involved work out their issues to a local level to the approval of their constituency. In Loxahatchee Groves, obtaining a high acceptance of such an action would be required to allow for the possible consideration of the legislature. If a majority of residents find value in the conversion, it is recommended that a lobbyist be retained to help guide the bill to prevent political groups, either pro or con to special districts, from adversely viewing the bill.

If approved by the legislature, the transition of the District's assets, liabilities and responsibilities to the Town would commence as provided within the bill. All of the District's responsibilities must be addressed and assumed by the Town. The Town would not receive additional powers. Inherited duties would have to be addressed under the Town's existing authority.

As problematic as this alternative may be, it would address the current challenge facing the community. The current issue of directing shared revenues towards roads and roadway maintenance would be resolved through the singular direction of the Town. The application of this alternative, while capable of addressing the issues, appears to require a great deal of effort and resources to address a fairly minor singular issue.

The incorporation anticipated that the District and Town would work together, maintaining the powers of each for the benefit of the residents. Reducing the independence of the District may limit future options beneficial to the community. It is recommended that such permanent actions be considered only for multiple efficiency returns, which can be supported by the District, to the benefit of the residents unless strong community support with evident benefit to the Town can be shown.

ALTERNATIVE #1

MAKING THE LOXAHATCHEE WATER CONTROL DISTRICT

A DEPENDENT DISTRICT OF THE TOWN

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There are two costs to consider, the cost to implement and the cost to maintain. Any consideration of mandatory change is anticipated to be determined through a referendum on the issue to represent the public support necessary to support legislative consideration. Under such expectations, the costs to implement could be considerable as this process typically requires extensive public information efforts. Additionally, should the referendum support this alternative, implementation would require a special bill submittal and probable lobbying expenses.



The operating costs are projected to be in-line with current expenses. No duplicative services would be removed under this alternative. Administration, management and professional support services such as legal and engineering will still exist in the same quantity although these services may be performed by singular providers to both entities.

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Staffing cost efficiencies are not anticipated as the workload will remain with little change. While certain professional services may be combined, the service responsibilities, and their associated expenses, remain similar.

Service delivery may attain higher efficiencies through singular direction but must still meet the regulatory and legal applications of the absorbed responsibilities. Absorbed staff would become the basis for field operations (Public Works) within the Town and capable of receiving all benefits associated with municipal government employment.



The Town's current business plan of contracting services for efficiencies would need to balance assignments to first utilize in-house assets before out sourcing to maximize efficiency.

ALTERNATIVE #1

MAKING THE LOXAHATCHEE WATER CONTROL DISTRICT

A DEPENDENT DISTRICT OF THE TOWN

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Management costs are not anticipated to be materially reduced with this alternative. While management responsibilities may shift from the District to the Town, the workload will remain unchanged. The structure of the District is fairly lean, similar to other special taxing districts. The efficiencies of Special Districts has been attributed to their specific focus on their limited responsibilities. Loxahatchee Groves Water Control District has two basic services, roads and drainage. Their responsibilities are not complicated by comprehensive plan responsibilities, politics or social issues affecting the Town.



Converting the District to dependent status would transfer the management responsibilities to the Town who would delegate responsibility to the newly formed dependent district with budgetary or board selection or both.

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Converting the District to dependent status would streamline the management directives as such an entity would be directed by the Town. Currently, discussion must be undertaken to accomplish service planning direction and is subject to compromise at the request of either entity. As long as a good working relationship exists between the two entities, who both serve the same community, little efficiency will be gained by converting the District to dependent. Should there be an impasse between the two entities on service delivery, then conversion of the District effectively resolves the conflict to the Town's position.



If such a controversy is supported by a material number of residents on both sides of the issue, conversion may be problematic in that a clear mandate of the community is not evident. Under such conditions, the Legislature has a history of sending legislation back to the community for further refinement or until a consensus on the issue is reached.

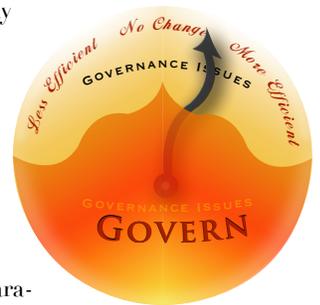
ALTERNATIVE #1

MAKING THE LOXAHATCHEE WATER CONTROL DISTRICT

A DEPENDENT DISTRICT OF THE TOWN

Conversion of the District to dependent status may provide singular governance on most community issues to the benefit of the residents in ease of access on such matters. How simplified the new access would be, depends on the structure of the dependent district. A dependent district may require residents submit concerns directly to them be addressed through their structure and their board. Benefits to Loxahatchee Groves residents may be nominal as to access efficiencies.

Governance issues would not be materially reduced as a dependent district would still have a board, public meetings, adopt policies, procedures and require budgetary preparation. While the board and/or the budget are controlled by the Town, the process would still exist and as such, would not represent any material reduction in governance responsibility.



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Conclusion

Alternative #1 does not currently present a material gain in efficiency or reduction in costs, would be costly to implement and may be viewed controversially by residents without a clear return to the community. Legislative approval is difficult under the best of conditions when both parties agree. Alternative #1 may best be utilized when conditions change to provide efficiency and/or reduction in expenses and is expected to garner the support of the community.

The successful implementation of Alternative #1 should be pursued with the full cooperation and participation of both entities with clearly recognized advantage to the community. Currently, such advantages to the community are unclear and the District is non-supportive and is not participating in the analysis.

Alternative #2 Limiting the role of the Loxahatchee Groves Water Control District to its original water management and drainage functions under Chapter 298 and have it remain an independent district.

All Chapter 298 districts deal with drainage and represent the first infrastructure improvements to raw land. Drainage infrastructure requires access to build and provide maintenance. The functional authority to build roads is integral to the responsibility of providing drainage. One service responsibility relies upon the other.

Alternative #2 cannot limit this authority without jeopardizing the drainage system. The alternative, therefore, addresses only that portion of roadways recently codified in the Loxahatchee Water Control District's recent legislative additions. The changes permit the District to acquire, build and maintain roads not necessary for access or maintenance of drainage facilities, but as requested by district landowners. The District's legislative change as stated in 2004 is summarized as follows:

"In addition to the powers of Loxahatchee Groves Water Control District, hereinafter referred to as the "district," elsewhere provided by general or special law, the district shall have the power to construct maintain, improve, and repair roadways and roads necessary and convenient for the exercise of any of the powers or duties of the district or the board of supervisors thereof, including, but not limited to, all the roads shown on the replat of Loxahatchee Groves, as recorded in Plat Book 12, Page 29, Palm Beach County Public Records, or to provide access to and development of areas within the district, or both; to provide funds for such construction, maintenance, improvement, or repair through the levying of assessments pursuant to chapter 298, Florida Statutes, or this act hereinafter referred to as "drainage assessments," or special assessments, or both; and to acquire land, including any interest therein, by purchase, gift, exchange, or eminent domain, for such construction, maintenance, improvement, or repair."

Alternative #2 considers removal of this additional power reverting authority to provide such services solely through the Town.

Currently, the community enjoys the benefit of having two optional service providers for local traffic and transportation issues. The Town and the District. The District may provide roads and roadway maintenance upon petition of the landowners as follows:

- (1) The landowners possessing the easements to such road must petition in writing the board for dedication of the road, with those signing the petition agreeing to give the district their respective easements at no cost to the district, pursuant to policies established by the district.**
- (2) At least a simple majority of landowners on the road, on a per-acre basis, must petition the board to dedicate the road.**
- (3) The board of supervisors of the district shall then determine whether or not to accept such petition. If the board determines to accept the petition, the district will then project all estimated costs involved in planning, designing, and building the**

road or improving the existing road to meet specifications acceptable to the district, including therewith the cost of improving or replacing any culvert crossing or bridge that connects the road to be dedicated to an existing district road or roads, the cost of any eminent domain proceeding to obtain road easements from those landowners who did not sign the petition and to give the district their respective easements, the cost of establishing the special taxing unit, and any other costs anticipated to be incurred by the district as a result of any action involved with such dedication.

- (4) The estimated cost information shall then be provided to the affected landowners and a referendum shall be held among those landowners to create a special taxing unit, consisting of all of the benefited land contiguous to and inclusive of the road to be dedicated to cover such cost. Upon passage of the referendum by majority vote, on a per-acre basis, the district shall create a special taxing unit and levy assessments for the costs as set forth in paragraph (3).
- (5) The district shall then acquire by sale or through eminent domain, under chapters 73 and 74, Florida Statutes, as amended from time to time, the necessary easements and build the road or make the necessary improvements to the existing road to meet all district specifications.
- (6) Thereafter, the road shall be dedicated to the district and maintained by the district under its general maintenance assessment.

The Town provides road and roadway maintenance under more direct and more widely applied powers allowing for the Town to accept/acquire/construct any or all roads within the Town as determined by the Town Council to be in the best interests of the residents. Legal Counsel for the Town of Loxahatchee recently opined on such matters, excerpts of which follow:

"The Town, however, has the right, pursuant to Article VIII, Section 2(b) to exercise powers as follows:

Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law."

"In addition, Section 1(4) of the Town's Charter, adopted as Chapter 2006- 328, Laws of Florida provides as follows:

MUNICIPAL POWERS. - - The town shall be a body corporate and politic and shall have all available governmental , corporate, and proprietary powers of a municipality under the State Constitution and laws of the state, as fully and completely as though such powers were specifically enumerated in this charter, and may exercise them, except when prohibited by law."

Residents currently may petition the District for roadway improvement or maintenance subject to District procedures and a willingness to pay for such service. They may also ask the Town to provide services under a similar arrangement or if the proposed road improvement is part of a Town accepted roadway system (MREG), improvements may occur under the Town's existing funding sources.

Removing the existing option provided by the District has no apparent benefit although the Town may provide the same service using the same basis of selection and funding. Having a secondary source, in itself, doesn't indicate duplicative services as much as additional choices. The rural character of the area may require a range of roadway choices outside those typically provided by municipalities. The current inventory of roadways include dirt/gravel, OGEM and asphalt. The Town is currently studying the roadway system requirements and hopes to publish their findings in the near future. It is possible that the findings will show a stepped approach to roadways starting with simple dirt roads, with or without supportive drainage, followed by surface material inhibiting dust but allowing for rain to perk through (OGEM), followed by concrete or asphalt for heavily trafficked areas and up to the transportation corridors recognized in the surrounding urban areas.

With the District empowered to provide roadway improvements within the community, the Town may see some advantage in provision of a limited menu of roadway improvements and refer non-conforming roadway improvement requests to the District for consideration. Such a policy does not limit the power of either entity to build or maintain roadway improvements, it simply provides a standard operating policy easily understandable by the residents and administratively efficient for staff.

The process to implement Alternative #2 is identical to Alternative #1 unless the District consents to the limitations and submits their own bill requesting such authority be removed from their enabling legislation.

The benefit of this alternative is more vague than that small representation in Alternate #1. The sole source benefit to residents is not readily apparent, in fact, it appears that such actions could remove advantages the residents currently enjoy and which may be of benefit to the Town in service delivery policy. Since Alternative #2 appears to limit resident's options without indication of benefit through cost, process or governance it is not recommended at this time unless strong community support with evident benefit to the Town can be shown.

ALTERNATIVE #2

LIMITING THE ROLE OF THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT TO ITS ORIGINAL WATER MANAGEMENT AND DRAINAGE FUNCTIONS UNDER CHAPTER 298 AND HAVE IT REMAIN AN INDEPENDENT DISTRICT

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Costs are estimated to be high. Implementation would require major community support, special bill preparation and legislative action. Transition of existing roadway responsibilities, commitments, equipment and personnel will require considerable time and resources.

The expenses for Alternative #2 are similar to Alternative #1 with less return for implementation. The expectation is that the Town would resolve its roadway issues with the District by having the District remove itself from an overlapping responsibility.



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Personnel may change location, but the quantity of work remains the same. The data does not suggest that savings may be material through elimination of District positions and conversion to contract services. Therefore, staffing levels are projected to be equal to existing under Alternative #2.

The resident's costs are the sum of both the District and Town expenses. Relocating staff between the two doesn't indicate material savings to the residents. Efficiencies through elimination of staff position and conversion to contract services may be available but currently, the data reviewed does not support such a choice currently.



ALTERNATIVE #2

LIMITING THE ROLE OF THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT TO ITS ORIGINAL WATER MANAGEMENT AND DRAINAGE FUNCTIONS UNDER CHAPTER 298 AND HAVE IT REMAIN AN INDEPENDENT DISTRICT

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Similar to Alternative #1 this option streamlines the decision making process on roadway related improvements by removing any overlapping service responsibilities. Management costs may not be materially reduced since the workload will remain relatively constant. Efficiency may be gained if the working relationship hoped for in the incorporation concept deteriorates. At such time, alternatives #1 and #2 offer solutions although implementation of either option relies heavily on cooperation between the two entities to succeed.

To project any management cost savings assumes that the working relationship between the two Loxahatchee Groves local governments is functioning to the benefit of the residents which negates the need for change unless a working solution is not possible due to other constraints.



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Planning the services for the community currently requires the Town and the District to function in concert and mutual support to achieve the desired efficiency. With two separate independent boards, a foundational understanding of the service responsibilities is essential to responding to the needs of the community in a timely and efficient manner.

Currently, that foundation has not been established and thus Alternative #2 would provide a mechanism to perform the necessary planning of roadway related services subject to mutual acceptance by the two entities. Again, to reach the level where Alternative #2 is viable, a good working relationship must exist between the Town and the District to satisfy the legislative review. Existing options under such a good working relationship suggest that equal efficiencies may be gained through discussions internal to the community before externalizing the matter to the legislature.



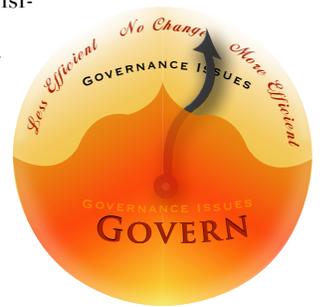
ALTERNATIVE #2

LIMITING THE ROLE OF THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT TO ITS ORIGINAL WATER MANAGEMENT AND DRAINAGE FUNCTIONS UNDER CHAPTER 298 AND HAVE IT REMAIN AN INDEPENDENT DISTRICT

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Removal of certain roadway functionality of the District would redirect such services solely to the Town resulting in a sole source response to residents. The District's governance responsibilities would decrease slightly and the Town's would increase in like manner. The net result to residents would not result in any perceived reduction in costs but would provide an efficient response as the sole provider of such services.

Loxahatchee Groves is governed by a heavy reliance on the community's voice in directing such actions as suggested in Alternative #2. Implementing this option would require material support from the public. Bringing the matter to the public for discussion and consideration may provide the data for assessing the impact to governance.



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Alternative #2 requires legislative action, community support and a working relationship between the Town and District. Costs to implement are high as this alternative externalizes the solution. Should the public respond favorably, implementation would result in a special bill submittal for the following legislative schedule. If approved, the budgets of both entities would be amended, staff, equipment and responsibility issues transitioned. The timeline is projected to be between one and two years.

Based on the expectation of high costs and lengthy time frames to implement, it is recommended that Alternative #2 go through extensive public discussion before formalizing such a response to the current need.

Alternative #3 Not make any changes in the respective authority of the Town of Loxahatchee Groves and the Loxahatchee Groves Water Control District

Maintaining the existing capabilities of the Town of Loxahatchee Groves and the Loxahatchee Water Control District provides no loss to the residents and all the capabilities to consider innovate service delivery options in the future.

The current challenge of ascertaining service delivery direction, funding and daily responsiveness may move forward tentatively for the near-term without loss of revenue, options or the necessity of redundant or corrective programs. Alternative #3 does not provide an answer to the current issue of provision of roadway improvement services but doesn't close any doors on the possibilities either.

This report envisions all alternatives being presented to the public, the report disseminated, discussion, questions and concerns which are anticipated to result in a clear indication of the preferred solution. Should a preference not arise from such public discussions, Alternative #3 would be followed by default allowing for future consideration of other alternatives which may be developed.

An additional allure of Alternative #3 is that no action is required. We are in fiscally unstable times. Prudence may be the better path before spending material funds for limited return. The current fiscal instability dictates that efficiencies in the provision of service delivery are no longer a goal but rather a necessity. Should the residents reject the other alternatives, this option may provide the most appropriate action with the caveat that selection of this alternative does not satisfy the need for fiscal efficiencies and additional choices must be developed.

ALTERNATIVE #3

NOT MAKE ANY CHANGES IN THE RESPECTIVE AUTHORITY OF THE TOWN OF LOXAHATCHEE GROVES AND THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT

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Under this alternative, no change to the existing costs of either entity are projected to change. With no change, the issue of maximizing the effectiveness of roadway related improvement funding through a partnership between the Town and the District will not be pursued and the Town will utilize such revenues as best benefit the residents through the sole structure of the Town.

Future options regarding any efficiencies that may be obtained through partnership or in cooperation with the District may be taken advantage of as deemed appropriate by both parties. The expectations expressed in the incorporation effort may still be achieved through continued efforts by the Town and District to reach a mutually acceptable and working solution.



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Alternative #3 presumes roadway related services will be implemented by the Town and not through utilizing the District as a public works mechanism. Under this scenario, the Town will either contract such services or deliver same through in-house personnel or a combination of both. Initially, there may be an increase in total staff employed by both entities but would be expected to balance out over the next year or two as adjustments are made to reflect the actual workload needs of the Town and the District.

Overall, no change is projected under this option although the expectation of efficiencies to be gained by utilizing the District as a public works mechanism will have to wait for future considerations.



ALTERNATIVE #3

NOT MAKE ANY CHANGES IN THE RESPECTIVE AUTHORITY OF THE TOWN OF LOXAHATCHEE GROVES AND THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT

M a n a g e

Management costs are not projected to materially change under this option until or unless the implementation of the roadway related improvements materially expand the existing management structure where increased costs may be incurred.

For the purposes of our evaluation, the costs associated with management are assumed to balance between the two entities with the associated workload resulting in no change to resident's current expenses in total. The scope of this analysis does not provide enough data to evaluate to what degree the balance may be effected by either entity.

Should it become necessary to implement in-house personnel for service provision, increased management costs should be expected and would result in this option increasing expenses to residents unless a reduction in costs, in like manner, from the District can be achieved.



P l a n

Planning services will transition from what was intended by incorporation to an in-house policy, simplifying the process and responsibilities under the sole direction of the Town. No reduction in service planning is anticipated through this alternative as the Town and the District will still have the same level of duties, services and responsibilities in total with only slight adjustments being required.

Rather than seeking consensus between the Town and the District, the Town would assume a superior position for roadway related improvements while trying to recognize the District's drainage needs and any associated roadway service responsibilities.

Funds received by the Town would be allocated at their direction to meet their service delivery plan as it develops over time.



ALTERNATIVE #3

NOT MAKE ANY CHANGES IN THE RESPECTIVE AUTHORITY OF THE TOWN OF LOXAHATCHEE GROVES AND THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT

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Governance issues are not projected to materially change under this option. It would be expected that the Town would assume the major responsibility of providing roadway related improvements within the community and the associated governance process increase within existing policies and public hearing events.

Cooperative discussions with the District would not be required but may be beneficial for future efficiencies in partnered service delivery. Resident opinions and discussions are expected to guide such future efforts of both the Town and District.

This analysis of alternatives is intended to provide the basic consideration for such public discussions to direct the Town in the near term.



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The status quo offers no gains nor losses while maintaining all options for future efficiencies if an innovation for producing savings does not currently appear feasible. One of the major fundamentals of management is “When in doubt, do nothing.” Good management does not necessarily require change.

The expectations of the incorporation and the residents may still develop if a path is not ready today. Keeping your options open for future benefit represents a strong position as long as the existing service delivery responsibilities do not require long term commitments which may limit what future options may be considered.

If a clear path for efficient service delivery going forward is not apparent and the residents give no clear support of the other alternatives, this choice, clearly has benefit in the maintenance of future options.

Alternative #4 Establish a committee comprised of one Board member and one Administrator from both the Town and District to Stand in Service to Meet the Charter Intent in Developing Service Delivery

The intent of the residents stated throughout the incorporation reports was that the establishment of the Town intended to protect and preserve the community. The new Town was to make the most efficient use of the existing drainage district service capabilities before creating duplicative systems. Any modifications necessary for the existing District to answer such a request were expected to be implemented by whatever required changes to their legislative act were required to provide the residents with the best solution.

The Town has captured the local option gas tax revenue targeted for roadway improvement service delivery and traffic and transportation comprehensive plan elements. The District has the capability to implement construction and maintenance activities. What is lacking is the mechanism for such restricted revenues to be transferred from the Town to the District within the confines of statutory limitations and the County and League of Cities inter-local agreement. Further, the accountability to residents on daily roadway issues must be defined so that each authority (Town and District) may be responsive to their constituency.

The intent is clear, bring fiscal efficiency to the benefit of the residents. Statutory limitations, the inter-local agreement and daily accountability to the residents were not intended to conflict with this intent. Developing the appropriate vehicle to accomplish the desired goal may just require further discussion. The Town has the funds, the District has the capability. Both wish to serve the residents to the highest fiscal efficiency.

Notwithstanding the observation stated above, there are real concerns over the practical implementation of such a system. What are the limitations on the use of such funds? What percentage should be allocated to which entity for what purpose? What day to day responsibilities does such an allocation represent? Are there capabilities for misappropriations and under which entity's standards will such a determination be made? Under what procedure may corrective actions or accountability be pursued?

The Town has captured the funds intended to provide the residents with an improved roadway construction and maintenance program. The Town has a fiduciary responsibility to ensure that all funds expended return benefit to the residents. Any and all funds of the Town expended towards or through the District must represent a clear and valid public purpose. The Town has further obligations to execute the comprehensive plan elements of traffic and transportation in a straightforward diligent manner.

The District must remain within the strict confines of their enabling legislation regardless of the funding source. Additionally, the District has decades of prior roadway improvements and practices which must be honored. Concurrent with such restrictions and covenants lies the District's base service of drainage and the need to access all improvements at any time, under any condition, as the primary and the top priority use of all existing roadway accesses.

The intent is clear. The obstacles understood. The committee's task will be to mitigate the obstacles and meet the intent.

ALTERNATIVE #4

ESTABLISH A COMMITTEE COMPRISED OF ONE BOARD MEMBER AND ONE ADMINISTRATOR FROM BOTH THE TOWN AND DISTRICT TO STAND IN SERVICE TO MEET THE CHARTER INTENT IN DEVELOPING SERVICE DELIVERY

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Costs are projected to be minimal consisting of meeting costs and associated staff and professional fees that may be required. There may be additional costs associated with the resulting solution, but those must be compared to any benefit received.

More time will be required of staff and participating Board members. Such meetings may be publicly noticed for resident input and will incur expenses. Professional fees for engineering firms, legal and consulting services may also be required.

The funding source may be from available funds of the Town (subject to Board approval) without increased costs to the residents.



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Additional staff time will be required although it is not anticipated that any new full or part-time positions will be created. Professionals currently serving either entity may be called for duties by the committee but are expected to be approved before use by the entity (Town or District) which may be requested to provide such services. Typically, this would be a consideration to provide such service for a not to exceed number without further approvals being required. In such manner, the committee may be held to minimal expenditure and maximum production.

Staffing for public discussion and consideration may be required and is anticipated once development of new options has been developed to that stage. Such use is projected to utilize existing staff on an as needed basis.



ALTERNATIVE #4

ESTABLISH A COMMITTEE COMPRISED OF ONE BOARD MEMBER AND ONE ADMINISTRATOR FROM BOTH THE TOWN AND DISTRICT TO STAND IN SERVICE TO MEET THE CHARTER INTENT IN DEVELOPING SERVICE DELIVERY

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The formation of an advisory committee is expected to increase the manager's responsibilities but does not project additional costs. Management serves at the pleasure of the Board and is expected to participate in such activity without additional expenditures.

The logistics of the committee and the anticipation of holding several public meetings may require funding minor commodities supporting such functions but is not expected to exceed the available funds already budgeted for such purposes of the Town and District.

It may be requested by the committee that their evaluation requires additional funding. Such requests may be considered by either or both entities and funded when or if deemed appropriate. For the purposes of this report, it is projected that the management costs will be minor.



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Awaiting the results of the committee will be services planning in regards to the issue under consideration. Other than inactivity, based on an optimism over the possibilities, will planning services be impacted.

All other related duties of planning services may be carried forward to their conclusion although the committee may be charged with additional review responsibilities in the future. Such continuation of service by the committee is expected to be at the pleasure and direction of both Boards.



ALTERNATIVE #4

ESTABLISH A COMMITTEE COMPRISED OF ONE BOARD MEMBER AND ONE ADMINISTRATOR FROM BOTH THE TOWN AND DISTRICT TO STAND IN SERVICE TO MEET THE CHARTER INTENT IN DEVELOPING SERVICE DELIVERY

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A committee formation is a routine tool available to all local governments and is typically appointed by the presiding officer of any Board participating within. Any recommendation from the committee may be considered by participating entities and accepted, rejected, returned or modified as the Board may deem meets the needs of the community.

No additional governance, other than such normally accepted practices, are anticipated under *Alternative #4*.

Any increased governance within a committee recommendation should be analyzed to the benefit received. For the purposes of this report, governance issues are projected to remain at current levels.



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Alternative #4 provides a path to a possible solution without undue costs and does not prohibit future consideration of any of the other alternatives. Implementation time is projected to be minimal and will not require legislation or local commitment by the Town or District.

While the issue does require prompt attention, the data suggests there is sufficient time available to pursue such actions without jeopardy. As with all other alternatives, it is recommended that public consideration weigh heavily on the alternative selection.

Alternative #4 is not as quantifiable as those before but may represent a cost effective and appropriate response to the issues at hand. This option is provided not by request but as the nucleus for continued discussions between the two entities for the benefit of the residents.



Summary

Loxahatchee Groves has an unfaltering practice and acceptance of the power of each residents voice. The pros and cons of the alternatives are anticipated to be vetted through a public discussion process capable of providing the Town with an acceptable confidence level in proceeding forward with service delivery for roadway related improvements. Resident comments, concerns and direction is anticipated as this fundamental report evolves over time into a singular policy directive for the Town to pursue to the satisfaction of the community.

As this report is disseminated to the residents, participation by the Loxahatchee Groves Water Control District should be encouraged as their input will be integral to a sustainable solution.

Alternatives #1 and #2 require lengthy time frames to implement. Should the public discussion process favor either, consideration to a crossover policy may be helpful in addressing the near-term issues. Alternatives, #3 and #4 do not require lengthy timeframes to implement but will need interim policies as well since both rely on development of an in-house solution to the service delivery of roadway related improvements.

The long term issues facing Loxahatchee Groves, while somewhat unknown, are anticipated to include similar issues of concern as the pressure to change the rural character of the community is not expected to decrease. It is anticipated that preserving and protecting the unique character of Loxahatchee Groves will continue to be a daunting challenge, a challenge which requires that the Town and District develop an efficient and reliable mechanism for meeting the forces put upon the community by the surrounding population which may not always place the same value on the “unique character” of Loxahatchee Groves.

The incorporation of the Town of Loxahatchee Groves did not anticipate material changes in growth or population. To the contrary, the Town incorporated to maintain the rural character, as stated in the Town Charter as follows: ***It is intended that this charter and the incorporation of the Loxahatchee Groves area will serve to preserve and protect the distinctive rural characteristics of the community, such as low density, minimal lot coverage, substantial open spaces, agricultural and nursery interests, and rural habitats, and to acknowledge its close ties to the agriculture and equestrian industries within the boundaries of the town.***

With this goal accepted as foundational to Loxahatchee Groves, projections of future need based on typical Florida growth would be inappropriate. The Town is currently undertaken several long term studies to evaluate the roadway related service delivery needs as well as others. This report will not attempt to derail such important evaluations by inserting a default set of criterion. Instead, it is recommended that the residents evaluate their options and this report based upon their current needs, concerns and direction.

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ANNUAL LEGAL STATUS REPORT

DATE: June 20, 2008

TO: Board of Supervisors
Loxahatchee Groves Water Control District

FROM: Caldwell & Pacetti

The following is a summary of the matters which have been handled by this office over the past year:

1. Town of Loxahatchee Groves Interlocal Agreement/Gas Tax Revenues: The Town of Loxahatchee Groves has raised the issue that a municipality receives its portion of gas tax revenue distributed pursuant to the ILA between the County and the cities according to a formula based on the number of lane miles which the municipality is responsible to maintain. The Town's position is that the current ILA is not consistent with the County's Interlocal Agreement with the League of Cities. The League of Cities questioned the Town's ability to qualify for the revenue based on language in the ILA. The Town and the League suggested terminating the 2007 ILA and having the Town and the District negotiate a new agreement. At the June 3, 2008 meeting, the Town Council adopted a Resolution confirming its acceptance of gas tax revenue and requesting staff to meet with District representatives to address the League's concerns regarding the existing ILA. At a June 5, 2008 meeting between Town and District staff, including District legal counsel attending by conference call, a revised ILA was discussed and a preliminary draft reviewed. A proposed replacement ILA, containing changes to clarify the District's position regarding use of the Town's gas tax revenue for road maintenance and capital improvements, was distributed to the Town, and the District. The proposed ILA was presented to the Board for its consideration at the June 9, 2008 meeting. The Board deferred action at that meeting to address the comments raised. The Town has since provided the District with Notice of Termination of the existing ILA. The District is in the process of addressing an alternative to the Town.
2. Grove Medical Plaza: We reviewed the agreement between the District and the Groves' Medical Plaza for funding of paving of a portion of "F" Road. On May 1, 2008, we were informed by the developer's representatives that the prospective tenants have decided not to proceed with the project. The property owner is uncertain when the construction of the project will begin and cannot commit to funding "F"

- Road until such time when construction begins. The project is subject to a County zoning condition requiring the developer to construct or fund a portion of "F" Road prior to issuance of a Certificate of Occupancy.
3. Compton Road Right-of-Way Easement. We prepared the Department of Revenue Forms (DR-219s) for the recording of the Compton Road Right-of-Way Easements with the Palm Beach County Clerk's Office. All executed easements have been received, recorded and have been provided to the District.
 4. Canal Maintenance Easement Form: We revised the District's Canal Maintenance Easement form.
 5. Equipment Purchases:
 - (A) The John Deere Tractor Lease Purchase Agreement with the District was completed.
 - (B) Lease/Purchase documents for the Radio Telemetry System Upgrade.
 - (C) Lease/Purchase documents for the new Water Truck.
 6. Non-Ad Valorem Assessment Roll: We attended the Non-Ad Valorem Assessment Meeting regarding the District's Assessment Roll. We coordinated with the District regarding the District's Non-Ad Valorem Assessment Roll Procedure.
 7. We attended the June 25, 2007 Landowners' Meeting and advised regarding the procedure for election of supervisors.
 8. We coordinated with District regarding administrative and personnel issues.
 9. We addressed the non-applicability of the Mechanic's Lien Statute to the District.
 10. We finalized review of the Interlocal Agreement with the Town of Loxahatchee Groves regarding traffic signage.
 11. We coordinated with the District Administrator regarding Culvert Crossing/Unit of Development No. 1.
 12. We provided legal counsel for the deposition of the District Manager in conjunction with third party litigation.
 13. We coordinated with the District regarding a Variance Request from Palm Beach County Water Utilities.
 14. We recorded a landowner drainage permit.
 15. We addressed a landowner trespass issue.
 16. We also coordinated various additional matters:

- a. SFWMD/Variance application.
- b. April/Water conservation.
- c. Palm Beach County Unified Local Mitigation Status.
- d. Uniform Drainage Culvert Standards.
- e. Public records issues/surveillance.
- f. Auditor services renewal.

LOXAHATCHEE GROVES WATER CONTROL DISTRICT
DISTRICT ENGINEER'S ANNUAL REPORT
JUNE 2007 - MAY 2008

AUTHORITY AND RESPONSIBILITIES:

The Loxahatchee Groves Water Control District (District) is responsible for drainage, flood control and protection, water management and reclamation of lands, and road maintenance and improvements within its boundaries. The District's boundaries extend from 162nd Drive North to Folsom Road and from Southern Boulevard (SR 80) to one-half mile north of North Road. Pursuant to Florida Statutes Chapter 298, its Water Control Plan and enabling legislation, Chapters 99-425 and 2004-410, Laws of Florida, the District owns, constructs, operates and maintains the works of the District, regulates their use by others, contracts for the construction, operation and maintenance of the works of the District by others and controls, condemns or otherwise acquires lands. Works of the District include public rights-of-way for canals and roads within the District's benefitted area, levees, gated water control structures and pumping stations.

INTERGOVERNMENTAL RELATIONS:

The recently incorporated Town of Loxahatchee Groves and the District remain separate governmental entities. Service delivery to the landowners within their overlapping boundaries is not duplicated. The District continues to provide storm drainage, road maintenance and road improvement services. The Town is responsible for those services formerly provided by Palm Beach County prior to incorporation such as land use planning, zoning, and building regulation, code enforcement, traffic control regulations, and police protection. The District and Town governments complement one another and are anticipated to continue working together as described in the Town's Charter well into the future.

The District has cultivated a network of close relationships with Federal, State, and Local government agencies over the last several years, including Palm Beach County Engineering, Palm Beach County Water Utilities Department, Palm Beach County Parks and Recreation Department, the United States Department of Agriculture, and the Federal Emergency Management Agency. Several millions of dollars in revenue have been received from these various agencies to offset significant increases in the District's maintenance assessment while also enabling it to fund special projects that otherwise would have been impossible to achieve. These projects have added value to the District's service delivery and benefitted many landowners through increased property values. These projects and their respective funding amounts are summarized below:

Shellrock Placed on 38 miles of District and non-District roads	\$900,000.00
Open Grade Emulsion (OGEM) stabilizing 4.5 miles of road surface	\$640,000.00
Dust Abatement on 29 miles of unpaved road surface	\$90,000.00
New road maintenance equipment	\$60,000.00
Equestrian trails along 4 miles of District right-of-way	\$90,000.00
Hurricane mitigation and improvements projects	\$400,000.00
<u>North Road Canal Improvements</u>	<u>\$1,700,000.00</u>
TOTAL VALUE-ADDED PROJECT FUNDING	\$3,880,000.00

Looking toward the future, the Town of Loxahatchee Groves has indicated it will receive as much as \$200,000.00 in shared gas tax revenues next fiscal year. The District anticipates receiving this revenue from the Town for the 2008-2009 budget year to fund a portion of the District's statutory road maintenance obligation.

CANAL MAINTENANCE AND IMPROVEMENTS:

The District established a rotational Canal Maintenance and Drainage Improvement Plan in 1998 that has allocated funding for the creation and restoration of the District's canal system. This year, the District initiated the cleaning and reshaping of North Road Canal from "A" Road Canal to "E" Road Canal through an interlocal agreement with Palm Beach County. Work included the removal of all encroaching vegetation, dredging and removal of several feet of silt from the canal section. This effort has increased subbasin drainage capacity which translates into greater flood protection and higher property values for the benefitted landowners.

The North Road Canal improvements have been and continue to be funded and administered by the Palm Beach County Water Utilities Department in conjunction with their North Region Utility Improvement Project. The project was delayed for more than nine months due to County budget constraints and legal issues with the utility contractor. This work including the replacement of nine (9) failing bridges, thirty (30) landowner drainage culverts, roadway improvements (new shell rock), and an equestrian trail, should commence with a new contractor on June 25, 2008 and be completed by January 2009. Total "value-added" services to the District's landowners will exceed \$1.5 million. To understand and appreciate the significance of this large revenue source, the amount exceeds the District's entire road and canal systems maintenance budgets for next fiscal year.

Unlike the 2004 and 2005 hurricane seasons, the South Florida region has experienced relatively little tropical storm activity for the last two years. Unfortunately, the region has also experienced significant drought conditions where rainfall has been less than average. A condition that could be mitigated with above average rainfalls typically associated with tropical storm systems.

Drought conditions continued throughout the past year. The South Florida Water Management District (SFWMD) issued emergency orders on December 13, 2007 affecting all diversion and impoundment permittees, including the District, requiring a 50% reduction in water allocated from the C-51 Canal. In response, the District filed and received approval from SFWMD for a variance from the imposed restrictions shortly after the water restriction order was issued. The approved variance application allowed the District to pump 50% more than the restricted amount (75% of the District's permitted allocation) on the basis of maintaining sufficient canal water surface levels to provide life-sustaining fire protection source water for the Loxahatchee Groves community.

ROAD MAINTENANCE AND IMPROVEMENTS:

The District placed 4,700 tons of new base rock on North Road from "A" Road to "E" Road (2.0 miles) in August 2007. The total cost for this project was \$78,700.00 and reflects an increase in material and hauling costs of over 15% from last year's road improvement project. The Board of

Supervisors entered into an interlocal agreement with Palm Beach County Water Utilities Department that provided the funding for these improvements and other transportation-related expenditures. This value-added revenue source is just one example of many other windfalls that the District has obtained to offset projected shortfalls in its annual road maintenance and improvement budget for the last five years.

Interlocal agreements between the County and District provided \$539,000.00 in funding for four road stabilization projects. Open Graded Emulsified Mix (OGEM) stabilization is a cold-mix process that blends 3/4" gravel with a coal-tar epoxy and produces a road surface similar in appearance and surface texture as hot-mix asphalt. Marcella Boulevard, Compton Road, "F" Road (north of Okeechobee Boulevard) and "F" Road (south of Okeechobee Boulevard) were all stabilized with OGEM. Product performance, related maintenance requirement, and costs are currently being evaluated. Four other District road sections may be scheduled for OGEM stabilization in response to road improvement petitions submitted by affected landowners. These petitions were received by the Board of Supervisors who then directed Staff to send survey letters with estimated costs for OGEM stabilization to the affected landowners to determine their interest in paying for the improvements. Should a majority of landowners respond favorably to paying for the improvements to be constructed, the Board of Supervisors may then arrange for the creation of a special taxing district to be formed through the District's referendum process.

General maintenance to all District roads, including the placement of specified base material occurred throughout the year. Total base rock purchased by the District and placed on District rights-of-way this year (excluding the North Road Project) was 5,800 tons. District Staff also provided weekly road maintenance service on all District roads equivalent to over 3,200 miles of road surface being graded and watered last year.

Throughout the past year, all District roads were cleared of encroaching vegetation. District Staff continues to provide this work internally; thus, saving the District several thousands of dollars annually by not contracting with an outside entity.

OTHER DEVELOPMENTS:

Although drought conditions restricted permitted water use allocation last year, the District still pumped 722.2 million gallons of water from the C-51 Canal to replenish District canal levels this year. The District's water use permit from the South Florida Water Management District allows an annual maximum allocation of 1.474 billion gallons of water. Conversely, the District received and managed over 76.9 inches of rainfall during the year. The total annual rainfall amount equates to 16.7 billion gallons of water; enough water to provide a year's supply of drinking water for over 140,000 Palm Beach County homes. This volume represents an increase in recorded rainfall over the previous year of 44%.

The District's revised and updated Public Facilities Report for 2008 was prepared and submitted to Palm Beach County as required, per Section 189.415, Florida Statutes.

This year there were a total of one (1) drainage connection permits, one (1) bridge culvert permit (time extension), and two (2) right-of-way utility permits issued by the District. There were also two (2) courtesy grading petitions received and filed by the Board of Supervisors.

For the fourth year in a row, the District received two awards of excellence for “Vehicle Safety” and “Worker Safety” from the Palm Beach County Safety Council. The dedication and teamwork of the District’s employees and their commitment to adhering to the District’s safety policies and procedures is directly attributable to having incurred zero accidents and zero injuries for the last four years.

Respectfully submitted,
LOXAHATCHEE GROVES WATER CONTROL DISTRICT

A handwritten signature in cursive script, appearing to read "C. Saunier".

Clete J. Saunier, P.E.
District Engineer

CJS/lrb

House Bill No. 951

An act relating to Palm Beach County; creating the Town of Loxahatchee Groves; providing a charter; providing legislative intent; providing a council-manager form of government; providing boundaries; providing municipal powers; providing for a town council; providing for membership, qualifications, terms, powers, and duties of its members, including the mayor; providing for a vice mayor; providing general powers and duties; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for compensation and expenses; providing for appointment of charter officers, including a town manager and town attorney; providing for removal, compensation, and filling of vacancies; providing qualifications, powers, and duties; providing for meetings; providing for adoption, distribution, and recording of technical codes; providing for recordkeeping; providing a limitation upon employment of council members; prohibiting certain interference with town employees; establishing the fiscal year; providing for adoption of annual budget and appropriations; providing for supplemental, reduction, and transfer of appropriations; providing for limitations; providing for referendum requirements for revenue bonds and other multiyear contracts; providing for financial audit; providing for nonpartisan elections and matters relative thereto; providing for recall; providing for initiative and referenda; providing for future amendments of the charter; providing for standards of conduct in office; providing for severability; providing for a personnel system; providing for charitable contributions; providing for land use changes; providing the town a transitional schedule and procedures for first election; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and local development regulations; providing for sharing of communications services tax; providing for accelerated entitlement to state-shared revenues; providing for receipt and distribution of gas tax revenues; providing for continuation of the Palm Beach County Fire Rescue Municipal Service Taxing Unit; providing for law enforcement; providing for continuation of the Palm Beach County Library District; providing for dissolution of the Palm Beach County Municipal Service Taxing Unit B and dissolution of the Palm Beach County Municipal Service Taxing Unit F; providing for continuation of the Loxahatchee Groves Water Control District; providing for continuation of Loxahatchee Groves Park; repealing s. 6 of s. 2 of chapter 99-425, Laws of Florida, relating to a restriction on annexation of the Loxahatchee Groves Water Control District; providing for waivers; requiring a referendum; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Charter; creation; form of government; boundaries and powers.—

(1) CHARTER; CREATION.—

(a) This act, together with any future amendments thereto, may be known as the “Charter of the Town of Loxahatchee Groves” (the “charter”), and the Town of Loxahatchee Groves (the “town”) is hereby created.

(b) The Loxahatchee Groves area in Palm Beach County includes a compact and contiguous rural community of approximately 3,120 persons who are experiencing certain impacts, such as the destruction of rural habitats and the threat to equestrian, farming, and nursery businesses, resulting from urbanization in the surrounding areas. The residents within the town would like to control the effects of those impacts through the incorporation of the town and its continued existence as a historic, rural community with the benefits of self-determination.

(c) It is in the best interests of the public health, safety, and welfare of the residents of the Loxahatchee Groves area to form a separate municipality for the Loxahatchee Groves area with all the powers and authority necessary to provide adequate and efficient municipal services to its residents.

(d) It is intended that this charter and the incorporation of the Loxahatchee Groves area will serve to preserve and protect the distinctive rural characteristics of the community, such as low density, minimal lot coverage, substantial open spaces, agricultural and nursery interests, and rural habitats, and to acknowledge its close ties to the agriculture and equestrian industries within the boundaries of the town.

(e) It is the intent of this charter and the incorporation of the town to secure the benefits of self-determination and affirm the values of representative democracy, citizen participation, strong community leadership, professional management, and regional cooperation.

(2) FORM OF GOVERNMENT.—The town shall have a council-manager form of government.

(3)(a) CORPORATE BOUNDARIES.—The corporate boundaries of the Town of Loxahatchee Groves shall be as described as follows:

That portion of Loxahatchee Sub-Drainage District, Township 43 South, Range 41 East and Range 40 East, Palm Beach County, Florida, being more particularly described as follows:

Beginning at the Northwest corner of Section Eighteen (18) in Township Forty-three (43) South, Range Forty-one (41) East, Palm Beach County, Florida, and run thence along the North line of Section Eighteen (18) and Seventeen (17) of said Township to the Northeast corner of Section Seventeen (17) in said Township and Range; thence run South along the Eastern boundary of Section Seventeen (17) to the Southeast corner of said Section;

Thence run East along the Northern boundary of Section Twenty-one (21) and of Section Twenty-two (22) to the Northeast corner of the Northwest quarter of the said Section Twenty-two (22); Thence run South

along the East line of the Northwest quarter of said Section Twenty-two (22) to the Southeast corner of said Northwest quarter of said Section; Thence run West along the South line of the Southeast quarter of Northwest quarter of said Section Twenty-two (22) to the Southwest corner of said Southeast quarter of Northwest quarter of said Section; Thence run South along the East line of the West half of the Southwest quarter of Section Twenty-two (22) and of the West half of West half of Section Twenty-seven (27) and of the West half of West half of Section Thirty-four (34) to the North Right of Way line of State Road 80, in Section Thirty-four (34); Thence West along the Northern edge of the North Right of Way line of State Road 80, across the West half of West half of Section Thirty-four (34) and across Section Thirty-three (33), Thirty-two (32), and Thirty-one (31) in said Township to the point where the range line dividing ranges Forty (40) and Forty-one (41) East intersects said North Right of Way line of State Road 80;

Thence North along the West line of Sections Thirty-one (31), Thirty (30), Nineteen (19) and Eighteen (18) to the Point of Beginning, embracing approximately Six Thousand Nine Hundred Thirty five and $\frac{56}{100}$ (6,935.56) acres.

Said lands lying within the above described boundary lines are described more particularly as follow, to wit:

All of Section Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20), and Twenty-one (21) and the Northwest quarter and West half of Southwest quarter of Section Twenty-two (22); and West half of West half of Section Twenty-seven (27); and all Section Twenty-eight (28), Twenty-nine (29) and Thirty (30) and all of Section Thirty-one (31) North of North Right of Way line of State Road 80; and all of Section Thirty-three (32) North of North Right of Way line of State Road 80; and all of Section Thirty-three (33) North of North Right of Way line of State Road 80; and all of the West half of West half of Section Thirty-four (34) North of North Right of Way line of State Road 80; all in Township Forty-three (43) South Range Forty-one (41) East, all of said lands being situate in Palm Beach County, State of Florida, according to the United States official surveys of said lands.

TOGETHER WITH

The South $\frac{1}{2}$ of Sections 7 and 8, T43S, R41E.

The South $\frac{1}{2}$ of the East $\frac{1}{4}$ of Section 12, The East $\frac{1}{4}$ of Sections 13, 24, 25, T43S, R40E, and that part of the East $\frac{1}{4}$ of Section 36, T43S, R40E, lying North of the North Right of Way of S.R. 80, all in Palm Beach County, Florida, containing 1320 acres, more or less.

LESS AND EXCEPT The All or Nothing Legislation Parcel as described in Senate Bill No. 2616, Laws of Florida, Chapter 99-425, formerly known as The Palms West Hospital property

A parcel bounded by Southern Boulevard (S.R. 80) on the South, the Southern boundary of the drainage/road Right of Way known as collect-

ing canal on the North, Folsom/Crestwood of the East, and the Western boundary of The All or Nothing Legislation Parcel as described in Senate Bill No. 2616, Laws of Florida, Chapter 99-425 on the west, said parcel being more particularly described as follows:

A parcel of land located in the County of Palm Beach, State of Florida, to wit:

The point of beginning being the intersection of the Easterly line of Lot 4, Block K, Loxahatchee District, according to the plat thereof on file in the Office of the Clerk of the Circuit Court recorded in Plat Book 7, Page 81, of the Public Records of Palm Beach County, Florida, and the Southerly boundary of the "Collecting Canal" as shown on the Replat of Loxahatchee Groves Subdivision according to the Plat thereof, recorded in Plat Book 12, Page 29, of the Public Records of Palm Beach County, Florida; Thence Easterly along said Southerly boundary of the "Collecting Canal" to the Easterly boundary of said Replat of Loxahatchee Groves; Thence South along said Easterly boundary line of the Replat of Loxahatchee Groves to the North Right of Way line of State Road 80; Thence Westerly along said Northerly Right of Way line of State Road 80 to the Easterly line of Lot 4, Block K, Loxahatchee District;

Thence Northerly along said Easterly line of Lot 4 to the Point of Beginning, and

A portion of Lot 4, Block "K," Loxahatchee District subdivision, according to the map or plat thereof as recorded in Plat Book 7, page 81, public records, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the northeast corner of said lot 4; thence, south 02°16'42" west, along the east line of said lot 4, a distance of 834.00 feet for a point of beginning.

Thence, continue south 02°16'42" west along said east line, a distance of 1221.92 feet, more or less, to the intersection thereof with the north right-of-way line of State Road No. 80 as recorded in official records book 12372, page 468, said public records; thence, north 88°08'61" west, departing said east line and along said north right-of-way line, a distance of 260.20 feet; thence, north 02°16'46" east, departing said right-of-way line, a distance of 80.00 feet; thence, north 88°08'51" west, a distance of 248.59 feet; thence, north 02°16'46" east, a distance of 321.11; thence, north 88°08'51" west, a distance of 275.01 feet, more or less, to the intersection thereof with the west line of said lot 4; thence, north 02°16'46" east, along said west line, a distance of 806.33 feet; thence, south 89°12'21" east, departing said west line and along the south line of the north 834.00 feet of said lot 4, as measured along the east and west lines of said lot 4, a distance of 784.02 feet to the point of beginning.

Containing: 18.867 acres, more or less.

(b) The town shall not annex that area now known as Callery-Judge Groves, generally described as that area of land bounded on the north by M

canal, on the south by the northern border of the town, on the east by 140th, and on the west by M canal.

(4) MUNICIPAL POWERS.—The town shall be a body corporate and politic and shall have all available governmental, corporate, and proprietary powers of a municipality under the State Constitution and laws of the state, as fully and completely as though such powers were specifically enumerated in this charter, and may exercise them, except when prohibited by law. Through the adoption of this charter, it is the intent of the electors of the town that the municipal government established herein have the broadest exercise of home rule powers permitted under the State Constitution and laws of the state. This charter and the powers of the town shall be construed liberally in favor of the town. It is recognized that certain services within the municipal boundaries are provided by independent special districts created by special acts of the Legislature and by Palm Beach County.

Section 2. Council; mayor and vice mayor.—

(1) TOWN COUNCIL.—There shall be a five-member town council (“council”) vested with all legislative powers of the town, consisting of five members (“council members”), each elected from and representing the town at large. Unless otherwise stated within this charter, all charter powers shall be exercised by the council.

(2) THE MAYOR; POWERS AND DUTIES.—

(a) The council, at its first regular meeting after the fourth Tuesday of each March, shall elect from its members a mayor who shall serve for a period of 1 year and who shall have the same legislative powers and duties as any other council member, except as provided herein.

(b) In addition to carrying out the regular duties of a council member, the mayor shall preside at the meetings of the council and shall be recognized as the head of town government for service of process, ceremonial matters, and the signature or execution of ordinances, contracts, deeds, bonds, and other instruments and documents and for purposes of military law. The mayor shall also serve as the ceremonial head of the town and the town official designated to represent the town when dealing with other entities. The mayor shall have no administrative duties other than those necessary to accomplish these actions, or such other actions as may be authorized by the town council, consistent with general or special law.

(3) THE VICE MAYOR.—

(a) The council, at its first regular meeting after the fourth Tuesday of each March, shall elect from its members a vice mayor who shall serve for a period of 1 year and who shall have the same legislative powers and duties while serving as any other council member.

(b) The vice mayor shall serve as acting mayor during the absence or disability of the mayor. In the absence of the mayor and the vice mayor, the remaining council members shall select a council member to serve as acting mayor.

Section 3. Election and terms of office.—

(1) TERM OF OFFICE.—Each council member shall be elected at large for a 3-year term by the electors of the town in the manner provided herein. Council members shall be sworn into office at the first regularly scheduled meeting following their election. Each council member shall remain in office until his or her successor is elected and assumes the duties of the position.

(2) SEATS.—The town council shall be divided into five separate council seats to be designated as seats 1, 2, 3, 4, and 5, to be voted on townwide, with each qualified elector entitled to vote for one candidate for each seat.

(3) QUALIFICATION.—Candidates for each council seat must qualify for council elections by seat in accordance with applicable general law, and the council members elected to those seats shall hold the seats 1 through 5, respectively. To qualify for office:

(a) Filing.—Each candidate for council member shall file a written notice of candidacy with the town clerk at such time and in such manner as may be prescribed by ordinance and shall make payment to the town of any fees required by general law as a qualifying fee.

(b) Registered elector.—Each candidate for council member shall be a registered elector in the state.

(c) Residency.—Each candidate for council member shall have maintained his or her domicile within the boundaries of the town for a period of 1 year prior to qualifying for election and, if elected, shall maintain such residency throughout his or her term of office.

(d) Deadline.—Any resident of the town who wishes to become a candidate for a council member seat shall qualify with the town clerk no sooner than noon on the last Tuesday in January, nor later than noon on the first Tuesday in February, of the year in which the election is to be held.

(4) VACANCIES IN OFFICE; FORFEITURE; SUSPENSION; FILLING OF VACANCIES.—

(a) Vacancies.—A vacancy in the office of mayor, vice mayor, or any council member shall occur upon the death of the incumbent, removal from office as authorized by law, resignation, appointment to other public office which creates dual office holding, judicially determined incompetence, or forfeiture of office as described in paragraph (b).

(b) Forfeiture of office.—Any council member shall forfeit his or her office upon determination by the council, acting as a body, at a duly noticed public meeting that he or she:

1. Lacks at any time, or fails to maintain during his or her term of office, any qualification for the office prescribed by this charter or otherwise required by law;

2. Is convicted of a felony or enters a plea of guilty or nolo contendere to a crime punishable as a felony, even if adjudication is withheld;

3. Is convicted of a first degree misdemeanor arising directly out of his or her official conduct or duties, or enters a plea of guilty or nolo contendere thereto, even if adjudication of guilt has been withheld;

4. Is found to have violated any standard of conduct or code of ethics established by law for public officials and has been suspended from office by the Governor, unless subsequently reinstated as provided by law; or

5. Is absent from three consecutive regular council meetings without good cause, or for any other reason established in this charter.

The council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a council member's office, including whether good cause for absence has been or may be established. The burden of establishing good cause shall be on the council member in question; however, any council member may at any time during any duly held meeting move to establish good cause for his or her absence or the absence of any other commission member from any past, present, or future meeting or meetings, which motion, if carried, shall be conclusive. A council member whose qualifications are in question or who is otherwise subject to forfeiture of his or her office shall not vote on any such matters. The council member in question shall be entitled to a public hearing on request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the town at least 1 week in advance of the hearing. Any final determination by the council that a council member has forfeited his or her office shall be made by resolution. All votes and other acts of the council member in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

(c) Suspension from office.—Any council member shall be suspended from office upon return of an indictment or issuance of any information charging the council member with any crime which is punishable as a felony or with any crime arising out of his or her official duties which is punishable as a first degree misdemeanor. Pursuant thereto:

1. During a period of suspension, a council member shall not perform any official act, duty, or function or receive any pay, allowance, emolument, or privilege of office.

2. If the council member is subsequently found not guilty of the charge, or if the charge is otherwise dismissed, reduced, or altered in such a manner that suspension would no longer be required as provided herein, the suspension shall be lifted and the council member shall be entitled to receive full back pay and such other emoluments or allowances as he or she would have been entitled to had the suspension not occurred.

(d) Filling of vacancies.—

1. If any vacancy occurs in the office of any council member and the remainder of the council member's unexpired term is less than 1 year and 81 days, the remaining council members shall, within 30 days following the

occurrence of such vacancy, by majority vote, appoint a person to fill the vacancy for the remainder of the unexpired term.

2. If any vacancy occurs in the office of any council member and the remainder of the unexpired term is equal to or exceeds 1 year and 81 days, the remaining council members shall, within 30 days following the occurrence of such vacancy, by majority vote, appoint a person to fill the vacancy until the next regularly scheduled town election, at which time an election shall be held to fill the vacancy.

3. If a vacancy occurs in the office of mayor and fewer than 120 days remain in the term of the council member who was elected mayor, the vice mayor shall serve as mayor until a new mayor is elected by the council and assumes the duties of his or her office. If a vacancy occurs in the office of mayor and 120 days or more remain in the term of the mayor, the vice mayor shall serve as mayor until a new council member is elected and the council elects a new mayor and vice mayor as provided by this charter.

4. Any person appointed to fill a vacancy on the council shall be required to meet the qualifications of the seat to which he or she is appointed.

5. Notwithstanding any quorum requirements established herein, if at any time the full membership of the council is reduced to less than a quorum, the remaining members may, by majority vote, appoint additional members to the extent otherwise permitted or required under this subsection.

6. In the event that all the members of the council are removed by death, disability, recall, forfeiture of office, or resignation, or any combination thereof, the Governor shall appoint interim council members who shall call a special election within not fewer than 30 days or more than 60 days after such appointment. Such election shall be held in the same manner as the initial elections under this charter. However, if there are fewer than 6 months remaining in any unexpired terms, the interim council appointed by the Governor shall serve out the unexpired terms. Appointees must meet all requirements for candidates as provided in this charter.

(e) Compensation and expenses.—

1. Town council members shall be entitled to receive reimbursement in accordance with general law for authorized travel and per diem expenses incurred in the performance of their official duties.

2. The town council, by not fewer than four affirmative votes, may elect to provide for compensation and any increase in such compensation by ordinance. However, no such ordinance establishing or increasing compensation shall take effect until the date of commencement of the terms of council members elected at the next regular election which follows the adoption of such ordinance.

Section 4. Administrative.—

(1) DESIGNATION OF CHARTER OFFICERS.—The town manager and the town attorney are designated as charter officers, except that the office of town attorney may be contracted to an attorney or law firm.

(2) APPOINTMENT; REMOVAL; COMPENSATION; FILLING OF VACANCIES.—

(a) The charter officers shall be appointed by a majority vote of the full council and shall serve at the pleasure of the council.

(b) The charter officers shall be removed from office only by a super majority vote of the full council. Upon demand by a charter officer, a public hearing shall be held prior to such removal.

(c) The compensation of the charter officers shall be fixed by the town council through the approval of an acceptable employment contract.

(d) The town council shall begin the process to fill a vacancy in a charter office within 90 days after the vacancy. An acting town manager or an acting town attorney may be appointed by the council during a vacancy in such charter office.

(e) A charter officer shall not be a member of the town council or a candidate for town council while holding a charter officer position.

(3) TOWN MANAGER.—The town manager shall be the chief administrative officer of the town.

(a) The town council shall appoint a town manager who shall be the administrative head of the municipal government under the direction and supervision of the town council. The town manager shall hold office at the pleasure of the town council. The town manager shall be appointed by resolution approving an employment contract between the town and the town manager. The town manager shall receive such compensation as determined by the town council through the adoption of an appropriate resolution.

(b) The town manager shall have the minimum qualifications of a combination of a bachelor's degree in public administration, business administration, or other related fields from an accredited college or university and 3 years' public administration experience or 6 years' experience in a city manager or assistant city manager position, preferably in an International City/County Management Association-recognized local government.

(c) It is preferred that the town manager be an International City/County Management Association-credentialed manager or obtain such credential within 2 years after being appointed.

(d) During the absence or disability of the town manager, the town council may by resolution designate some properly qualified person to temporarily execute the functions of the town manager. The person thus designated shall have the same powers and duties as the town manager and shall be known while serving as acting town manager. The town manager or acting town manager may be removed by the town council at any time.

(e) As the chief administrative officer, the town manager shall:

1. Direct and supervise the administration of all departments, offices, and agencies of the town, except the office of town attorney, and except as otherwise provided by this charter or by law.

2. Appoint, suspend, or remove any employee of the town or appointive administrative officer provided for, by, or under this charter, except the office of town attorney, and except as may otherwise be provided by law, this charter, or personnel rules adopted pursuant to the charter. The town manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.

3. Ensure that all laws, provisions of this charter, and acts of the council are faithfully executed.

4. Prepare and submit the annual budget and capital program to the council in the form prescribed by ordinance.

5. Attend meetings of the town council.

6. Draw and sign vouchers upon depositories as provided by ordinance and keep, or cause to be kept, a true and accurate account of same.

7. Sign all licenses issued by the town, issue receipts for all moneys paid to the town, and deposit such moneys in the proper depositories on the first banking day after receipt. The town manager may delegate the responsibilities of this subparagraph to an appropriate town employee who shall be bonded.

8. Provide administrative services in support of the official duties of the mayor and the council.

9. Keep the council advised as to the financial condition and future needs of the town and make recommendations to the council concerning the affairs of the town.

10. Submit to the council, and make available to the public, a complete report on finances and administrative activities of the town as of the end of each fiscal year.

11. Sign contracts on behalf of the town to the extent authorized by ordinance.

12. Perform such other duties as are specified in this charter or as may be required by the council.

(4) TOWN ATTORNEY.—

(a) The town attorney shall be employed under terms and conditions deemed advisable by the town council, which may include the appointment of a law firm.

(b) The town attorney shall be a member in good standing with The Florida Bar, have been admitted to practice in the state for at least 5 years,

and have not less than 2 years' experience in the practice of local government law.

(c) The town attorney has sole discretion to appoint, promote, suspend, demote, remove, or terminate deputy and assistant town attorneys, subject to the town's annual budget.

(d) The town attorney shall perform the following functions in addition to other functions as designated by the town council:

1. Serve as chief legal advisor to the town council, the charter officers, and all town departments, offices, and agencies.

2. Attend all regular and special town council meetings, unless excused by the town council, and perform such professional duties as may be required by law or by the council in furtherance of the law.

3. Approve all contracts, bonds, and other instruments in which the town is concerned and shall endorse on each his or her approval of the form and correctness thereof. No contract with the town shall take effect until his or her approval is so endorsed thereon.

4. When requested to do so by the council, prosecute and defend on behalf of the town all complaints, suits, and controversies in which the town is a party.

5. Perform such other professional duties as required of him or her by resolution of the council or as prescribed for municipal attorneys in the general laws of the state which are not inconsistent with this charter.

6. Prepare an annual budget for the operation of the office of the town attorney and submit this budget to the town manager for inclusion in the annual town budget, in accordance with uniform town procedures.

(5) TOWN CLERK.—The town manager shall appoint a town clerk or management firm to serve as town clerk (the "clerk"). The clerk shall give notice of council meetings to its members and the public, keep minutes of its proceedings, and perform such other duties as the council or town manager may prescribe from time to time. The clerk shall report to the town manager.

(6) EXPENDITURE OF TOWN FUNDS.—No funds of the town shall be expended except pursuant to duly approved appropriations or for the payment of bonds, notes, or other indebtedness duly authorized by the council and only from such funds so authorized.

(7) TOWN BOARDS AND AGENCIES.—Except as otherwise provided by law, the council may establish or terminate such boards and agencies as it may deem advisable from time to time. The boards and agencies shall report to the council. Members of boards and agencies shall be appointed by the council by resolution.

Section 5. Legislative.—

(1) REGULAR MEETINGS.—The council shall conduct regular meetings at such times and places as the council shall prescribe by resolution. Such meetings shall be public meetings within the meaning of state law and shall be subject to notice and other requirements of law applicable to public meetings.

(2) SPECIAL MEETINGS.—Special meetings may be held at the call of the mayor or, in his or her absence, at the call of the vice mayor. Special meetings may also be called upon the request of a majority of the council members. Unless the meeting is of an emergency nature, the person or persons calling such a meeting shall provide not less than 72 hours' prior notice of the meeting to the public.

(3) COMMENCEMENT.—All meetings shall be scheduled to commence no earlier than 7 a.m. nor later than 10 p.m.

(4) RULES; ORDER OF BUSINESS.—The council shall determine its own rules and order of business.

(5) QUORUM.—A majority of the full council shall constitute a quorum.

(6) VALIDITY OF ACTION.—No action of the council shall be valid unless adopted by an affirmative vote of the majority of the full council, unless otherwise provided by law.

(7) LEGISLATIVE POWERS.—Except as otherwise prescribed herein or as provided by law, the legislative powers of the town shall be vested in the council. The council shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the town by law.

(8) DEPARTMENTS.—The council may establish such other departments as it determines necessary for the efficient administration and operation of the town. Such departments, offices, or agencies shall be established by ordinance.

(9) CODE.—The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance and may amend the code in the adopting ordinance or later amendatory ordinance. The procedures and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

(a) Requirements regarding distribution and filing of copies of the ordinance shall not be construed to require distribution and filing of copies of the adopted code of technical regulations.

(b) A copy of each adopted code of technical regulations, as well as of the adopting ordinance, shall be authenticated and recorded by the town clerk.

(10) EMERGENCY ORDINANCES.—

(a) To meet a public emergency affecting life, health, property, or the public peace, the council may adopt, in the manner provided by general law, one or more emergency ordinances, but such ordinances may not enact or amend a land use plan or rezone private property; levy taxes; grant, renew,

or extend any municipal franchise; set service or user charges for any municipal services; or authorize the borrowing of money, except as provided under the emergency appropriations provisions of this charter, if applicable. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

(b) Upon the affirmative vote of four council members, an emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After its adoption, the ordinance shall be advertised and printed as prescribed for other ordinances.

(c) Emergency ordinances shall become effective upon adoption or at such other date as may be specified in the ordinance.

(d) Every emergency ordinance, except emergency appropriation ordinances, shall automatically be repealed as of the 61st day following its effective date, but this shall not prevent reenactment of the ordinance under regular procedures or, if the emergency still exists, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(11) EMERGENCY APPROPRIATIONS.—To meet a public emergency affecting life, health, property, or the public peace, the council, by resolution, may make emergency appropriations. To the extent that there are no unappropriated revenues to meet such appropriation, the council may by such emergency resolution authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals in any fiscal year shall be paid not later than the last day of the fiscal year succeeding that in which the emergency appropriations were made.

(12) RECORDKEEPING.—The council shall, in a properly indexed book kept for the purpose, provide for the authentication and recording in full of all minutes of meetings and all ordinances and resolutions adopted by the council, and the same shall at all times be a public record. The council shall further maintain a current codification of all ordinances. Such codification shall be printed and shall be made available for distribution to the public on a continuing basis. All ordinances or resolutions of the council shall be signed by all council members and attested to by the town clerk.

(13) DUAL OFFICE HOLDING.—No present elected town official shall hold any compensated appointive office or employment of the town while in office, nor shall any former council member be employed by the town until after the expiration of 1 year from the time of leaving office.

(14) NONINTERFERENCE BY TOWN COUNCIL.—Except for the purposes of inquiry and information, council members are expressly prohibited from interfering with the performance of the duties of any employee of the town government who is under the direct or indirect supervision of the town manager or town attorney. Such action shall be malfeasance within the

meaning of section 112.51, Florida Statutes. Recommendations for improvements in the town government operations shall come through the town manager, but each member of the council shall be free to discuss or recommend improvements to the town manager, and the council is free to direct the town manager to implement specific recommendations for improvement in town government operations.

Section 6. Budget and appropriations.—

(1) FISCAL YEAR.—The town shall have a fiscal year which shall begin on the first day of October and shall end on the last day of September of the following calendar year, unless otherwise defined by general law. Such fiscal year shall also constitute the annual budget and accounting year.

(2) BUDGET ADOPTION.—The council shall adopt a budget in accordance with applicable general law, following a minimum of two public hearings on the proposed budget. A resolution adopting the annual budget shall constitute appropriation of the amounts specified therein as expenditures from funds indicated.

(3) EXPENDITURES.—The budget shall not provide for expenditures in an amount greater than the revenues budgeted.

(4) APPROPRIATIONS.—

(a) If, during the fiscal year, revenues in excess of those estimated in the budget are available for appropriation, the council by resolution may make supplemental appropriations for the year in an amount not to exceed such excess.

(b) If, at any time during the fiscal year, it appears probable to the town manager that the revenues available will be insufficient to meet the amount appropriated, the town manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps that should be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and, for that purpose, the council may by resolution reduce one or more appropriations accordingly.

(c) No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated, or by more than the unencumbered balance thereof. Other provisions of law to the contrary notwithstanding, the supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(5) BONDS; INDEBTEDNESS.—

(a) Subject to the referendum requirements of the State Constitution, if applicable, the town may from time to time borrow money and issue bonds or other obligations or evidence of indebtedness (collectively, “bonds”) of any type or character for any of the purposes for which the town is now or

hereafter authorized by law to borrow money, including to finance the cost of any capital or other project and to refund any and all previous issues of bonds at or prior to maturity. Such bonds may be issued pursuant to one or more resolutions adopted by a majority of the council.

(b) The town may assume all outstanding indebtedness related to facilities it acquires from other units of local government and be liable for payment thereon in accordance with its terms.

(6) REVENUE BONDS; LEASE-PURCHASE CONTRACTS.—Unless authorized by the electors of the town at a duly held referendum election, the council shall not authorize or allow to be authorized the issuance of revenue bonds or enter into lease-purchase contracts or any other unfunded multiyear contracts for the purchase of real property or the construction of any capital improvement, the repayment of which extends in excess of 36 months, unless mandated by state or federal governing agencies.

(7) ANNUAL AUDIT.—The council shall provide for an independent annual financial audit of all town accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or a firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the town government or in any of its officers. Residency in the town shall not be construed as a prohibited interest.

Section 7. Elections.—

(1) ELECTORS.—Any person who is a resident of the town, who has qualified as an elector of this state, and who registers in the manner prescribed by law shall be an elector of the town.

(2) NONPARTISAN ELECTIONS.—All elections for the town council members shall be conducted on a nonpartisan basis without any designation of political party affiliation.

(3) ELECTION DATES.—A special election shall be held on the second Tuesday in March 2007, and regular elections shall be held on the second Tuesday in March of each election year, provided as follows:

(a) For the two council member seats that received the highest number of votes in the March 2007 election, the next election to fill the council member seats shall be held on the second Tuesday in March after the first Monday in March in 2010, and every 3 years thereafter.

(b) For the two council member seats that received the next highest number of votes in the March 2007 election, the next election to fill the council member seats shall be held on the second Tuesday in March after the first Monday in March in 2009, and every 3 years thereafter.

(c) For the remaining council member seat, the next election to fill the council member seat shall be held on the second Tuesday in March after the first Monday in March in 2008, and every 3 years thereafter.

(d) Such town elections shall be general town elections.

(4) RUNOFF ELECTIONS.—In the event no candidate for an office receives a majority of the votes cast for such office, the person receiving the largest number of votes cast will be elected. In the event two candidates receive an equal number of votes, a runoff election shall be held on the fourth Tuesday in March.

(5) TOWN CANVASSING BOARD.—The town canvassing board shall be composed of those members of the town council who are not candidates for reelection and the town clerk, who shall act as chair. At the close of the polls of any town election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chair and shall proceed to publicly canvass the vote as shown by the returns then on file in the office of the town clerk, and then shall publicly canvass the absentee elector ballots. The canvassing board shall prepare and sign a certificate containing the total number of votes cast for each candidate or other measure voted upon. The certificate shall be placed on file with the town clerk.

(6) SPECIAL ELECTIONS.—Special municipal elections, when required, shall be held in the same manner as regular elections, except that the town council, by ordinance, shall fix the time for holding such elections consistent with this charter and state law.

(7) GENERAL ELECTION.—

(a) The ballot for the general election shall contain the names of all qualified candidates for each respective council member seat and shall instruct electors to cast one vote for each council member seat, with a maximum of one vote per candidate. The candidate for each council member seat receiving the most votes shall be the duly elected council member for that designated council member seat.

(b) No election for any council member seat shall be required in any election if there is only one duly qualified candidate for the council member seat.

(c) If more than one candidate for a designated council member seat receive an equal and highest number of votes, the candidates for the office receiving the highest vote in the general election shall run again in the runoff election.

(d) The candidate receiving the highest number of votes cast for the designated council member seat in the runoff election shall be elected to the designated council member seat. If the vote at the runoff election results in a tie, the outcome shall be determined by lot.

(e) The term of office of any elected official shall commence immediately after the election.

(f) All elected officers, before entering upon their duties, shall take and subscribe to the following oath of office:

“I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the state, and the charter of the Town of Loxahatchee Groves; that I am duly qualified to hold office under the Constitution of the State and the charter of the Town of Loxahatchee Groves; and that I will well and faithfully perform the duties of council member upon which I am now about to enter.”

(g) The election laws of the state shall apply to all elections.

(h) Any member of the town council may be removed from office by the electors of the town following the procedures for recall established by general law.

Section 8. Initiative and referendum.—

(1) POWER TO INITIATE AND RECONSIDER ORDINANCES.—

(a) The electors of the town shall have the power to propose ordinances to the town council and, if the town council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a town election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes, or setting salaries of town officers or employees.

(b)1. The town council shall have the power, by resolution, to call for a referendum vote by the electors of the town at any time, provided that the purpose of such referendum is presented to the town at a public hearing at least 60 days prior to the adoption of such resolution. Any resolution calling for a referendum vote of the electors of the town must be passed by the affirmative vote of not less than four members of the council.

2. The electors of the town shall have the power to require reconsideration by the town council of any adopted ordinance and, if the town council fails to repeal an ordinance so reconsidered, to approve or reject it at a town election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes, or setting salaries of town officers or employees.

(2) COMMENCEMENT OF PROCEEDINGS.—Any 10 electors may commence initiative or referendum proceedings by filing with the town clerk an affidavit stating that they shall constitute the petitioner’s committee and be responsible for circulating the petition and filing it in proper form stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioner’s committee is filed, the town clerk may, at the committee’s request, issue the appropriate petition blanks to the petitioner’s committee at the committee’s expense.

(3) PETITIONS.—

(a) Initiative and referendum petitions must be signed by electors of the town equal in number to at least 10 percent of the total number of electors registered to vote in the last regular town election.

(b) All papers of a petition shall be assembled as one instrument of filing. Each signature shall be executed in ink and shall be followed by the printed name and address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) Except as otherwise provided herein, all initiative and referendum petitions must be filed within 60 days of the date on which proceedings with respect to such initiative or referendum are commenced, and all requirements of the process, including, but not limited to, the submission of the signatures required, must be completed no later than 90 days following the date of filing such initiative or referendum petition.

(4) PROCEDURE FOR FILING.—

(a) Within 20 days after an initiative petition or a referendum petition is filed, the town clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, and shall promptly send a copy of the certificate to the petitioner's committee by registered mail. Grounds for insufficiency are only those specified herein that are not met. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioner's committee files a notice of intent to amend it with the designated official within 2 business days after receiving the copy of the certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of such certificate. Such supplementary petition shall comply with original petition requirements, and within 5 days after it is filed the town clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioner's committee by registered mail. If a petition or an amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioner's committee does not elect to amend or request the town council review within the time required, the town clerk shall promptly present a certificate to the town council and such certificate shall then be a final determination as to the sufficiency of the petition.

(b) If a petition has been certified insufficient and the petitioner's committee does not file notice of intent to amend it or if an amended petition has been certified insufficient, the committee may, within 2 business days after receiving the copy of such certificate, file a request that it be reviewed by the town council. The town council shall review the certificate at its next meeting following the town council's filing of such request and approve or disapprove it, and determination shall then be final as to the sufficiency of the petition.

(5) ACTION ON PETITIONS.—

(a) When an initiative or referendum petition has been determined sufficient, the town council shall promptly consider the proposed initiative ordinance or reconsider the referendum ordinance by voting its repeal. If the town council fails to adopt a proposed initiative ordinance without any change in substance within 45 days or fails to repeal the referendum ordinance within 30 days after the date on which the petition is determined to be sufficient, it shall submit the proposed initiative or referendum ordinance to the electors of the town. If the town council fails to act on a proposed initiative ordinance or a referendum ordinance within the time period specified, the town council shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referendum ordinance on the last day that the town council was authorized to act on such matter.

(b) The vote of the town on a proposed initiative or referendum ordinance shall be held not fewer than 30 days or more than 60 days from the date the town council acted or was deemed to have acted pursuant to this charter. If no regular election is to be held within the period described in this paragraph, the town council shall provide for a special election, except that the town council may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed initiative or referendum ordinance shall be made available at the polls.

(c) An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the town by filing with the town clerk a request for withdrawal signed by at least eight members of the petitioner's committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(6) RESULTS OF ELECTION.—

(a) If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) If a majority of the qualified electors voting on a referendum ordinance vote against it, it shall be considered repealed upon certification of the election results.

Section 9. General provisions.—

(1) SEVERABILITY.—If any section or part of any section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter or the context in which such section or part of a section so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holding shall directly apply.

(2) TOWN PERSONNEL SYSTEM.—All new employments, appointments, and promotions of town officers and employees shall be made pursuant to personnel procedures to be established by the town manager from time to time.

(3) CHARITABLE CONTRIBUTIONS.—The town shall not make any charitable contribution to any person or entity unless authorized by the council.

(4) VARIATION OF PRONOUNS.—All pronouns and any variations thereof used in this charter shall be deemed to refer to masculine, feminine, neutral, singular, or plural as the identity of the person or persons shall require and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this charter.

(5) CALENDAR DAY.—For the purpose of this charter, a day shall mean a calendar day.

(6) CHARTER REVIEW COMMITTEE.—

(a) At its first regular meeting in March 2012, and every 10th year thereafter, the town council may appoint a charter review committee consisting of 15 individuals who are not members of the town council to serve in an advisory capacity to the town council.

(b) Each council member shall recommend and nominate three individuals to serve on the committee as regular members, which appointments shall be approved by a majority vote of the town council. Individuals appointed to the charter review committee shall be citizens of the town.

(c) The charter review committee shall appoint its own chair and vice chair and adopt its own rules and procedures.

(d) The town clerk and the town attorney shall advise the town council in advance of the date when such appointments may be made.

(e) If appointed, the charter review committee shall commence its proceedings within 30 days after the committee is appointed by the town council. The committee shall review the charter and provide input to the town council to modernize and improve the charter. The public shall be given an opportunity to speak and participate at charter review committee meetings in accordance with the rules of the charter review committee.

(f) All recommendations by the charter review committee shall be forwarded to the town council in ordinance form for consideration no later than the 1st day of March of the year following the appointment of the charter review committee, and in sufficient time for any recommendations to be considered by the town council as provided herein.

(g) The town council shall consider the recommendations of the charter review committee at the regular meeting in November and the regular meeting in December of the year following appointment of the charter review committee.

(7) CHARTER AMENDMENTS.—This charter may be amended in accordance with the provisions for charter amendments as specified in general law or as may otherwise be provided by general law. The form, content, and certification of any petition to amend shall be established by ordinance.

(8) INITIATION BY PETITION.—The electors of the town may propose amendments to this charter by petition to be submitted to the council to be placed before the electors, as provided by general law.

(9) STANDARDS OF CONDUCT.—All elected officials and employees of the town shall be subject to the standards of conduct for public officers and employees set by general law. In addition, the town council shall, no later than 6 months from the effective date of incorporation, establish by ordinance a code of ethics for officials and employees of the town which may be supplemental to general law, but in no case may such an ordinance diminish the provisions of general law. The intent of this subsection is to require more stringent standards than those provided under general law.

(10) LAND USE, REZONING.—Any change to the town's future land use map, or any change to the zoning designation for any parcel within the town shall require the affirmative vote of no fewer than four members of the town council.

Section 10. Transition schedule.—

(1) REFERENDUM.—The Palm Beach County Commission shall hold the referendum election called for by this act on October 10, 2006, at which time the following question shall be placed upon the ballot:

“Shall the creation of the Town of Loxahatchee Groves and its charter be approved?”

Yes

No

(2) INITIAL ELECTION OF COUNCIL MEMBERS; DATES.—

(a) Following the adoption of this charter, the Palm Beach County Commission shall call a special election for the election of the five town council members to be held on March 13, 2007. Candidates for the election shall qualify for seat 1, seat 2, seat 3, seat 4, and seat 5. The candidate receiving the highest number of votes for that seat shall be elected. If more than one candidate for a designated council member seat receives an equal and highest number of votes, then the candidates receiving the highest votes in the general election shall run again in the runoff election which shall be held on March 27, 2007.

(b) Any individual who wishes to run for one of the five initial seats on the council shall qualify as a candidate with the Palm Beach County Supervisor of Elections in accordance with the provisions of this charter and general law.

(c) The Palm Beach County Commission shall appoint a canvassing board which shall certify the results of the election.

(d) Those candidates who are elected on March 13, 2007, and March 27, 2007, shall take office at the initial town council meeting, which shall be held at 7 p.m. on March 29, 2007.

(3) CREATION AND ESTABLISHMENT OF THE TOWN.—For the purpose of compliance with section 200.066, Florida Statutes, relating to assessment and collection of ad valorem taxes, the town is hereby created and established effective November 1, 2006; notwithstanding anything to the contrary contained herein, the town, although created and established as of November 1, 2006, shall not be operational until March 30, 2007.

(4) FIRST YEAR EXPENSES.—The town council, in order to provide moneys for the expenses and support of the town, shall have the power to borrow money necessary for the operation of town government until such time as a budget is adopted and revenues are raised in accordance with the provisions of this charter.

(5) TRANSITIONAL ORDINANCES AND RESOLUTIONS.—All applicable county ordinances currently in place at the time of passage of the referendum, unless specifically referenced herein, shall remain in place until and unless rescinded by action of the town council, except that a county ordinance, rule, or regulation which is in conflict with an ordinance, rule, or regulation of the town shall not be effective to the extent of such conflict, except as otherwise provided by the Palm Beach County Charter, as may be amended from time to time. Any existing Palm Beach County ordinances, rules, and regulations as of October 12, 2006, shall not be altered, changed, rescinded, or added to, nor shall any variance be granted thereto insofar as such action would affect the town without the approval of the town council.

(6) TEMPORARY EMERGENCY ORDINANCES.—The town council shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 60 days after the first council meeting may be passed as emergency ordinances. These transitional ordinances, passed as emergency ordinances, shall be effective for no longer than 90 days after adoption and thereafter may be readopted, renewed, or otherwise continued only in the manner normally prescribed for ordinances.

(7) TRANSITIONAL COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS.—

(a) Until such time as the town adopts a comprehensive plan, the Palm Beach County Future Land Use Map, the Palm Beach County Zoning Map, and all other applicable provisions applicable to the town, of the Comprehensive Plan and Land Development Regulations of Palm Beach County, as the same exist on the day the town commences corporate existence, shall remain in effect as the town's transitional comprehensive plan and land development regulations. However, all planning functions, duties, and authority shall thereafter be vested in the Town Council of Loxahatchee Groves which shall also be deemed the local planning agency until the council establishes a separate local planning agency.

(b) Upon this act becoming a law, no changes in the future land use map or the zoning districts within the boundaries of the town shall be considered for alteration, amendment, or other modification in any way until such time as the town adopts appropriate procedures as referenced in this act.

(c) All powers and duties of the planning commission, zoning authority, any boards of adjustment, and the County Commission of Palm Beach County, as set forth in these transitional zoning and land use regulations, shall be vested in the Town Council of Loxahatchee Groves until such time as the town council delegates all or a portion thereof to another entity.

(d) Subsequent to the passage of this act, no amendment of the comprehensive plan or land development regulations enacted by the Palm Beach County Commission shall be deemed as an amendment of the town's transitional comprehensive plan or land development regulations or otherwise take effect within the town's corporate limits except in accordance with the requirements, and upon adoption of the procedures specified in this act.

(e)1. The owner or assigns of the 97+/- acre property located at the north-west corner of B-Road and Southern Boulevard, commonly known as the "Simon property," have applied for a land use change through the Palm Beach County comprehensive plan amendment process (LGA 2004-00037). This parcel and it owners and assigns will remain subject to the Palm Beach County comprehensive plan and approval process until such time as the town adopts its own comprehensive plan.

2. In the event that the town initiates a review and approval process in a timeframe that is faster than presently expected, the owner or assigns of the Simon property may elect, at their own option, to go through the town's zoning approval process.

(8) COMMUNICATIONS SERVICES TAX.—The communications services tax imposed under s. 202.19, F.S., by Palm Beach County will continue within the town boundaries during the period commencing with the date of incorporation through December 31, 2007. Revenues from the tax shall be shared by Palm Beach County with the town in proportion to the projected town population estimate of the Palm Beach County Planning Division compared with the unincorporated population of Palm Beach County before the incorporation of Loxahatchee Groves.

(9) STATE SHARED REVENUES.—The Town of Loxahatchee Groves shall be entitled to participate in all shared revenue programs of the state available to municipalities effective April 1, 2007. The provisions of section 218.23(1), Florida Statutes, shall be waived for the purpose of eligibility to receive revenue sharing funds from the date of incorporation through the state fiscal year 2009-2010. Initial population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research. Should the bureau be unable to provide an appropriate population estimate, the Palm Beach County Planning Division estimate should be utilized. For the purposes of qualifying for revenue sharing, the following revenue sources shall be considered: municipal service taxing units, fire municipal service taxing units, water

control district revenues, occupational license taxes, ad valorem taxes, public utility service taxes, communications services tax, and franchise fees.

(10) GAS TAX REVENUES.—Notwithstanding the requirements of section 336.025, Florida Statutes, to the contrary, the town shall be entitled to receive local option gas tax revenues beginning October 1, 2007. These revenues shall be distributed in accordance with the interlocal agreements with Palm Beach County.

(11) WAIVER.—The provisions of section 218.23(1), Florida Statutes, shall be waived for the purpose of conducting audits and financial reporting through fiscal year 2007-2008.

Section 11. Continuation, merger, and dissolution of existing districts and service providers.—

(1) PALM BEACH COUNTY FIRE RESCUE MUNICIPAL SERVICE TAXING UNIT; CONTINUATION.—Notwithstanding the incorporation of the Town of Loxahatchee Groves, that portion of the Palm Beach County Fire Rescue Municipal Service Taxing Unit, a special taxing district created by the Palm Beach County Commission that lies within the boundaries of the Town of Loxahatchee Groves, is authorized to continue in existence until the town adopts an ordinance to the contrary. However, the town shall not establish a town fire department without a referendum.

(2) LAW ENFORCEMENT.—Law enforcement services will be provided by contract with the Palm Beach County Sheriff's Office, or contracted with other law enforcement agencies, until the town adopts an ordinance to the contrary, provided that the town shall not establish a town police department without a referendum.

(3) PALM BEACH COUNTY LIBRARY DISTRICT; CONTINUATION.—Notwithstanding the incorporation of the Town of Loxahatchee Groves, that portion of the Palm Beach County Library District, a dependent district of Palm Beach County created by chapter 2000-405, Laws of Florida, that lies within the boundaries of the Town of Loxahatchee Groves, is authorized but not required to continue in existence, provided that in order to be excluded from the library district the town shall establish a municipal-funded library.

(4) PALM BEACH COUNTY MUNICIPAL SERVICE TAXING UNIT B.—That portion of Palm Beach County Municipal Service Taxing Unit B, a dependent district of Palm Beach County created by the Palm Beach Commission that lies within the boundaries of the Town of Loxahatchee Groves, shall cease to exist within the municipal boundaries of the Town of Loxahatchee Groves on October 10, 2006.

(5) PALM BEACH COUNTY MUNICIPAL SERVICE TAXING UNIT F.—That portion of Palm Beach County Municipal Service Taxing Unit F, a dependent district of Palm Beach County created by the Palm Beach County Commission that lies within the boundaries of the Town of Loxahatchee Groves, shall cease to exist within the municipal boundaries of the Town of Loxahatchee Groves on October 10, 2006.

(6) LOXAHATCHEE GROVES WATER CONTROL DISTRICT; CONTINUATION.—Notwithstanding the incorporation of the Town of Loxahatchee Groves, the Loxahatchee Groves Water Control District, an independent special district created pursuant to the laws of the state, is authorized to continue in existence.

(7) LOXAHATCHEE GROVES PARK; CONTINUATION.—Notwithstanding the incorporation of the Town of Loxahatchee Groves, the Loxahatchee Groves Park will continue to be operated by the Palm Beach County Department of Parks and Recreation, in accordance with existing Palm Beach County standards. All planned improvements to the park shall be subject to approval of the Town of Loxahatchee Groves but are the responsibility of Palm Beach County. Nothing contained herein shall prevent Palm Beach County and the Town of Loxahatchee Groves from entering into an interlocal agreement related to maintenance, planned improvements, sale, or transfer of the park.

Section 12. Repeal.—Section 6 of section 2 of chapter 99-425, Laws of Florida, is repealed.

Section 13. Waivers.—The thresholds established by section 165.061, Florida Statutes, for incorporation have been met with the following exceptions:

(1) A waiver is granted to provisions of section 165.061(1)(b), Florida Statutes, relating to minimum population requirements of 5,000, due to the rural character of the Town of Loxahatchee Groves.

(2) A waiver is granted to provisions of section 165.061(1)(c), Florida Statutes, relating to the minimum density of population of 1.5 persons per acre, to protect the historic, rural, and agricultural character of the town from surrounding development pressure.

(3) A waiver is granted to provisions of section 165.061(1)(d), Florida Statutes, relating to the minimum distance of 2 miles from the town to an existing municipality due to the marked difference in character between the town, a historic and rural community, and surrounding communities with significantly greater density and urban characteristics.

Section 14. This act shall only take effect upon approval by a majority of those qualified electors residing within the proposed corporate limits of the proposed Town of Loxahatchee Groves as described in section 1, voting in a referendum election to be called by the Board of County Commissioners of Palm Beach County and to be held on October 10, 2006, in accordance with the provisions relating to elections currently in force, except that section 10(1) and this section shall take effect upon this act becoming a law.

Approved by the Governor June 23, 2006.

Filed in Office Secretary of State June 23, 2006.



Draft Budget

2008-2009

This is the Draft Budget for the
Town of Loxahatchee Groves for the
Fiscal Year 2008-2009 with budget explanations

September 16, 2008

Town of Loxahatchee Groves
Budget for
Fiscal Year 2008-2009

INCOME		
Ad Valorem Taxes(Millage of 1.5)	\$442,699.70	21.71%
Garbage Assessments	\$440,900.00	21.62%
Communications Service Tax	\$147,499.98	7.23%
Electric Utility Tax	\$108,000.00	5.30%
FPL Franchise Fee	\$195,000.00	9.56%
First Local Option Fuel Tax (6 cent)	\$274,820.00	13.48%
Second Local Option Fuel Tax (5 cent)	\$117,180.00	5.75%
State Revenue Sharing	\$70,720.92	3.47%
Half Cent Sales Tax	\$231,875.04	11.37%
County Occupational Licenses	\$300.00	0.01%
Legal Advertising	\$2,500.00	0.12%
Interest	\$7,550.04	0.37%
Other Misc. Income	\$10,000.00	0.49%
Total Income	\$2,039,045.68	100.00%
EXPENSES		
LEGISLATIVE		
Professional Services	\$24,000.00	1.18%
Other Contractual	\$0.00	0.00%
Education and Training	\$3,000.00	0.15%
Communications and Freight	\$0.00	0.00%
Legal Advertising	\$6,900.00	0.34%
Rentals and Leases	\$3,360.00	0.16%
Printing and Binding	\$3,000.00	0.15%
Promotional Activities	\$0.00	0.00%
Office Supplies	\$0.00	0.00%
Operating Supplies	\$0.00	0.00%
Books, Publications and Dues	\$2,000.00	0.10%
Other Operating Expenses	\$0.00	0.00%
Buildings	\$0.00	0.00%
TOTAL LEGISLATIVE	\$42,260.00	2.07%
EXECUTIVE		
Other Contractual	\$96,000.00	4.71%
Communications and Freight	\$6,000.00	0.29%
Postage	\$900.00	0.04%
Rentals and Leases	\$9,397.44	0.46%
Office Supplies	\$900.00	0.04%
Other Operating Expenses	\$8,300.00	0.41%
Web Site Maintenance Contract	\$300.00	0.01%
Insurance	\$6,100.00	0.30%
Contingency	\$230,075.18	11.28%
TOTAL EXECUTIVE	\$357,972.62	17.56%
TOWN CLERK		
Communications and Freight	\$0.00	0.00%
Legal Advertising	\$2,500.00	0.12%
Printing and Binding	\$720.00	0.04%
TOTAL TOWN CLERK	\$3,220.00	0.16%
FINANCE		
Professional Services	\$11,500.00	0.56%
TOTAL FINANCE	\$11,500.00	0.56%
LEGAL		
Professional Services	\$144,000.00	7.06%
TOTAL LEGAL	\$144,000.00	7.06%
PLANNING AND ZONING		
Other Contractual	\$75,000.00	3.68%
Planning & Zoning Contract	\$15,000.00	0.74%
Code Enforcement Officer	\$66,000.00	3.24%
Comprehensive Plan	\$162,097.00	7.95%
TOTAL PLANNING & ZONING	\$365,597.00	17.93%
POLICE		
Professional Services	\$261,600.00	12.83%
Other Contractual	\$27,600.00	1.35%
Other Operating Expenses	\$0.00	0.00%
TOTAL POLICE	\$289,200.00	14.18%
PUBLIC WORKS		
Professional Services	\$0.00	0.00%
Other Contractual	\$0.00	0.00%
Road and Streets (Other Contractual)	\$392,000.00	19.22%
Solid Waste Fees	\$433,296.00	21.25%
TOTAL PUBLIC WORKS	\$825,296.00	40.47%
TOTAL EXPENSES	\$2,039,045.68	100.00%

Budget Explanations

Revenues

Ad Valorem Taxes:

- Actual 2007 (1.5 Millage): \$520,000.00
- Proposed 2008 (1.5 Millage): \$442,699.70 (decrease of 14.77%)
- The estimated Total Taxable Value decreased by approximately 9%.
- Amendment 1 Impacts:
 - \$25,000 Tangible Personal Property Exemption: \$ 1,830,506
 - Additional 25,000 Homestead Exemption: \$19,748,911
 - Portability Amount: \$ 301,483
 -

Garbage Assessment:

- Waste Pro Contract:
 - \$29.50 (\$354.00) per parcel x 1,224 parcels = \$433,296.00
- Garbage Assessment:
 - \$31.06 (\$372.72) per parcel x 1,224 parcels = \$456,209.28
- Budgeted Garbage Assessment:
 - \$440,900

Communications Service Tax: The 2001 law establishing the communications services tax was designed to restructure taxes on telecommunications, cable, direct-to-home satellite, and related services. The law replaced and consolidated several different state and local taxes with a single tax comprised of two parts: the Florida communications services tax and the local communications services tax. Through the adoption of Ordinance 2007-004, the Town adopted the levying of the Communications Service Tax. This Ordinance took effect immediately upon passage. The imposition and collection of the new combined Local Communications Services Tax Rate commenced effective January 1, 2008. The first year the municipality collects on its own is considered a transition year with respect to collecting the full revenue owed. The Town will be receiving the full amount appropriated to our municipality by January 2009. *The budgeted amount is derived from the data provided by the F.L.C.I.R. 2008-2009 Revenue Estimates (7-8-08)*



2008-2009 Draft Budget

Electric Utility Tax (FPL):

Florida Power and Light collect the Utilities Service Tax on behalf of the Town. The budgeted amount for the 2008-2009 fiscal year is flat to the payments received in the 2007-2008 fiscal year.

FPL Franchise Fee :

The Town adopted Ordinance 2007-001 which stated that FPL and the Town of Loxahatchee Groves desired to enter into a franchise agreement providing for the payment of fees to the Town of Loxahatchee Groves in exchange for the nonexclusive right and privilege of supplying electricity and other services within the Loxahatchee Groves free of competition from the Town of Loxahatchee Groves, pursuant to certain terms and conditions. The budgeted amount for the 2008-2009 fiscal year is flat to the payments received in the 2007-2008 fiscal year. The Town receives 5.9% of the net revenue generated to F.P.& L. for the Town.

First & Second Local Option Fuel Tax (6 cent) & (5 cent)

The Town has entered into an inter-local agreement with Palm Beach County to receive local option fuel taxes based on public lane miles in the Town of Loxahatchee Groves. 70% of the revenue is budgeted for the 6 cent gas tax and 30% is budgeted for the 5 cent gas tax. *The budgeted amount is derived from the data provided by the F.L.C.I.R. 2008-2009 Revenue Estimates (7-8-08) which was provided by the Palm Beach County League of Cities*

State Revenue Sharing

The budgeted amount is derived from the data provided by the F.L.C.I.R. 2008-2009 Revenue Estimates (6-23-08)

Half Cent Sales Tax

The budgeted amount is derived from the data provided by the F.L.C.I.R. 2008-2009 Revenue Estimates (6-23-08)

County Occupational Licenses

This is budgeted based on last year's historical data



2008-2009 Draft Budget

Legal Advertising

Assuming that the Moratorium will expire November 30, 2008, the Town will begin to review and consider zoning applications. With the Cost Recovery Ordinance in place, the revenue reflected in this line item is a pass through to the expenses incurred to place the advertisements.

Interest

The YTD amount is based on the current 1.51% interest paid on the General Fund with an average daily balance of \$500,000.00.

Other Misc. Income

This reflects approximately \$10,000 of the expenditure for Planning and Zoning to be revenue neutral. This will be captured through our Cost Recovery Ordinance.



2008-2009 Draft Budget

Budget Explanations

Expenses

Legislative:

- Professional Services: Should the Town need lobbying services during the fiscal year, the annual budget allows for a \$24,000 expenditure throughout the year. This is strictly for an as needed basis.
- Other Contractual: None
- Education and Training: This budgeted amount will allow for any Council Member to receive any additional education and training if needed.
- Communications and Freight: None
- Legal Advertising: The legal advertising covers all ordinances, resolutions, and other general matters for the Town.
- Rentals and Leases: The amount that the LGWCD charges the Town for the use of their facility for the Town Council meetings and workshops.
- Printing and Binding: This is for a quarterly newsletter
- Promotional Activities: None
- Office Supplies: None
- Operating Supplies: None
- Books, Publications and Dues: This is for the annual Palm Beach County League of Cities dues and monthly meetings and events for Town Council members
- Other Operating Expenses: None
- Buildings: None

Executive:

- Other Contractual: The annual Town Management contract with New Community Strategies is \$96,000.
- Communications and Freight: Monthly phone, internet, and alarm monitoring for the Town office.
- Postage: This is based on historical data from 2007-2008 fiscal year.



2008-2009 Draft Budget

- Rentals and Leases: This shows for an increase in rent as of January 2009. This would allow for the Town to utilize the office space next to the current location for an additional \$275.00 per month.
- Office Supplies: This is based on historical data from 2007-2008 fiscal year.
- Other Operating Expenses: The first month's allocation includes \$2000.00 for computer and office upgrades. The rest of the allocation for the fiscal year is to cover other operating expenses that the Town would incur (i.e. signage)
- Web Site Maintenance Contract: Monthly web hosting and maintenance of the Town's website.
- Insurance: The annual F.M.I.T. expenditure.
- Contingency:
 - 2007 Contingency: \$223,500 (13.22%)
 - The 2007 Contingency will not be utilized
 - 2008 Contingency: \$230,075.18 (11.28%)

Town Clerk:

- Communications and Freight: None
- Legal Advertising: After the Moratorium expires, the Town expects that there will be legal advertising relating to zoning applications and approvals. This is a pass through expenditure with the adoption of the Cost Recovery Ordinance.
- Printing and Binding: This is the monthly amount that is paid to produce copies (the Town owns the copier machine.)

Finance

- Professional Services: This is the amount of services to be rendered by the Town's Audit Firm for the 2008-2009 Fiscal Year

Legal:

- Professional Services: This is the budgeted amount requested by the Town's law firm of Goren, Cherof, Doody and Ezrol. This represents a 9% increase from the 2007-2008 fiscal year.

Planning and Zoning:

- Other Contractual : The Master Road, Equestrian, Greenway Trail Plan will commence at the end of August 2008. The Plan should be complete by Spring 2009. The estimated cost of the complete study will be \$75,000.



2008-2009 Draft Budget

- Planning and Zoning Contract: The services that will be covered under the Planning and Zoning Contract will be (\$15,000):
 - Consulting work with Land Research Management (*recovered*)
 - Platting services with Calvin-Giordano (*recovered*)
 - Engineering work commissioned by the Town for research purposes (to assist with road and possible culvert issues) (*not recovered*)
- Code Enforcement Officer: This represents maintaining the current level of code enforcement (16 hours per week.)
- Comprehensive Plan: The remaining balance of the Comprehensive Plan with the SR80 Corridor Traffic Study that needs to be paid during the 2008-2009 fiscal year is \$122,097:
 - Oct 08: \$68,942 (Comp. Plan w/ SR80 Corridor Study)
 - Nov 08: \$20,000 (Comp. Plan)
 - Dec 08: \$20,000 (Comp. Plan)
 - Jan 09: \$13,155 (Comp. Plan)

Should the Town choose to begin to rewrite the Unified Land Development Codes for adoption by the Town, \$30,000.00 is appropriated for this process.

Police:

- Professional Services :
 - 2007-2008 PBSO Contract: \$240,000
 - 2008-2009 PBSO Contract: \$261,600 (9% increase)
- Other Contractual: The budget will allow for an additional expenditure each month for extra law enforcement (approximately 5 hours per month at an hourly rate of \$45.00/hour). In addition, 1 week per month of full speed patrol enforcement (\$2100.00/week/month) was budgeted.
- Other Operating Expenses: None

Public Works:

- Professional Services : None
- Other Contractual: None
- Roads and Streets (Other Contractual): This reflects passing the money through to the entity that serves as the maintenance provider for the public roads in our Town (LGWCD).
- Solid Waste Fees: *Waste Pro Contract*
 - \$354.00 per parcel per year x 1,224 parcels = \$433,296.00

**LOXAHATCHEE GROVES INCORPORATION FEASIBILITY
STUDY**

Prepared 8-28-04

Prepared by:

Dr. Arthur Sementelli

With support from:

The Florida Atlantic University VPT Lab

Commissioned By:

The Committee To Incorporate Loxahatchee Groves Inc.

EXECUTIVE SUMMARY AND OVERVIEW	1
HISTORY, BACKGROUND, AND SCOPE	3
HISTORY AND BACKGROUND	3
LOXAHATCHEE GROVES WATER CONTROL DISTRICT	3
COUNTY TAX RATES AND SERVICE LEVELS	3
ORGANIZATIONAL EFFORTS	3
REVIEW OF STATUTORY REQUIREMENTS FOR INCORPORATION AND COMPLIANCE	5
STATUTORY REQUIREMENTS	5
COMPLIANCE	6
STUDY AREA	9
BASIC ASSUMPTIONS AND METHODS	10
TOTAL REVENUES.....	12
CURRENT SERVICES.....	13
REVENUE PROJECTION METHODS.....	13
EXPENSE PROJECTIONS AND METHODS	14
IMPACT ANALYSIS.....	14
ALTERNATIVES TO INCORPORATION.....	15
FEASIBILITY OF TAKING NO ACTION.....	15
ANNEXATION.....	15
STATUTORY OPTIONS.....	16
ALTERNATIVES TO THE COUNCIL MANAGER FORM	17
CONCLUSIONS	17
FINAL RECOMMENDATION	19
APPENDIX A: REVENUES AND EXPENSES.....	20
APPENDIX B: COMMUNITY MAPS.....	23
APPENDIX C: COMMUNITY PROCLAMATION.....	28
APPENDIX D: FISCAL IMPACT TABLES	31
APPENDIX E: FLORIDA STATUTE 570.71.....	33
APPENDIX F: ALL OR NOTHING LEGISLATION	38

EXECUTIVE SUMMARY AND OVERVIEW

Loxahatchee Groves has existed in some form since the mid 1800's. One of its earliest incarnations was as a trading post, predating the establishment of Palm Beach County as a legal body by approximately 50 years. The development of Loxahatchee Groves as a consistent community is most closely associated with the interests of the Southern States Land & Timber Company in 1917. Since then, the community has maintained its rural lifestyle over the past 87 years, and has consistently rejected residential and commercial developments that would significantly change the community's rural character.

Consequently, with a small population of approximately 3122¹ people, the community does not technically meet the minimum population, density, or distance requirements set forth by Florida Statute. However the unique nature² of the community in question, as well as the stability of the community boundaries appears to favor the incorporation of Loxahatchee Groves. Furthermore, when one considers the differences in demographics, development, economics, lifestyle, and landscape relative to the rest of Palm Beach County, you can make a strong case for a separate community identity.

Palm Beach County³ has an estimated 1,216,282 residents as of 2003 with over 570 people per square mile, with a three-year population change of over 7.5%. It is approximately 13.8% African American, 12% Hispanic, and approximately 70% Caucasian. Palm Beach County has a median age of approximately 41.4 years with an estimated median household income of \$45,062.

In contrast, Loxahatchee Groves currently has approximately 3122 people with 260 people per square mile. Since there has been a County driven moratorium on development for the past few years, one can estimate a more conservative population change for Loxahatchee Groves, roughly 2.5%. There are proportionally more Asians, comparable proportion of Hispanics, and fewer Native and African Americans when compared to the rest of Palm Beach County, and the median age of Loxahatchee Groves is approximately 35 years, with a median household income of approximately \$58,660.⁴

Currently, Loxahatchee Groves has one community based governing entity and one interest group. Both are established and have served community interests in Loxahatchee Groves. The first is the Loxahatchee Groves Water Control District, which manages the roads, canals, and groundwater issues in the community. The Water Control District was established in the 1917, and established the boundaries of the community shortly after the creation of Palm Beach County in 1909. The second is the Loxahatchee Groves Landowners Association, an organization of less than 10% of the property owners interested in preserving and protecting the rural atmosphere of Loxahatchee. This interest

¹ This current population figure is derived from the Census 2000 (source: www.census.gov) numbers extrapolated with a conservative 2.5% growth rate over a three year period

² Source: Laws of Florida Chapter 99-425. Full text appears in Appendix F.

³ Source: www.census.gov retrieved 6/10/04

⁴ Sources: www.census.gov retrieved 6/10/04, 6/15/04, Loxahatchee Groves Base Map Project Phase 1 VPT Lab, Florida Atlantic University 6/15/04.

group is primarily concerned with issue management and planning in the community. Unlike the Water Control District is not formally recognized by Florida Statute.

The current boundaries of the Loxahatchee Groves Water Control District/ subdivision of Loxahatchee Groves are nearly identical to those established in 1917. The only boundary changes included the east side of 162nd Drive to the West and 45th Street to the North reflecting extensions to a natural boundary. The community is bounded to the East by Royal Palm Beach, by Wellington to the South, and by a number of unincorporated areas to the West and North. Both cities (Royal Palm Beach and Wellington) exist within a two-mile radius, though neither have currently expressed interest in annexing Loxahatchee Groves. This technically places Loxahatchee Groves out of compliance with Florida Statute 165.061. However, there are some markers that might be considered natural boundaries including a canal and State Road 80. Additionally, the unique identity of the community, and the stability of these boundaries appear to address this requirement in favor of Loxahatchee Groves, though it would be appropriate to request an exemption.⁵

With a population in 2000 of 3021 people, and a total acreage of 8148.07, the density of .65 does not meet the requirement of Florida Statute 165.061. Plans for controlled development could arguably address the minimum population issue. The community's rural character and emphasis on agriculture and associated industries make it unlikely that the community will achieve the 1.5 persons per acre density mandated by the State. Consequently, the community must request another exemption for this requirement.

The community has developed a charter (provided under separate cover) under the requirements of Florida Statute 165 with a Council/Manager form of Government. Estimates of both revenues and expense have been projected for five years. These tables appear in Appendix A. Expense estimates for year one were projected at current costs and levels of service with an inflation factor. For years two through five, expenses were projected based on per capita rates developed from an analysis of budgets from two neighboring and one similar city as well as from estimates for interlocal agreements. This was done to provide the most realistic budget estimates given community service desires. Revenues were estimated from current state and local formulas.

Based on the results of this study, the incorporation of Loxahatchee Groves is feasible, and the adoption of the Charter by the State Legislature is recommended.

⁵ Source: Legislative Committee on Intergovernmental Relations (2001) "Overview of Municipal Incorporations in Florida." Legislative Committee on Intergovernmental Relations (February).

HISTORY, BACKGROUND, AND SCOPE

History and Background

The community known as Loxahatchee Groves is located in Palm Beach County west of West Palm Beach in one of the fastest growing counties in the US.⁶ Originally developed by the Southern States Land & Timber Company in 1917, the community was named Loxahatchee Groves. The Loxahatchee Groves Water Control District was established in 1917 to address road and water management issues. Currently the community exists on 8148 acres⁷ (12.73 square miles) as a rural agrarian stronghold in one of the most urbanized counties in the US.

Loxahatchee Groves Water Control District

The Loxahatchee Groves Water Control District was established in 1917 as the Loxahatchee Groves Sub Drainage District. It was designated as an independent service district devised to levy taxes on Loxahatchee Groves' residents to pay for water and road management issues in the area. It currently operates on a fee per acre schedule assessing \$131.95 per acre of land as part of the non ad valorem revenues for the County. Waste management is the other component of the non ad valorem revenues for the community. Under such a structure, the community has no home rule authority.

County Tax Rates and Service Levels

Currently Palm Beach County and the Water Control District levy a combination of ad valorem and non ad valorem taxes on the community of Loxahatchee Groves. The county total ad valorem tax rate is 19.551 mills, amounting to \$2,974,910. The non ad valorem revenues amount to an additional \$1,183,011. These two sets of taxes fund all current community services including: trash collection, EMS, 911 services, police, fire protection, mosquito control, surface water, canal and road management, and education.

Organizational Efforts

Loxahatchee Groves has been exploring a number of options to preserve its identity and the rural character of the area. Residents formally pursued a Neighborhood Plan in the mid 1990's, while examining other alternatives to incorporation including annexation and other County level avenues for assistance.

⁶ Source: www.census.gov retrieved 6/10/04

⁷ Source: www.census.gov retrieved 6/10/04, US Census Bureau geography database.

In 2003, as large-scale development began to abut the community's borders, residents of Loxahatchee Groves sought to be in charge of their future by having a reasonably planned growth of residential and commercial areas within the community's boundaries. This strategy conflicts with Palm Beach County's push for large-scale growth and dense residential development. Consequently, Loxahatchee Groves becomes politically insignificant, given its population when compared to other more densely populated areas of the County. Additionally, there has been an increasing concern on the part of the significant agricultural industry in Loxahatchee Groves about what might happen if the community is not truly governed by its residents.

Most recently, it appears that the Board of County Commissioners of Palm Beach County have begun "opening up" the western communities for new development. The current focus appears to be the agricultural area west of Twenty Mile Bend on SR 80. This action of "opening up" the western communities has raised concerns among many residents in the remaining rural areas, particularly that their lifestyle will be compromised in favor of rapid commercial growth and urbanization.

As a response to such concerns, residents were surveyed about their overall interest and potential options for dealing with these emerging issues. 60% of the respondents were interested in further exploring the possibility of becoming an incorporated municipality to continue their rural lifestyle. Residents also formed committees to further explore the possibilities of remaining an unincorporated area of Palm Beach County and annexation to adjoining cities as well as incorporation. Initial results revealed that incorporation might be the best option for the residents, and a Feasibility Study was commissioned by community representatives to explore these alternatives systematically and identify the financial viability of operating as a municipality.

REVIEW OF STATUTORY REQUIREMENTS FOR INCORPORATION AND COMPLIANCE

Statutory Requirements

The Florida Legislature through Chapter 165 of the Florida Statutes on the formation of local governments has established requirements and procedures regarding the incorporation of new municipalities within the State, as well as regulations dealing with mergers, consolidations, dissolutions and special districts. The purpose of these state requirements is to: allow orderly patterns of urban growth and land use, assure adequate quality and quantity of local public services, ensure the financial integrity of municipalities, eliminate or reduce avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions, and promote equity in the financing of municipal services.

Section 165.061 of the Florida Statutes lists several conditions as standards for incorporation, merger, and dissolution. They include:

- It must be compact and contiguous and amenable to separate municipal government.
- It must have a total population, as determined in the latest official state census, special census, or estimate of population, in the area proposed to be incorporated, of at least 1,500 persons in counties with a population of 75,000 or less, and a population of at least 5,000 in counties with a population of more than 75,000.
- It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
- It must have a minimum distance of any part of the area proposed for incorporation from the boundaries of an existing municipality within the county of at least 2 miles or have an extraordinary natural boundary, which requires separate municipal government.
- It must have a proposed municipal charter, which prescribes the form of government and clearly defines the responsibility for legislative and executive functions, and does not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Constitution or general law.

- In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation. However, the plan for incorporation may provide for existing contracts for solid-waste-collection services to be honored only for 5 years or the remainder of the contract term, whichever is less, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, excluding any automatic renewals or evergreen provisions, be provided to the municipality within a reasonable time after a written request to do so.

Compliance

Loxahatchee Groves meets some of the requirements in regard to Section 165.021. There are some requirements not met, making the request for an exemption essential. Specifically, the community requests an exemption for the population size, density, and the two-mile minimum distance requirement. The following paragraphs outline compliance and mitigating circumstances for each of the exemptions supporting the granting of each.

Compact, Contiguous, and Amenable Requirement

The current boundaries of Loxahatchee Groves are compact and contiguous. They nearly perfectly reflect both the 87-year-old historic boundaries and current census block designations with only minor changes to reflect movement toward a natural boundary (e.g. canals, roads, etc.). No land outside the historic boundaries was included in this proposal. The community, acting through the water control district, granted land to the City of Royal Palm Beach on the Loxahatchee Groves periphery to accommodate commercial growth, demonstrating a commitment to addressing the concerns of its neighbors without impacting the community as a whole. This agreement with Royal Palm Beach provided some protection to the area by requiring that no part of Loxahatchee Groves can be annexed unless all of Loxahatchee Groves is annexed. Any decision to annex under this agreement currently requires a referendum to pass.

The community has a water control district that has been in existence nearly as long as the county itself. With a separate non ad valorem tax, and basic services already in place, Loxahatchee Groves represents a nearly ideal case for the “amenable to separate municipal government” clause.

Population and Density Requirement

Based on the 2000 Census data⁸, the population of Palm Beach County had 1,131,184 representing over 7% of the total population of the state. The estimated population for 2003 is 1,216,282 making it one of the largest urban centers in the State. Palm Beach County is 1974 square miles (1,263,360 acres). In contrast, the 2000 Census numbers for Loxahatchee Groves reflect a population of 3021 with a density of .65 persons per acre. Currently, the population is estimated at 3122, assuming a conservative 2.5% population growth rate to reflect the moratorium on development, which ended recently. Therefore, Loxahatchee Groves does not meet the minimum population requirement of 5,000 people, nor does it meet the minimum density requirement of 1.5 people per acre.

There are mitigating conditions in this case that allow the establishment of a municipal government. The community of Loxahatchee Groves has historically been a rural, agriculturally supported area with some equestrian activities. To maintain this rural character and support its economic base, the community consciously chose to limit and manage growth. This commitment to growth management is reflected in the community proclamation appearing in Appendix C. Eventually, once the effects of the development moratorium have passed, one could conservatively estimate a 5% population growth rate. However, even with a 5% growth rate and limited development the community is unlikely to grow to 5,000 people with a density of 1.5 people per acre in the next decade without compromising its rural identity.

People in surrounding areas often assume that Loxahatchee Groves is already a municipality of some sort. Its unique identity and rich history have made this community a destination for those valuing the rural lifestyle for more than 80 years. It is very different from either Wellington or Royal Palm Beach, and the residents believe it is a community with its own identity. It is identified as a unique place in the news, on maps, and as a destination/community on the Internet. However there is a growing understanding that there is no home rule charter, no mechanism for these residents to take charge of their own destiny, and no means to preserve their chosen lifestyle.

Consequently, if we consider the unique nature of the community, particularly when compared to its urbanized neighbors, and to Palm Beach County as a whole, it represents the sort of extraordinary condition that supports waiving the minimum population and density requirements.

Two-Mile Minimum Distance Requirement

Loxahatchee Groves does not meet the two-mile minimum distance requirement from current cities in Palm Beach County. One of the reasons given for this distance requirement is to limit urban sprawl in Florida. Ironically, it is the sprawling growth of its closest neighbors (Royal Palm Beach and Wellington) that have made it impossible to

⁸ Source: www.census.gov retrieved 6/10/04

meet this requirement. Furthermore, the proximity of encroachment by these two cities has raised concerns among the residents about possible annexation, which a majority of surveyed residents currently oppose.

Therefore, it becomes imperative to exempt Loxahatchee Groves from this requirement in order to maintain the spirit of the statute. By allowing the community to incorporate itself despite the distance requirement, the legislature will limit sprawl (as the legislation intended), provide some legal protection for the region's "green belt," and help maintain spaces for water table replenishment. It is reasonable and beneficial within the intent of this statute to grant this exemption to Loxahatchee Groves.

Municipal Charter Requirement

The community has been developing a municipal charter that is included under a separate cover. The Charter outlines the form of government, the responsibility for legislative and executive functions, and does not prohibit the legislative body from levying any taxes authorized by constitution or general law. The Charter provides a legal description of the community and its boundaries, the proposed dates for referendum and incorporation, and requests that the requirements in regard to the earliest date of eligibility for State Revenue Share be waived.

STUDY AREA

Loxahatchee Groves is a community located in Palm Beach County North of Southern Blvd and East of Seminole Pratt. Base maps of the area, including historical boundaries and census blocks appear in Appendix B. Its borders have remained relatively constant with its original Plat map from 1925. The only changes made in this proposal reflect the desire to capture the community within as many whole census blocks as possible to ensure data integrity and make future information updates as smooth as possible. Consequently, the maps created by the Florida Atlantic University VPT lab for the residents of Loxahatchee Groves were predominantly comprised of complete census blocks. However, there were four census blocks that did not fit completely within the boundaries at five points. Cartographers were able to estimate the information appropriate for the study through the use of a few decision rules and guidance from the residents.

The resulting map was constructed using ESRI ArcGIS 8.3. The polygon was digitized from a static map provided by the LGLA (listed as figure 1A in Appendix B) and by following existing 2000 US Census block boundaries. ESRI 2003 StreetmapUSA shape files (Publication date 12-1-2002) City, County, and Streets were used as reference points. The visualizations of this polygon appear in Appendix B, and have a relational database associated with them that can be expanded and updated to meet future community needs. Currently the database includes demographic information, and limited economic information about the community. Future expansions should include the addition of property appraisal data, capital equipment information, and other community resources.

The community is primarily zoned as Agriculture Residential (Ag-Res.), but has many of the land uses associated with the rural designation. Within its primarily Ag-Res. Designation, the community also has RR-10 and RR-5 (suburban estate) property, commercial low (1 in 10 underline), park, institutional, and commercial low office zoning. The institutional properties include the Loxahatchee Groves Elementary School, a post office, fire station, and several churches. If incorporated, the citizens of Loxahatchee Groves intend to adopt current county land use and zoning plans. After incorporation, a citizen's commission will be formed to develop a comprehensive plan as required by Florida statutes.

BASIC ASSUMPTIONS AND METHODS

Basic Assumptions

Certain assumptions have been made and should be considered when reviewing the expense and revenue projections contained within this report. Assumptions about budgetary and overall financial projections appear in Appendix A.

Revenue and Expense Assumptions

All numbers for revenues and expenses are necessarily projections into the future. Consequently, they are simply estimates. Revenues were conservatively estimated, and expenses were estimated more generously to ensure feasibility could be determined based on the sort of “lean and mean” numbers desired by the community.

Base Year

All population, revenue and expense projections were figured based on FY-2003 data. Total revenues were generated based on current information from the Palm Beach County Appraiser’s Office for the 2003 fiscal year.

Inflation

Unless otherwise specified, the study used a 2.4%⁹ rate of inflation interpolated from the trimmed average of the cost of living adjustments (COLAs) and State of Florida Consumer price index over a five-year period. The exact inflation factor cannot be predicted for the five years of revenues and expenses. However, the 2.4% per year was considered reasonable given the historical information available, and when applied equally to both revenue and expense sides of the budget, any actual deviations would be self correcting.

Franchise Fees

In estimating revenue, franchise fees will not be included as a revenue source for the purposes of estimating possible revenues in the attempt to determine feasibility.

General Fund and Special Revenues

For the purpose of estimation, only General Fund expenses and revenues will be addressed. Such revenues are those obtained from ad valorem taxes, state/county shared revenues, utility taxes (if any), and other miscellaneous fees collected for General Fund Revenue including occupational licenses, building permits, and charges for services, etc. General Fund expenses are those of general governmental operation including administrative services, public works, development services, parks and recreation, police, and fire services. In this case, many of these services will be maintained by the County,

⁹ Source: 2004 Florida Property Tax Valuation and Income Limitation Rates.

and therefore do not currently require the community to levy fees for utility taxes, permits, franchise fees, etc.

It is understood, however, that there are often other sources of revenue available to a city. One source often used is designated revenues such as a storm water management fees. These revenues are adopted by ordinance as a source of funds in order to accomplish specific purposes. In the case of Loxahatchee Groves, this specific fee and associated services are currently part of Loxahatchee Groves Water Control District, and therefore cannot be considered as part of the general fund budget for the community unless there are substantial changes in the scope and nature of development in the community. If such a change happens, the community would then need to consider restructuring its water management to meet current state and federal standards.

As a point of information Loxahatchee Groves residents currently pay such fees to Palm Beach County. A non ad valorem fee of \$131.95 per acre is assessed to fund the Water Control District, and additional fees are assessed for waste collection (currently contracted to Onyx). Any such contracts must stand, regardless of what entity governs. Therefore, residents will continue to pay these fees until the end of the contract.

First Year Service Provision

If the referendum passes, Loxahatchee Groves will become a municipality within roughly three months. This decision will arguably place the community at least one quarter into the following fiscal year if not two quarters depending on the timing of the referendum. Ad valorem taxes will have been collected for Palm Beach County, and non ad valorem revenues will have been collected for the Water Control District and waste collection. Additionally, Loxahatchee Groves will not be able to collect taxes until the following November. Consequently, to prevent any service interruptions during the first fiscal year of existence, services will continue to be provided by Palm Beach County. During this time period, the municipal council and any administrators will develop departments and services necessary for the community either internally or through contracts.

Level of Service

The decision was made to assume the same level of service for Loxahatchee Groves during the next five years as it receives currently. The assumption has also been made that the level of services for years two through five should be limited given that surveyed residents desire to maintain reasonable tax rates, and that they historically consume relatively low levels of many services.

Parks and Recreation Areas

Parks and recreation are not being considered as a general fund service in Loxahatchee Groves. The one park in Loxahatchee Groves is currently under Palm Beach County, and unless residents choose to incur the expenses associated with their upkeep, it is

recommended that Palm Beach County continues to maintain it, given that any county resident, including those in Loxahatchee Groves would continue to have access.

Population Estimates and Projections

Population for the first year FY2005 is estimated to be 3174 using the Census 2000 data and the assumption of a 2.5% growth rate over a three-year period. Using this conservative estimate, we might underestimate revenues that would accrue during the period. However, this should not be a problem, for if the population increases at a rate greater than 2.5%, associated expenditures should also increase similarly. Table 1 presents the estimated population growth for the community over a 10-year period.

Table 1 Estimated Population Growth

Year	Population	Change in 3 year increments¹⁰
2005	3174	
2008	3253	79
2011	3335	82
2014	3418	83

Total Revenues

Revenue projections were estimated from the current ad valorem tax rates for Palm Beach County. These revenue projections are based on 1.5-mill tax rate for the community after incorporation and include revenue from state revenue sharing, which could amount to approximately \$72,036 using the FY2003 computations from the Florida DOR, and an additional \$217,979 from the FY2003 half-cent sales tax revenue share. These computations are based on the total FY2003 revenues for Palm Beach County (amounting to \$22,811,029 and \$66,757,894 respectively) adjusted for the per capita population of Loxahatchee Groves relative to the entire county (0.00256). Table 2 presents the revenue stream for the community based on the 1.5 mill tax rate from FY 2005 to FY 2010.

Table 2: Five-Year Revenue Projection From Ad Valorem Taxes¹¹

Year	Revenues	Increase
2005	\$228,242	
2006	\$235,090	\$6,847
2007	\$242,142	\$7,053
2008	\$249,407	\$7,264
2009	\$256,889	\$7,482
2010	\$264,595	\$7,707

¹⁰ The three year increment is consistent with current US Census Bureau measures for Palm Beach County

¹¹ This table represents a conservative estimate of revenue growth driven only by changes in property appreciation. It uses a 3% appreciation in value per year, and does not include any revenue sharing.

Current Services

Currently Services are provided to Loxahatchee Groves by two entities: the Loxahatchee Groves Water Control District and Palm Beach County. An assessment of these services is necessary to develop the most accurate levels and costs of services to the new municipality. Consistent with earlier discussions of revenue and expenditure estimates, this study under-represents revenues somewhat and over-represents expenditures to craft a “conservative” estimate of costs over time. Table 3 presents the basic services and their current sources for Loxahatchee Groves.

TABLE 3

Community Services	Before	After
Water	Wells ¹²	Wells
Sewer	Septic	Septic
Trash	County Trash Collection, Onyx	County Trash Collection, Onyx
Electricity	FPL	FPL
Telephone	Bellsouth, other vendors	Bellsouth, other vendors
Cable	Adelphia	Adelphia
EMS	Palm Beach County Fire	Palm Beach County Fire
911	Palm Beach County Sheriffs dept	Palm Beach County Sheriffs dept
Police	Palm Beach County Sheriffs dept	Palm Beach County Sheriffs dept
Fire Protection	Palm Beach County Fire	Palm Beach County Fire
Mosquito Control	Palm Beach County	Palm Beach County
Education	Palm Beach County	Palm Beach County
Roads	Loxahatchee Groves Water Control District	Loxahatchee Groves Water Control District
Surface Water, Drainage	Loxahatchee Groves Water Control District	Loxahatchee Groves Water Control District

REVENUE PROJECTION METHODS

Several methods were used to conservatively estimate the revenues expected to accrue to the municipality of Loxahatchee Groves. First, the community expressed the desire for a minimal government as well as a minimal tax structure. Consequently, the expenditures for services were managed carefully to ensure that the tax rate could stay at the projected 1.5 mills keeping with community desires to maintain the same level of services. The

¹² The local hospital, Palms West currently purchases water from the Village of Royal Palm Beach and the elementary school purchases water from the Seminole Improvement District operated by Callery Judge Grove.

detailed projections for revenues and expenditures for the first five years appear in Appendix A. Small amounts of the revenue sharing dollars were used to establish three separate funds (revenue, contingency, and capital improvement). The first is a revenue fund to offset unforeseen increases in general expenditures. Once established, the revenue fund should help offset tax increases in the future by creating a secondary revenue stream for the municipality in addition to ad valorem taxes and state revenue sharing. The second is a contingency fund for emergency uses instead of encumbering general fund revenues. The third is a capital improvement fund. After the capital improvement fund is established it can be used to replace equipment and purchase revenue-generating spaces for the community if invested conservatively.

This study assumed a 2.8% increase per year for the State Revenue Sharing funds.¹³ Additionally, revenues from ad valorem taxes assumed a 3% appreciation in property values during each period, which is conservative when compared to the market based appreciation observed over the past several years in Palm Beach County as a whole. As part of the long-range goals for this study, the choice was made to not raise the ad valorem tax rates during the first five years. The consequence of this decision is that Loxahatchee Groves will not be considered a “full service” city at the end of the study period. This outcome is consistent with community interests.

EXPENSE PROJECTIONS AND METHODS

Expenses for Loxahatchee Groves were computed for the General Fund Budget only. As with the revenue budgets, special funds and enterprise funds were not included. Expense projections for the 5 fiscal years appear in Appendix A. Expenses were developed using data from prevailing wage rates, triangulations of current service costs, and triangulations of current lease rates for similar spaces. To compute these expenses, several Florida cities were chosen. Two of them about the proposed community (Royal Palm Beach and Wellington); one is considered a “comparable” community in Broward County; and three others from around the State of Florida were used to derive expenses for the community.

While the comparable cities vary in size and levels of service, the average per capita rates for services are valid benchmarks to evaluate feasibility. The numbers become more accurate when they are weighted to account for intangibles such as economies of scale, subtle differences in location, and subtle differences in the resident populations. It was further established that the municipality of Loxahatchee Groves would limit the amount of indebtedness in the first five years of existence as a means to alleviate potential issues that arise from communities operating with deficits early on.

IMPACT ANALYSIS

The incorporation of Loxahatchee Groves will have a fiscal impact on Palm Beach County. Specifically, the County will suffer a reduction in revenues amounting to roughly \$290,000 during the first year. The reduction will be in the half-cent sales tax

¹³ Source: Florida Department of Revenue accessed 7/13/04

(amounting to \$217,979) and an additional reduction in the County revenue share (amounting to \$72,036). However, these will be the only areas where the County would lose revenues. Additionally, Loxahatchee Groves intends to be a “business friendly” community, and if the businesses fit within the overall development plans for the community, they could provide additional revenues to the County in the form of taxes, licenses, and permits.

The communities of Royal Palm Beach and Wellington would also be impacted, albeit slightly by the incorporation of Loxahatchee Groves. Neither community would be able to expand by annexing the unincorporated properties proposed for the municipality of Loxahatchee Groves. However, there are ample unincorporated areas around each of these two communities that would allow for further expansion without disturbing Loxahatchee Groves since Royal Palm Beach could still expand to the North, West and East, while Wellington could expand South and West.

ALTERNATIVES TO INCORPORATION

Taking No Action

If the community decides to take no action, Loxahatchee Groves would continue to exist as an unincorporated community. In this scenario it would be advisable for the community to develop some sort of PAC or interest group to address community concerns about the Scripps/Biotechnology development north of the community. This would not provide the same sort of institutional insulation or support that either incorporation or annexation could, but it is a cost effective mechanism to address problems in the short term. Additionally there is a draft Annexation Charter Amendment dated 6/17/04 which has the potential to limit citizens’ right to self determination both in the short and long term.

Feasibility Of Taking No Action

This is a feasible but frail alternative to incorporation. Those uncomfortable with the notion of incorporation in the near term might consider this as a viable option. An open dialogue among Loxahatchee Groves’ residents and representatives must continue to ensure clear communication of needs and concerns locally. Citizens may consider establishing a Political Action Committee (PAC), but they must be aware of the varying effectiveness that any PAC’s can have. PAC effectiveness is also influenced by access to policymakers, which can change during election cycles. In the long term these changes might create the need for systematic funding of the PAC to maintain its access and effectiveness.

Annexation

Other options exist for the community of Loxahatchee Groves. One option explored by the community is annexation. Annexation refers to the process whereby Loxahatchee Groves would join a neighboring community, making it part of the existing incorporated

community. Currently there are two communities that *could* possibly annex Loxahatchee Groves: the Village of Royal Palm Beach, and the Village of Wellington. Each community has their own governing and service structures that would be imposed with corresponding tax rates and restrictions.

Annexation has the potential benefit of moving the community into an existing governmental structure. However, it has several limitations including the removal of self determination from the selection of a governing body, the imposition of tax rates to fund debts incurred to fund projects that may or may not benefit Loxahatchee Groves, and the imposition of existing planning and zoning restrictions that may or may not be consistent with the goals of Loxahatchee Groves. Additionally, while *neither community* when approached by members of Loxahatchee Groves expressed an overt interest in annexing the area. Representatives of each community desired to be informed if the annexation option were being pursued, since a voluntary annexation would be beneficial to either community.

Table 4 presents the millage rates for incorporation, annexation, and taking no action. Please note that millage rates for the County and incorporated areas listed in table 4 are for the 2003-2004 fiscal year and are reasonable estimates of each alternative. A 1.5 mill tax rate for an incorporated Loxahatchee Groves would generate \$228,242 in ad valorem revenues, which when paired with State revenue sharing would be more than adequate to fund incorporation, lease administrative offices, and other services a reasonable level. After including these two additional expenses, the community would still have substantial capital to reinvest or use for unforeseen/incidental expenses, rural development, and the establishment of revolving funds to ensure financial liquidity while minimizing future tax burdens on the community. Consequently, unless there was overwhelming support for annexation (community surveys have been negative on this issue to date), and the community was willing to bear the additional tax burdens, this option remains feasible, but frail when compared to incorporation.

Table 4. Cost Comparisons for Annexation

	Incorporation	Royal Palm Beach	Wellington	Palm Beach County 2004
Millage Rate	1.5	5.99	2.7	4.5
Effective Base Millage Rate	6.0	10.49	7.2	4.5

Statutory Options

Property owners could consider Florida Statute 570.71, which appears in Appendix E. This legislation stipulates that rural lands can be protected through the process of easements and land use planning consistent with agricultural uses. Additionally, this legislation addresses limitations on construction, subdivision of lands, dumping, and hydrology issues. Any protective agreements entered into under this legislation will be

effective for a period of 30 years, and focuses on best management practices for the properties in question.

Feasibility of Statutory Options

This is a feasible, politically neutral alternative for Loxahatchee Groves, though it is a much weaker alternative when compared to incorporation. Negotiating the type of protection offered in 570.71 would require significant, broad based, coordinated political support from the entire community. The statute was designed for use by individual properties, not entire communities. It could conceivably be negotiated through current channels, but could easily become part of a political strategy around the County's Charter Amendment proposal listed above. If pursued, this strategy should include a lobbyist or set of lobbyists to ensure community interests are heard at the legislative level. Before considering such an option, there must be an open dialogue among Loxahatchee Groves' residents and representatives to discuss the positives and negatives of such an approach, including the extended time frames of these agreements. If this option is pursued, the community would need to reconsider its position at the end of the 30-year term of the agreement, and until that point would find it difficult to change existing land uses. The program created by this statute has limited if any funding currently. Even though this could provide a low cost alternative to incorporation, this option is unwieldy at best, and the community should take the time to understand the implementation and politics of this legislation as well as the legal protection and restrictions associated with it.

ALTERNATIVES TO THE COUNCIL MANAGER FORM

The commission form of government could theoretically satisfy the community's needs. Such an option would require residents to elect commissioners, forego an executive, and employ one full time person to manage daily items. The selection of a commission form would create an initial cost savings of over \$70,000 compared with the council manager form, reflecting the cost of the proposed city manager's salary and benefits. The adoption of a commission form would require a strong commitment by elected officials to become the sort of truly "good aldermen" that inspired it in the 19th Century. However, considering the community's strong interest in pursuing the professional manager option, and their relative aversion to the committee governance structure required by this option, the commission form of government should be understood to be feasible, but not desirable for Loxahatchee Groves.

CONCLUSIONS

Based on the estimate of select program expenditures shown in **Appendix A**, Loxahatchee Groves would conservatively need to generate between \$300,000 and \$400,000 in ad valorem tax revenues to fund basic municipal services and allow for a small revenue surplus to meet future expenditures. This goal can be achieved with a 1.5-

millage rate supplemented by State Revenue Sharing. This would enable Loxahatchee Groves to avoid some of the fiscal pitfalls that surrounding communities have experienced, such as short term deficit financing, the need to raise fees, and choices to reduce or modify some services.

If the desire for services remains stable, there would be no need to collect additional revenues that cities typically rely on from residents and businesses in Loxahatchee Groves. Incorporation would not affect these, and therefore they would not be considered “new” costs associated with incorporation. These revenues, if needed and desired could be added to the community’s revenue base in the future through channels described in the Charter after incorporation. Revenues generated from occupational licenses, and utility and franchise fees for electricity would be considered “new” revenues to residents and businesses in Loxahatchee Groves if they were to incorporate and chose to collect them.

As seen in Appendix D, the average homeowner would pay as much as 4.49 mills less in ad valorem taxes if Loxahatchee Groves were to incorporate when compared to being a part of Royal Palm Beach. Loxahatchee Groves would still pay 1.5 mills more than if the community were to take no action and remain unincorporated. Overall, the incorporation of Loxahatchee Groves can be accomplished reasonably, and within a relatively short time frame, if the exemptions requested earlier are granted, and the full proposal is given legislative approval.

Though incorporation appears to be financially possible, and appears to be the most appropriate option, there are a number of potential issues that could emerge during the process. Applying for revenue sharing with the State of Florida can have certain political consequences. The primary service provider for Loxahatchee Groves is Palm Beach County. As an incorporated entity, Loxahatchee Groves could reasonably be charged *additional* fees above current rates for the use of sheriff’s department, fire, and other County resources, increasing the need for revenues. It does not, however, appear this will happen given previous discussions with County representatives. Second, the emphasis on a rural, agricultural lifestyle in the heart of one of the three most populous counties in the state, will likely meet with challenges in the long term, particularly in the context of development pressures from the economic expansion and demand for new residential housing. Third, Community Development Block Grant money (CDBG) is often tied both to the municipality and the County it resides within. If there are political tensions, certain grant monies might not filter down to the community, even if needed. Finally, incorporation requires a community’s residents to be united behind the idea of becoming a municipality. A survey conducted in 2003 indicated approximately 60% support for incorporation, and a substantial amount of grass roots support. However, if this sentiment changes, it might be prudent to reexamine one or more of the proposed alternatives to incorporation.

FINAL RECOMMENDATION

Pending approval for the exemptions for population size, density, and the two-mile proximity issue, it is the recommendation of this study that incorporation under the council-manager form is feasible and desirable for Loxahatchee Groves. Based on the research and associated findings, the community is likely to be both sustainable and successful. Other than the exceptions noted earlier, Loxahatchee Groves meets all other requirements for incorporation. The issues where the community does not conform to statutory requirements reflect the unique environment that the community currently exists within as well as its rich history. Since the legislature has waived these requirements consistently in the past,¹⁴ incorporation would be feasible both legally and fiscally if waivers of these requirements were provided to Loxahatchee Groves.

¹⁴ Source: Legislative Committee on Intergovernmental Relations (2001) "Overview of Municipal Incorporations in Florida." Legislative Committee on Intergovernmental Relations (February).

Appendix A: Revenues and Expenses

General Fund Expenses: Municipality of Loxahatchee Groves

Line Item	FY2005-2006	FY2006-2007	FY2007-2008	FY2008-2009	FY2009-2010
Administration					
City Council (a)	\$3,000	\$3,072	\$3,146	\$3,221	\$3,299
City Manager (b)	\$85,000	\$87,040	\$89,129	\$91,268	\$93,458
City Attorney (c)	\$100,000	\$102,400	\$104,858	\$107,374	\$109,951
Administrative Assistant /City Clerk(d)	\$42,000	\$43,008	\$44,040	\$45,097	\$46,179
Budget Services (e)	\$30,232	\$30,958	\$31,701	\$32,461	\$33,240
Personnel Services (f)	\$9,760	\$9,994	\$10,234	\$10,480	\$10,731
Tax Ass/Prop Appraisal	County	County	County	County	County
Animal Control	County	County	County	County	County
Rent for Offices (g)	\$25,200	\$25,805	\$26,424	\$27,058	\$27,708
Public Works	LGWCD	LGWCD	LGWCD	LGWCD	LGWCD
Development Services (h)	County	\$15,041	\$20,660	\$15,000	\$5,000
Parks and Recreation	County	County	County	County	County
Law Enforcement (i)	County	County	County	County	County
Fire and EMS	County	County	County	County	County
Startup Costs	\$22,000	0	0	0	0
Operating Expenses	\$8,400	\$8,602	\$8,808	\$9,019	\$9,236
Insurance	\$10,000	\$10,300	\$10,609	\$10,927	\$11,255
Miscellaneous Expenses					
Reserve for contingency	\$61,707	\$65,635	\$76,561	\$66,486	\$83,408
Capital Improvement	\$28,707	\$28,707	\$29,386	\$45,064	\$41,605
Revenue Fund	\$91,853	\$99,819	\$90,258	\$96,853	\$99,752
Total	\$517,859	\$530,380	\$545,812	\$560,310	\$574,823

- a. This figure represents a \$50/month stipend for five council members beginning in FY2005-2006
- b. This figure represents salary and benefits and was created from the trimmed averages of prevailing salaries for similar sized communities Source: National League of Cities, ICMA.
- c. This figure represents a contracted amount for local attorney services not to exceed 300 hours.
- d. This figure represents salary and benefits and was created from the trimmed averages of prevailing salaries for similar sized communities Source: National League of Cities, ICMA.
- e. This represents a contract for budgeting and auditing services representing 50% of the prevailing salary of budget analysts in the area
- f. This represents a contract for personnel services representing 20% of the prevailing salary of budget analysts in the area
- g. Rents were estimated using local realtor information for a 1200sq ft property in mixed use plazas in Palm Beach County
- h. Costs for development services in years two through five reflect the need for a comprehensive plan, as well as the emerging need for contract planning services
- i. The cost of this service will shift to the municipality, but the amount will remain constant

General Fund Revenues: Municipality of Loxahatchee Groves

Source	FY2005-2006	FY2006-2007	FY2007-2008	FY2008-2009	FY2009-2010
Ad Valorem Taxes	\$228,242	\$235,090	\$242,142	\$249,407	\$256,889
State Revenue Sharing (a)	\$72,036	\$73,765	\$75,535	\$77,348	\$79,204
Half Cent Sales Tax (b)	\$217,979	\$223,210	\$228,568	\$234,053	\$239,670
Total	\$518,257	\$532,065	\$546,245	\$560,808	\$575,764

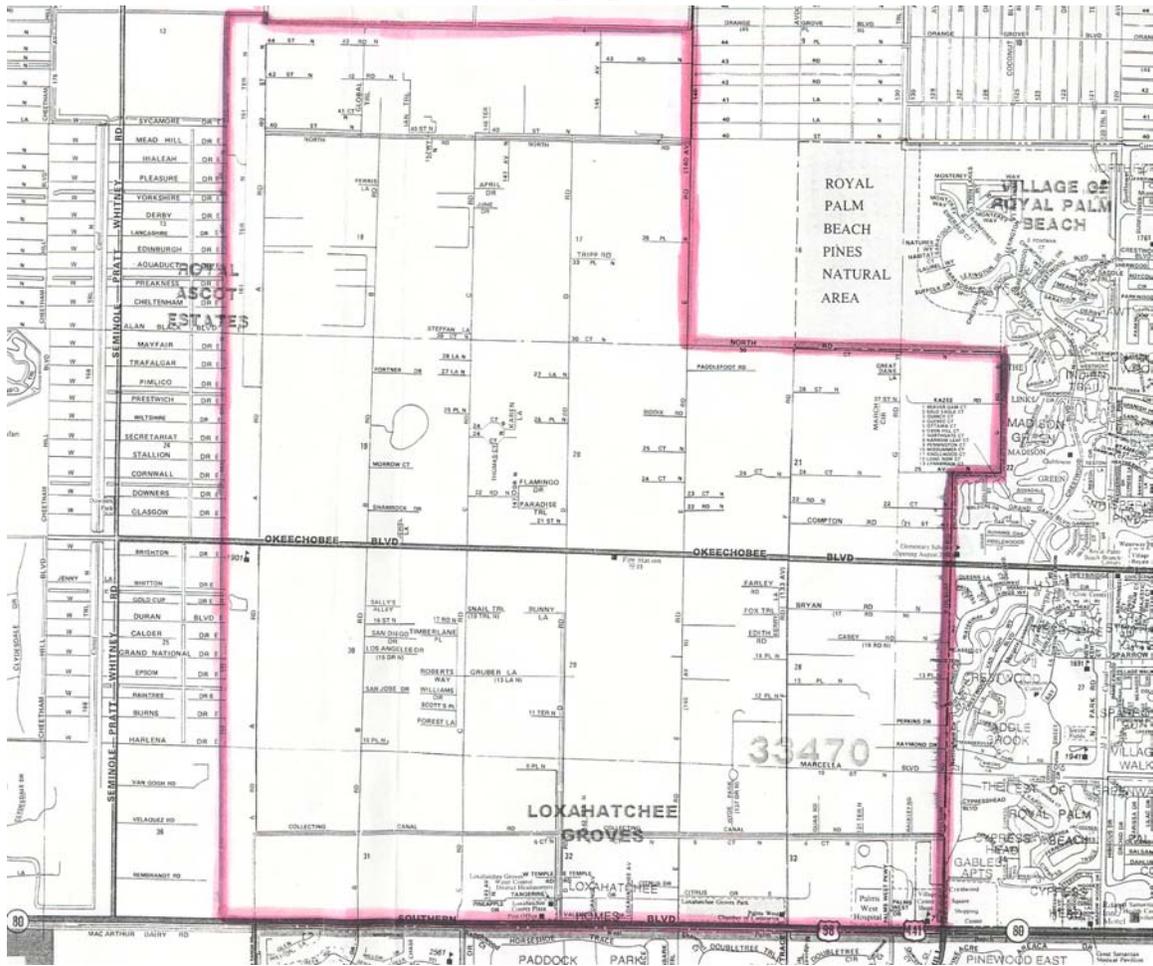
Note: Revenue streams used for feasibility include a 15% cushion to reflect yearly changes in revenues including shortfalls, delinquent payments, and discounted tax rates for early payment.

(a) State Revenue sharing increases reflect a 2.7% increase based on average historical performance Source: Florida Department of Revenue. The actual number should increase dramatically due to changes in legislation in the second year.

(b) Half Cent Sales tax changes reflect 2.7% increase based on average historical performance. The actual number will be reduced by an unspecified amount to changes in legislation. However, the DOR indicated this will be offset by increases in revenue sharing distributions Source: Florida Department of Revenue.

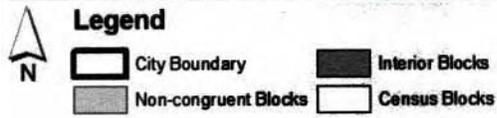
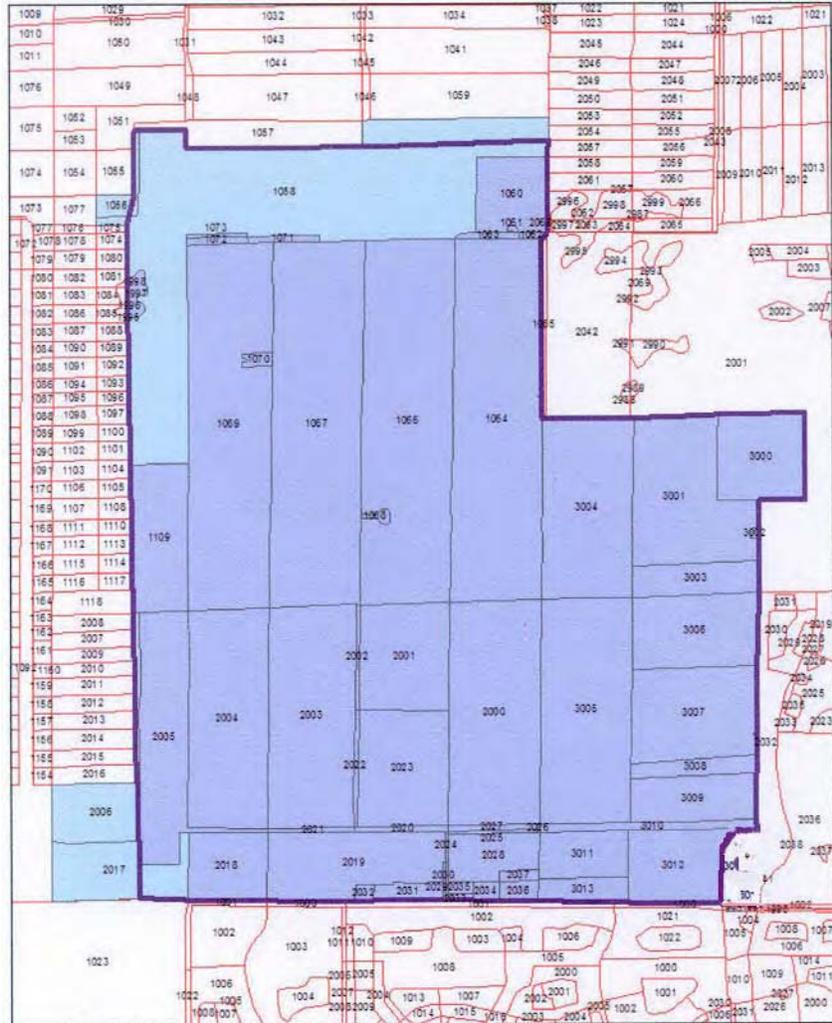
Appendix B: Community Maps

Historic Boundaries



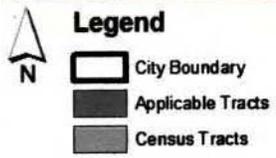
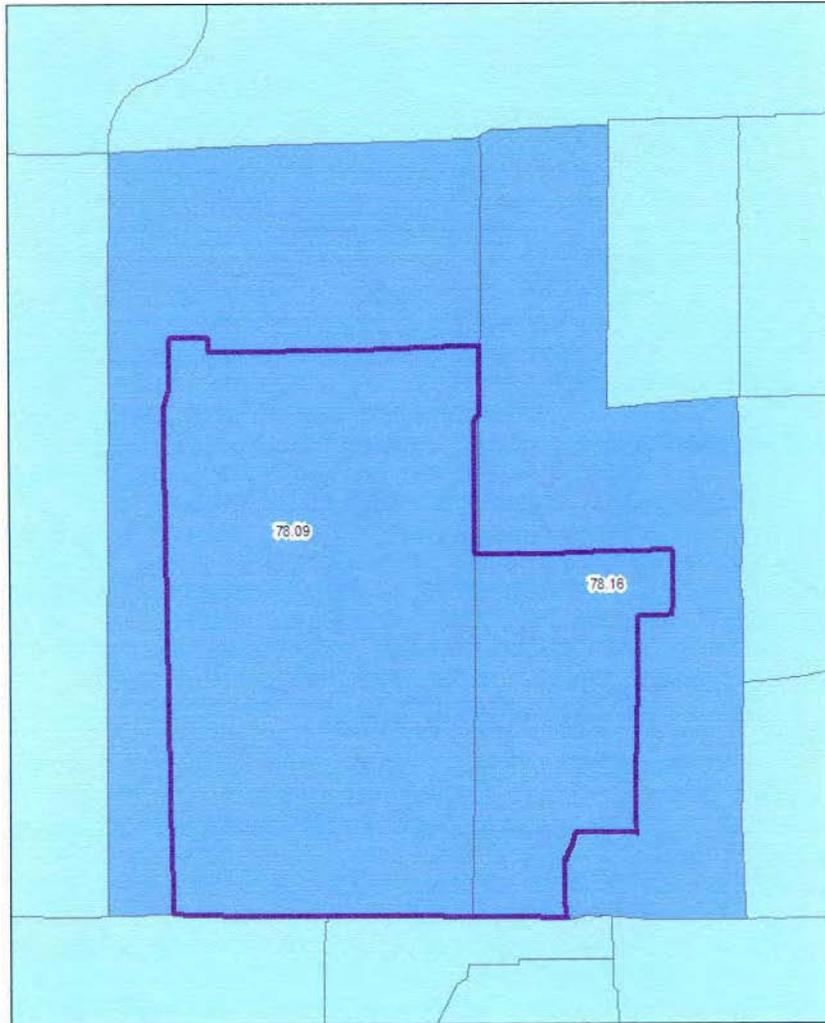
Loxahatchee Groves Base map

Figure 2: Identifying Non-congruent Census Blocks



Loxahatchee Groves Base map

Figure 4: Using Contiguous Census Tracts



Appendix C: Community Proclamation

COMMUNITY PROCLAMATION

At the conclusion of the planning process the Loxahatchee Groves Neighborhood Planning Committee prepared the following proclamation outlining fundamental tenets underlying the vision of the community.

It might be said, in idealistic fashion, that government should be all good things to all good people. In the quest to achieve this most noble goal, the forefathers of this nation, listed certain "unalienable rights" in their Declaration of Independence. These included the rights of "LIFE, LIBERTY and the pursuit of HAPPINESS". These rights are considered by those of wisdom, to be one of the main foundation blocks of our society.

It was also decided, that in certain circumstances, our individual rights must be curtailed when they unduly infringe upon the rights of others. For better or worse, it has been the trend in modern times, to define when, how and to what extent our individual rights should be curtailed in order to keep us from "infringing" on the rights of others.

As our society grows more complex and congested, regulations restricting personal freedoms continue to grow. We have now reached a point in time when those who wish to enjoy the freedoms of our forefathers must find special places to go to if they are to enjoy these rights. Historically, in Palm Beach County, those who found the need or had the desire to live with these freedoms have found such a special place in Loxahatchee Groves.

In this rare and endangered place known as Loxahatchee Groves, we are free to pursue our dreams without worry that our actions will infringe upon our neighbors' rights. In this odd and precious niche, we pass the days with our doors unlocked, our keys in our cars and our children playing and fishing on our road sides. If due to an unexpected rainstorm, you must roll up your car windows in the middle of the night, you can run outside as you are without an intolerant neighbor reporting you for lewd and lascivious behavior.

Most of us have raised families here, without ever giving a thought to the cautions that come hand in hand with urban sprawl. In these modern times, this is a condition that should be guarded; protected like any good thing that is in danger of extinction. Freedom is the heartbeat of our community. This is a heritage that should be protected for future generations.

Unfortunately, highly developed surrounding communities do not enjoy the same status. They, for better or worse, are headed in the direction of becoming "mega-suburbias". Although they have the land mass that is necessary to support this, they do not have the road systems that would permit the hordes of people to enter and exit their development. In order to alleviate this problem, they demand that highways be carved through the heart of our community. They have no consideration for the fact that our dirt roads are what

preserve our communities unique lifestyle. Destroying this community would destroy one of the lifestyles that Palm Beach County and the State of Florida were founded upon.

Whether it is our children or yours who choose to enjoy these freedoms, we must protect this last community that affords them. Historical significance should be considered in striving to protect the last "Florida Frontier Community". The old one-room school house that educated the children of the pioneers of this community has been moved to the Fair Grounds and turned into an exhibit. An exhibit that is intended to show future generations what life was like in "Old Florida". It is a remembrance of an extinct way of life. We pray that the wisdom of the Board of County Commissioners do not allow those who would over run us seal a similar fate for our community.

Appendix D: FISCAL IMPACT TABLES

Current Palm Beach County Taxing Structure

Category	Cost	Rate
County	\$684,727	4.5
County Debt	\$44,279	0.291
Fire/Rescue	\$464,093	3.05
Library	\$82,213	0.5403
Library Debt Service	\$6,543	0.043
Children's Services Council	\$105,022	0.6902
F.I.N.D.	\$5,858	0.0385
PBC Health Care Dist	\$171,943	1.13
School Debt	\$48,692	0.32
School Local	\$395,468	2.599
School State	\$860,017	5.652
SFWMD Everglades	\$15,216	0.1
SO FLA Water Management	\$43,214	0.284
SO FLA Water Man OKE	\$47,627	0.313
Total	\$2,974,910	19.551

Comparison Of Rates, Revenues and Expenses

Community	Rate (Mills)	Revenues	Expenses
Loxahatchee Groves	1.5	\$518,257	\$517,859
Royal Palm Beach	5.9	\$22,640,322	\$22,008,636
Southwest Ranches	3.0	\$6,652,448	\$6,652,448
Wellington	2.7	\$85,584,905	\$93,421,355

Sample Tax Impact of Incorporation

Current County Ad Valorem Tax Amount	1.5 Mill Tax	Total Amount
\$147	\$11	\$158
\$500	\$38	\$538
\$1,457	\$112	\$1,569
\$2,051	\$157	\$2,209
\$3,302	\$253	\$3,555
\$4,190	\$321	\$4,511
\$5,802	\$445	\$6,247

Appendix E: FLORIDA STATUTE 570.71

570.71 Conservation easements and agreements. --

(1) The department, on behalf of the Board of Trustees of the Internal Improvement Trust Fund, may allocate moneys to acquire perpetual, less-than-fee interest in land, to enter into agricultural protection agreements, and to enter into resource conservation agreements for the following public purposes:

- (a) Promotion and improvement of wildlife habitat;
- (b) Protection and enhancement of water bodies, aquifer recharge areas, wetlands, and watersheds;
- (c) Perpetuation of open space on lands with significant natural areas; or
- (d) Protection of agricultural lands threatened by conversion to other uses.

(2) To achieve the purposes of this act, beginning no sooner than July 1, 2002, and every year thereafter, the department may accept applications for project proposals that:

- (a) Purchase conservation easements, as defined in s. [704.06](#).
- (b) Purchase rural-lands-protection easements pursuant to this act.
- (c) Fund resource conservation agreements pursuant to this act.
- (d) Fund agricultural protection agreements pursuant to this act.

No funds may be expended to implement this subsection prior to July 1, 2002.

(3) Rural-lands-protection easements shall be a perpetual right or interest in agricultural land, which is appropriate to retain such land in predominantly its current state and to prevent the subdivision and conversion of such land into other uses. This right or interest in property shall prohibit only the following:

(a) Construction or placing of buildings, roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the easement, and except for linear facilities described in s.

[704.06](#)(11);

- (b) Subdivision of the property;
- (c) Dumping or placing of trash, waste, or offensive materials; and
- (d) Activities that affect the natural hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish or wildlife habitat,

except those required for environmental restoration; federal, state, or local government regulatory programs; or best management practices.

(4) Resource conservation agreements will be contracts for services which provide annual payments to landowners for services that actively improve habitat and water restoration or conservation on their lands over and above that which is already required by law or which provide recreational opportunities. They will be for a term of not less than 5 years and not more than 10 years. Property owners will become eligible to enter into a resource conservation agreement only upon entering into a conservation easement or rural lands protection easement.

(5) Agricultural protection agreements shall be for terms of 30 years and will provide payments to landowners having significant natural areas on their land. Public access and public recreational opportunities may be negotiated at the request of the landowner.

(a) For the length of the agreement, the landowner shall agree to prohibit:

1. Construction or placing of buildings, roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the easement, and except for linear facilities described in s.

[704.06](#)(11);

2. Subdivision of the property;

3. Dumping or placing of trash, waste, or offensive materials; and

4. Activities that affect the natural hydrology of the land, or that detrimentally affect water conservation, erosion control, soil conservation, or fish or wildlife habitat.

(b) As part of the agricultural protection agreement, the parties shall agree that the state shall have a right to buy a conservation easement or rural land protection easement at the end of the 30-year term. If the landowner tenders the easement for the purchase and the state does not timely exercise its right to buy the easement, the landowner shall be released from the agricultural agreement. The purchase price of the easement shall be established in the agreement and shall be based on the value of the easement at the time the agreement is entered into, plus a reasonable escalator multiplied by the number of full calendar years following the date of the commencement of the agreement. The landowner may transfer or sell the property before the expiration of the 30-year term, but only if the property is sold subject to the agreement and the buyer becomes the successor in interest to the agricultural protection agreement. Upon mutual consent of the parties, a landowner may enter into a perpetual easement at any time during the term of an agricultural protection agreement.

(6) Payment for conservation easements and rural land protection easements shall be a lump-sum payment at the time the easement is entered into.

(7) Landowners entering into an agricultural protection agreement may receive up to 50 percent of the purchase price at the time the agreement is entered into, and

remaining payments on the balance shall be equal annual payments over the term of the agreement.

(8) Payments for the resource conservation agreements shall be equal annual payments over the term of the agreement.

(9) Easements purchased pursuant to this act may not prevent landowners from transferring the remaining fee value with the easement.

(10) The department, in consultation with the Department of Environmental Protection, the water management districts, the Department of Community Affairs, and the Florida Fish and Wildlife Conservation Commission, shall adopt rules that establish an application process, a process and criteria for setting priorities for use of funds consistent with the purposes specified in subsection (1) and giving preference to ranch and timber lands managed using sustainable practices, an appraisal process, and a process for title review and compliance and approval of the rules by the Board of Trustees of the Internal Improvement Trust Fund.

(11) If a landowner objects to having his or her property included in any lists or maps developed to implement this act, the department shall remove the property from any such lists or maps upon receipt of the landowner's written request to do so.

(12) The department is authorized to use funds from the following sources to implement this act:

- (a) State funds;
- (b) Federal funds;
- (c) Other governmental entities;
- (d) Nongovernmental organizations; or
- (e) Private individuals.

Any such funds provided shall be deposited into the Conservation and Recreation Lands Program Trust Fund within the Department of Agriculture and Consumer Services and used for the purposes of this act.

(13) No more than 10 percent of any funds made available to implement this act shall be expended for resource conservation agreements and agricultural protection agreements.

(14) The department, in consultation with the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, and the water management districts shall conduct a study to determine and prioritize needs for implementing the act.

(a) The department may contract with the Florida Natural Areas Inventory for an analysis of the geographic distribution of certain types of natural resources, or

resource-based land uses that have been identified for acquisition by previous conservation and recreation land acquisition programs.

(b) The needs assessment shall locate areas of the state where existing privately owned ranch and timber lands containing resources of the type identified in paragraph (a) can be preserved or protected through implementation of the Rural and Family Lands Protection Act.

(c) The department shall report its findings to the Governor, President of the Senate, and Speaker of the House of Representatives by December 31, 2001. At a minimum, the report must include a prioritization of the types of resources to be preserved or protected, the location of privately owned ranch and timber lands containing such resources that could be preserved or protected by easements or agreements pursuant to this act, and the funding needs for the program.

History.--s. 63, ch. 2001-279; s. 5, ch. 2002-4; s. 48, ch. 2002-295.

Appendix F: All or Nothing Legislation

(d) Thence south along said North New River Canal right-of-way a distance of 5,284 feet, more or less, to the north line of Section 14, Township 44 South, Range 36 East;

(e) Thence south along said west North New River Canal right-of-way a distance of 2,641 feet, more or less, to a point on the east and west half section line of Section 14, Township 44 South, Range 36 East, being the Point of Beginning.

Section 2. Plan of Reclamation.—The Plan of Reclamation for South Shore Drainage District heretofore established is amended and, as amended, is adopted for the district and established as herein stated.

A. The existing drainage facilities and drainage system within the territorial boundaries of the district will be utilized under the amended Plan of Reclamation, including levees, canals, channels, laterals, pumping plants, and other structures.

B. The pump station building, equipment, and canal systems serving the additional lands shall be deemed to be a part of the district's amended Plan of Reclamation, which will be effective upon the transfer of the aforementioned facilities to the District by the Owner.

Section 3. Benefits assessed.—It is hereby ascertained that all lands within the boundaries of the district shall be equally benefited from the water management works, facilities, and improvements as constructed and maintained under the amended Plan of Reclamation and pursuant to the provisions of this act; and, therefore, all said lands in the district shall be assessed equally by reason of the operation and maintenance of the district's works, facilities, and improvements pursuant to the provisions of this act.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.

CHAPTER 99-425

Senate Bill No. 2616

An act relating to Loxahatchee Groves Water Control District, Palm Beach County; codifying the district's charter, reenacting chapter 76-455, Laws of Florida, as amended; providing for date of annual landowner's meeting and election of supervisors; providing that no person may be elected as a supervisor unless timely notice has been given of his or her intent to be elected as a supervisor; providing landowners with more than 1 acre are entitled to one additional vote for any fraction of an acre greater than one-half acre when all of said

landowner's acreage has been aggregated for purposes of voting; providing for who may be a hauling permit applicant; providing a mechanism to enforce existing provisions for fines for violation of hauling permit law violations; allowing citations for such violations to be issued by traffic enforcement agencies and treating such citations in the same manner as a noncriminal traffic infraction; providing that no land within the boundaries of the district, with the exception of one identified parcel, may be annexed by any municipality unless the municipality proposing to annex said land agrees to annex all of the real property comprising the district and such annexation is subject to the provisions set forth in s. 171.0413, F.S.; providing borrowing authority to deal with declared disasters; repealing all prior special acts of the Legislature relating to the Loxahatchee Groves Water Control District; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 76-455, Laws of Florida, as amended, is codified, reenacted, amended and repealed as herein provided.

Section 2. The Loxahatchee Groves Water Control District is re-created and reenacted to read:

Section 1. Name and duration of district.—The name of Loxahatchee Sub-Drainage District, created by chapter 298, Florida Statutes, is changed to Loxahatchee Groves Water Control District, hereinafter known as the Loxahatchee Groves Water Control District. The corporate life of the Loxahatchee Groves Water Control District is extended perpetually.

Section 2. Landowner's meeting and election of supervisors.—

a. Election of supervisors.—Every year in the same month that a supervisor's term expires as provided in ss. 298.11 and 298.12, Florida Statutes, the district shall call a meeting of the landowners in the district for the purpose of electing a supervisor for such vacancy or existing vacancies. There shall be one ballot for each vacancy. To be elected, a candidate must have a majority of the votes on that ballot. In the event no candidate receives a majority of votes on the first ballot, a run-off ballot shall be held between the two candidates receiving the highest number of votes on the first ballot.

b. Number of votes; voting.—At such election, each and every owner of land in the district shall be entitled to vote, in person or by proxy in writing duly signed. Each landowner shall be entitled to one vote for every acre of land owned by him or her within the district. Landowners owning less than 1 acre shall be entitled to one vote. Where land is held in any form of joint ownership, votes may be cast by one owner only. Landowners with more than 1 acre are entitled to one additional vote for any fraction of an acre greater than ½ acre, when all of the landowners' acreage has been aggregated for purposes of voting.

Section 6. Restriction on annexation.—In view of the unique rural community nature of the district and a recognition by the Legislature of the appropriateness of preserving the district as a unified community, no land within the boundaries of the district may be annexed by any municipality unless the municipality proposing to annex said land agrees to annex all of the real property composing the district and such annexation is subject to the provisions set forth in s. 171.0413, Florida Statutes, including, but not limited to, the requirement that the annexation be approved in a referendum vote by the registered electors living within the boundaries of the district. However, the restrictions on annexation in this section shall not apply to that portion of the district consisting of a parcel bounded by Southern Boulevard on the south, the southern boundary of the drainage/road right-of-way known as Collecting Canal on the north, Folsom/Crestwood on the east, and the western boundary of the Palms West Hospital property on the west, said parcel being more particularly described as follows:

A parcel of land located in the County of Palm Beach, State of Florida, to wit: The point of beginning being the intersection of the easterly line of Lot 4, Block K, Loxahatchee District, according to the plat thereof on file in the Office of the Clerk of the Circuit Court recorded in Plat Book 7, Page 81, of the Public Records of Palm Beach County, Florida, and the southerly boundary of the "Collecting Canal" as shown on the Replat of Loxahatchee Groves Subdivision according to the plat thereof, recorded in Plat Book 12, Page 29, of the Public Records of Palm Beach County, Florida; thence easterly along said southerly boundary of the Collecting Canal to the easterly boundary of said Replat of Loxahatchee Groves; thence south along said easterly boundary line of the Replat of Loxahatchee Groves to the north right-of-way line of State Road 80, thence westerly along said northerly right-of-way line of State Road 80 to the easterly line of Lot 4, Block K, Loxahatchee District; thence northerly along said easterly line of Lot 4 to the Point of Beginning.

Section 7. Borrowing authority to deal with disaster.—To allow the district to deal with the financial impact of the repair, replacement, or reconstruction of works of the district or other costs incurred by the district due to a "disaster," as defined in s. 252.34(1), Florida Statutes, the district is hereby authorized to borrow such funds as the district may reasonably determine are necessary to cope with the disaster. The district is also authorized to enter into a line of credit arrangement that will permit such borrowing, but funds can be drawn on the line of credit only after a state of emergency has been declared by Palm Beach County, the Governor, or the President of the United States. The district may grant as security or collateral for borrowing under this section any local, state, or federal disaster relief payments (or similar type of payments) to be received by the district or maintenance assessments levied by the district pursuant to s. 298.54, Florida Statutes, or both.

Section 3. Except as specifically provided herein, chapter 76-455, Laws of Florida; chapter 79-540, Laws of Florida; chapter 82-355, Laws of Florida; chapter 86-432, Laws of Florida; chapter 87-519, Laws of Florida; chapter 88-502, Laws of Florida; and chapter 92-259, Laws of Florida, are repealed.

Section 4. In the event any section, or provision of this act is determined to be invalid or unenforceable, such determination shall not affect the validity of or enforceability of each other section and provision of this act.

Section 5. In the event of a conflict of the provisions of this act, with the provisions of any other act, the provisions of this act shall control to the extent of such conflict.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.

CHAPTER 99-426

Senate Bill No. 2620

An act relating to the Plantation Acres Improvement District, Broward County; amending s. 9, chapter 82-274, Laws of Florida; increasing the compensation that each supervisor shall be entitled to receive for his or her services; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 9 of chapter 82-274, Laws of Florida, is amended to read:

Section 9. Compensation of board.—Each supervisor shall be entitled to receive for his or her services an amount not to exceed ~~\$300.00~~ ~~\$100.00~~ per month. In addition, each supervisor shall receive reasonable traveling expenses for attending district business outside of the district. Unless the board by resolution otherwise provides, such traveling expenses shall not be in excess of the amounts provided by law for state and county officials.

Section 2. This act shall take effect October 1, 1999.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.

CHAPTER 99-427

Committee Substitute for Senate Bill No. 2622

An act relating to Monroe County; creating the City of Marathon; providing legislative intent; providing municipal boundaries and

House Bill No. 733

An act relating to the Loxahatchee Groves Water Control District, Palm Beach County; amending chapter 99-425, Laws of Florida; amending the district's election procedures; clarifying that the power of the district with respect to roadways and roads is not limited to roads shown on the replat of Loxahatchee Groves and clarifying that the levying of assessments by the district is pursuant to chapter 298, Florida Statutes, or this act; eliminating references to other types of assessments; providing a procedure for the dedication of roads to the district; amending the permitting of culverts, other drainage systems, bridges, or culvert crossings; providing procedures when such bridges or culvert crossings restrict the normal conveyance of water within the district's canals; providing that special assessments are not limited to roads and roadways but may be levied for district improvements; providing that the issuance of special assessment bonds are not limited to roads and roadways but may be used for district improvements; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection e. of section 2 and subsections c., g., i., and j. of section 4 of section 2 of chapter 99-425, Laws of Florida, are amended to read:

Section 2. Landowner's meeting and election of supervisors.—

e. Date of landowner's meeting; notice of intent to be elected.—Notwithstanding any provision of s. 298.12, Florida Statutes, to the contrary, for all elections held after 1999, in order for a person to be elected as a supervisor of the district, that person must notify the Supervisor of the Board of Elections of Palm Beach County of his or her intent to be elected as a supervisor at least 90 days prior to the annual landowner's meeting, which shall take place on the 4th Monday of June each year. The date of annual landowner's meeting may be changed by majority of the board of supervisors of the district provided that such change occurs at least 150 days prior to the newly selected date of the landowner's meeting and further provided that notice of such change of the date of the landowner's meeting shall be published once a week for 2 consecutive weeks in a newspaper of general circulation in the county in which the lands of the district are located, with the first such publication to be not less than 10 nor more than 15 days after the vote of the board of supervisors to change the date of the annual landowner's meeting. No person who has not timely provided notice to the supervisor of elections of his or her willingness to be elected, as set forth above in this section, may be elected as a supervisor of the district, unless no individuals or unless fewer individuals than the number of seats available for election, have timely provided notice to the supervisor of elections, in which event the provisions of s. 298.12(1), Florida Statutes, shall control. If the number of persons timely providing notice to the supervisor of elections is less than or equal to ~~does not exceed~~ the number of seats for which supervisors are to

be elected in that year, then those individuals providing timely notice shall be deemed elected as supervisors as of the date of the annual landowner's meeting and no election, or notice of such election, shall be held. If the length of terms varies for those persons who timely provide notice, the length of terms will be assigned by lot. If the number of persons timely providing notice to the supervisor of elections is less than the number of seats for which supervisors are to be elected in that year, then the individual or individuals providing timely notice shall be deemed elected as set forth in this subsection and the seat or seats for which persons have not filed will be subject to election pursuant to the provisions of s. 298.12(1), Florida Statutes. In such event, if the length of terms are different, the person or persons timely providing notice to the supervisor of elections shall be deemed elected to the longer or longest term. If the number of persons providing timely notice to the supervisor of elections exceeds the number of seats for which supervisors are to be elected that year, then elections shall proceed forward at the annual landowner's meeting in accordance with the provisions of s. 298.12(1), Florida Statutes, as may be modified by this act. In the event that pursuant to this subsection an election is not required, notice as set forth in s. 298.12, Florida Statutes, for the annual meeting need not be provided so long as the annual meeting has been included among the meetings properly noticed under the requirements of s. 189.417, Florida Statutes.

Section 4. Powers of the district.—

c. In addition to the powers of Loxahatchee Groves Water Control District, hereinafter referred to as the "district," elsewhere provided by general or special law, the district shall have the power to construct maintain, improve, and repair roadways and roads necessary and convenient for the exercise of any of the powers or duties of the district or the board of supervisors thereof, including, but not limited to, all the roads shown on the replat of Loxahatchee Groves, as recorded in Plat Book 12, Page 29, Palm Beach County Public Records, or to provide access to and development of areas within the district, or both; to provide funds for such construction, maintenance, improvement, or repair through the levying of assessments pursuant to chapter 298, Florida Statutes, ~~or this act hereinafter referred to as "drainage assessments," or special assessments,~~ or both; and to acquire land, including any interest therein, by purchase, gift, exchange, or eminent domain, for such construction, maintenance, improvement, or repair. The board of supervisors of the district, at its discretion, may accept for dedication a road within the boundaries of the district pursuant to the following procedures:

(1) The landowners possessing the easements to such road must petition in writing the board for dedication of the road, with those signing the petition agreeing to give the district their respective easements at no cost to the district, pursuant to policies established by the district.

(2) At least a simple majority of landowners on the road, on a per-acre basis, must petition the board to dedicate the road.

(3) The board of supervisors of the district shall then determine whether or not to accept such petition. If the board determines to accept the petition,

the district will then project all estimated costs involved in planning, designing, and building the road or improving the existing road to meet specifications acceptable to the district, including therewith the cost of improving or replacing any culvert crossing or bridge that connects the road to be dedicated to an existing district road or roads, the cost of any eminent domain proceeding to obtain road easements from those landowners who did not sign the petition and to give the district their respective easements, the cost of establishing the special taxing unit, and any other costs anticipated to be incurred by the district as a result of any action involved with such dedication.

(4) The estimated cost information shall then be provided to the affected landowners and a referendum shall be held among those landowners to create a special taxing unit, consisting of all of the benefited land contiguous to and inclusive of the road to be dedicated to cover such cost. Upon passage of the referendum by majority vote, on a per-acre basis, the district shall create a special taxing unit and levy assessments for the costs as set forth in paragraph (3).

(5) The district shall then acquire by sale or through eminent domain, under chapters 73 and 74, Florida Statutes, as amended from time to time, the necessary easements and build the road or make the necessary improvements to the existing road to meet all district specifications.

(6) Thereafter, the road shall be dedicated to the district and maintained by the district under its general maintenance assessment.

Notwithstanding anything contained herein, the district's ability, under chapter 298, Florida Statutes, to create and assess units of development shall be unaffected.

g. The district shall have the power to adopt, by resolution, a uniform standard for culvert crossings, bridges, culverts, or other drainage systems that connect with or cross over any of the works of, or lie within the rights-of-way of, the district. If the district so establishes a uniform standard, the district shall by resolution adopt procedures:

(1) Which shall require notice of such uniform standards to be given to persons owning lands upon which, adjacent to, or, to the best of district's knowledge, using any culvert crossings, bridges, culverts, or other drainage systems that connect with or cross over any of the works of, or lie within the rights-of-way of, the district and to such other persons as the board of supervisors shall deem to be necessary or desirable, or both.

(2) Which shall authorize granting permits for culvert crossings, bridges, culverts, or other drainage systems, or pursuant to such uniform standards, and the district may allow for permits to be applied for by a single landowner or by multiple landowners, provided that in the case of multiple landowners, such landowners establish a single entity to represent all such landowners to apply for and obtain the permit and construct and maintain the culvert crossings, bridges, culverts, or other drainage systems, subject to review by the district to ensure that said entity has the legal authority to assess such

landowners for the cost of construction and maintenance of such culverts, drainage systems, culvert crossings, or bridges, that such power to assess runs with the land of the landowners creating the entity, and that the district can enforce such assessment power if necessary.

~~(3)(2) Which shall, except as hereinafter provided, require as to culverts or other drainage systems not less than 60-days' written notice to be given to persons owning lands upon which any culvert crossings, bridges, culverts, or other drainage systems exist in violation of any such uniform standards prior to the taking of any enforcement action by the district.~~

~~(3) Which may provide for Less than 30-days' notice, in writing or otherwise, of violations of the uniform standards may be provided in emergency situations.~~

~~(4) Which may provide that If, after such notice pursuant to this paragraph (2) or paragraph (3), any landowner shall fail to conform to such uniform standards, the district may enter upon such lands and take such action as necessary to cause such violation to be corrected and may assess the owner of such land for the district's costs in connection therewith.~~

(5) Upon the failure of any property owner to pay any assessment levied by the board of supervisors pursuant to this paragraph (4) within 30 days of receipt by such owner of notice of said assessment, the district shall have a lien on all lands and premises affected thereby. Such lien shall be superior and paramount to the interest in such land and premises of any owner, lessee, tenant, mortgagee, or other person except the lien of state, county, or district taxes and shall be on a parity with the lien of any such state, county, or district taxes. Such lien shall bear interest at an annual rate equal to the interest rate due on judgments, pursuant to s. 55.03, Florida Statutes, per year and shall, until paid, remain in effect in perpetuity.

(4) Which shall provide that in the event any culvert crossing or bridge, whether or not permitted by the district, is determined by the district to be restricting the normal conveyance of water in a district canal, the district shall notify the permitholder of said structure, or if there is no permit on file with the district for said structure, the district shall notify the landowner or landowners using such structure that the following options are available regarding the structure:

(a) The structure may be repaired, by the permitholder or the landowner or landowners using the structure, in conformance with current district standards (as determined by a licensed engineer), including obtaining a permit from the district pursuant to its uniform standards and procedures.

(b) The structure may be abandoned and removed by the permitholder at its expense or, if the structure has not been permitted, the district shall remove the structure and the district shall not be liable to any person or entity that uses such structure for its removal.

(c) The landowner or landowners using such structure may apply for a permit to construct a conforming replacement structure. This process shall require obtaining a permit issued by the district pursuant to its uniform

standards and procedures, said permit to be contingent upon the removal of the nonconforming structure and the construction of a replacement structure at the sole expense of said landowner or landowners.

(d) With respect to subparagraphs (a) and (c), in the event that there are multiple landowners involved, the landowners may establish a single entity as set forth in paragraph (2) to represent all such landowners.

(e) Alternatively, the affected landowners may request the district, via referendum of the landowners utilizing the structure, upon a majority vote of such landowners, on a per-acre basis, to establish a special taxing unit of all such landowners to pay a special assessment to cover the initial costs, including, but not limited to, engineering fees, removal cost, repair or replacement construction cost, dedication of adjoining road, and permit fees and the structure shall thereafter be a district-owned structure maintained by the district.

(f) The permitholder of a structure restricting the normal conveyance of water in a district canal, or if said structure is unpermitted, the landowner or landowners as reasonably determined by the district to be using such structure, shall have 60 days after notice is sent to respond to the district regarding which option set forth in this paragraph has been chosen and an additional 120 days to repair or remove said structure. If the district does not receive a written response within the first 60 days after the notice has been sent, the structure shall be reviewed by the district's board of supervisors, which may deem the structure to be abandoned. In emergency situations, the time periods for notice and response may be shortened by the district as is reasonable under the circumstances.

Notwithstanding any provisions contained in this subsection, the ability of the district's board of supervisors under chapter 298, Florida Statutes, to create and assess "units of development" shall be unaffected.

i. The board of supervisors of the district, in order to carry out any of the powers set forth in subsections c.-g. may levy and impose special assessments against any or all of the real property within the district upon a determination that the construction, maintenance, improvement, repair, or operation of said improvements or services provided to existing improvements the roads or roadways provide a benefit to such real property. The assessments shall be imposed upon the property specially benefited by such construction, maintenance, improvement, repair, or operation in proportion to the benefits to be derived therefrom, and the special benefits shall be determined and prorated by a method prescribed by the board of supervisors.

j. The district is authorized to provide from time to time for the issuance of special assessment bonds of the district to pay all or any part of the cost of a system of roads and roadways and any improvements thereto. The principal of and interest on any bonds shall be payable from special assessments sufficient to pay the bonds in the manner provided in the bonds, in this act, and the resolution authorizing such bonds. The bonds shall be authorized by resolution or resolutions of the board of supervisors of the

district, adopted by a majority of the supervisors present and voting at a meeting of the supervisors. The bonds shall bear interest at a rate or rates not in excess of the maximum rates permitted by general law, may be in one or more series, may bear such date or dates, and may mature at any time or times not exceeding 40 years from their respective dates, may be payable in such medium of payment, at such place or places within or without the State of Florida, may carry such registration privileges, may be subject to redemption prior to maturity, with or without premium, may be executed in such manner, may contain such terms, covenants, and conditions, and may be in such form otherwise as such resolution or subsequent resolutions shall provide. The bonds may be sold or exchanged for refunding bonds, or delivered to contractors in payment for any part of the work or improvements financed by such bonds, or delivered in exchange for any properties, either real, personal, or both, to be acquired for such works or improvements, in such manner as the district in its discretion shall determine. Pending the preparation of the definitive bonds, interim certificates or receipts or temporary bonds in such form and with such provisions as the district may determine may be issued to the purchaser or purchasers of the bonds issued hereunder. The bonds and such interim certificates or receipts or temporary bonds shall be fully negotiable and shall be and constitute negotiable instruments within the meaning of and for all purposes of the law merchant and the Uniform Commercial Code of the State of Florida. The proceeds of the sale of any such bonds shall be used solely for the payment of the costs of the district incurred or to be incurred in carrying out the powers set forth in subsection c., subsection d., subsection e., ~~or subsection f.,~~ or subsection g., and shall be disbursed in such manner and under such restrictions as the district may provide in the authorizing resolution. The district may also provide for the replacement of any bonds which become mutilated or are stolen, destroyed, or lost, upon proper indemnification. A resolution providing for the issuance of special assessment bonds may also contain such limitations upon the issuance of additional bonds secured on a parity with the bonds theretofore issued as the district may deem proper.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 17, 2004.

Filed in Office Secretary of State June 17, 2004.

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PLEASE REPLY TO FORT LAUDERDALE

January 30, 2007

VIA E-MAIL AND U.S. MAIL

Mr. David Autrey
Committee to Incorporate Loxahatchee Groves, Inc.
13156 North Road
Loxahatchee, FL 33470

RE: Town of Loxahatchee Groves ("Town") / Jurisdiction over Roads within the Town

Dear Dave:

Pursuant to your request, we have researched the issue of whether the Loxahatchee Water Control District ("District") will have exclusive jurisdiction over roads within the municipal boundaries of the Town of Loxahatchee Groves ("Town"). In researching the issue, we have reviewed the Chapter 99-425, Laws of Florida, also known as the District's Special Act. In addition, we have reviewed relevant Florida statutes and the Town Charter. Following a review of the above referenced materials, it is our conclusion that the **Town will have jurisdiction** over the roads within the Town.

Section 4(a) of the District's Special Act, as re-codified in 1999, provides that the District shall have the power to ". . . maintain roadways and roads necessary and convenient for the exercise of the powers or duties or any of the powers or duties of the district or the supervisors thereof; . . .and to provide funds for this purpose in its annual levy of district assessments." Pursuant to this power, the District has historically levied assessments against property within the boundaries of the District. The District then uses the funds collected pursuant to the assessment to maintain and improve the roads within the District's boundaries.

Chartered municipalities, including the Town are granted original jurisdiction over all streets and highways within the Town's boundaries, subject to the limitations provided in Section 316.006(2), which states as follows:

(2) MUNICIPALITIES.--

(a) Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A municipality may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located within its boundaries if the municipality and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the municipality, for municipal traffic control jurisdiction over the road or roads encompassed by such agreement.

The Florida Attorney General has previously interpreted the provisions of Section 316.006, Florida Statutes, to provide the state, counties, and municipalities, with the exclusive jurisdiction of traffic control over roads upon which the public has a right to travel. AGO 81-18, March 4, 1981 (Palm Beach County has the authority to install traffic control devices on roads maintained by a water control district). See also, AGO 99-32, June 8, 1999 (Flagler Estates Water Control District has no authority to install traffic control devices within the district's boundaries).

Following the opinions as issued by the State of Florida Attorney General, pursuant to the authority granted in Section 316.006(2)(a), the Town will have the right to control traffic over the roads located within the Town's boundaries. As part of that control, the Town will have the right to install traffic control devices on roads within the Town, including those roads maintained by the District.

With respect to maintenance of roads within the Town, while the District does have the right to maintain roads within the District's boundaries, the District does not have exclusive authority to exercise such maintenance authority. As stated in AGO 99-32, the Flagler Estates Water Control District's enabling legislation ". . . does not indicate exclusive jurisdiction over the roads and drainage facilities within the district's boundaries." Consequently, the Flagler Estates Water Control District did not have the exclusive authority to maintain the roads and drainage within the District's boundaries.

Similar to the Flagler Estates Water Control District, the enabling legislation that applies to the District within the Town's boundaries does not grant it exclusive authority over the roads within the Town's boundaries. The Town, however, has the right, pursuant to Article VIII, Section 2(b) to exercise powers as follows:

Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes

except as otherwise provided by law. Each municipal legislative body shall be elective.

In addition, Section 1(4) of the Town's Charter, adopted as Chapter 2006-328, Laws of Florida provides as follows:

(4) MUNICIPAL POWERS.--The town shall be a body corporate and politic and shall have all available governmental, corporate, and proprietary powers of a municipality under the State Constitution and laws of the state, as fully and completely as though such powers were specifically enumerated in this charter, and may exercise them, except when prohibited by law.

Reading the relevant provisions of the Florida Constitution and the Town Charter leads one to conclude that the Town has the authority to exercise all corporate and proprietary powers to conduct municipal government, including the power to maintain roads. As stated in the case of City of Boca Raton v. State, 595 So.2d 25, 28 (Fla. 1992), "The only limitation on [municipal] power is that it must be exercised for a municipal purpose."

The term "municipal purpose" is defined as "any activity or power which may be exercised by the state or its political subdivisions." See, Sec.166.021(2), Fla. Stat. In addition, as stated by the Florida First District Court of Appeal, "Implicit in the power to provide municipal services is the power to construct, maintain and operate the necessary facilities." See, City of Gainesville v. State, Dept. of Transp., 778 So.2d 519 at 523. (Fla. 1st DCA 2001).

Notwithstanding the District's non-exclusive right to maintain roads to serve the District, the Town has the constitutional and legal right to maintain the roads within the Town's boundaries to serve its municipal purposes. Following the statement from the City of Gainesville case, the maintenance of roads is an implicit power of the Town that desires to provide municipal services in an efficient and safe manner to all its residents. In order to provide such services, the Town must exercise its constitutional and statutory rights to establish traffic control measures, and to maintain the roads within its boundaries.

If you have any further questions, please contact our office.

Sincerely,

Samuel S. Goren David N. Tolces

SSG:DNT:dnt

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TOWN OF LOXAHATCHEE GROVES

Town Manager

DR. IRVING ROSENBAUM

Town Clerk

MATTHEW LIPPMAN

Assistant Town Clerk

MICHELLE KANTOR

Legal Counsel

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