



TOWN OF LOXAHATCHEE GROVES

TOWN COUNCIL MEETING AGENDA

TUESDAY, MARCH 5, 2013

Mayor David Browning (Seat 4)

Vice Mayor Jim Rockett (Seat 2)

Councilman Tom Goltzené (Seat 5)

Councilman Ronald D. Jarriel (Seat 1)

Councilman Ryan Liang (Seat 3)



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, March 5, 2013 at 7:00 p.m.

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

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

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

PUBLIC NOTICE/AGENDA

Tentative
Subject to Revision

1. OPENING

- a. Call to Order & Roll Call
- b. Pledge of Allegiance & Invocation – Mayor Browning
- c. Approval of Agenda

2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: November 20, 2012; December 4, 2012; February 5, 2013

3. PRESENTATIONS

- a. South Florida Water Management District: Laura Corry, Community Outreach Representative, Office of Intergovernmental Programs

4. COMMITTEE REPORTS

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

5. PUBLIC HEARINGS (Ordinances 2nd Reading) –

- a. Ordinance No. 2012-12

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND ARTICLE 10 ENTITLED “DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS,” SECTION 10-015, ENTITLED “DEFINITIONS” TO ADD A NEW DEFINITION FOR “RESIDENTIAL AGRICULTURAL SALES AND SERVICES;” TO AMEND ARTICLE 20, ENTITLED “RESIDENTIAL ZONING DISTRICTS,” SECTION 20-015, ENTITLED “PERMITTED USES,” TO ADD RESIDENTIAL AGRICULTURAL SALES AND SERVICES AS AN ACCESSORY USE SUBJECT TO ARTICLE 80 (CONDITIONAL USE) IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; TO AMEND ARTICLE 80, ENTITLED “CONDITIONAL USES,” TO ADD A NEW SECTION 80-60, ENTITLED “RESIDENTIAL AGRICULTURAL SALES AND SERVICES,” TO PROVIDE CONDITIONS ON RESIDENTIAL AGRICULTURAL SALES AND SERVICES USES IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

- b. Ordinance No. 2013-01

b. Ordinance No. 2013-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING COMPENSATION FOR COUNCIL MEMBERS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

6. ORDINANCES (1st Reading) - Continued from December 4, 2012, Town Council Meeting

a. Public Hearing: - None

7. RESOLUTIONS

a. Resolution No. 2013-02

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE VALLEY CREST SITE PLAN, FOR LAND OWNED BY MAGIC PROPERTIES V, LLC, CONSISTING OF 5.0 ACRES MORE OR LESS, LOCATED AT 13710 OKEECHOBEE BOULEVARD; SOUTH SIDE OF OKEECHOBEE BOULEVARD APPROXIMATELY 0.25 MILES WEST OF “F” ROAD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT “A” TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

8. ADMINISTRATIVE UPDATE – Town Manager Kutney

9. OLD BUSINESS

10. NEW BUSINESS

- a. Initiative Petition Certificate of Insufficiency
- b. Martin McCabe issue – *Councilman Ron Jarriel*
- c. Abandonment/Foreclosure Properties – *Councilman Ron Jarriel*

11. CLOSING COMMENTS

- a. Public
- b. Town Attorney
- c. Town Council Members

12. ADJOURNMENT

The next Town Council Meeting is scheduled for Tuesday, March 19, 2013 at 7:00 p.m.

Comments Cards: Anyone from the public wishing to address the Town Council must complete a Comment Card before speaking. This must be filled out completely with your full name and address and given to the Town Clerk. During the meeting, before public comments, you may only address the item on the agenda in which is being discussed at the time of your comment. During public comments, you may address any item you desire. Please remember that there is a three (3) minute time limit on all public comment. Any person who decides to appeal any decision of the Council with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose, may need to ensure that a verbatim record of the proceedings is made which included testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk's Office (561-793-2418), at least 48 hours in advance to request such accommodation.



2.a. Invoices from Goren, Cherof,
Doody & Ezrol, P.A.

GOREN, CHEROF, DOODY & EZROL, P.A.
Attorneys at Law
3099 East Commercial Boulevard
Suite 200
Fort Lauderdale, Florida 33308
Telephone (954) 771-4500

TOWN OF LOXAHATCHEE GROVES
Att: Mark Kutney, Town Manager
14579 Southern Blvd., Ste 2
Loxahatchee Groves FL 33470

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02/28/2013
ACCOUNT NO: 1574-1107565R
STATEMENT NO: 1

2013 ULDC Review

MDC

HOURS

01/30/2013	SRW	Meet with MDC. Review recent AGO re: nonresidential farm buildings. Attend Unified Land Development Code Committee Meeting and present Sunshine Law Presentation.	3.50	
02/07/2013	MDC	Review correspondence from HV forwarded by MK; review and research questions, confer with MK on status of Board.	1.00	
02/08/2013	MDC	Review correspondence forwarded by MK by HV on pending matters.	0.30	
02/11/2013	MDC	Review issues with "agriculture" issues, statutory definitions.	0.40	
	BJS	Review Florida Constitution for definitions related to concerns of Citizens Initiative Review Committee, Meeting with MDC and review issues raised by HV of ULDC.	0.80	
02/21/2013	MDC	Review materials, prepare for and attend ULDC Committee meeting.	3.10	
		FOR CURRENT SERVICES RENDERED	9.10	1,683.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	4.80	\$185.00	\$888.00
STACEY R WEINGER	3.50	185.00	647.50
BRIAN J. SHERMAN	0.80	185.00	148.00

TOTAL CURRENT WORK

1,683.50

2013 ULDC Review

BALANCE DUE

\$1,683.50

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

Please note that this matter has been assigned a new number. Please reference this number when making inquiries or payments and contact Trish Piro at 954-771-4500 with any questions.

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02/28/2013

TOWN OF LOXAHATCHEE GROVES
 Att: Mark Kutney, Town Manager
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 Loxahatchee Groves FL 33470

ACCOUNT NO: 1574-1107560R
 STATEMENT NO: 5

Water Control District Matters

HOURS

01/30/2013				
	MDC	Review title work for letter roads with DJD.	0.50	
	DJD	Review status of District's assignment of interest in roads.	0.50	
		FOR CURRENT SERVICES RENDERED	1.00	185.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
D.J. DOODY	0.50	\$185.00	\$92.50
MICHAEL D. CIRULLO	0.50	185.00	92.50

TOTAL CURRENT WORK 185.00

BALANCE DUE \$185.00

MDC

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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TOWN OF LOXAHATCHEE GROVES

Att: Mayor Dave Browning
 14579 Southern Boulevard
 Suite 2
 Loxahatchee FL 33470

ACCOUNT NO: 1574-0702400R
 STATEMENT NO: 75

General Matters

MDC

HOURS

01/30/2013	MDC	Miscellaneous telephone calls with Council on pending matters, AGO, review correspondence on procurement, miscellaneous telephone calls with MK.	1.90
01/31/2013	MDC	Review correspondence on agenda preparation, Attorney General opinion.	0.30
02/01/2013	MDC	Review agenda, telephone conference with MK on pending items.	1.00
02/02/2013	MDC	Review land use matters, ULDC.	0.60
02/04/2013	MDC	Telephone conference with Frank Palen regarding Road ILA; review correspondence on Sunshine Law regarding ULDC meeting.	0.60
02/05/2013	MDC	Miscellaneous telephone calls with Council members on agenda materials; review materials; telephone conference with MK; prepare for an attend Council meeting.	7.90
02/06/2013	MDC	Miscellaneous telephone conference with MK, Council members; review correspondence forwarded by MK from HV on issues.	0.80
02/07/2013	MDC	Meet with MK on items from 2/05/13 meeting; discuss pending workshop on moratorium, miscellaneous P&Z matters.	1.30

General Matters

HOURS

02/08/2013			
MDC	Review materials from Council meeting, begin preparing ordinances; telephone conference with MK, BT, BG on Attorney General Opinion.	1.00	
02/11/2013			
MDC	Review correspondence on procurement, miscellaneous telephone calls on pending items.	0.40	
02/12/2013			
MDC	Telephone conference with MK on pending items, procurement.	0.60	
02/13/2013			
MDC	Review ITB materials, inquiries; telephone conference with PU, MK on responses, addendum to ITB (road work).	1.00	
02/15/2013			
MDC	Telephone conference with MK, JF on zoning matters.	0.30	
02/21/2013			
MDC	Review pending agenda issues with MK; miscellaneous telephone calls with Council.	0.30	
02/25/2013			
MDC	Review correspondence from clerk on agenda, prepare memo on pending legislation to Town Council.	0.80	
02/26/2013			
MDC	Telephone conference with MK on pending items, review draft agenda.	0.80	
02/27/2013			
MDC	Telephone conference with SE, MK to confirm agenda items.	0.20	
	FOR CURRENT SERVICES RENDERED	19.80	3,663.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	19.80	\$185.00	\$3,663.00

COPYING COST	42.00
TOTAL EXPENSES	42.00
TOTAL CURRENT WORK	3,705.00
BALANCE DUE	\$3,705.00

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TOWN OF LOXAHATCHEE GROVES
Att: Mark Kutney, Town Manager
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02/28/2013
ACCOUNT NO: 1574-1107566R
STATEMENT NO: 4

Initiative Committee (PBSC Comp Plan)

MDC

HOURS

02/04/2013			
	MDC	Telephone conference with SE on status of petition, process to proceed; review charter.	0.50
02/05/2013			
	MDC	Review status of petition, telephone conference with SE; review election rules and statutes regarding notice, schedule; review charter regarding process for initiative.	1.00
02/06/2013			
	BJS	Legal Research re: Citizens Initiative Referendum.	1.00
02/07/2013			
	BJS	Continued legal Research re: Citizens Initiative Referendum and review with MDC.	0.80
	MDC	Review charter on petition requirements, meet with SE, MK on sufficiency issues.	2.70
02/08/2013			
	BJS	Telephone call with Dan Abbott (Boca Raton counsel) regarding status of appeal.	0.30
	MDC	Prepared and revise certification form.	0.50
02/12/2013			
	MDC	Telephone conference with SE on sufficiency review.	0.30
02/13/2013			
	MDC	Review, provide comments to SE on certificate, telephone conference with SE on status of issuance.	0.40
02/15/2013			
	MDC	Miscellaneous telephone calls with SE on status of Initiative Petition; review charter language.	0.60
02/19/2013			
	MDC	Miscellaneous telephone calls on status of Initiative, review	

Initiative Committee (PBSC Comp Plan)

		HOURS	
	correspondence.	0.50	
02/20/2013			
MDC	Miscellaneous telephone calls with Council, attorney for PBSC, review status of certification review.	0.60	
02/21/2013			
MDC	Review affidavits, miscellaneous telephone calls on status of Initiative.	0.30	
02/22/2013			
MDC	Review petition, charter; prepare memo to Town Council on status and procedure.	1.50	
02/25/2013			
MDC	Revise memo on status of initiative, forward to Town Clerk for review.	0.30	
	FOR CURRENT SERVICES RENDERED	11.30	2,090.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	9.20	\$185.00	\$1,702.00
BRIAN J. SHERMAN	2.10	185.00	388.50
TOTAL CURRENT WORK			2,090.50
BALANCE DUE			<u>\$2,090.50</u>

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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TOWN OF LOXAHATCHEE GROVES
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ACCOUNT NO: 1574-1107568R
 STATEMENT NO: 2

adv. Day, Willie and Frankie (Bert J. Harris Claim

HOURS

01/29/2013				
BJS	Legal research re: Definition of Contiguity Requirement for Burt J. Harris Act Notices.		0.60	
01/30/2013				
BJS	Continued Legal Research re: Definition of Contiguity Requirement for Burt J. Harris Act Notices.		0.80	
02/05/2013				
BJS	Legal Research re: Bert J Harris Act, applicability of Sovereign Immunity, research re: inordinate burden, review of case law with MDC.		1.00	
02/06/2013				
MDC	Review applicable case law; prepare letter to Florida Department of Legal Affairs per statute; prepare notice to contiguous property owners per statute.		1.00	
	FOR CURRENT SERVICES RENDERED		3.40	629.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	1.00	\$185.00	\$185.00
BRIAN J. SHERMAN	2.40	185.00	444.00

TOTAL CURRENT WORK 629.00

BALANCE DUE *MDC* \$629.00

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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ACCOUNT NO: 1574-1107569R
 STATEMENT NO: 1

2013 Election Matters

HOURS

02/21/2013			
MDC	Review schedule for election meetings, telephone conference with SE.	0.30	
02/22/2013			
MDC	Review materials, attend Logic and Accuracy Testing with Town Canvassing Board.	2.20	
	FOR CURRENT SERVICES RENDERED	2.50	462.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	2.50	\$185.00	\$462.50
TOTAL CURRENT WORK			462.50
BALANCE DUE			<u>\$462.50</u>

Bndc

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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 ACCOUNT NO: 1574-1107562R
 STATEMENT NO: 8

adv. Day, Willie and Frankie

HOURS

01/30/2013			
MDC	Review correspondence, update Council; review Motion to Dismiss and Remand; telephone conference with M. Burke on status of case.	1.00	
02/02/2013			
MDC	Review recent case law on inverse condemnation claim.	0.30	
	FOR CURRENT SERVICES RENDERED	1.30	240.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	1.30	\$185.00	\$240.50

COPYING COST		14.35
TOTAL EXPENSES		14.35
TOTAL CURRENT WORK		254.85
BALANCE DUE	<i>MDC</i>	<u>\$254.85</u>

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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TOWN OF LOXAHATCHEE GROVES
 Att: Mark Kutney, Town Manager
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ACCOUNT NO: 1574-1107564R
 STATEMENT NO: 3

Wellington Edge Code Matter

HOURS

02/14/2013			
MDC	Review materials, attend conference call with staff to prepare for 2/20/13 hearing.	0.80	
02/19/2013			
MDC	Telephone conference with staff; review materials for 2/20/13 hearing; telephone conference with Counsel for Wellington Edge.	0.40	
02/20/2013			
MDC	Review materials, prepare for and attend code hearing.	5.50	
	FOR CURRENT SERVICES RENDERED	6.70	1,239.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	6.70	\$185.00	\$1,239.50
TOTAL CURRENT WORK			1,239.50
BALANCE DUE			<u>\$1,239.50</u>

MDC

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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TOWN OF LOXAHATCHEE GROVES
 Att: Mark Kutney, Town Manager
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 Loxahatchee Groves FL 33470

ACCOUNT NO: 1574-1107567R
 STATEMENT NO: 3

Valley Crest Site Plan

HOURS

02/21/2013			
MDC	Review draft of notices, telephone conference with MK, JF; revise resolution.	1.10	
02/25/2013			
MDC	Review staff memo, revised resolution; telephone conference with JF on status of application.	0.60	
02/26/2013			
MDC	Telephone conference with JF, MK, DC on status of application.	0.30	
	FOR CURRENT SERVICES RENDERED	2.00	370.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	2.00	\$185.00	\$370.00
TOTAL CURRENT WORK			370.00
BALANCE DUE			<u>\$370.00</u>

MDC

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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2.b. Minutes for Approval: November 20, 2012; December 4, 2012; February 5, 2013



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, November 20, 2012 at 7:00 p.m.

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

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

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

MINUTES

1. OPENING

a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 p.m. Upon roll call, those present were: Mayor David Browning, Vice Mayor Jim Rockett, and Council Members Tom Goltzené, Ronald Jarriel and Ryan Liang. Also present were: Town Manager Kutney, Town Planning Consultant Jim Fleischmann, Town Planning Technician Braeden Garrett, Town Attorney Michael D. Cirullo, Jr., and Town Clerk Susan Eichhorn.

b. Pledge of Allegiance & Invocation – Mayor Browning

c. Approval of Agenda

The following changes were made to the Agenda:

MOVE: 8.a. to become 3.b.

Motion: The Agenda was approved, as amended, through motion of Council Member Liang, seconded by Council Member Goltzene. The motion passed 5/0.

2. CONSENT AGENDA

- a. Minutes for Approval: Minutes of the Town Council Meeting held on October 2, 2012; Minutes of the Joint Meeting of Town of Loxahatchee Groves Town Council and Loxahatchee Groves Water Control District (LGWCD) held on October 16, 2012; Minutes of Special Town Council Meeting Held on November 12, 2012

Mayor Browning noted that there was an amendment to the Minutes of the Joint Meeting of Town of Loxahatchee Groves Town Council and Loxahatchee Groves Water Control District held on October 16, 2012:

Addition of language under Item 2 (page 26 of 210 of the Agenda Packet): Mayor Browning commented that it was the intent of both boards to give the Town control of the roads to be included, and that there was agreement that the Town could design the speed humps. Town Attorney Cirullo replied that, within the design criteria, the Town could set the standards.

Also, under item 2, 8th paragraph: Deletion of the language “and South “F” Road would be included”: Vice Mayor Rockett noted that it would include North “F” Road and South “F” Road, and North Road and ~~South “F” Road would be included.~~

- b. Invoice from Goren, Cherof, Doody & Ezrol, P.A.

Motion: Vice Mayor Rockett moved approval of the Consent Agenda, with the amendment to the Minutes of the Joint Meeting of Town of Loxahatchee Groves Town Council and Loxahatchee Groves Water Control District (LGWCD) held on October 16, 2012. The motion was seconded by Council Member Jarriel. The motion passed 5/0.

3. PRESENTATIONS

- a. Girl Scout Troop Presentation Regarding Girl Scout Program in Conjunction with Loxahatchee Groves Elementary School – *Tracie Schiola, Girl Scout Troop Leader*

Tracie Schiola leader of Girl Scout Troop 20673 requested putting a collection bin in the town offices for a service project for items donated to families and children in need at Loxahatchee Groves Elementary School.

It was determined that a bin would be put in the town offices year round.

Motion: Vice Mayor Rockett made a motion that the Town Council make a cash contribution of \$500 to Loxahatchee Groves Elementary School for children in need. The motion was seconded by Council Member Liang. The motion passed 5/0.

- b. Initiative Proceedings for Repeal of Town of Loxahatchee Groves ordinance 2012-04 and 2012-05 (Palm Beach State College)**

Town Manager Kutney reviewed the initiative proceedings for the repeal of Ordinances 2012-04 and 2012-05. He stated that Amanda Guerry had asked to be removed from the committee. With that, he turned it over to Town Attorney Cirullo.

Attorney Cirullo stated that the Town Charter provided for an initiative proceeding. He reviewed the request of the committee. He noted that there was a statute that prohibited referendum for comp plan amendments, and that gave him pause that this referendum was not appropriate, notwithstanding the Town's Charter. It was premature at this time to try to determine whether this was a valid question, because ultimately that would need to be done by a judge if the committee can reconstitute itself and pursue the initiative proceeding.

Comments by the Town Council:

Vice Mayor Rockett requested that the Town Attorney prepare a Resolution for the Town Council that would re-state its position regarding the Palm Beach State College. It was the consensus of the Town Council to agree with that request.

Council Member Ron Jarriel commented that he would not support this petition, and that he did not think that those asked to be on the committee had not been advised of what exactly was involved; he stated that people had ample time to come before this Town Council.

In response to several comments, Town Attorney Cirullo explained that the committee did not ask the Town Clerk to create the form to be signed; they had provided their own form. One of the items on that form was the date of collection, and if that date did not correspond with the date that they had an active committee, that would be another basis for requiring a judge to resolve the issue.

TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL MEETING MINUTES, TUESDAY, NOVEMBER 20, 2012

Mayor Browning and Vice Mayor Rockett commented in support of the college. Discussion continued.

Council Member Goltzené commented that if the ordinances were repealed, the college could end up with commercial property on which they could put up a shopping center or something else.

Council Member Liang commented that he hoped that the pros and cons and possible ramifications were fully explained, and that folks had a right to file the petition, but that he hoped there was full explanation.

Public Comments:

Lung Chiu, 3270 “B” Rd.: Commented in support of the college

Frank Schiola, Marcella Blvd.: Commented in support of the college, the results if such a referendum went through, and if the people on the committee could be a party to a lawsuit.

Town Attorney Cirullo responded that if it got to the point where it unfortunately went through and the referendum, passed, the Town would definitely have to deal with some very significant issues for the Town. He noted that there was a right in the Charter, however, it may be limited by State law on this subject.

Todd McLendon, 3481 “D” Rd.: Mayor Browning read Mr. McLendon’s comments into the record, as requested by Mr. McLendon. The comments were submitted for the record to the Town Clerk.

Howard Voren, 1538 “E” Rd.: Commented regarding amending the Charter to include a time limit for an initiative, educating citizens as to what they were signing, looking into the possibility of the Town taking some legal action.

Phil Liu, 4245 148 Terr.N.: Commented regarding children or family relatives of Town resident who may go to the college, and if people do not live in the location, the roads and traffic would not affect them.

Darlene Snowball, 161st Terrace North – commented that her family has been here since the 1960s. Growth was inevitable, and the people that are against this, should know that we are very blessed to have a college, rather than commercial. The college was wonderful for the town; she suggested that the Town could end up with a Walmart, Target, etc.

Motion: Vice Mayor Rockett made a motion to request the Town Attorney to prepare a resolution in support of the college, and to provide some legal analysis of options for the Town at the next meeting. The motion was seconded by Councilman Jarriel.

Councilman Jarriel commented that a letter had been received from the attorneys representing the college, and read excerpts of the letter. He stated that there was no doubt in his mind that a referendum would result in a vote of support for the college.

The motion passed 5/0.

Council Member Liang commented that he had heard comments saying that the voters do not have a voice, and he noted that during the past two years, there had been multiple workshops for the public to discuss the college, and he had not heard too many people saying that they were against the school; there had been some issues regarding traffic.

Mayor Browning commented that the only people who had called him were some who lived very close to the project and they were all on board. No one else had called him on this. If citizens had a problem he encouraged them to call someone.

Council Member Jarriel commented that he wanted it put on the record that these people approached the Loxahatchee Landowners Association and they voted not to support it. They support the college and do not support the petition.

Mayor Browning commented that they also had approached SunSport, and they too are very much in favor of the college.

4. COMMITTEE REPORTS

- a. FAAC Report & Approval of the August/September 2012 Financial Report – Vice Chair Elise Ryan

The FAAC Report was provided by Chair Lung Chiu.

Motion: Vice Mayor Rockett moved approval of the August/September 2012 Financial Report. The motion was seconded by Council Member Liang. The motion passed 4/0, as Council Member Jarriel had briefly left the dias.

5. PUBLIC HEARINGS (Ordinances 2nd Reading)–

a. Ordinance No. 2012-08

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO CREATE A NEW ARTICLE 41, ENTITLED “PLANNED UNIT DEVELOPMENT (PUD)”; PROVIDING FOR PURPOSES AND INTENT, LAND USE AND DEVELOPMENT INTENSITY REGULATIONS, OBJECTIVES AND STANDARDS INCLUSIVE OF DESIGN REQUIREMENTS AND PERFORMANCE STANDARDS, APPLICATION REQUIREMENTS, AND AMENDMENTS TO APPROVED PUDS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Ordinance No. 2012-08 by title, as printed above.

Town Planning Consultant Jim Fleischmann provided the staff report, and reported that staff recommended approval of Ordinance No. 2012-08.

Mayor Browning opened the Public Hearing.

There was no one desiring to speak

Mayor Browning closed the Public Hearing.

Motion: Vice Mayor Rockett made a motion to adopt Ordinance No. 2012-08. The motion was seconded by Council Member Jarriel. The motion passed 5/0.

b. Ordinance No. 2012-09 (Quasi-Judicial Public Hearing)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE REZONING OF LAND CONSISTING OF APPROXIMATELY 1.76 ACRES, MORE OR LESS, LOCATED ON SOUTHERN BOULEVARD, APPROXIMATELY 900 FEET EAST OF "C" ROAD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT "A" TO THIS ORDINANCE, FROM PALM BEACH COUNTY ZONING DESIGNATION COMMUNITY COMMERCIAL (CC) TO THE TOWN'S ZONING DESIGNATION COMMERCIAL LOW (CL); PROVIDING FOR THE APPROPRIATE REVISIONS OF THE ZONING DISTRICT MAP; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo advised that this was a quasi-judicial matter. Town Attorney Cirullo administered the oath to staff. There was no member of the public wishing to speak. Town Attorney Cirullo read Ordinance 2012-09 by title, as printed above.

Town Planning Consultant Jim Fleischmann provided the staff report, and reported that staff recommended approval of Ordinance 2012-09.

The Public Hearing was opened.

There was no one desiring to speak.

The Public Hearing was closed.

Councilman Goltzené commented that one thing to keep in mind was that these properties remain just pepper jungles with tires everywhere and maybe something should be done to clean up these type of properties. He noted that this particular property, as well as others up there, were places where bums hang out.

Town Manager Kutney responded that he would write to the owners requesting that they clean up the property

Motion: Vice Mayor Rockett made a motion to adopt Ordinance No. 2012-09. The motion was seconded by Councilman Jarriel. The motion passed 5/0.

6. **ORDINANCES** (1st Reading)

a. Ordinance No. 2012-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING ORDINANCE NO. 2012-06 TO EXTEND THE MORATORIUM IMPOSED THEREIN UNTIL MARCH 30, 2013; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Ordinance No. 2012-10 by title, as printed above. He noted that staff had commenced a review of the comprehensive plan, and more time was needed to complete that.

The Public Hearing was opened.

There was no one desiring to speak

The Public Hearing was closed.

Motion: Vice Mayor Rockett moved approval of Ordinance No. 2012-10 on first reading. The motion was seconded by Councilman Liang. The motion passed 5/0.

b. Ordinance No. 2012-11

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE REZONING OF LAND CONSISTING OF APPROXIMATELY 1.0028 ACRES MORE OR LESS OF PROPERTY LOCATED ON SOUTHERN BOULEVARD, APPROXIMATELY 350 FEET WEST OF “D” ROAD, AND 5.90 ACRES, MORE OR LESS, LOCATED AT 14579 SOUTHERN BOULEVARD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT “A” TO THIS ORDINANCE, FROM PALM BEACH COUNTY ZONING DESIGNATION GENERAL COMMERCIAL (GC) TO THE TOWN’S ZONING DESIGNATION

COMMERCIAL LOW (CL); PROVIDING FOR THE APPROPRIATE REVISIONS OF THE ZONING DISTRICT MAP; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Ordinance No. 2012-11 by title, as printed above.

Town Planning Consultant Fleischmann provided the staff report, advising that staff recommended approval.

Motion: Council Member Liang made a motion to approve Ordinance No. 2012-11 on first reading. The motion was seconded by Council Member Jarriel. The motion passed 5/0.

7. RESOLUTIONS

a. Resolution No. 2012-19

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE CREATION OF THE “UNIFIED LAND DEVELOPMENT CODE REVIEW COMMITTEE” ; PROVIDING FOR DUTIES OF THE COMMITTEE; PROVIDING FOR THE METHOD OF APPOINTMENT OF COMMITTEE MEMBERS; PROVIDING FOR COMPLIANCE WITH FLORIDA’S SUNSHINE LAW AND PUBLIC RECORDS LAW; PROVIDING FOR PROCEDURAL MATTERS OF THE COMMITTEE; PROVIDING FOR SUNSETTING OF THE COMMITTEE; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

Town Attorney Cirullo stated that the Town Council had directed the preparation of a resolution to create a committee to review the land development code. He explained the details of the resolution. All Unified Land Development Codes changes would need to go back to the Planning & Zoning Board for recommendations to the Town Council.

Attorney Cirullo noted that the Resolution did not provide for the appointment of alternate members, nor did it address attendance problems. He stated that the Town Council could choose to pass it now or amend it, and staff will bring it back.

TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL MEETING MINUTES, TUESDAY, NOVEMBER 20, 2012

Town Manager Kutney noted that there was a sunset provision of December 31, 2013, in the Resolution. He referred to his Agenda Report, with Work Authorization No. 12-04 in the amount of \$16,475.00 for the Town Management Company to undertake the required activities and ultimate completion of the committee.

Motion: Vice Mayor Rockett made a motion to adopt Resolution No. 2012-19 with the amendment to Section 2.I.(b) of the Resolution (Amended to read: Each member of the Unified Land Development Code Review Committee shall be an elector of the Town). The motion was seconded by Council Member Liang.

Public Comment:

Howard Voren, 1538 "E" Rd: Commented regarding the structure of the ULDC Committee.

Discussion then took place regarding the number of members that would compose the Committee, and the method of operating.

Town Manager Kutney suggested that staff would prepare an agenda and divide it up to a cap of 18 meetings. A section of the Code would be reviewed at each meeting, with the history provided, as well as any problems that have occurred. Any information provided to him by the Town Council could be incorporated in the information presented to the Committee; the Committee could request further information, and that is how he saw the process working.

Vice Mayor Rockett expressed concern with adding committees to the list of things to do, noting that there was a limit, and that there were now eight or nine meetings per month.

Town Manager Kutney stated that if cost was a factor, an alternative would be to reserve the second meeting of the Town Council each month for review of the ULDC.

Public Comments:

Virginia Standish, 15140 North Rd.: Commented regarding the ULDC Committee; that there are people willing to help.

Larry Lefkowitz, 3485 "D" Rd.: Commented regarding the motivation behind creating a ULDC Committee.

Mayor Browning commented that it was the hope that residents would contact staff and the Town Council with issues relating to the ULDC. Then the committee could work on those.

TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL MEETING MINUTES, TUESDAY, NOVEMBER 20, 2012

Marge Herzog, 966 "A" Rd.: Commented regarding the contract and duties of the present Management Company.

Cassie Suchy, "B" Rd.: Commented regarding the rules and protocols involved with committees, and suggested an open forum for suggestions that the committee could then consider.

Discussion took place regarding how the committee would look at subjects. It was suggested that one mechanism of controlling the volume of work would be for the Town Council to tell the Committee the items on which it needed advice. The first step would be to determine those items.

Motion: Vice Mayor Rockett added to his motion to adopt Resolution 2012-19, as amended (Amended to read: Each member of the Unified Land Development Code Review Committee shall be an elector of the Town); to include that the subject matter for the Committee would come from the Town Council through the Town Manager. The seconder of the motion agreed.

Town Manager Kutney clarified that the Town Council would identify priorities.

Mayor Browning stated that we are talking about doing the areas we have problems with. We need to go through and customize what we need to take care of. I am not looking to re-address the whole thing.

The motion passed 5/0.

*****A brief break was taken at 8:55 p.m. – the meeting resumed at 9:01 p.m.*****

Motion: Councilman Jarriel made a motion to approve Work Authorization 12-04, in the amount of \$16,475.00. The motion was seconded by Vice Mayor Rockett.

Council Member Goltzené commented that the review of the ULDC was not government light, and that if we are going to work toward government light, it is going to cost us something to get there.

Public Comment:

Marge Herzog, 966 “A” Rd.: Commented with concerns that the Management Contract was not being fulfilled, and that audio posting and a newsletter had been paid for and not fulfilled, and that it was time to say no.

Councilman Goltzené responded that the work authorization was being discussed at this time, and that he was quite satisfied with the work that Underwood Management was doing.

Vice Mayor Rockett commented that one problem is that it is strange in the years that we had prior management companies, none of the issues were raised about lack of things being done, and there had been a lack of things being done. Both videos and audios were being posted on the web, which was more than what was called for in the current management contract.

The motion to approve Work Authorization 12-04 passed 5/0.

b. Resolution No. 2012-20

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A BUDGET AMENDMENT FOR THE TOWN’S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2011, AND ENDING SEPTEMBER 30, 2012; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Town Attorney Cirullo read Resolution 2012-20 by title, as printed above.

Motion: Council Member Liang made a motion to approve Resolution No. 2012-20. The motion was seconded by Vice Mayor Rockett. The motion passed 5/0.

8. ADMINISTRATIVE UPDATE – Town Manager Kutney

Town Manager Kutney reported that there was still a member vacancy on the Finance Advisory & Audit Committee (FAAC). He advised that there was a vacancy for alternate #2 on the Planning and Zoning Board. The alternate #1 position was currently held by Veronica Close, and her appointment had been for one year, and she needed to be reappointed.

Motion: Vice Mayor Rockett made a motion to reappoint Veronica Close as alternate #1 on the Planning and Zoning Board for another year. The motion was seconded by Council Member Goltzené. The motion passed 5/0.

Public Comment:

Marge Herzog, 966 "A" Rd.: Commented that Byrnes Guillaume had made a request to be on the Planning and Zoning Board.

Mayor Browning replied that his name had been brought up for the FAAC to take Ken Johnson's place. Mayor Browning said that he would also like to see a list of potential people for vacant board/committee positions.

Town Manager Kutney responded that he would check with Mr. Guillaume, and that notices were on the Town website and in Town Hall for board/committee vacancies.

Town Manager Kutney reported that the Town had received a perfect compliance letter from the State of Florida, Department of Financial Services for its TRIM documents.

Town Manager Kutney referred to the Tri-City Barbeque, and advised that the Town staff would RSVP for everyone. He addressed the upcoming Holiday Parade, and discussion took place regarding specifics.

Town Manager Kutney referred to the Community of Hope outdoor event; the annual Christmas event. He noted that staff had met recently with Billy Langley regarding the requirement for a special event, and there was not time to go through the formal approval process. He requested that the Town Council allow staff to review the application, administratively approve it, and bring it back to the Town Council at the December 4, 2012, Town Council meeting for approval.

Town Attorney Cirullo stated that when the issue came up there was dialogue that it would be considered a zoning in progress, and when the ULDC was re-done, we would make the code match that. The Town Council had previously given the prior management company authority to review these types of applications.

Mayor Browning commented that he thought that there had been a kind of special consideration for this event every year.

Billy Langley, representing Community Of Hope 14055 Okeechobee Blvd.: Commented regarding the outdoor event and that the Community of Hope wanted to do it the right way, and had gotten information ready for the Town. There had been previous years when traffic had been a real issue, and improvements had been made in handling that traffic. He reviewed some of the details of the traffic plan. The program had also been changed so that people could leave the parking lot much sooner than previous years. There would be peak times, but he believed there will be a major improvement in those peak times and traffic issues.

Town Manager Kutney noted that he had advised Mr. Langley that the Town handled these types of permits with cost recovery, and had indicated that he could not waive those costs, and that Mr. Langley was free to address it with the Town Council.

Council Member Goltzené and Council Member Jarriel stated that they would like to see the Town waive the costs.

Town Manager Kutney recommended to the Town Council that they approve this subject to staff review and if there is any issue with insurance, etc., and if there is anything that has to come back to you then we will bring it back to the Town Council at the December 4, 2012 Town Council meeting.

Motion: Vice Mayor Rockett made a motion to approve this application, subject to staff review, and any additional information would be brought back to the December 4, 2012, Town Council meeting. The motion was seconded by Council Member Jarriel. The motion carried 5/0.

9. OLD BUSINESS

a. WBI Contracting Invoice

Town Manager Kutney addressed the invoices from WBI Contracting of Palm Beach, Inc., for emergency repair and response work during the recent storm. He explained that the Town was being asked to cover this expense by the Loxahatchee Groves Water Control District (LGWCD), even though the Town Manager had not been consulted about the work. After discussion with

LGWCD Administrator Saunier, Mr. Saunier had indicated that communication with the Town had been overlooked by LGWCD and that it was his understanding that without immediate response, the situation would have continued to deteriorate and result in more property damage, and the oversight was not intentional. The total cost of the invoices was \$2,177.00.

Motion: Council Member Jarriel made a motion to approve reimbursing the LGWCD for the invoices from WBI Contracting of Palm Beach invoices in the amount of \$2,177.00. The motion was seconded by Council Member Liang. The motion passed 5/0.

Vice Mayor Rockett clarified that in this type of situation, unless Town Manager Kutney or his staff was contacted, the LGWCD should not be doing this work. This was the last time invoices would be approved without the proper procedures being followed.

10. NEW BUSINESS

- a. Renewal Agreements (Bergeron Emergency Services, Inc. Extension Agreement; C & C Loader Service, Inc. Extension Agreement, Tag Grinding Services, Inc. Extension Agreement; O'Brien's Response Management, Inc. Extension Agreement)

Town Manager Kutney reviewed the debris/disaster agreements. He noted that all of them allow for an additional one year term, and there were no cost increases.

Motion: Vice Mayor Rockett made a motion to approve the renewal agreements for Bergeron Emergency Services, Inc., C & C Loader Service, Tag Grinding Services, Inc., and O'Brien's Response Management. The motion was seconded by Council Member Jarriel.

Public Comment:

Frank Schiola: Commented regarding any assignment clause that may be in the agreements. Town Manager Kutney advised that he would review that.

The motion passed 5/0.

- b. Rescheduling of January 1, 2013 Town Council Meeting

Town Manager Kutney reviewed the options for rescheduling the January 1, 2013, Town Council meeting, and recommended meeting on January 15, 2013.

It was the consensus of the Town Council to cancel the Town Council meeting scheduled for January 1, 2013, and re-schedule the meeting for January 15, 2013.

- c. Motion and Agreement on Roadway Issue as a Result of the Joint Meeting of the Town of Loxahatchee Groves Town Council and the Loxahatchee Groves Water Control District Held on October 16, 2012.

Town Attorney Cirullo referred to the Joint Workshop meeting held on October 15, 2012 and noted that it was the consensus to start the process of transitioning whatever rights the LGWCD has to public roads to the Town. It was directed to come back with an appropriate motion. Attorney Cirullo noted that the consensus had been to begin the process with the transfer of the roads that were surfaced with Open-Graded Emulsified Mix (OGEM). Those roads were identified at the Workshop as:

The four roads listed in Chapter 2011-257, Laws of Florida (“Special Act”):

- A” Road from Okeechobee Boulevard to North Road, and North Road for approximately ¼ mile east of “A”;
- “C” Road South, from Collecting Canal Road to Okeechobee Blvd., and Collecting Canal approximately ¼ mile each direction from “C” Road;
- “C” Road North from Okeechobee Blvd. to North Road and North Road for approximately ¼ mile each direction from “C” Road; and,
- “D” Road from Okeechobee Blvd. to North Road and North Road approximately ¼ mile each direction from “D” Road;
- Marcella Boulevard; and,
- Compton Road

He also noted that in reviewing the issue with the LGWCD Board of Supervisors, Bryan Road also came up. The district may not have any rights on that road, but the thought process was to put that on the list so that it could be confirmed.

Town Attorney Cirullo read the motion into the record.

Motion to assign, transfer or otherwise convey as necessary, District rights in certain roads to the Town and to authorize Town Administration and Town Attorney to coordinate and develop the plan of action necessary to accomplish such, and report back to the Town Council, for the following roads: North A Road, North C Road, South C Road, North D Road, Upper North Road, F Road, Marcella Boulevard, Compton Road and Bryan Road.

Councilman Liang moved approval of the motion. The motion was seconded by Councilman Jarriel.

Councilman Goltzené commented that it was his understanding that certain funds were borrowed by the District for maintenance or re-surfacing, and questioned whether the Town was taking responsibility for that as well.

Attorney Cirullo replied that the reason the motion was structured like it was is that there are going to be a lot of issues to resolve, but direction was needed before staff could undertake that work.

The motion passed 5/0.

Public Comment:

Virginia Standish, 15140 North Rd.: commented regarding the joint workshop and specific roadways; reviewing surveys, especially for North Road; what Town ownership of the roads would entail. She said that people wanted to know if they would be reimbursed for what they paid on their tax bill, or was the Town just going to take over the debt. She clarified that the people paid the tax bill for the OGEMing of roads, and the Town would not get easements without compensating the owners. She stated that she did not hear a definition for the term “public”. Horses and cattle still had the right of way in this State.

Town Manager Kutney referred to the fact that the Town Council had floated the idea of paying \$360,000 for the purpose of satisfying the debt for the OGEM project, and that was turned down by the LGWCD. Now, that was open for review and staffs were working to see how that will be addressed when the Town takes over the roads.

Councilman Goltzené stated that the Town Council had never made a decision to OGEM any road other than North Rd. and Collecting Canal. All others had been citizen initiated or done through the County. The Town was only assuming maintenance responsibilities from the LGWCD with the goal of bringing a unified system under one roof.

d. Compton Road Issue

Town Manager Kutney reported that this issue had been brought forward at the October 2, 2012, Town Council meeting, and that he had been quite concerned as a result and went to the area in question on October 4, 2012, accompanied by Councilman Goltzené. He provided photos of the area, noting that there had not been any standing water on the properties, and that the west part of the culvert had been stopped up, but cleared when Mr. Goltzené moved the dirt and debris. The water started moving, and the area was now bone dry. There was vegetation in the ditch, and if the residents wanted the Town to remove that, it could be added to the list of projects. His recommendation was to put it on the list and try to work on it; it did not seem necessary to do anything immediately.

Discussion took place regarding roadway elevation, fixing the problems before the next rainy season, the LGWCD ensuring that drains into their canals were clear; the importance of getting an RFP for services so that there would be someone available to do the work when it was needed.

Public Comment:

Joe Hosford, 13244 Compton Rd.: Commented that the issue was not the end of the canal; after the storm he couldn't get his mail for five days, and had problems for five weeks. The middle of the road was the worst area because people do not clean out their drainage ditches.

Frank Schiola, 13434 Marcella Blvd.: Commented that the "F" road culvert had been totally blocked during the storm, and both sides of it had been cleaned out. He spoke about collapsed culverts, the low road, and culvert pipes. He noted that there was a lot of water on Compton and the water had no place to go.

11. CLOSING COMMENTS

a. Public

Mayor Browning read a comment card from Linda Isaacs, 12881 Marcella Blvd., into the record, as requested by Ms. Isaacs, regarding revisiting an ordinance related to vegetation on the streets, and property owners being billed for removal.

Virginia Standish, 15410 North Rd.: Commented regarding a presentation by Land Design South at the Palm Beach County Convention Center.

b. Town Attorney

1. Proposed letter regarding Attorney General Opinion

Town Attorney Cirullo presented the request for an Attorney General Opinion for review and authorization to forward to the Attorney General.

Vice Mayor Rockett questioned a citing referred to in the letter, and Town Attorney Cirullo verified that it was correct.

Motion: Vice Mayor Rockett made a motion to authorize Town Attorney Cirullo to forward the letter to the Attorney General. The motion was seconded by Council Member Jarriel. The motion passed 5/0.

c. Town Council Members

Vice Mayor Rockett: Thanked everyone and Happy Thanksgiving.

Council Member Liang: Thanks for coming and Happy Holidays.

Council Member Jarriel: Asked about monthly newsletters. Town Manager Kutney responded that the first newsletter that had been done had been quite costly. Discussion had taken place about a newsletter that may be generated from the new website. Council Member Jarriel suggested one important newsletter at the beginning of the year to say what had been accomplished in the past year and what would be accomplished in the next year.

Council Member Goltzené: Commented that a lot of criticisms come from sources that were close with previous Town Management firms. Thanked everyone for coming to the meeting.

Mayor Browning: Commented that he had received a comment from a resident who feels that he has no place to put his clippings and yard stuff. He noted that he had received a call from a resident on "A" Road saying that some of the equestrians have not closed her gate and it might be good to have an open fence for people to get their horses through there. People are now going through the fence and not putting it back up. Council Member Jarriel commented that the west

side of the canal is our future equestrian trail. To fence off her five acres would not be expensive and it would protect her property and that way we would be paying part of the request.

12. ADJOURNMENT

There being no further business, the Town Council meeting of November 20, 2012, was adjourned at 10:50 p.m.

Susan Eichhorn
Town Clerk

David Browning
Mayor

**These minutes were approved by the
Town Council on Tuesday, March 5, 2013**



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, December 4, 2012 at 7:00 p.m.

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

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

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

MINUTES

1. OPENING

- a. Call to Order & Roll Call

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

- b. Pledge of Allegiance & Invocation – Mayor Browning
- c. Approval of Agenda

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

2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.

Motion: Vice Mayor Rockett made a motion to approve the Consent Agenda. The motion was seconded by Councilman Liang. The motion passed 5/0/.

3. PRESENTATIONS

4. COMMITTEE REPORTS

- a. Finance Advisory & Audit Committee (FAAC) Report and Approval of the October 2012 Financial report – *Vice Chair Elise Ryan*

Elise Ryan provided the FAAC Report.

Motion: Vice Mayor Rockett made a motion to approve the FAAC Report. The motion was seconded by Councilman Liang. The motion passed 5/0.

5. PUBLIC HEARINGS (Ordinances 2nd Reading)–

- a. Ordinance No. 2012-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING ORDINANCE NO. 2012-06 TO EXTEND THE MORATORIUM IMPOSED THEREIN UNTIL MARCH 30, 2013; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney read Ordinance No. 2012-10 by title, as printed above.

Mayor Browning opened the Public Hearing.

There was no one desiring to speak.

Mayor Browning closed the Public Hearing.

Motion: Vice Mayor made a motion to adopt Ordinance No. 2012-10. The motion was seconded by Councilman Liang. The motion passed 5/0.

b. Ordinance No. 2012-11 – Quasi-Judicial Public Hearing

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE REZONING OF LAND CONSISTING OF APPROXIMATELY 1.0028 ACRES MORE OR LESS OF PROPERTY LOCATED ON SOUTHERN BOULEVARD, APPROXIMATELY 350 FEET WEST OF “D” ROAD, AND 5.90 ACRES, MORE OR LESS, LOCATED AT 14579 SOUTHERN BOULEVARD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT “A” TO THIS ORDINANCE, FROM PALM BEACH COUNTY ZONING DESIGNATION GENERAL COMMERCIAL (GC) TO THE TOWN’S ZONING DESIGNATION COMMERCIAL LOW (CL); PROVIDING FOR THE APPROPRIATE REVISIONS OF THE ZONING DISTRICT MAP; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo advised that this matter was quasi-judicial, and would require four affirmative votes to be adopted. He read Ordinance No. 2012-11 by title, as printed above. He then administered the oath to all those who would be speaking to this item.

Since the Town was the applicant, staff then provided the staff report, through Town Planning Consultant Jim Fleischmann. After providing the report, Mr. Fleischmann stated that staff recommended approval.

Mayor Browning requested public comment. There was none

Motion: Vice Mayor Rockett made a motion to adopt Ordinance No. 2012-11. The motion was seconded by Councilman Jarriel. On roll call vote, the motion passed 5/0.

6. ORDINANCES (1st Reading)

a. Public Hearing:

Ordinance No. 2012-12

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND ARTICLE 10 ENTITLED "DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS," SECTION 10-015, ENTITLED "DEFINITIONS" TO ADD A NEW DEFINITION FOR "RESIDENTIAL AGRICULTURAL SALES AND SERVICES;" TO AMEND ARTICLE 20, ENTITLED "RESIDENTIAL ZONING DISTRICTS," SECTION 20-015, ENTITLED "PERMITTED USES," TO ADD RESIDENTIAL AGRICULTURAL SALES AND SERVICES AS AN ACCESSORY USE SUBJECT TO ARTICLE 80 (CONDITIONAL USE) IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; TO AMEND ARTICLE 80, ENTITLED "CONDITIONAL USES," TO ADD A NEW SECTION 80-60, ENTITLED "RESIDENTIAL AGRICULTURAL SALES AND SERVICES," TO PROVIDE CONDITIONS ON RESIDENTIAL AGRICULTURAL SALES AND SERVICES USES IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Kutney provided background information regarding the ordinance. Town Planning Consultant Jim Fleischmann provided the staff report.

Councilman Goltzené requested that the ordinance be delayed until next month, so that he would have additional time to review portions of it.

Motion: Councilman Goltzene made a motion to continue this item to the January 15, 2013 Town Council meeting. The motion was seconded by Councilman Liang.

Discussion took place, and Vice Mayor Rockett suggested moving forward with the ordinance tonight, as any changes could be made on second reading.

Town Attorney Cirullo advised that any changes made at second reading could not affect the core subject of the ordinance.

The motion to continue this item, Ordinance No. 2012-12, to the January 15, 2013 Town Council meeting passed 4/1 with Vice Mayor Rockett opposed.

b. Ordinance No. 2012-13

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
LOXAHATCHEE GROVES, FLORIDA, RELATING TO ELECTIONS;
PROVIDING FOR VACANCY IN CANDIDACY PROCEDURES;
PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS;
PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN
EFFECTIVE DATE.**

Town Attorney Cirullo read Ordinance No. 2012-13 by title, as printed above. He explained that he requested that this ordinance deals with a situation where someone would qualify to run for a Town Council seat and then dropped off the campaign. This ordinance provides a mechanism for the Town to deal with this type of issue. If the Town was left with zero candidates and the inability to re-open qualifying, there was the ability to appoint someone to sit in that seat until the next year's election.

Motion: Councilman Liang made a motion to approve Ordinance No. 2012-13, on first reading. The motion was seconded by Councilman Jarriel. The motion passed 5/0.

7. RESOLUTIONS

a. Resolution No. 2012-21

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, DESIGNATING THE DATE, TIME AND PLACE TO QUALIFY AND FILE FOR THE OFFICE OF TOWN COUNCIL MEMBER FOR SEATS 2 AND 4 PRIOR TO THE MUNICIPAL GENERAL ELECTION TO BE HELD ON TUESDAY, MARCH 12, 2013, PURSUANT TO THE TOWN CHARTER AND CHAPTERS 97 – 106, FLORIDA STATUTES; THE ELECTION FILING PERIOD OPENS PROMPTLY AT 12:00 NOON ON JANUARY 29, 2013 AND CLOSSES PROMPTLY AT 12:00 NOON ON FEBRUARY 5, 2013; SETTING FILING FEES; AUTHORIZING THE TOWN CLERK TO APPOINT ELECTION BOARDS FOR ELECTION PRECINCT 6094; AUTHORIZING THE SUPERVISOR OF ELECTIONS TO CONDUCT THE TOWN ELECTION AND APPROVING THE AGREEMENT BETWEEN THE TOWN AND THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS FOR ELECTION SERVICES; AUTHORIZING THE TOWN CLERK OR DESIGNEE TO HANDLE CERTAIN ELECTION MATTERS; OPTING OUT OF EARLY VOTING; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

Town Attorney Cirullo explained that this annual Resolution sets forth the parameters of the municipal election, and confirms the agreement with the Supervisor of Elections of Palm Beach County. He noted that there would be some changes this year in regard to the Canvassing Board. He read Resolution No. 2012-21 by title, as printed above.

Motion: Council Member Liang made a motion to approve Resolution 2012-21. The motion was seconded by Council Member Goltzené. The motion passed 5/0.

b. Resolution No. 2012-22

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, EXPRESSING SUPPORT FOR PALM BEACH STATE COLLEGE'S NEW LOXAHATCHEE GROVES CAMPUS WITHIN THE TOWN, AND STRONG OPPOSITION TO THE INITIATIVE EFFORT TO REPEAL THE TOWN ORDINANCES 2012-04 AND 2012-05 WHICH COLLECTIVELY AMENDED THE TOWN'S COMPREHENSIVE PLAN PURSUANT TO THE EXCLUSIVE

PROCEEDINGS IN CHAPTER 163, FLORIDA STATUTES, APPROVED THE CHANGE IN LAND USE FOR THE SUBJECT PROPERTY TO ACCOMMODATE THE NEW CAMPUS AND CREATED SPECIAL POLICIES TO REGULATE THE DEVELOPMENT OF THE CAMPUS; URGING THE PETITION COMMITTEE TO DISBAND AND RESCIND THE EFFORT; ADVISING THE RESIDENTS AND COMMUNITY OF THE ADVERSE IMPACTS ON THE TOWN AND ITS RESIDENTS AND PROPERTY OWNERS SHOULD THE REFERENDUM PROCEED; REQUESTING THAT A COPY OF THIS RESOLUTION BE POSTED ON THE TOWN'S WEBSITE, AND THAT COPIES BE DELIVERED TO PALM BEACH STATE COLLEGE AND MEDIA OUTLETS; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE

Town Attorney Cirullo stated that he had prepared this Resolution at the request of the Town Council. He read the Resolution No. 2012-22 by title, as printed above.

Motion: Councilman Goltzené moved that the size of this Resolution be reduced, to indicate that the Town Council affirms its vote in favor of the college and leave it at that.

Mayor Browning asked if there was second? There was not, and the motion failed for lack of a second.

Motion: Vice Mayor Rockett moved approval of Resolution No. 2101-22. The motion was seconded by Councilman Jarriel.

Public Comment

Todd McLendon, 3481 "D" Rd.: Commented regarding the Palm Beach State College issue, the decision of the Town Council, the rights of the residents to be heard.

Ken Johnson, Collecting Canal Rd: Commented that he thanks people for their support while he was absent; supported the college, urged the Town Council to analyze and deal with traffic control.

Lung Chiu, 3270 "B" Road: Commented in support of the college.

John Ryan, 3508 "A" Road: Commented in regard to the petition to repeal the ordinances approving the location of the college; commented regarding the legality of the petition, the

public meetings that had been hold prior to approval of the ordinances, and the costs that may be incurred with a referendum.

Phil Liu, 4245 148 Terrace North: Commented that it was important for people to remember that just because people do not agree with the Town Council does not mean that it is incorrect; they were elected to represent the citizens.

Thias Gonzalez, 13090 Raymond Drive: Commented that she wished to clarify some things: said that we tried to tell you what we felt before; she maintained that when the college was approved, there were more comment cards against than in favor; she referred to F.S. 163.3167(8).

Howard Voren, 1538 "E" Road: Commented in support of the college, and noted that the location was not in the Groves, but on the edge of the Groves, along Southern Blvd.

The motion to approve Resolution No. 2012-22 passed 4/1, with Councilman Goltzené in opposition.

8. ADMINISTRATIVE UPDATE – Town Manager Kutney

- Town Manager Kutney reported that the Loxahatchee Groves Water Control District (LGWCD) was going through transition, and meetings of the Intergovernmental Coordination Committee (IGC) would not be scheduled until January/February 2013. He requested approval and comments regarding that.

After discussion, it was the consensus of the Town Council to agree with that scheduling.

Councilman Jarriel commented that he believed the Town Council needed to have input as to what was being looked for in an LGWCD administrator.

- Town Manager Kutney then referred to the Community of Hope application, and requested consideration of the Town Council. He explained that any approval would be conditional, because of some conditions that had not yet been met, regarding a performance bond, and traffic management. He noted that he had conveyed the point to the Community of Hoppe that in 5-6 months when the Town had permit issues resolved, staff would be dealing with matters such as this from a much stronger standpoint. He advised that any approval would be a conditional approval, based on staff concerns regarding conditions that were not met.

After discussion, regarding the performance bond, the nature of the event, the concerns related to selective enforcement of the Code, it was the consensus of the Town Council to approve the administrative conditional approval of the holding of the event.

Councilman Jarriel suggested that, after the event was over, he would like residents to let the Town Council and staff know how it went.

Marge Herzog, 966 "A" Road: Commented that when the Loxahatchee Land Owners group worked cleaning the roadsides in the area, they were always asked by their insurance company to provide a save harmless.

Town Attorney Cirullo advised that, unless the Town Council said otherwise, it had now been reported to them that it would be administratively approved without the performance bond and Palm Beach Sheriff's Office documentation.

It was the consensus of the Town Council to allow the conditional administrative approval for the Community of Hope event.

- Town Manager Kutney presented the Certificate of Excellence in Financial Reporting received by the Town from the Government Finance Officers Association.

9. OLD BUSINESS

10. NEW BUSINESS

- a. Discussion of Code Enforcement – *Council Member Ron Jarriel*

Councilman Jarriel commented regarding the mulching and chipping businesses in Town, with material coming from other areas, and then being dumped in Loxahatchee Groves. He noted that the materials were being piled up, and some could cause spontaneous combustion. He also suggested that there must be a turnaround time for people dumping things in Loxahatchee Groves. He addressed the problems with the foreclosures in the Town, citing Vila & Sons as one that most troubled him.

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Public Comment:

Virginia Standish, 15410 North Rd.: Commented regarding asphalt dumping and whether the Environmental Protection Agency (EPA) or Occupational Safety and Health Administration (OSHA) had been contacted. As far as Vila & Sons, she suggested that maybe the Town Council should buy the property and flip it and make some money.

Ken Johnson, Collecting Canal Rd.: Commented regarding trash pick-up when there are no residences located on property and the properties are still paying residential rates.

Town Manager Kutney commented that, regarding foreclosures, unless there was a complaint from someone, staff could not do anything as far as Code enforcement was concerned. As far as the ag items that Councilman Jarriel had discussed, an Attorney General Opinion in regard to ag was in progress. If the Town Council wanted to direct staff to review some particular items, staff would be happy to do that. He cautioned the Town Council that in Florida, the code enforcement process was not pretty and it was not quick. The idea was to ensure compliance and compliance did not happen quickly.

Discussion took place regarding code enforcement. Mayor Browning stated that when a problem was brought up at a Town Council meeting, it should be considered a complaint. Discussion also took place regarding proactive monitoring of commercially zoned properties. It was the consensus of the Town Council to proceed with complaint driven code enforcement for most of the Town; if there is a danger issue that is brought to the Town Council, staff would treat that as a written complaint, and for zoned commercial properties the Town Council wanted proactive monitoring.

Councilman Goltzené commented that something was needed in place to provide for the cleaning up of properties on Southern Blvd.

Public Comment:

Howard Voren, 1538 "E" Rd.: Commented that he did not understand giving ag classifications to chipping and mulching operations that haul material in that is grown elsewhere.

John Ryan 3508 A Rd.: Commented regarding the property being discussed with piles of material on it, and suggested that the owner could put up a bond, so that if the property is abandoned, the material could be disposed of. He suggested that it ought to be a legitimate concern of the Town.

Thias Gonzalez, 13090 Raymond Dr.: Commented regarding code enforcement issues.

Todd McLendon, 3481 “D” Rd.: Commented regarding code enforcement issues.

Councilman Jarriel commented that he would at least like to start with the Vila & Sons property, and the person dumping asphalt on property

Town Manager Kutney advised that he would appreciate a motion as it relates to policy direction for Town Council approval on January 15, 2013.

Motion: Vice Mayor Rockett made a motion to direct proactive code enforcement on commercially zoned property. The motion was seconded by Council Member Goltzené. The motion passed 4/1, with Council Member Liang in opposition.

b. Discussion of Town Council Salary – *Council Member Tom Goltzené*

Councilman Goltzené advised that there was a salary survey included in the agenda packet, from selected cities in the State of Florida. He also referred to a newspaper article with salary surveys of various cities in Palm Beach County. He explained that right now there was no compensation for the Town of Loxahatchee Town Council, and that is out of line with most municipalities in Palm Beach County. He stated that he thought the lack of salaries detracted from the pool of people that want to serve, and that he felt that he, and other members of the Town Council do a significant amount of work and should be compensated. He referred to the section of the Town Charter regarding compensation and expenses for Town Council members.

Councilman Jarriel agreed with Councilman Goltzené; Councilman Liang suggested more discussion on the matter; Vice Mayor Rockett commented that he did not want to be considered an employee of the Town and suggested some other form of payment, rather than a salary

Town Manager Kutney stated that staff would like direction. One option would be to have a stipend or car allowance.

Town Attorney Cirullo encouraged giving some general direction as to what the ultimate goal would be, since there was a time factor; discussion could take place at the January 15, 2013, Town Council meeting, and an ordinance could be brought back at the two meetings in

February. The ordinance would have to specify what that salary was; even a stipend may come with the same issues as a salary.

Town Manager Kutney summarized that staff was being authorized to look into the mechanics of compensation and report back, as well as to identify if there were any additional costs involved.

Public Comment:

John Ryan, 3508 “A” Rd.: Commented in support of Town Council compensation.

Thias Gonzalez, 13090 Raymond Dr.: Commented in support of Town Council compensation.

Lung Chiu, 3270 “B” Rd.: Commented in support of Town Council compensation.

c. Unified Land Development Code (ULDC) Committee appointments

The members of the Town Council provided their appointees for the ULDC Committee:

Council Member Liang: has not yet decided
Council Member Jarriel: Howard Voren
Council Member Goltzené: Virginia Standish
Vice Mayor Rockett: John Ryan
Mayor Browning: Beck Hyslop

Town Manager Kutney advised that the committee could start with the four members named tonight. Town Attorney Cirullo noted that before the fifth person could participate in the meetings, he or she would need to be formally appointed at a public meeting. The fifth member could attend, but could not participate as a member of the board until formally appointed.

In response to Council Member Goltzené, Town Attorney Cirullo advised that he did not see a conflict with the appointment of John Ryan as a result of his relationship with the LGWCD; the individual would make that call.

- d. Appointment of Byrnes Guillaume as alternate member #2 of Planning and Zoning Board.

Town Manager Kutney advised that the Town Clerk had confirmed with Mr. Guillaume that he was interested in serving as alternate member #2 on the Planning and Zoning Board.

Vice Mayor Rockett expressed concern regarding some comments that had been attributed to Mr. Guillaume during the past municipal election. Council Member Liang stated that he had been disappointed in the comments, however, if Mr. Guillaume was willing to serve the Town, he was willing to give him that opportunity.

Motion: Council Member Liang made a motion to appoint Byrnes Guillaume as alternate #2 on the Planning and Zoning Board. The motion was seconded by Council Member Goltzené. The motion passed 5/0.

11. CLOSING COMMENTS

- a. Public

Rob Robinson American Legion Post # 367 commented that they were ready to go forward, and that he would like to meet with any residents that have any concerns, and that he would wait outside after the meeting to discuss it. He noted that he would be addressing the Planning and Zoning Board soon.

Todd McLendon, 3481 "D" Rd.: Commented regarding the initiative/petition regarding Palm Beach State College, stating that he wanted the people to vote on whether the college should be here or not, having an equal say so. He referred to the comment that it was a waste of money, and maintained that it was not.

Virginia Standish, 15410 North Rd.: Commented regarding the discussion related to special event permits; if someone did not apply for a permit then would the Town not require one? Town Manager Kutney clarified that a special event is an outdoor event that would bring in people from all over to come into your site; he offered that staff would be reviewing that with the new ULDC Committee.

**TOWN OF LOXAHATCHEE GROVES
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Marge Herzog, 966 "A" Rd.: Announced that Loxahatchee Groves Landowners Association would be having a holiday event on December 20, 2012.

b. Town Attorney

Town Attorney Cirullo thanked everyone for the opportunity to provide services to the Town, and wished everyone a Happy New Year and Merry Christmas.

c. Town Council Members

Council Member Goltzené: Thanked everyone for coming, and wished everyone a Merry Christmas, Happy New Year, Happy Chanukah.

Council Member Jarriel: Thanked everyone for coming, and wished everyone a Merry Christmas and Happy New Year.

Council Member Liang: Thanked everyone for coming; welcomed Ken Johnson back and wished everyone Happy Holidays

Vice Mayor Rockett: Thanked everyone for coming, and wished everyone Merry Christmas, Happy New Year, and Happy Holidays.

Mayor Browning: Thanked everyone for coming, and wished everyone a Merry Christmas.

12. ADJOURNMENT

There being no further business, the Town Council Meeting of December 4, 2012, was adjourned at 9:20 pm.

Susan Eichhorn
Town Clerk

David Browning
Mayor

(SEAL)

**These minutes were approved by the
Town Council on Tuesday, March 5, 2013**



Town of Loxahatchee Groves
Town Council Meeting
Tuesday, February 5, 2013 at 7:00 p.m.
Loxahatchee Groves Water Control District, 101 West "D" Road

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

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

MINUTES

1. OPENING

- a. Call to Order & Roll Call

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

- b. Pledge of Allegiance & Invocation – Mayor Browning
- c. Approval of Agenda

Mayor Browning requested the addition of Item 10.d. to the Agenda – Small Business Land Use Discussion.

Motion: Motion made by Vice Mayor Rockett to approve the Agenda as modified. The motion was seconded by Councilman Jarriel. The motion passed 5/0.

2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: January 15, 2013
- c. Municipal Election Agreement with Palms West Presbyterian Church

Motion: Motion made by Vice Mayor Rockett to approve the Consent Agenda. The motion was seconded by Council Member Liang. The motion passed 5/0.

3. PRESENTATIONS

- a. Anna Stewart, Manager Drowning Prevention Coalition – *Requested by Council Member Jarriel*

Anna Stewart addressed the Town Council explaining the services of the Drowning Prevention Coalition, and noting that the Coalition is partnered with the Palm Beach County Fire Rescue Volunteer Battalion, because they are a non-profit organization.

Councilman Jarriel suggested a donation of \$500 to the Drowning Coalition of Palm Beach County, with the donation provided to the Palm Beach County Fire Rescue Volunteer Battalion.

Motion: Motion made by Councilman Jarriel, seconded by Councilman Liang to donate \$500 to the Palm Beach County Fire Rescue Volunteer Battalion. The motion passed 5/0.

- b. F. Martin Perry – presentation re: PUD (Loxahatchee Groves Town Center)

TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL MEETING MINUTES, TUESDAY, FEBRUARY 5, 2013

Town Manager Kutney explained that the Town recently passed a PUD ordinance and one of the requirements was that the applicants appear before the Town Council to present their application. This was the first step in the process.

Martin Perry addressed the Town Council, along with Bradley Miller, Planning Consultant. He presented a power point presentation to reintroduce the comprehensive plan amendment that was presented to the Town Council, and the final one that was approved. He then opened discussion by the Town Council or the public for comments or questions.

Town Council discussion took place regarding the buffer, the proposed Town Center in the project, access points, turn lanes, and an assisted living facility.

Public Comment:

Marge Herzog, 966 A Rd.: Commented with concerns regarding the 120 beds in the assisted living facility, development north of Tangerine, the number of access points on Southern Blvd, and commercial development in the Town.

Howard Voren, 1538 E Rd: Commented regarding access points on Southern Blvd., and consideration of access from B Rd. in the future, once Southern Blvd. is widened.

Thias Gonzalez, 13090 Raymond Dr.: Commented in agreement with comments by Ms. Herzog and Mr. Voren, and that she is opposed.

Town Attorney Cirullo clarified that there is no action for the Town Council to take this evening. This was just a process in the PUD, and the same would apply for the next item.

c. Joe Lelonek – presentation re: PUD (Loxahatchee Groves Commons)

Bob Bentz, Land Design South, addressed the Town Council providing an overview of the commercial component of Simon Trust Property. He explained that this presentation was given to the Town Council approximately one year ago, and since then there had been a few minor adjustments to it. He presented a power point of the project, and discussed access points, proposed architectural style, parking - a waiver would be requested for parking space size to make the spaces smaller to 10 x 20 ft. access space, which would allow less asphalt on the property and open up more green space; there would be larger spaces available to accommodate larger vehicles, but not all of the spaces needed to be large. The Department of Transportation had approved three accesses to the property. He discussed paving of roadways, re-doing Collecting Canal crossing. He then requested comments or questions.

Public Comment:

Marsha Newell, 3508 C Rd.: Commented regarding the development project and that the public needed to be made aware of it, and asked for their opinions.

4. COMMITTEE REPORTS

- a. Finance Advisory & Audit Committee (FAAC) Report and Approval of the November and December 2012 Financial Reports – *Vice Chair Elise Ryan*

Elise Ryan provided the January 28, 2013 FAAC meeting approving the November/December financials. The Committee had requested that the Town Council was made aware of the cost recovery accounts. The current process is to require a payment from the applicant, and as costs occur, they are charged to the applicant's account. The Committee believed that the current cost recover process was not working, and recommended that staff is authorized to design a new fee schedule.

Virginia Standish, 15410 North Rd., speaking as member of FAAC, stated that cost recovery was a concern because there was not a set fee process in order to let land owners know what to expect in advance, and suggested that the Council give some comments to the FAAC so that the Committee could come back with some suggestions.

Town Manager Kutney advised that he had contacted most of the people who are in arrears and most of them were willing to provide more money. The alternate proposal that Elise and Virginia were talking about was the proposal that town management had given to the Town Council, and making a cost recovery ordinance is one of management's priorities. The only cost recovery account that had a problem was the Day property, and there was now a lawsuit in progress regarding the property. He advised that if the Town Council directed staff to move forward and make this a higher priority, staff would be happy to do that.

Lung Chiu, 3270 B Rd, and Chair of FAAC.: Commented work was needed regarding cost recovery, and suggested that the Town Council direct town management to come back with a proposal and the Committee would be happy to go through it and make suggestions.

Councilman Goltzené stated that he had confidence in Town Manager Kutney's ability to work with the committee.

Motion: Motion made by Vice Mayor Rockett to approve the report of the FAAC. The motion was seconded by Councilman Liang. The motion passed 5/0.

- b. Finance Advisory & Audit Committee (FAAC) appointment – *Mayor Browning*

Mayor Browning appointed Ken Johnson to the FAAC .

5. PUBLIC HEARINGS (Ordinances 2nd Reading)–

- a. Ordinance No. 2012-12

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND ARTICLE 10 ENTITLED “DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS,” SECTION 10-015, ENTITLED “DEFINITIONS” TO ADD A NEW DEFINITION FOR “RESIDENTIAL AGRICULTURAL SALES AND SERVICES;” TO AMEND ARTICLE 20, ENTITLED “RESIDENTIAL ZONING DISTRICTS,” SECTION 20-015, ENTITLED “PERMITTED USES,” TO ADD RESIDENTIAL AGRICULTURAL SALES AND SERVICES AS AN ACCESSORY USE SUBJECT TO ARTICLE 80 (CONDITIONAL USE) IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; TO AMEND ARTICLE 80, ENTITLED “CONDITIONAL USES,” TO ADD A NEW SECTION 80-60, ENTITLED “RESIDENTIAL AGRICULTURAL SALES AND SERVICES,” TO PROVIDE CONDITIONS ON RESIDENTIAL AGRICULTURAL SALES AND SERVICES USES IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo reminded all this was an ordinance on second reading, and that in order to be adopted at least four Town Council members would need to vote in the affirmative

Jim Fleischmann, Town Planning Consultant addressed the Town Council, and noted that the Town Council approved the ordinance on first reading at its January 15, 2013, meeting, subject to three conditions.

- Strike provisions regarding special exception approval for semi-trucks making deliveries.

TOWN OF LOXAHATCHEE GROVES
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- Strike provisions limiting the number of employees to two.
- Revise the hours of operation to: Monday through Saturday 8:00 a.m. – 8:00 p.m. and on Sunday from 12:00 p.m. – 5:00 p.m.

Mr. Fleischmann noted that the proposed ordinance language was on pages 61-64 of the Agenda Packet. He noted that, unfortunately the changes that the Town Council required on first reading did not make it into this version of the proposed ordinance language, and he requested that the record be corrected at this time.

Town Attorney Cirullo advised that it was up to the Town Council as to whether they wanted to proceed or not, because the agenda and back up did not have the updated version of the first reading comments. If the Town Council was comfortable with the corrected record that was acceptable, however if the Town Council wanted to see those in writing, it could continue this matter to the March 5, 2013 Town Council meeting.

Councilman Goltzené expressed concern that the language was not included in the Agenda Packet for people to read. He recommended that there be no code enforcement action taken until the ordinance was finalized.

Public Comment:

Howard Voren, 1538 E Road: Commented regarding the fact that these are not agricultural sales, according to the state definition, but if you want to call these agricultural services, there is no argument, but you cannot call them agricultural sales, because the product is not produced on their farm where they are selling it. Nobody has bothered to address what I see as a major flaw.

After discussion, it was the consensus of the Town Council that the ordinance would be reviewed by the Unified Land Development Code Review Committee at its next meeting, February 21, 2013. Town Manager Kutney noted that if the title of the ordinance was then changed, the ordinance would need to come back to the Town Council for a second first reading.

Motion: Councilman Liang made a motion for a continuation of Ordinance No. 2012-12 to the March 5, 2013, Town Council meeting. The motion was seconded by Councilman Goltzené: The motion passed 5/0.

****A short recess was taken at 8:20 p.m. The meeting resumed at 8:30 p.m.****

6. ORDINANCES (1st Reading) - Continued from December 4, 2012, Town Council Meeting

a. Public Hearing:

Ordinance No. 2013-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING COMPENSATION FOR COUNCILMEMBERS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

Town Attorney Cirullo advised that the Town Charter indicates that four votes are needed, to adopt this ordinance, and the ordinance will not take effect until after the next regular election; therefore, it would not take effect until April, 2013.

Town Attorney Cirullo read Ordinance No. 2013-01 by title, as printed above.

Motion: Councilman Liang made a motion to approve Ordinance No.2013-01 on first reading. The motion was seconded by Councilman Jarriel.

Discussion too place. The following public comments were heard:

Public Comment:

Marge Herzog, 966 A Rd.: Commented that she agreed with an amount of \$250.00 per month.

Howard Voren, 1538 E Road: Commented regarding compensation.

John Ryan, 3508 A Road: Commented regarding compensation of \$500.00, and that whatever the Town Council decided was acceptable.

Virginia Standish, 15410 North Road: Commented that she had analyzed the data, and came up with \$275 as compensation; it was looked at as an allowance, not compensation.

Thias Gonzalez, 13090 Raymond Dr.: Commented that she admired the work that some of you do, and agreed with \$500.00.

Lung Chiu, 3270 B Rd.: Commented that \$500 is very minimal, and those who needed it could keep it and those that did not could donate it back to the Town.

The motion to approve Ordinance 2013-01 on first reading passed 4/1 with Vice Mayor Rockett opposed.

Town Attorney Cirullo noted that when the ordinance came back for second reading, it would require four votes to be adopted.

7. RESOLUTIONS

8. ADMINISTRATIVE UPDATE – Town Manager Kutney

Town Manager Kutney reported on the following:

- ULDC Review Committee meeting on January 30, 2013.
- RETGAC meeting on January 31, 2013. Mr. Kutney reported that at the January 31, 2013, meeting, a motion was made by Dr. Bill Louda to approve the Committee’s recommendation to the Town Council that within a reasonable time frame, example six months from February 5, 2013, the Town should not supply any money for the maintenance and/or improvement of any non-district road, until the “Right of Way Easement” for that road is legally transferred to the Town. Committee Member Kathy Strehlow seconded the motion, which passed unanimously.
- January 28 Chamber Luncheon where award was received for best decorated vehicle.
- Invitation to bid for grading
- RFP for town engineering
- Meeting with Palm Beach County engineering to discuss traffic signal at Okeechobee and B Rd.
- Read a statement from Lt. Combs relating to a woman doing panhandling in the Town. Lt. Combs advises calling sheriff’s office at 688-3400.
- Request by Chairman of Planning & Zoning regarding committee member Lawrence Corning who has missed 5 meetings; ordinance 2012-02 sub paragraph 5 addresses reasons for removal of any member of board.

Comments:

Councilman Goltzené commented that Mr. Corning has had some issues with the health of one of his children, and asked for Town Council leniency.

Discussion took place regarding liability insurance requirements.

Public Comment:

John Ryan, 3508 A Road: Commented regarding the liability insurance requirement, noting that the LGWCD coverage falls into the sovereign immunity category, and it is limited to that liability amount of \$200,000 before sovereign immunity kicks in.

Town Attorney Cirullo explained that all bidders must meet the same requirements, and that he would review this with town management.

Public Comment:

Marsha Newell, 3508 C Rd.: Commented regarding a woman requesting money and entering private property.

9. OLD BUSINESS

- a. Discussion of Initiative Petition – *Requested by Council Member Goltzené*

Councilman Goltzené requested an update on the initiative petition.

Town Attorney Cirullo advised that as of yesterday afternoon a number of signatures were turned in to the Town Clerk, which is the first step of the process for the citizen's initiative. The Town Clerk is working with the Palm Beach County Supervisor of Elections to confirm signatures and that they meet the minimum requirements of 207 signatures, and also to confirm any other issues with the petition. The Town Clerk has up to 20 days to respond. Once a determination is made, it would have to come to the Town Council in one of two ways: if there was a determination of insufficiency, the Town Council would make that final determination. If it is determined to be sufficient, the Town Council has to make the decision to move it forward. There are time limits – the Town Council must make its decision within 30 days of determination of sufficiency. If the action is not to rescind the ordinance, the election would have to be 30-60 days after the Town Council acts.

Town Attorney Cirullo noted that there would be an inclination if this was possible, to put it on the regular election; however Florida Statutes §100.341 requires certain notices of referendum election notices. The statute applies to this process. We confirmed it with the Division of Elections. Today would have been the deadline to meet the requirements of that statute.

Public Comment:

John Ryan, 3508 A Road: Commented regarding a Florida Statute that is involved with comprehensive plan amendments and future land use, and the consequences should such an ordinance be rescinded.

Town Attorney Cirullo advised that the Florida Statute referred to is currently the subject of litigation.

Councilman Goltzené commented that the process, as it is in the Town Charter, should go forward.

Discussion took place regarding sovereign immunity, the Bert J. Harris Act, inverse condemnation, and eminent domain.

In response to Councilman Jarriel, regarding the phrasing of the question that would appear on a ballot, Town Attorney Cirullo replied that is part of the process. We have to determine the sufficiency of it. The Charter requires certain things. If the petition is deemed sufficient, the phrasing of that question would need to be accomplished by the Town through resolution/ordinance. We need to determine the sufficiency of the petition.

Grace Joyce, 3886 147th Ave., N.: Commented regarding the process that was gone through with the college, and her distress with the fact that there were ample opportunities for public comment and for people to get involved; she questioned if the referendum petition was public record.

Thias Gonzalez, 13090 Raymond Dr.: Indicated that she was one of the people that helped collect signatures. Commented regarding the Florida Statute referred to earlier.

Todd McLendon, 3481 D Rd: Commented that the Town Council needed to find out what the people want in regard to the college.

Howard Voren, 1538 E Rd.: Commented regarding a scenario whereby the 75 acres could be taken out of the Town and revert to Palm Beach County.

Councilman Liang commented that he found it disappointing for anyone to say that we are maneuvering – we have just asked what the steps are and what is going to happen. No one on the Council has tried to impede the petition. We have not done any legal maneuvers to stop the petition.

Mayor Browning commented that his frustration was the number of meetings that were held; that the best effort was made to put in something that was right for the community; congratulated the initiative committee on gathering the number of signatures.

10. NEW BUSINESS

- a. Purchase and Installation of Solar Powered Flashing Red Lights to Add to Stop Signs – *Requested by Council Member Rockett*

Vice Mayor Rockett provided a sample of the solar powered lights that had been put in the Indian Trail District, noting that they had found a company in California that could provide them with these lights. He suggested that the Town Council purchase 50 of the lights and install them on the tops of stop lights; a \$5,000 quote would cover approximately 50 lights.

Motion: Vice Mayor Rockett made a motion to authorize the purchase of 50 solar powered lights. The motion was seconded by Councilman Liang.

Discussion took place regarding ownership of the roads and safety issues.

Howard Voren, 1538 E Rd.: Commented regarding light pollution, liability concerns, and responsibility for maintenance.

Marsha Newell, 3508 C Rd.: Commented regarding that she was against the lights.

Dennis Lipp, 13402 North Rd.: Commented regarding the Town's signage responsibility, and that there were speed bumps in place so that people would not go too fast.

Susan Clubb, 3319 E Rd.: Commented that she would not like to see a bright light flashing in her face every time she drives down the roads, and that there is enough light pollution.

Vice Mayor Rockett withdrew the motion.

- b. Manure Ordinance – *Requested by Council Member Goltzené*

Councilman Goltzené said that this has been brought up through several constituent issues. He stated that: The first one is very close to my heart, because my son works at one of the local horse veterinarians in town. They have a pile of manure and my son asked if we could have one of these for our fields. I checked and found out that it would make me a hauler or my son a hauler to bring that over to my house. I would like to ask the Town Council what their thoughts are on local hauling within the town. A second issue is a gentleman representing the banana farm and he has a legitimate use for the manure, however, when we get to 20 loads, there is a fee, and the haulers want to pass that on to the farmers.

Ramon Vilarino addressed the Town Council, stating that we are farmers. We pay a lot of property taxes, and we converted the old nurseries we had into banana farms, and that is what we need the manure for. The Health Department has been out to our property, and they cannot find anything that contaminates the ground, and it decomposes and becomes fertilizer in the ground. We went to the Town offices, and there is an ordinance now that you have to have a \$1200 license and you can only haul 20 loads a year. I understand trying to control that, but we are asking for someplace where we can meet. In the past we have had issues because we were stockpiling it, and the county came out and did their studies and said they would not allow us to stock pile it – we cannot keep it over 18 inches high. It is more work for us, but it is something we need to do.

Motion: Councilman Goltzené made a motion to amend the ordinance to allow hauling within Lox Groves by noncommercial growers, and to allow town management discretion at the time of permitting that if a bona fide ag demonstrates a need, they be allowed to do that. The motion was seconded by Councilman Jarriel.

Councilman Goltzené commented that in the time it takes to get this done, zoning in progress would be in place on those two issues; that would give the Town the ability to look for folks who are consistent and still enforce folks who are not.

Public Comment:

Virginia Standish, 15410 North Rd.: Commented regarding the manure issue, and methods to have piles of manure that have no odor and no flies; and the financial burden on local farmers.

Thias Gonzalez, 13090 Raymond Dr.: Commented that the levels of phosphorus are high in Wellington and part of that is because everyone just goes ahead and fertilizes every year. The University of Florida has boxes available to do soil testing and you can send it in for \$7 and they will test it for you.

Ann Parker, Collecting Canal Rd: Stated that if I got manure to put on my garden from my neighbor, I would be breaking the law. I hope when you do this amendment it will help us.

The motion passed 5/0.

Vice Mayor Rockett noted that it has been left unsaid as to whether there would be a change in the number of loads.

Councilman Goltzené commented that it was his hope was that we were going to waive the fee for people who are demonstrating a legitimate need. When they come for their permit, the Town Manager can say for your situation and your hauler, that fee will be waived, but it is at his discretion when it is proven to him. Anything beyond that original 20 can be waived with demonstrated need.

In response to Town Attorney Cirullo, Mr. Vilarino said that he is not buying or paying for the loads that are delivered to him.

Town Manager Kutney commented that, from a general standpoint last year when we did the amendments regarding manure coming into Town from other locations, the Town Council had a lot of discussion at that time. It was now a good time for staff to review it and see if it is achieving what we want it to.

c. **Town Council Interest in Purchasing Property**

Town Manager Kutney addressed letter from Lee Wright who has offered property for sale, if the town is interested in terms of the same. Information was provided in the Agenda Packet regarding market value and sale prices related to several other properties. Mr. Kutney advised that he had no discussions as to what Mr. Wright would want for his property. If the Town was interested, staff would request appraisals, etc. Tonight he was asking for any direction to Town staff to move forward or to do nothing at this time.

Discussion took place regarding the location of the property, the potential uses for the property, the market value, and the recent clearing of the land.

Councilman Goltzené commented that he had done the clearing and had done nothing wrong; he had cleared land for numerous people, and knew what he was doing; a permit was not needed to clear exotics and he had spoken with Town Manager Kutney and Town Planning Technical Garrett about it.

TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL MEETING MINUTES, TUESDAY, FEBRUARY 5, 2013

Town Attorney Cirullo noted that Councilman Goltzené had recused himself at the last meeting where discussion of this same matter took place, and would recuse himself again tonight, should any action be taken. *[Clerk's note: Voting Conflict Form 8b is attached to these minutes]*

Dennis Lipp, 13402 North Rd.: Commented regarding government use of land, and recommended thinking in terms of having a building that would house both the LGWCD and the Town.

Lung Chiu, 3270 B Rd.: Commented proper procedures need to be followed if there was a desire for a town center, and it must be determined what was wanted.

Town Manager Kutney remarked that if someone brings him a request like this one, the Town Council members are the decision makers and he only provided the information.

d. Small Business Owner Billy Kline *–(added to agenda by Mayor Browning)*

Mayor Browning advised that there was a resident, Billy Kline, who had a business in tow for a long time. He has an in home gun store where he sells 8-10 guns per year, and in reviewing his license they have said that it is not an allowed use in Loxahatchee Groves.

Town Manager Kutney stated that technically, it was not a question of Mr. Kline not being in compliance. In January 2012 he came in for a Business Tax Receipt and it was approved based on a conditional use for a residential enterprise, and there were eleven conditions. One of them was that no client or customer shall be allowed on the premises to transact business of any nature. The ATF looks to make sure that the gun dealer is in conformance with local government requirements. In this case, when we advised them of the residential enterprise situation, they said that he was not in compliance with the one condition of customers not coming to the home. The solution would be to try to find a way to address that one condition in the overall use of residential enterprise. Otherwise, according to the ATF he has to sell guns at a gun shop, gun show, or something along those lines.

Motion: Councilman Goltzené made a motion that the Town allow residential enterprises to have up to three clients present at any time during business hours. The motion was seconded by Vice Mayor Rockett.

Town Manager Kutney referred to Section 80-020 – Residential Enterprise, wherein it was stated that exceptions to the foregoing limitations shall be subject to approval by the Town Council,

and such request shall be considered in conjunction with the criteria set forth in Section 170-025(A) for Special Exception. That would seem to give the Town Council the ability to grant an exception to that particular violation by virtue of a special exception. That is what I would recommend rather than changing the entire code. He noted that the Town Council would also have to consider cost recovery, and whether it would be waived.

Motion: Councilman Goltzené amended his original motion to waive cost recovery, and to amend it to direct that after this change is made we turn it over to the ULDC review committee to review the special exception section of the ULDC.

Town Attorney Cirullo advised that there was a statute in place that preempts regulation of firearms. We can regulate them from the context of zoning as long as it is not singling out firearms. If it is regulated as a general business use, like the residential enterprise, we are allowed to do that under the code. We must be careful, if we are going to be looking at a special exception for this use, that if we single out the remedy for this we do not want to be seen as evading the state statute. The first motion is a better motion to deal with this issue. The better way is to make a general change regardless of what product is being sold. It is a general zoning regulation. It could not be seen in any way as trying to regulate firearms.

Town Manager Kutney Mark cautioned that if a complaint was received from someone it would be very hard to enforce that from a code enforcement standpoint.

Public Comment:

Howard Voren, 1538 E Rd.: Commented with a suggestion for a daily visitation limit, and not at a time.

The motion, as amended, passed 5/0.

11. CLOSING COMMENTS

a. Public

Martin McCabe, D Rd.: Commented that the last time he spoke, it was said he did not have a Business Tax Receipt (BTR), and he now had brought a copy with him. He also brought the Town confirmation response. He handed out copies for the Town Council.

TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL MEETING MINUTES, TUESDAY, FEBRUARY 5, 2013

Town Manager Kutney advised that Mr. McCabe had received a BTR – staff had found out that he was not the owner of the property, nor did he have the property owner’s consent. Staff tried to help him out; however, he needed 10 acres for that use. Technically he is in violation, and it is proceeding to the Special Magistrate. The County said that it was issued in error.

Councilman Jarriel requested that Mr. McCabe’s issue is added to the next Town Council agenda.

Town Attorney Cirullo noted that there has been a code case initiated.

Town Manager Kutney advised that staff would stay the code enforcement action until the next Town Council meeting, and that he found it imprudent to allow him to continue the inappropriate activity to mulch up the remainder of the material.

Marsha Newell, 3508 C Rd.: Commented regarding that if the residential enterprise section of the ULDC was amended to allow only three people a day or at a time showing up, what is the difference between that and nurseries that people come to all day long. It is not fair to penalize people on the size of our properties to limit the amount of people.

Thias Gonzalez, 13090 Raymond Dr.: Commented on behalf of Marge Herzog to announce Loxahatchee Groves Homeowners Association candidate forum on the 4th Thursday of February at 7:00 p.m. and commented regarding agricultural business in Loxahatchee Groves.

Howard Voren: Commented regarding cost recovery, the discussion last meeting regarding Councilman Jarriel, and that it was not mentioned that what he had done came from the heart, and to save the Town money; the role of the LGWCD regarding roadways, and the common ground between Councilmen Jarriel and Goltzené.

b. Town Attorney

Town Attorney Cirullo reported that he had received the Attorney General Opinion that confirmed that the exemption 604.50 applied to non-residential farms buildings.

He reported regarding the status of the Day lawsuit. Mr. Day has agreed to dismiss the federal claims, but it is going to go back to the State on the claims whether the system was arbitrary in denying the application. The case has been dismissed in Federal Court and it will be back in State Court. We are still being defended by insurance counsel at this point.

c. Town Council Members

Councilman Goltzené: Commented that he apologized to Councilman Jarriel for becoming upset, and that there is no reason to fight, and that he and Councilman Jarriel should try to work together.

Councilman Jarriel: Commented that he agreed, and that he also apologized, and that they were working together to support the Town.

Councilman Liang: Wished good luck to Jim Rockett and Dave Browning.

Vice Mayor Rockett: Commented regarding a candidate forum.

Mayor Browning: Thanked everyone. Mentioned the fire on C Rd, and asked that everyone keep aware.

Councilman Jarriel: Requested that Town Manager Kutney find out when the county tagged the fire hydrants unserviceable and when they will be fixed.

12. ADJOURNMENT

There being no further business, the Town Council meeting of February 5, 2013, was adjourned at 11:30 p.m.

Susan Eichhorn
Town Clerk

David Browning
Mayor

(SEAL)

**These minutes were approved by the Town Council at the
March 5, 2013, Town Council Meeting**

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Tom Goltzene, hereby disclose that on February 5, 20 13 .

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, Lee Wright ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Possible purchase of property from landowner (Lee Wright 15 acres).

I have leased property and run cattle on this property and have done work for pay through my company 3E Tree Farm; among other business dealings over the year.

2.6.13

Date Filed

Tom Goltzene
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



3.a. South Florida Water Management Presentation



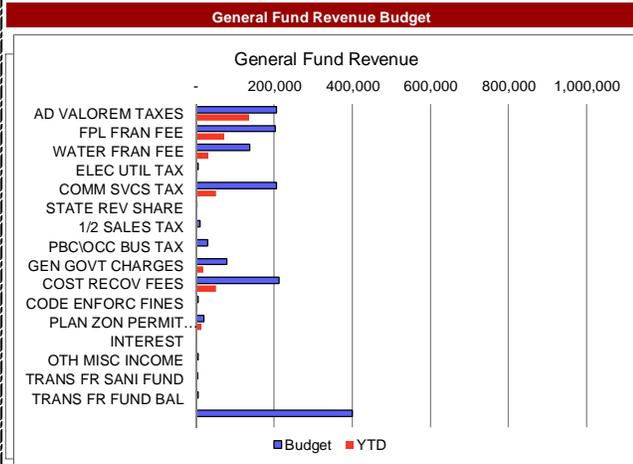
4.a. FAAC Report



Town of Loxahatchee Groves

Financial Activity Report as of January 30, 2013

(33% of year elapsed)



General Fund Revenues			
Revenues	Budget	Year-to-Date	%
AD VALOREM TAXES @ 1.2000	206,025	136,102	66.1%
ELECTRIC UTILITY TAX	202,000	72,622	36.0%
COMMUNICATION SERVICES TAX	136,726	32,072	23.5%
COUNTY OCCUPATIONAL LICENSES	5,000	3,252	65.0%
FPL FRANCHISE FEE	206,000	50,937	24.7%
HAULER LICENSE FEE	2,000	1,000	50.0%
PBC WATER UTILITY FRANCHISE	10,500	2,134	20.3%
PLANNING & ZONING PERMIT FEES	30,000	76	0.3%
STATE REVENUE SHARING	77,873	19,151	24.6%
HALF CENT SALES TAX	212,024	51,334	24.2%
GENERAL GOVERNMENT CHARGES	5,000	3,005	60.1%
COST RECOVERY FEES	20,000	14,051	70.3%
COURT FINES	-	1,177	-
CODE ENFORCEMENT FINES	5,000	300	6%
INTEREST	3,600	103	2.9%
OTHER MISC. INCOME	5,000	-	0
TRANSFER FROM FUND BALANCE*	400,000	-	0.0%
Total Revenues	1,526,748	387,317	25.4%

General Fund Expenditures			
Expenditures	Budget	Year-to-Date	%
LEGISLATIVE	39,235	6,187	15.8%
EXECUTIVE	275,259	89,704	32.6%
FINANCIAL AND ADMINSTRATIVE	23,750	910	3.8%
LEGAL COUNSEL	60,000	29,601	49.3%
COMPREHENSIVE PLANNING & ZONING	148,700	56,757	38.2%
OTHER GENERAL GOVERNMENT	695,519	32,178	4.6%
LAW ENFORCEMENT	275,285	91,595	33.3%
PUBLIC WORKS	9,000	783	8.7%
Total Expenditures	1,526,748	307,716	20.2%
Excess(deficiency)	-	79,601	

YTD-Total Funds Expen. Budget			
Expenditures	Budget	Year-to-Date	%
Total Townwide Budget	3,675,754	478,932	13.0%

Selected Other Funds			
Transportation Fund	Budget	Year-to-Date	%
FIRST LOCAL OPTION FUEL TAX (6 CENT)	249,245	59,266	23.8%
SECOND LOCAL OPTION FUEL (5 CENT)	117,326	27,392	23.3%
CONTRIBUTION FROM GENERAL FUND	-	-	-
TRANSFER FROM FUND BALANCE	-	-	-
Total Revenues	366,571	86,658	23.6%
TRAFFIC CONTROL SIGNS (6 CT) MAINT.	9,245	5,355	57.9%
NON-DISTRICT ROADS (6 CT) MAINT.	40,000	10,480	26.2%
DISTRICT ROADS (6 CT) MAINT.	-	-	-
ROADS AND STREETS (5 CT)	150,000	-	-
SPECIAL PROJECTS (6 CT)	50,000	-	-
148th TERR BRIDGE(5)/CULVERT	-	-	-
CONSTRUCTION TOWN RDS & STREETS	-	-	-
TRANSFER TO FUND BALANCE	117,326	-	-
Total Expenses	366,571	15,835	4.3%
Excess(deficiency)	-	70,823	

Solid Waste Fund			
Budget	Year-to-Date	%	
SOLID WASTE ASSESSMENTS	346,361	224,162	64.7%
DISCOUNT FEES	(10,392)	(8,809)	84.8%
SWA RECYCLING INCOME	8,000	3,652	45.7%
CONTRIBUTION FROM GENERAL FUND	126,000	-	-
Total Revenues	469,969	219,006	46.6%
CONTRACTUAL-WASTE OVERSIGHT	12,000	2,718	22.7%
PBC ADMINSTRATION FEE 1%	3,463	2,117.93	61.2%
POSTAGE & FREIGHT	500	-	-
SOLID WASTE CONTRACTOR	451,634	150,545	33.3%
OTHER SANITATION SERVICES	1,500	-	0.0%
LEGAL ADVERTISING	872	-	0.0%
MANAGEMENT FEES	-	-	-
Total Expenses	469,969	155,381	33.1%
Excess(deficiency)	-	63,625	

Capital Improvement Program (CIP) Fund			
Budget	Year-to-Date	%	
CONTRIBUTION FROM GENERAL FUND	400,000	-	-
TRANSFER FROM FUND BALANCE	912,466	-	-
Total Revenues	1,312,466	-	0.0%
DEVELOP TOWN HALL ALTERNATIVES	500,000	-	-
TRAILS	200,000	-	-
OGEM PAVING/COST SHARING	-	-	-
ROAD & DRAINAGE IMPROVEMENT	362,466	-	-
TRAFFIC LIGHT OKEECHOBEE	250,000	-	-
Total Expenses	1,312,466	-	0.0%
Excess(deficiency)	-	-	-

Contract Services Expenditures			
Expenditures	Budget	Year-to-Date	%
Waste Pro	451,634	150,544.80	33.3%
Palm Beach County Sheriff	275,285	91,595.00	33.3%
Underwood Management Services Group	330,835	109,794.65	33.2%
Goren, Cherof, Doody, Ezrol	60,000	31,533.00	52.6%
Tew & Associates	35,000	9,948.10	28.4%
Land Research Management	-	10,585.50	-
Calvin Giodorno	-	507.50	-
Frank Schiola	25,000	5,957.96	23.8%
YEE's Corporation	10,800	3,600.00	33.3%
Loxahatchee Water Control District	150,000	7,420.78	-
Total Expenses	1,338,554	421,487.29	



**BUDGET VS ACTUAL
AS OF JANUARY 31, 2013**
33% Elapsed
General Fund
Revenues

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
001-311-100-000	Ad Valorem Taxes	18,373.12	136,101.81	-	206,025.00	(69,923.19)	66.1%
	Ad Valorem Taxes Subtotal	18,373.12	136,101.81		206,025.00	(69,923.19)	
001-314-100-000	Electric Utility Tax	14,571.59	72,622.17	-	202,000.00	(129,377.83)	36.0%
001-315-100-000	Communications Services	10,363.50	32,071.84	-	136,726.00	(104,654.16)	23.5%
001-316-200-000	County Occupational License	90.03	3,252.11	-	5,000.00	(1,747.89)	65.0%
	Local Taxes Subtotal	25,025.12	107,946.12		343,726.00	(235,779.88)	
001-323-100-000	FPL Franchise Fee	14,408.62	50,937.03	-	206,000.00	(155,062.97)	24.7%
001-323-125-000	Haulers License Fee	1,000.00	1,000.00	-	2,000.00	(1,000.00)	50.0%
001-323-300-000	PBC Water Utility Franchise	392.36	2,134.40	-	10,500.00	(8,365.60)	20.3%
001-329-100-000	Planning & Zoning Permit	-	76.00	-	30,000.00	(29,924.00)	0.3%
	Permits, Franchise Fees & Special Subtotal	15,800.98	54,147.43		248,500.00	(194,352.57)	
001-335-120-000	State Revenue Sharing	6,383.53	19,150.76	-	77,873.00	(58,722.24)	24.6%
001-335-180-000	Half Cent Sales Tax	18,288.50	51,334.40	-	212,024.00	(160,689.60)	24.2%
	Intergovernmental Revenue Subtotal	24,672.03	70,485.16		289,897.00	(219,411.84)	24.3%
001-341-000-000	General Government Charges	615.10	3,005.10	-	5,000.00	(1,994.90)	60.1%
001-343-349-000	Cost Recovery Fees	2,474.25	14,050.90	-	20,000.00	(5,949.10)	70.3%
	Charges for Services Subtotal	3,089.35	17,056.00		25,000.00	(7,944.00)	
001-351-100-000	Court Fines	613.84	1,177.33	-	-	1,177.33	
001-354-100-000	Code Enforcement Fines	-	300.00	-	5,000.00	(4,700.00)	6.0%
	Code Enforcement Fines Subtotal	613.84	1,477.33		5,000.00	(3,522.67)	
001-361-100-000	Interest	66.26	103.33	-	3,600.00	(3,496.67)	#N/A
001-369-000-000	Other Misc Income	-	-	-	5,000.00	(5,000.00)	0.0%
	Other Misc Revenue Subtotal	66.26	103.33		8,600.00	(8,496.67)	
001-399-000-000	Transfer from Fund Balance	-	-	-	400,000.00	(400,000.00)	0.0%
	Other Non-operating Sources Subtotal	-	-		400,000.00	(400,000.00)	
	Grand Total Revenue	87,640.70	387,317.18	-	1,526,748.00	(1,139,430.82)	25.4%



**TOWN OF LOXAHATCHEE GROVES
BUDGET VS ACTUAL**

33% Elapsed
General Fund
Expenditures

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
001-511-310-000	Professional Services	-	-	-	20,000.00	20,000.00	0.0%
001-511-400-000	Travel	-	92.00	-	3,000.00	2,908.00	3.1%
001-511-492-000	Other Operating Expenses	-	1,084.00	-	1,500.00	416.00	72.3%
001-511-500-000	Education & Training	-	-	-	1,000.00	1,000.00	0.0%
001-511-510-000	Office Supplies	11.20	11.20	-	300.00	288.80	3.7%
001-511-520-000	Operating Supplies	-	-	-	300.00	300.00	0.0%
001-511-540-000	Books, Publications & Subscriptions	-	3,714.00	-	7,785.00	4,071.00	47.7%
001-511-820-000	Special Events/Contributions	145.24	1,286.18	-	5,350.00	4,063.82	24.0%
	Legislative Total	156.44	6,187.38	-	39,235.00	33,047.62	15.8%
001-512-340-000	Other Services	20,885.20	84,506.04	-	254,635.00	170,128.96	33.2%
001-512-400-000	Travel	253.66	471.17	-	1,000.00	528.83	47.1%
001-512-410-000	Communication Services	330.97	807.23	-	-	(807.23)	-
001-512-420-000	Postage & Freight - NEW	131.85	191.05	-	1,000.00	808.95	19.1%
001-512-490-000	Legal Advertising	-	209.84	-	500.00	290.16	42.0%
001-512-492-000	Other Operating Expenses	30.19	90.19	-	944.00	853.81	9.6%
001-512-493-000	Election Expense	290.88	290.88	-	8,010.00	7,719.12	3.6%
001-512-510-000	Office Supplies	557.49	1,987.99	-	8,600.00	6,612.01	23.1%
001-512-521-000	Loxahatchee Groves CERT - MOVED	-	1,149.67	-	-	(1,149.67)	-
001-512-540-000	Books, Publications & Subscriptions	-	-	-	570.00	570.00	0.0%
	Executive Total	22,480.24	89,704.06	-	275,259.00	185,554.94	32.6%
001-513-320-000	Accounting and Auditing	-	-	-	18,000.00	18,000.00	0.0%
001-513-470-000	Printing and Binding	-	-	-	4,750.00	4,750.00	0.0%
001-513-490-000	Legal Advertising	-	910.00	-	1,000.00	90.00	91.0%
001-513-493-000	Election Expense (moved)	-	-	-	-	-	0.0%
	Financial & Administrative Total	-	910.00	-	23,750.00	22,840.00	3.8%
001-514-310-000	Professional Services	3,516.00	29,600.60	-	60,000.00	30,399.40	49.3%
	Legal Total	3,516.00	29,600.60	-	60,000.00	30,399.40	32.6%



TOWN OF LOXAHATCHEE GROVES
BUDGET VS ACTUAL
AS OF JANUARY 31, 2013
 33% Elapsed
General Fund
Expenditures

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
001-515-310-000	Professional Services	6,250.00	31,311.36	-	40,000.00	8,688.64	78.3%
001-515-340-000	Other Services	5,748.75	8,063.75	-	76,200.00	68,136.25	10.6%
001-515-343-000	Planning & Zoning Contract	-	-	-	-	-	0.0%
001-515-347-000	Comprehensive Plan	-	-	-	5,000.00	5,000.00	0.0%
001-515-349-000	Cost Recovery Expenditure	2,501.25	14,077.90	-	25,000.00	10,922.10	56.3%
001-515-490-000	Legal Advertising - NEW	2,322.00	3,304.08	-	2,500.00	(804.08)	132.2%
	Comprehensive Planning & Zoning Total	16,822.00	56,757.09		148,700.00	91,942.91	38.2%
001-519-315-000	Special Magistrate	495.00	2,250.00	-	16,000.00	13,750.00	14.1%
001-519-354-000	Code Compliance	2,487.00	8,040.50	-	41,000.00	32,959.50	19.6%
001-519-410-000	Communications Services	125.00	1,046.03	-	5,100.00	4,053.97	20.5%
001-519-440-000	Rentals and Leases	1,523.04	5,614.17	-	16,305.00	10,690.83	34.4%
001-519-450-000	Insurance	-	12,316.00	-	16,500.00	4,184.00	74.6%
001-519-460-000	Repair & Maint - Building	200.00	800.00	-	2,126.00	1,326.00	37.6%
001-519-470-000	Printing and Binding	-	887.85	-	-	(887.85)	0.0%
001-519-480-000	Promotional Activities	-	-	-	-	-	0.0%
001-519-490-000	Computer Repair	170.60	1,047.15	-	4,500.00	3,452.85	23.3%
001-519-491-000	Computer Services	176.75	176.75	-	11,131.00	10,954.25	1.6%
001-519-494-000	Inspector General Office	-	-	-	5,280.00	5,280.00	0.0%
001-519-820-000	Loxahatchee Groves CERT	-	-	-	2,000.00	2,000.00	0.0%
001-519-900-000	Transfer toTransportation Fund	-	-	-	-	-	0.0%
001-519-910-000	Transfer to Sanitation Fund	-	-	-	126,000.00	126,000.00	0.0%
001-519-920-000	Transfer to Capital Projects	-	-	-	400,000.00	400,000.00	0.0%
001-519-990-000	Contingency	-	-	-	49,577.00	49,577.00	0.0%
	Other Governmental Services Total	5,177.39	32,178.45		695,519.00	663,340.55	4.6%
001-521-341-000	Professional Services-PBSO	22,898.75	91,595.00	-	274,785.00	183,190.00	33.3%
001-521-342-000	Contractual-ADDL PBSO	-	-	-	500.00	500.00	0.0%
	Law Enforcement Total	22,898.75	91,595.00		275,285.00	183,690.00	33.3%
001-539-310-000	Other Services	-	-	-	-	-	0.0%
001-539-340-000	Professional Services	426.00	783.46	-	9,000.00	8,216.54	8.7%
	Public Works Total	426.00	783.46		9,000.00	8,216.54	8.7%
	Grand Total Expenditure	71,476.82	307,716.04	-	1,526,748.00	1,219,031.96	20.2%
	Net Revenue	16,163.88	79,601.14		-		



TOWN OF LOXAHATCHEE GROVES
BUDGET VS ACTUAL
AS OF JANUARY 31, 2013
 33% Elapsed
Transportation Fund
Revenues

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
101-312-410-000	1st Local Option Fuel Tax	19,612.47	59,266.11	-	249,245.00	(189,978.89)	23.8%
101-312-420-000	2nd Local Option Fuel Tax	8,779.11	27,391.84	-	117,326.00	(89,934.16)	23.4%
101-363-990-000	Contribution from General Fund	-	-	-	-	-	0.0%
101-399-000-000	Transfer from Fund Balance	-	-	-	-	-	0.0%
	Total Revenue	28,391.58	86,657.95		366,571.00		23.6%

Transportation Fund
Expenditures

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
101-541-467-000	Traffic Control Signs (6 ct) Maint.	5,355.00	5,355.00	-	9,245.00	3,890.00	57.9%
101-541-468-000	Non-District Roads (6 ct) Maint.	287.26	10,479.94	-	40,000.00	29,520.06	26.2%
101-541-469-000	District Roads (6 ct) Maint.	-	-	-	-	-	0.0%
101-541-631-000	Road and Streets (5 cent)	-	-	-	150,000.00	150,000.00	0.0%
101-541-632-000	Special Projects (6 cent)	-	-	-	50,000.00	50,000.00	0.0%
101-541-634-000	148th Terr Bridge (5)/Culvert	-	-	-	-	-	0.0%
101-541-636-000	Construct Town Rds & Sts	-	-	-	-	-	0.0%
101-541-990-000	Transfer to Fund Balance	-	-	-	117,326.00	117,326.00	0.0%
	Total Expenditure	5,642.26	15,834.94	-	366,571.00		4.3%
	Net Revenue	22,749.32	70,823.01		-	-	



TOWN OF LOXAHATCHEE GROVES
BUDGET VS ACTUAL
AS OF JANUARY 31, 2013
 33% Elapsed
Capital Improvement Program
Revenues

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
305-363-990-000	Contributions from General Fund	-	-	-	400,000.00	(400,000.00)	0.0%
305-399-000-000	Transfer from Fund Balance	-	-	-	912,466.00	(912,466.00)	0.0%
	Total Revenue	-	-	-	1,312,466.00	(1,312,466.00)	0.0%

Capital Improvement Program
Expenditures

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
305-519-600-000	Develop Town Hall Alternatives	-	-	-	500,000.00	500,000.00	0.0%
305-541-341-000	Trails (changed from Linear Park/Grant Match)	-	-	-	200,000.00	200,000.00	0.0%
305-541-346-000	OGEM Paving/Cost Sharing	-	-	-	-	-	0.0%
305-541-434-000	Road & Drainage Improvement	-	-	-	362,466.00	362,466.00	0.0%
305-541-436-000	Traffic Light Okeechobee	-	-	-	250,000.00	250,000.00	0.0%
	Total Expenditure	-	-	-	1,312,466.00	1,312,466.00	0.0%
	Net Revenue	-	-	-	-	-	-



TOWN OF LOXAHATCHEE GROVES
BUDGET VS ACTUAL
AS OF JANUARY 31, 2013
 33% Elapsed
Solid Waste Fund
Revenues

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
405-323-125-000	Haulers Licensing Fee - MOVED TO GF	-	-	-	-	-	0.0%
405-325-205-000	Solid Waste Assessments	30,142.73	224,162.39	-	346,361.00	(122,198.61)	64.7%
405-325-206-000	Discount Fees	(938.30)	(8,808.79)	-	(10,392.00)	1,583.21	84.8%
405-343-120-000	SWA Recycling Income	-	3,652.09	-	8,000.00	(4,347.91)	45.7%
405-363-990-000	Contributions from General Fund	-	-	-	126,000.00	(126,000.00)	0.0%
	Total Revenue	29,204.43	219,005.69	-	469,969.00	(250,963.31)	46.6%

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
405-534-345-000	Contractual - Waste Over	689.00	2,718.00	-	12,000.00	9,282.00	22.7%
405-534-346-000	PBC Administration Fee 1	256.44	2,117.93	-	3,463.00	1,345.07	61.2%
405-534-420-000	Postage & Freight	-	-	-	500.00	500.00	0.0%
405-534-434-000	Solid Waste Contractor	37,636.20	150,544.80	-	451,634.00	301,089.20	33.3%
405-534-436-000	Other Sanitation Service	-	-	-	1,500.00	1,500.00	0.0%
405-534-490-000	Legal Advertising	-	-	-	872.00	872.00	0.0%
405-534-595-000	TOLG Management Fee	-	-	-	-	-	0.0%
	Total Expenditure	38,581.64	155,380.73	-	469,969.00	314,588.27	33.1%
	Net Revenue	(9,377.21)	63,624.96		-		



5.a. Ordinance No. 2012-12

Underwood Management Services Group, LLC

840 N.E. Stokes Terrace
Jensen Beach, Florida 34957
Telephone: 772.233.1511

William F. Underwood, II
Managing Partner
Email: umsg@att.net

TO: Town Council

FROM: Underwood Management Services Group, L.L.C.

RE: Town Initiated Amendment to the Loxahatchee Groves Unified Land Development Code (ULDC) to Addition of Section 80-60 – Residential Agricultural Sales and Services

DATE: February 27, 2013.

CC: William F. Underwood, Managing Partner

I. BACKGROUND INFORMATION

Per Section 05-070, the Town Council may amend the ULDC for the purposes of public necessity, convenience, general welfare, or good planning and zoning practice. Any amendment to the ULDC requires a super majority vote of four or more Council members.

A Code Enforcement complaint was filed against several entities that alleged the improper retail sales of hay without appropriate approvals. The complaint was investigated by the Town's code enforcement staff and it was determined that the three entities were operating in the Agricultural Residential (AR) zoning district without the proper authority and approval.

One of the respondents, Gerald and Janet Eick were cited with a Notice of Violation for the illegal business activity and directed to correct the violation by June 4, 2012 or be scheduled for a hearing before the Special Magistrate. The respondents engaged an attorney and also met with several members of Town Council.

At the June 5, 2012 Town Council Meeting, the respondents appeared and requested consideration for their current operations. Town Council deliberated on the matter and directed Town Management Staff and the Town Attorney to review the matter and propose possible remedies that would address the issue.

At the June 20, 2012 meeting, Town Management Staff presented a strategy including the following elements: Limiting the operation to property residents; restricting the operation to resident owners rather than vesting with the land; requiring a business tax receipt; and other requirements consistent with the intent of the Unified Land Development Code.

II. GENERAL INFORMATION

A. APPLICANT: Town of Loxahatchee Groves.

B. PURPOSE: Incorporate revisions to the Unified Land Development Code (ULDC) allowing limited agricultural sales and services uses within the Town's Agricultural Residential (AR) zoning district. Specific objectives include the following:

1. Allow existing family-run businesses to remain indefinitely, provided a change in ownership does not occur.
2. Create "sunset" provision for businesses tied to maintenance of a homestead exemption and business tax receipt.
3. Allow new businesses to be created subject to conditions.
4. Straw, hay, flake shavings, pellet shavings, feed and grain sales businesses only.

III. REQUESTED ULDC AMENDMENTS

To implement the objectives of the ULDC revisions, the following amendments are proposed:

1. Revise ULDC Section 10-015 to include a definition of "Residential Agricultural Sales and Services".
2. Revise ULDC Section 20-015 to permit Residential Agricultural Sales and Services uses as an Accessory Use in the AR zoning district subject to Article 80 (Conditional Uses).
3. Add ULDC Section 80-60: Residential Agricultural Sales and Services (Conditional Use Criteria)

Proposed amendments are included as Attachment A to proposed Ordinance 2012-12

IV. STAFF ANALYSIS

The proposed text amendment is reviewed in accordance with the following criteria, as listed in Section 160-020 of the ULDC.

A. REASON AND/OR NEED FOR THE PROPOSED TEXT CHANGE:

The basic purpose of the proposed amendments is to implement Town Council direction to allow limited agricultural sales and services businesses in the AR zoning district.

B. REASON THE PRESENT TEXT IS INVALID OR INAPPROPRIATE:

The current text of the ULDC is not necessarily invalid or inappropriate; however, current Code language does not permit limited agricultural sales and services businesses in the Agricultural Residential (AR) zoning district.

C. HOW DOES THE PROPOSED TEXT AMENDMENT FURTHER THE PURPOSES OF THE COMPREHENSIVE PLAN OR OTHER TOWN CODES, REGULATIONS OR PLANS DESIGNED TO IMPLEMENT THE COMPREHENSIVE PLAN:

The proposed ULDC revisions, which allow and regulate limited agricultural sales and services businesses in the AR zoning district, are consistent with the following general Future Land Use Element Comprehensive Plan directives:

1. Objective 1.1: The Town shall designate future land uses with appropriate uses, densities and intensities that will protect residential and agricultural land uses and encourage limited economic development.
2. Policy 1.1.4(h): Create codes allowing diverse low impact home-based businesses.
3. Policy 1.1.6: The Town shall encourage the use of innovative land development regulations that enhance the rural atmosphere, reduce energy usage, and reduce greenhouse gas emissions.
4. Policy 1.1.8.2: Provide for zoning districts, which appropriately accommodate residential and/or agricultural uses, which are consistent with the Rural Residential Future Land Use designation.
5. Policy 1.1.8.6: Allow home occupation uses that will not degrade the rural character of the area.
6. Policy 1.12.4: The Town will continue to allow home based businesses to the extent that impacts are compatible with an agricultural/residential community.

D. IS THERE AN ERROR OR AMBIGUITY TO BE CORECTED: There are no identified errors or ambiguities identified in the Town's current ULDC regarding the issue. Rather, the proposed amendments provide an opportunity to allow limited agricultural sales and services businesses in a manner consistent with the Town's rural character.

V. STAFF FINDINGS: Planning staff finds the proposed ULDC revisions to be generally consistent with the intent and direction of the Loxahatchee Groves Comprehensive Plan and the review criteria for a text amendment listed in Section 160-020 of the ULDC.

VI. STAFF RECOMMENDATION: Staff recommends approval of the proposed ULDC revisions, as presented in proposed Ordinance 2012-12 or alternately that Council follow the recommendation of the ULDC Committee, as presented below, and further discussed verbally at the Public Hearing by the Town Manager.

VII. PLANNING AND ZONING BOARD ACTION: The Planning and Zoning Board, at its meeting of November 8, 2012 voted, by a 3 – 0 vote (2 members absent) to recommend approval of the proposed ULDC revisions.

VII. TOWN COUNCIL ACTION: The item appeared on the Town Council agenda of December 4, 2012. At the meeting Councilman Goltzene moved to continue the item for further review. Following the meeting staff met with Councilman Goltzene to discuss his concerns. Staff's response to Councilman

Goltzene's concerns are incorporated within the proposed ULDC revisions presented in Attachment A of Resolution 2012-02.

Principal revisions to the initial staff proposal generated by Councilman Goltzene's recommendations included:

1. Delete the provision that the business owner also be the homesteaded owner of the property (i.e. renters can also be the business owner).
2. Delete the provision that a change in ownership of the property invalidates the right to continue the business (i.e. the right to operate the business runs with the land regardless of any future changes in ownership).
3. Delete the "sunset" provision for businesses tied to maintenance of a homestead exemption.

The Town Council, at its meeting of January 15, 2013 voted, by a 3 – 2 margin to approve Ordinance 2012-12 on first reading subject to the following revisions:

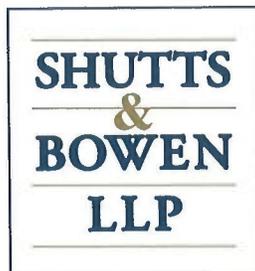
1. Strike provisions regarding special exception approval for semi-trucks making deliveries.
2. Strike provisions limiting the number of employees to two.
3. Revise the hours of operation to read as follows: 8:00 a.m. to 8:00 p.m. five days per week, and on Saturday. Sunday hours 12:00 p.m. to 5:00 p.m.

The Town Council, at its meeting of February 5, 2013 voted to refer proposed Ordinance 2012-12 to the ULDC Committee for its review and comments prior to second reading.

IX. ULDC COMMITTEE ACTION

The ULDC Committee, by unanimous vote, recommended that the Council table second reading of proposed Ordinance 2012-12 until such time that staff and the Committee has time to propose a substitute ordinance including all "Historical Legacy" businesses. The Town Manager will provide a verbal presentation on this matter.

Alternatively, if the Council decides to proceed with second reading of Ordinance 2012-12, the ULDC Committee recommended that the term "Residential Agricultural Sales and Services" be revised to read "Residential Agricultural Support Sales and Services".



DAVID J. COVIELLO
PARTNER
(305) 415-9437 Direct Telephone
(305) 415-9837 Direct Facsimile

E-MAIL ADDRESS:
dcoviello@shutts.com

February 26, 2013

VIA E-MAIL

Mr. Mark Kutney, Town Manager
Town of Loxahatchee Groves
14579 Southern Boulevard, Suite 2
Loxahatchee Groves, Florida 33470

**Re: 13710 Okeechobee Boulevard ("Property") – Site Plan Approval (SP-12-1)
REVISED FINAL SITE PLAN**

Dear Mr. Kutney:

As you know, this firm represents the owner of the Property, Magic Properties V, LLC (the "Owner"), in connection with the above referenced site plan approval application. In response to the issues raised by the Town's Planning and Zoning Board ("PZB") at its meeting of January 10, 2013, Owner hereby submits the attached revised Final Site Plan prepared by H&L Consultants dated March 7, 2012 with revisions through February 6, 2013 (the "Site Plan").

Specifically, the Site Plan has been amended to fully address certain deficiencies with the applicable provisions of the Palm Beach County Land Development Regulations (the "Regulations") cited by the PZB in its findings, which served as the basis for its recommendation of denial.

1. Landscape buffers. **Provided on the Site Plan.**
2. Handicap parking space. **Provided on the Site Plan.**
3. Designated loading space. **Provided on the Site Plan.**

In addition, Owner acknowledges that outdoor storage of debris on the Property, as indicated in Attachment D Conditions of Approval to Resolution 2013-02 ("Conditions of Approval"), is prohibited. Owner also accepts all use limitations relative to Vegetative Waste Storage and Processing as provided in the Conditions of Approval.

In addition to the above referenced revisions to the Site Plan, Owner also hereby addresses a number of other issues raised by certain members of the PZB by separate motion.

1. A minimum of 70% pervious area required. **Provided on Site Plan.**
2. Along front boundary line of the Property east of entry drive, an opaque screening/landscape berm or buffer at a minimum height of 4 feet at the time of installation and 6 feet within two years shall be provided. Existing vegetation along west of entry drive and rear boundary of the Property shall be sufficient so long as it provides adequate screening. **Agreed.**
3. Any additional building constructed on the Property in the future shall comply with the 50 foot setback. **Agreed.**
4. A Resolution containing all conditions of Site Plan approval shall be recorded in the public records of Palm Beach County at the expense of Owner. **Agreed.**
5. Within 30 days of approval of the Site Plan, Owner shall repair and/or replace the septic tank and drain field on the Property. **Agreed.**
6. All parking and loading on the Property shall occur within designated areas as shown on the Site Plan. **Agreed.**

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

SHUTTS & BOWEN LLP



David J. Coviello

Enclosures

cc: Jim Fleischmann, Town Planning Consultant
Magic Properties V, LLC

MIADOCS 7302850 1

Attachment A.
Applicant's Notice Affidavit and Property Appraiser List

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

BEFORE ME THIS DAY PERSONALLY APPEARED DAVID J. COVIELLO, WHO BEING DULY SWORN, DEPOSES AND SAYS THAT:

1. He is the owner's authorized agent of the real property legally described in Attachment A;
2. The accompanying Property Owners List is, to the best of his knowledge, a complete and accurate list of all property owners, mailing addresses and property control numbers as recorded in the latest official tax rolls for all property within one thousand (1000) feet of the real property described in Attachment A, or all property within one thousand (1000) feet of all contiguous property owned whole or in part by the owner of the real property described in Attachment A, if applicable; and
3. He will cause the real property described in Attachment A to be posted with a notice of public hearing on a sign provided by the Town in accordance with the requirements of Article 115 of the Town's Unified Land Development Code.

FURTHER AFFIANT SAYETH NOT.

The foregoing instrument was acknowledged before me this 25th day of February, 2013, by David J. Coviello, who is personally known to me or who has produced _____ (type of identification) as identification and who did (did not) take an oath.

Marilyn Olga Becerra

(Signature of Person Taking Acknowledgement)

Marilyn Olga Becerra

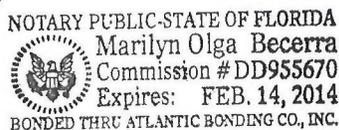
(Name of Acknowledger Typed, Printed or Stamped)

Notary Public - State of Florida

(Title or Rank)

(Serial Number, if any)

(Notary's Seal)



David J. Coviello

Applicant's Signature

David J. Coviello

Applicant's Name (Print)

201 S. Biscayne Blvd., #1500
Street Address

Miami, FL 33131

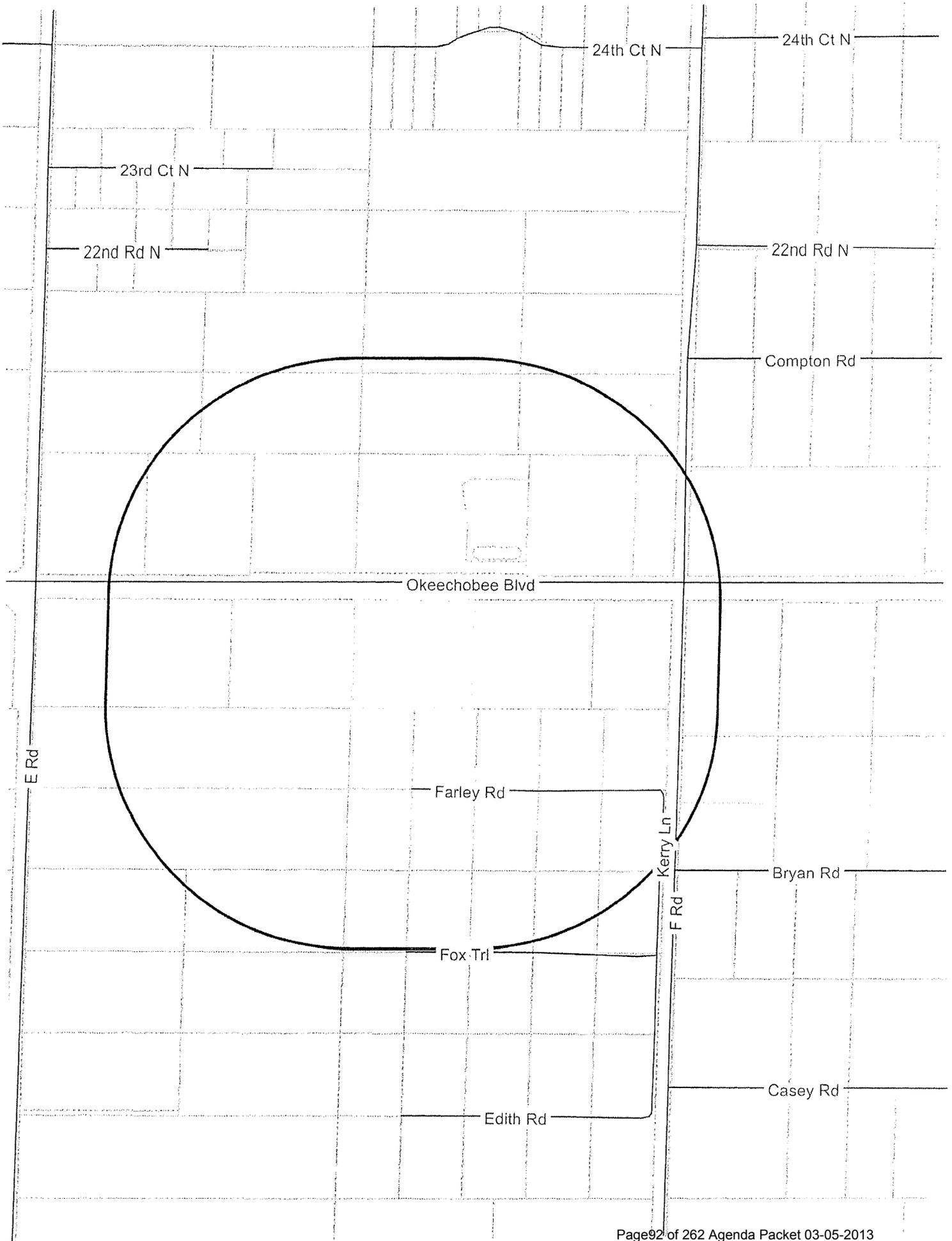
City, State, Zip Code

(305) 415-9437

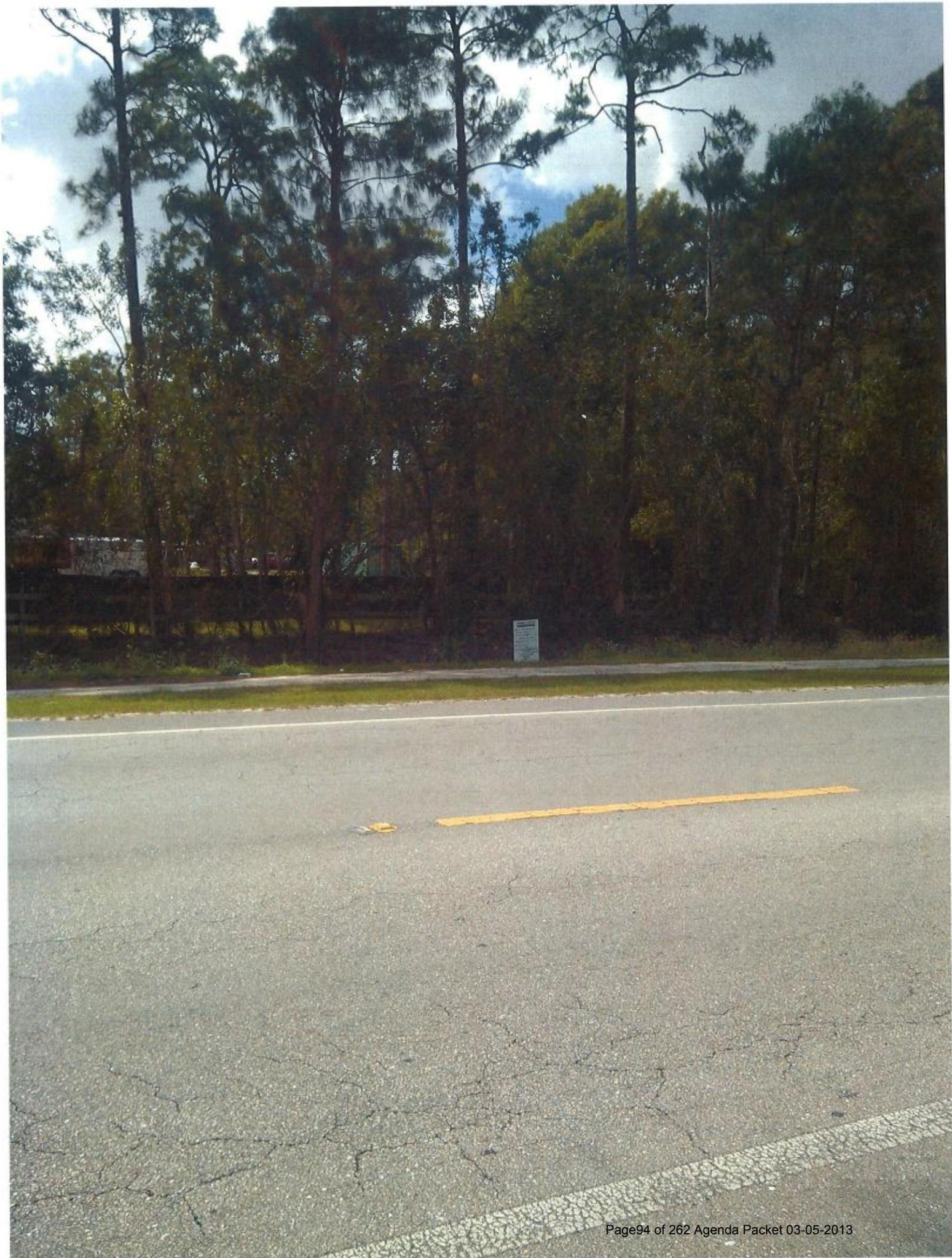
Telephone

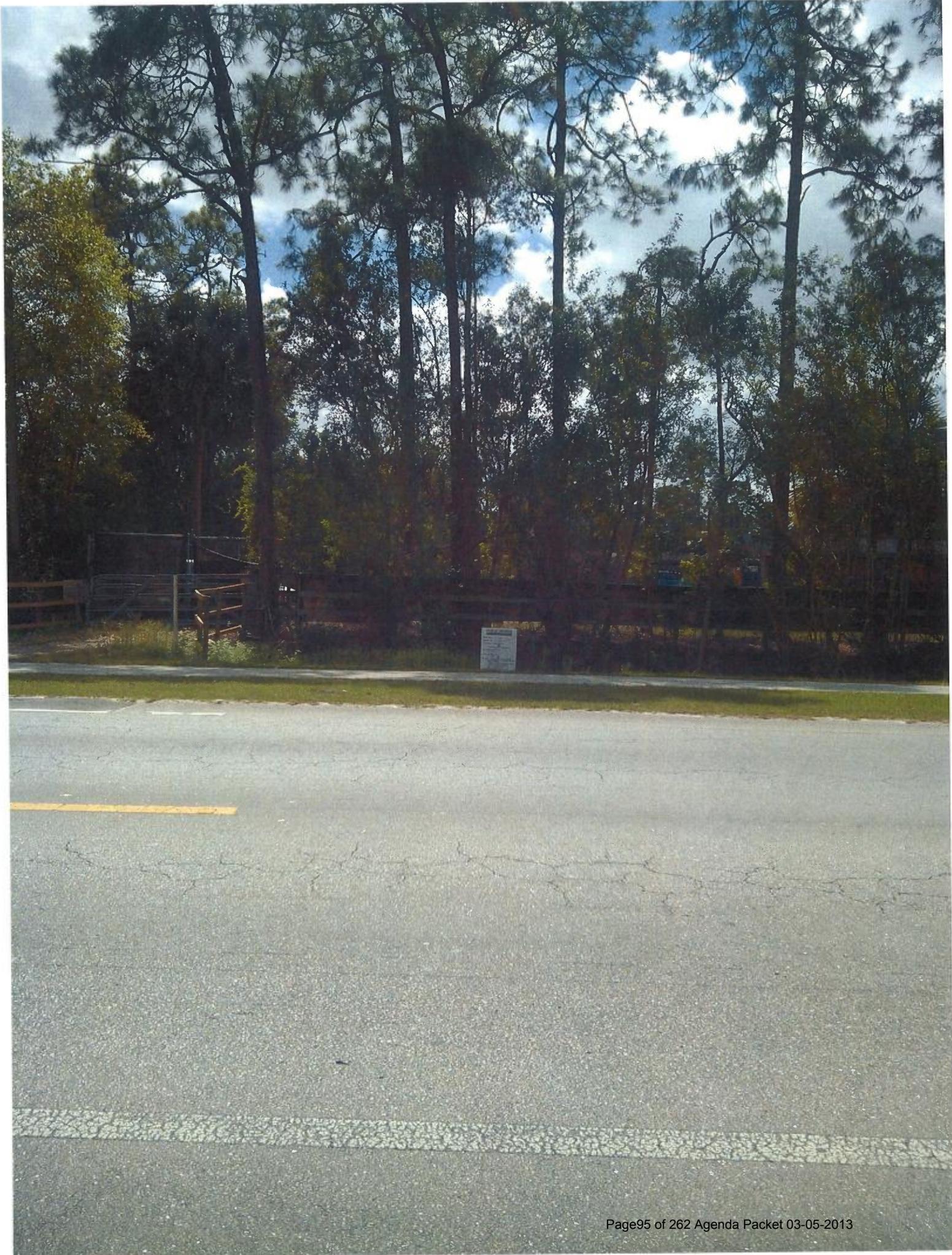
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1742 E ROAD LLC 6566 N MILITARY TRL WEST PALM BEACH FL 33407 1228		ZOLGHADAR ALLAN 6659 PARK LN W LAKE WORTH FL 33449 6614		FERRIN ADRIENNE & 2131 F RD LOXAHATCHEE FL 33470 4735	
<u>41414317015080040</u>	1000	<u>41414317015130010</u>	1000	<u>41414317015280010</u>	1000
PEREZ JUAN & 1740 E RD LOXAHATCHEE FL 33470 4864		APOSTOLIC INTERNATIONAL MINISTRIES INC 13771 OKEECHOBEE BLVD LOXAHATCHEE FL 33470 4963		TETREALT SHERRY & 13537 FARLEY RD LOXAHATCHEE FL 33470 4912	
<u>41414317015090010</u>	1000	<u>41414317015130020</u>	1000	<u>41414317015280020</u>	1000
AMERICAN PRINTAX INVESTMENT INC 13960 OKEECHOBEE BLVD LOXAHATCHEE FL 33470		TUYET THI PAYNE REVOCABLE TRUST 2791 D RD LOXAHATCHEE FL 33470 4897		TUTTLE EVA W 13579 FARLEY RD LOXAHATCHEE FL 33470 4912	
<u>41414317015090020</u>	1000	<u>41414317015130030</u>	1000	<u>41414317015280030</u>	1000
HARRIS JAMES W & 1812 E RD LOXAHATCHEE FL 33470 4856		ODUMS PHEARCHER W JR 13961 OKEECHOBEE BLVD LOXAHATCHEE FL 33470 4963		OGRADY THOMAS J & 13724 FARLEY RD LOXAHATCHEE FL 33470 4975	
<u>41414317015100010</u>	1000	<u>41414317015140020</u>	1000	<u>41414317015280040</u>	1000
TETREALT DONALD N & 13537 FARLEY RD LOXAHATCHEE FL 33470 4912		FITZGERALD KEVIN & 2206 E RD LOXAHATCHEE FL 33470 4648		BROOKS GUY L & 13723 FARLEY RD LOXAHATCHEE FL 33470 4912	
<u>41414317015100020</u>	1000	<u>41414317015140030</u>	1000	<u>41414317015280050</u>	1000
LOXAHATCHEE LANDCO LLC 1551 SHORELANDS DR E VERO BEACH FL 32963 2648		PIGNATO BEATRICE J & 2140 E RD LOXAHATCHEE FL 33470 4648		DEMARIA BRENDA 13682 FARLEY RD LOXAHATCHEE FL 33470 4974	
<u>41414317015110010</u>	1000	<u>41414317015140040</u>	1000	<u>41414317015280060</u>	1000
VACHE THEODORE S 13840 OKEECHOBEE BLVD LOXAHATCHEE FL 33470 4962		HAUNERT DANIEL E & 2150 E RD LOXAHATCHEE FL 33470 4648		WEBER FAYE C 13671 FARLEY RD LOXAHATCHEE FL 33470 4912	
<u>41414317015110020</u>	1000	<u>41414317015270010</u>	1000	<u>41414317015280070</u>	1000
AMERICAN PRINTAX INVESTMENT INC 13960 OKEECHOBEE BLVD LOXAHATCHEE FL 33470		KUMP RICHARD G 2210 F RD LOXAHATCHEE FL 33470 4736		RUIZ RAFAEL D & 834 SPOTSWOOD AVE NORFOLK VA 23517 1722	
<u>41414317015110030</u>	1000	<u>41414317015270020</u>	1000	<u>41414317015280080</u>	1000
VACHE THEODORE S 13840 OKEECHOBEE RD LOXAHATCHEE FL 33470 4962		ROSS ANGELA C 2135 F RD LOXAHATCHEE FL 33470 4735		PENICK JOHN & 13578 FARLEY RD LOXAHATCHEE FL 33470 4974	
<u>41414317015120010</u>	1000	<u>41414317015270030</u>	1000	<u>41414317015280090</u>	1000
LULFS BRIAN J & 7457 PARK LN LAKE WORTH FL 33449 6702		WILKE ROBERT C 2195 F RD LOXAHATCHEE FL 33470 4735		HARVEY MARISSA & 13624 FARLEY RD LOXAHATCHEE FL 33470 4974	

<u>41414317015280100</u>	1000	<u>41414321010030000</u>	1000
SCHMIDT BILLY M & 1815 KERRY LN LOXAHATCHEE FL 33470 4955		PALMS WEST PRESBYTERIAN CHURCH INC 1128 ROYAL PALM BEACH BLVD # 225 ROYAL PALM BEACH FL 33411 1607	
<u>41414317015290020</u>	1000	<u>41414317015100030</u>	
SAGLIME SANDRA & 1757 KERRY LN LOXAHATCHEE FL 33470 4954		MAGIC PROPERTIES V LLC 24151 VENTURA BLVD CALABASAS CA 91302 1449	
<u>41414317015290030</u>	1000		
MCLEOD FRANCES B & 13579 FOX TRL LOXAHATCHEE FL 33470 4913			
<u>41414317015290070</u>	1000		
SANCHEZ TANYA M & 13621 FOX TRL LOXAHATCHEE FL 33470 4913			
<u>41414317015290090</u>	1000		
FISHER DARRELL F 13725 FOX TRL LOXAHATCHEE FL 33470 4913			
<u>41414317015290100</u>	1000		
STEELE SUZANNE & 13667 FOX TRL LOXAHATCHEE FL 33470 4913			
<u>41414317016120050</u>	1000		
PALUCCI MARIA 1858 F RD LOXAHATCHEE FL 33470 4931			
<u>41414317016120051</u>	1000		
SIMRELL ANN M 1850 F RD LOXAHATCHEE FL 33470 4931			
<u>41414317016130020</u>	1000		
PROFESSIONAL FIREFIGHTERS/PARAMEDICS OF 2328 S CONGRESS AVE STE 2C WEST PALM BEACH FL 33406 7674			
<u>41414317016140030</u>	1000		
CHOQUETTE COLLEEN M 1128 ROYAL PALM BEACH BLVD WEST PALM BEACH FL 33411 1607			











TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-12

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND ARTICLE 10 ENTITLED “DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS,” SECTION 10-015, ENTITLED “DEFINITIONS” TO ADD A NEW DEFINITION FOR “RESIDENTIAL AGRICULTURAL SALES AND SERVICES;” TO AMEND ARTICLE 20, ENTITLED “RESIDENTIAL ZONING DISTRICTS,” SECTION 20-015, ENTITLED “PERMITTED USES,” TO ADD RESIDENTIAL AGRICULTURAL SALES AND SERVICES AS AN ACCESSORY USE SUBJECT TO ARTICLE 80 (CONDITIONAL USE) IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; TO AMEND ARTICLE 80, ENTITLED “CONDITIONAL USES,” TO ADD A NEW SECTION 80-60, ENTITLED “RESIDENTIAL AGRICULTURAL SALES AND SERVICES,” TO PROVIDE CONDITIONS ON RESIDENTIAL AGRICULTURAL SALES AND SERVICES USES IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, At the June 5, 2012 Town Council Meeting, the Town Council directed Town Management Staff and the Town Attorney to review the issue of retail hay sales and propose possible remedies that would address the issue; and

WHEREAS, the Town’s Planning Staff has reviewed the issue and proposed amendments to the Town’s Unified Land Development Code (ULDC) to regulate such activities as set forth herein; and,

WHEREAS, the Town’s Planning and Zoning Board considered the proposed amendments to the Town’s ULDC at its November 8, 2012, meeting and pursuant to Chapter 163, Part II, Florida Statutes, recommended that the Town Council approve the ordinance to amend the ULDC as set forth herein; and,

WHEREAS, the Town Council of Town of Loxahatchee Groves finds that the adoption of this ordinance is consistent with the Town's Comprehensive Plan, and in the best health and welfare interests of the Town, its property owners and residents.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: That the Town Council of the Town of Loxahatchee Groves, hereby amends the Town's Unified Land Development Code (ULDC) as set forth in **Exhibit "A"**, attached hereto and incorporated herein by reference, to:

- a. Amend Article 10 entitled "Definitions, Abbreviations, And Construction Of Terms," Section 10-015, entitled "Definitions" to add a new definition for "Residential Agricultural Sales And Services;"
- b. Amend Article 20, entitled "Residential Zoning Districts," Section 20-015, entitled "Permitted Uses," to add Residential Agricultural Sales and Services as an Accessory Use subject to Article 80 (Conditional Use) in the Agricultural Residential (AR) Zoning District;
- c. Amend Article 80, entitled "Conditional Uses," to add a new Section 80-60, entitled "Residential Agricultural Sales And Services," to provide conditions on Residential Agricultural Sales And Services Uses in the Agricultural Residential (AR) Zoning District.

Section 3: Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 4: Severability. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 5: Codification. The Town Clerk shall cause this ordinance to be codified as a part of the ULDC.

Section 6: Effective Date. This ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 4th DAY OF DECEMBER, 2012.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 5th DAY OF MARCH, 2013.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Mayor David Browning

TOWN CLERK

Vice Mayor Jim Rockett

APPROVED AS TO LEGAL FORM:

Council Member

Office of the Town Attorney

Council Member

Council Member

Attachment A to Ordinance No. 2012-12

**ATTACHMENT A
RESIDENTIAL AGRICULTURAL SALES AND SERVICES
ULDC AMENDMENTS
(Ref: Following Page)**

Underlined text indicates additions to the current ULDC. ~~Strikethrough~~ text indicates revisions made by the Council at first reading of the ordinance on January 15, 2013.

Attachment A to Ordinance No. 2012-12

1. ADD TO Section 10-015: Definitions

Residential Agricultural Sales and Services: Places of business as an accessory use to the principal use of single-family engaged in the sale from the premises solely of straw, hay, flake shavings, pellet shavings, feed and grain for livestock and domesticated animals.

2. ADD TO Section 20-015: Permitted Uses (AR District)

Plots located in the Agricultural Residential (AR) zoning districts may be used for the following specified uses.

Accessory Uses*	Agricultural Residential (AR)
Accessory Dwelling	Permitted
Groom's Quarter	Permitted
Caretaker's Quarter	Permitted
Home Offices	Permitted subject to Article 80
Residential Enterprise	Permitted subject to Article 80
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception
U-Pick Farms	Permitted w/Special Exception
Private Kennels	Permitted
Private Stables	Permitted
Yard Sales	Permitted subject to Article 80
<u>Residential Agricultural Sales and Services</u>	<u>Permitted subject to Article 80</u>

*Accessory Use. Uses naturally and customarily incidental, subordinate, and subservient to the principal use of the premises, and located on the same plot as the principal use. The area of an accessory use shall be subordinate to that of the principal use.

3. ADD TO Article 80: Conditional Uses

Section 80-60: Residential Agricultural Sales and Services.

Residential agricultural sales and services uses, as defined in Article 10, "Definitions, Abbreviations and Construction of Terms", may occur as an accessory use to the principal use of single-family dwelling in the Agricultural Residential (AR) zoning district subject to the following conditions and limitations:

- (A) Owner of property and business. The plot on which a residential agricultural sales and services use is located shall be occupied by the owner of said plot who shall also own and operate said residential agricultural sales and services use. The owner of the plot shall provide to the Town proof of a homestead exemption as soon as possible, but no later than one year following the establishment of the residential agricultural sales and services use.

Attachment A to Ordinance No. 2012-12

- (B) Change of ownership. Any future change of ownership of the plot upon which a residential agricultural sales and services use is located or the residential agricultural sales and services use shall invalidate an approval to operate under this Section.
- (C) Annual business tax receipt required. Subject to review and written zoning confirmation by the Town, the owner of a residential agricultural sales and services use shall procure a Palm Beach County business tax receipt annually and provide a copy to the Town. The Town shall use said receipts to establish and maintain a registry of residential agricultural sales and services businesses.
- (D) Size of property. Residential agricultural sales and services uses shall be located on plots of five acres or more in size and comply with all lot frontage and setback requirements per Sections 20-25(B) and 20-035(A) to (D).
- (E) Location of residential agricultural sales and services use. A residential agricultural sales and services use shall be conducted as an accessory use solely on the property where the main single-family dwelling is located.
- (F) Activities requiring special exception approval. The following residential agricultural sales and services activities shall require a Special Exception pursuant to Article 170.
- (1) The use of truck tractor(s) and semi-trailer(s) for residential agricultural sales and services product delivery to the plot.
 - (1) The use of semi-trailers visible from the street or an adjoining residence for residential agricultural sales and services products storage.
- (G) Number of accessory buildings. There shall be a maximum of two accessory buildings used for a residential agricultural sales and services use. All accessory storage buildings for residential agricultural sales and service uses shall be enclosed or completely screened from view from adjacent properties.
- (H) Size of accessory buildings. The total floor area ratio (F.A.R.) of all accessory buildings used for a residential agricultural sales and services use shall not exceed 0.01.
- (I) Use of shipping containers and semi-trailers. Shipping containers and semi-trailers may be used to store residential agricultural sales and services products prior to their sale.

Attachment A to Ordinance No. 2012-12

(1) For the purposes of this section, shipping containers shall be considered accessory buildings.

(2) A maximum of two semi-trailers may be used for outdoor storage of residential agricultural sales and services products on a plot of land without screening, subject to Section 80 – 60 (F), provided that such vehicles are routinely operated and maintained.

(3) Shipping containers and semi-trailers shall not be located in any required setbacks, easements, or rights-of-way.

~~(J) Employees or contractors. In addition to any person(s) who are the resident owners of the property and the residential agricultural sales and services use, a maximum of two additional employees or contractors shall be permitted at any given time to assist with the residential agricultural sales and services use.~~

~~(J) Outdoor storage. Outdoor storage associated with residential agricultural sales and services uses shall be subject to Section 20-010(G).~~

~~(K) Signage. One non-lit panel sign advertising the residential agricultural sales and services use and hours of operation may be erected on the plot. Such signs shall be no larger than twelve square feet in sign area and no higher than eight feet above the ground. Signs shall observe the site distance triangle requirement of Article 105, "Sight Distance" and comply with all applicable codes, including permitting requirements.~~

~~(L) Hours of operation. Hours of operation of a residential agricultural sales and services use shall be limited to 8:00 a.m. to 8:00 p.m. during week days five days per week and on Saturdays and 8:00 a.m. to 4:00 p.m. on Saturdays and Sundays 12:00 p.m. to 5:00 p.m. No on-site sales shall occur on Sundays.~~

~~(M) Residential agricultural Sales and Services Uses as of the effective date of this ordinance. A residential agricultural sales and services use as an accessory use to the principal use of single-family dwelling in the Agricultural Residential (AR) zoning district that was operating consistent with Section 80-60 (A) as of the effective date of this ordinance, as verified by a valid business tax receipt, may continue its current operation with the following limitations:~~

~~(1) Authorization pursuant to this paragraph to operate a residential agricultural sales and services use shall not include the operation of such use as a principal use or an accessory use to any principal use other than single-family dwelling.~~

Attachment A to Ordinance No. 2012-12

- (2) Any future change in ownership of the plot upon which an agricultural sales and services business is located, or the residential sales and services use shall invalidate an approval to operate under this paragraph.

Exceptions to the foregoing limitations and conditions shall be subject to approval by the Town Council, and such requests shall be considered in conjunction with the criteria set forth in Section 170-025(A) for Special Exceptions.



5.b. Ordinance No. 2013-01



TOWN OF LOXAHATCHEE GROVES
OFFICE OF THE TOWN MANAGER
AGENDA REPORT

Revised January 31, 2013

Revised February 28 , 2013

TO: Mayor and Town Council

FROM: Mark A. Kutney, Town Manager, AICP, ICMA-CM

DATE: January 10, 2013

SUBJECT: Resolution to authorize a Disbursement to Defray Costs Associated with the Official Duties of Town Council

I. BACKGROUND/HISTORY

See attached memorandum from Mark A. Kutney to the Finance Advisory & Audit Committee (located within the FAAC Agenda attached). **At the January 15, 2013 Town Council Meeting, Councilman Jarriel made a motion to approve compensation of \$500.00 per month per council member, as recommended by the FAAC, with a re-evaluation taking place at the end of 12 months . The motion was seconded by Council Member Liang. The motion passed on a 3/2 vote with Mayor Browning and Vice Mayor Rockett opposed. At the February 5, 2013 Town Council Meeting, Councilman Liang made a motion to Approve Ordinance No. 2013 on first reading. The motion was seconded by Councilman Jarriel and passed on a 4/1 vote with Vice Mayor Rockett opposed.**

II. DISCUSSION

See attached memorandum from Mark A. Kutney to the Finance Advisory & Audit Committee (located within the FAAC Agenda attached)

III. FISCAL IMPACT

The Town Management Company provided 3 options to the FAAC. Option 1 had a total annual expenditure of \$30,919.25. Options 2 and 3 had an annual expenditure of \$28,500.00. The FAAC is recommending Option 2 with a modification of a \$500.00 monthly allotment and annual expenditure of \$30,000.00. Vice Chair Elise Ryan will make a presentation to the Town Council.

ATTACHMENTS

Finance Advisory & Audit Committee Agenda Packet of January 9, 2013

V. RECOMMENDATION

The Town Management Company recommends that Town Council adopt the FAAC recommendation to authorize a disbursement to defray costs associated with the official duties of the Town Council at a monthly allotment of \$500.00 per Town Council Member and a yearly allotment of \$6000.00 per Town Council Member for an annual expenditure of \$30,000.



Town of Loxahatchee Groves

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MEMORANDUM

TO: Finance Advisory & Audit Committee Members

FROM: Mark A. Kutney, Town Manager, AICP, ICMA-CM 

Date: January 2, 2013

RE: Special FAAC Meeting on Town Council Compensation

At the December 4, 2012 Town Council Meeting, Councilman Tom Goltzene raised the issue regarding Compensation for the Mayor and Town Council. After deliberation, Staff was directed to review the mechanics of compensation and report back to the Town Council along with a determination of the additional costs involved. Further, the Town Council requested that the FAAC review the matter and provide input. Therefore, a special meeting of the Committee has been set for January 9, 2013 to discuss this matter.

Under the Town Charter, a method for compensation is provided. More specifically, Section 3 (4) (e) Compensation and Expenses indicates the following in subsection 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 Term of council members elected at the next regular election which follows the adoption of such ordinance."**

The current schedule calls for this issue to be discussed by Town Council on January 15, 2013, taking into account the proposals by the Management Company and the input provided by the FAAC. Should the decision be to move forward with an Ordinance, such Ordinance can be adopted prior to the March Election.

Attached to this memorandum are two charts and three options for annual compensation that may be provided to Town Council. The Management Company has reviewed data related to municipalities within the State of Florida and Palm Beach County. The Chart titled **Florida and Palm Beach County Elected Official Compensation Benefits** utilizes Florida League of Cities salary survey data supplemented with phone research of Palm Beach County Municipalities by the Management Company. Within the chart, it is evident that the other 19 cities and Loxahatchee Groves are similar relative to population and budget (with 1 or 2 outliers). There is some minor variance in regard to the wages column.

The **Annual Compensation** graphic is a bar chart that depicts the average budget, annual wage and average compensation of the 19 municipalities in question.

The last graphic is the **Annual Compensation Options per Council Member** and provides three options for consideration. Option 1 provides for wages and results in an annual expenditure of \$30,919.25. The second option is a Transportation and Communication Allowance which results in an annual expenditure of \$28,500.00. The final option is a Monthly Meeting Stipend that also has an annual expenditure of \$28,500.00

UMSG Staff will be at the meeting to discuss these options with the Committee and address any concerns or questions that you may have.

Cc: Bill Underwood, UMGS Managing Partner
Dennise D. Rodriguez, Office Coordinator Town of Loxahatchee Groves

Florida and Palm Beach County Elected Official Compensation Benefits

Florida League of Cities Salary Survey

Municipality	County	Population	Budget	Wages
Belleair	Pinellas	3,890		300
Biscayne Park	Miami Dade	3,126	\$3,270,000	2,000
Bowling Green	Hardee	3,084	\$2,500,000	1,800
Bunnell	Flagler	2,600		9,600
Chiefland	Levy	2,228	\$6,000,000	4,800
Crystal River	Citrus	3,737	\$4,200,000	6,328
Dunnellon	Marion	2,031	\$3,100,000	1,800
Eagle Lake	Polk	2,732	\$1,500,000	1,272
Ocean Ridge	Palm Beach	2,600	\$5,100,000	1,200
Ponce Inlet	Volusia	3,267	\$4,700,000	8,395
Williston	Levy	2,768	\$2,400,000	3,000
Atlantis	PBC	2,005	\$4,000,000	12,800
Loxahatchee Groves		3,100	\$3,675,754	
Haverhill	PBC	1,894	\$1,001,850	5,140
Highland Beach	PBC	3,539	\$10,500,000	14,400
Hypoluxo	PBC	2,636	\$1,600,000	
Juno Beach	PBC	3,181	\$6,300,000	3,488
Lake Clarke Shores	PBC	3,376	\$2,400,000	1,291
Mangonia Park	PBC	2,315	\$2,000,000	9,600
South Bay	PBC	4,876	\$2,200,000	15,334

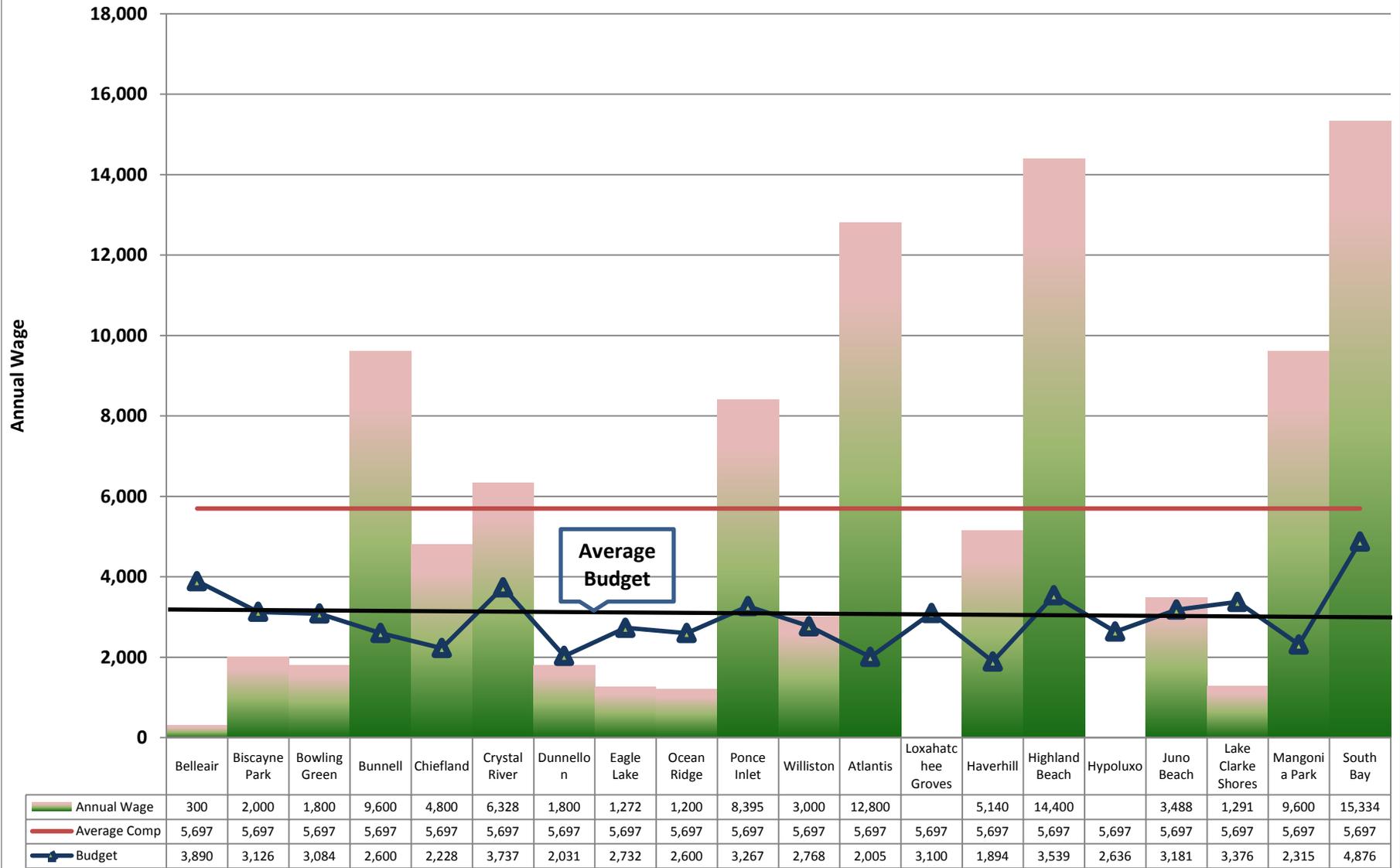
Average 2,949 \$3,691,534 \$5,697

Note: * FY2011-2012 Budget

 ** FY2013 General Fund

 *** Compensation + Allowances/Health Insurance

Annual Compensaton



Annual Compensation Options per Council Member

Municipal Small City Compensation Average

Title	Option 1 - Wages	Option 2 - Auto & Comm Allowance*	Monthly Meeting Stipend [#]
Wage	\$ 5,700.00	\$ 5,700.00	\$ 5,700.00
FICA/Medicare Taxes	\$ 436.05		
Worker's Compensation	\$ 17.80		
Payroll Services Company	\$ 30.00		
Total Expense	\$ 6,183.85	\$ 5,700.00	\$ 5,700.00
Monthly Remittance	\$ 515.32	\$ 475.00	\$ 475.00
Annual Expenditure	\$ 30,919.25	\$ 28,500.00	\$ 28,500.00

* Individual Council member can reduce withholding liability by tracking, recording, and deducting actual mileage

[#] Individual Council member can not reduce withholding liability

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2013-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING COMPENSATION FOR COUNCILMEMBERS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Section 3(4)(e)2 of the Town Charter of the Town of Loxahatchee Groves authorizes the Town Council, by not fewer than four (4) votes, to adopt an ordinance to establish or increase compensation; and,

WHEREAS, the Town's Finance and audit Advisory Committee (FAAC) reviewed the matter at its January 9, 2013, meeting, and recommended a monthly stipend of \$500.00, equal to \$6,000.00 per year; and,

WHEREAS, at its January 15, 2013, meeting, the Town Council directed the Town Attorney to prepare an ordinance for consideration consistent with the recommendations of the FAAC; and,

WHEREAS, the Town Council of the Town of Loxahatchee Groves finds that it is in the best interest of the Town to establish compensation for the members of the Town Council, effective following the March, 2013, municipal election in the Town, pursuant to the Town Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, THAT:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. The Town Council hereby establishes compensation for the members of the

Town Council as follows:

\$500.00 per month, per Councilmember, beginning April 1, 2013.

Section 3. It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Town’s Code of Ordinances upon the codification of the Town’s ordinances.

Section 4. All Ordinances or parts of Ordinances in conflict herewith are repealed to the extent of such conflict.

Section 5. If any Section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 6. This Ordinance shall become effective following the March 12, 2013 municipal election, as provided in the Town Charter.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 5th DAY OF FEBRUARY, 2013.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 5th DAY OF MARCH, 2013.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Councilmember David Browning

TOWN CLERK

Vice Mayor Jim Rockett

[Type text]

Ordinance No. 2013-01

APPROVED AS TO LEGAL FORM:

Office of the Town Attorney

Council Member

Council Member

Council Member

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7.a. Resolution No. 2013-02

**TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL AGENDA
REGULAR MEETING
March 5, 2013
7:00 P.M.**

**STAFF SUMMARY: LOCAL PLANNING AGENCY AGENDA ITEM
SITE PLAN APPLICATION SP 2012-1**

Project Name: Valley Crest (Magic Properties)

Agent: David J. Coviello

Applicant: Magic Properties V, LLC

Owner: Magic Properties V, LLC

Parcel Control Number (PCN): 41-41-43-17-01-510-0030

Project Location: 13710 Okeechobee Blvd.; South side of Okeechobee Blvd., approximately 0.25 miles west of "F" road.

Size of Property: 5.0 acres

Present Land Use and Zoning Designation: Rural Residential 5 (RR5);
Agricultural Residential (AR)

Existing Use: Landscape Maintenance Business

Approved Use: No existing approvals

Proposed Use: Wholesale Nursery Principal Use/Landscape Service Accessory
Use (Refer to Proposed Site Plan, Attachment A)

Background

On March 19, 2008, a citizen code enforcement complaint was filed with the Town regarding a potential violation of the Palm Beach County Unified Land Development Code (ULDC) concerning the operation of a landscape maintenance business on a parcel (i.e. not properly zoned for such an activity). Details of the code enforcement actions to date and a plan of action for the application review and process are presented in Attachment B. As the Town had not yet adopted its own regulations, the Palm Beach County ULDC was the effective land development code at that time.

On December 28, 2011, the Town's Special Magistrate for code enforcement directed the property owner to comply with Article 4, Chapter A Section 3A Table 4.A.3-1 and Chapter B Section 1A.77 of the Palm Beach County ULDC.

In response to the Special Magistrate's Order and preliminary staff review, the property owner has submitted a Site Plan Approval Application to the Town for approval of a "Wholesale Nursery Principal Use/ Landscape Service Accessory Use" business.

The Loxahatchee Groves ULDC became effective in November 2010. Pursuant to Section 20-015: *Permitted uses*, a wholesale nursery is a permitted principal use in the AR district. Section 20-020 expressly prohibits landscape maintenance operations. However, in order to address the Special Magistrate's Order to comply with land development regulations in effect at the time of the initial Notice of Violation (August 7, 2008), staff concludes that the proposed site plan is appropriately processed by the Town as a site plan approval application for a principal use by right (wholesale nursery) and an accessory use (landscape service). Further, the appropriate vehicle to approve the application is a Town Council resolution. The proposed site plan is enclosed as Attachment A and justification for staff's conclusion regarding processing of the application as proposed is presented in Attachment B.

Summary of Request

The property is currently being used as a landscape maintenance business, and the subject of a Town code enforcement action (i.e. Case Number CE 08-067). A history of code violation actions and the proposed issue resolution procedure is summarized in Attachment B.

The proposed site plan for a wholesale nursery/landscape service use represents the applicant's response to the Order Finding Violation by the Special Magistrate. Approval of an appropriate site plan will allow the property to become compliant with Article 4, Chapter A Section 3A Table 4.A.3-1 and Chapter B Section 1A.77 of the Town's (i.e. Palm Beach County) ULDC, which was in effect in 2008 on the date of the initial code enforcement action.

The following five existing buildings, which currently serve as a dispatch location serving greater Palm Beach County, will be retained and serve the proposed wholesale nursery, as well as the existing landscape service business:

- Office Building (2,166 sq. ft.) – Main office for the facility, including general office space, conference areas, and an employee lounge.
- Maintenance Building (2,200 sq. ft.) – Primary location for repair and maintenance of landscape equipment and machinery.

- Storage Building (800 sq. ft. located adjacent to the Office Building) – Storage for the landscape services business and employees.
- Two Storage Buildings (1,691 sq. ft. and 235 sq. ft. located at the rear of the property) – Storage of landscape maintenance supplies, including fertilizers and other chemicals.

Additional existing and proposed on-site facilities include:

- Wholesale Nursery Area - A proposed 2.55 acre wholesale nursery is incorporated within the site plan to insure compliance with the Special Magistrate's Order.
- Yard Waste Storage Area - A 100' x 100' area where plant material from various job sites is deposited. Plant material remains on-site and decomposes over time. The final product will be spread over the property and used as mulch. The maximum pile height is limited to 15' in accordance with Palm Beach County fire prevention requirements, and is located within 1,000 feet of an approved water supply capable of delivering 1,000 gallons per minute of flow.
- Parking Field – Rather than a conventional parking lot, a parking area is proposed to accommodate employee and business vehicles and equipment.
- Infrastructure facilities – Individual well and septic tank provide water and wastewater service for the facility, and an above-ground fuel tank and pumps provide fuel for the landscape maintenance vehicles.

Chipping and mulching of the imported yard waste will be performed by a "vertical grinder" on an "as-needed" basis up to a maximum of four times per year. The vertical grinder, which is used to minimize dust generation and impacts upon neighboring properties, will not be permanently located on-site; rather it will be imported to the site from an outside location. Hours of operation for the vertical grinder are limited to 9:00 a.m. to 5:00 p.m. Monday to Friday.

Adjacent Land Uses

The 5.0 acre subject property is located on the south side of Okeechobee Boulevard approximately 0.25 miles west of "E" Road. To the north, beyond Okeechobee Boulevard, is the 7.8 acre Palms West Presbyterian Church.

To the south, the subject site is bordered by two single-family residences located on Farley Road. Each residential plot is 2 acres in size.

To the east, the subject site is bordered by a 5.0 acre vacated ornamental nursery parcel owned by Loxahatchee Landco LLC. The property is assigned a classified agricultural use designation by the Palm Beach County property Appraiser.

To the west, the subject site is bordered by a vacant 5.0 acre parcel owned by Theodore Vache.

All adjacent properties are currently assigned the Rural Residential 5 Future Land Use and Agricultural Residential (AR) zoning designations.

Infrastructure Analysis

Utilities

The property is located within the Palm Beach County Water Utilities Department (PBCWUD) service area. The property is currently being served by on-site potable water (individual well) and wastewater (septic tank) systems.

A survey of the septic system was completed by a licensed contractor. The septic tank capacity is 900 gallons per day and the drainfield is 1,350 sq. ft. (5 trenches at 15 feet x 18 feet each). At 15 gpd per employee and 15 gpd per 100 sq. ft. of drainfield, the system is sized to accommodate existing on-site employment. The survey also indicated that the septic tank needs to be replaced and the drainfield repaired.

Drainage

Drainage in the Town is provided by a system of canals owned and operated by the Loxahatchee Groves Water Control District (LGWCD) that convey stormwater to structures that control the amount of water discharged to the South Florida Water Management District (SFWMD) system. The LGWCD system is designed to remove 1.0 inches of runoff in 24 hours from one square mile.

According to the drainage statement provided by the Applicant (Site Plan Application, Attachment D), legal positive outfall is available via a Palm Beach County canal/ditch on the south side of Okeechobee Boulevard adjacent to the north property line of the subject plot. It is further stated in the application that no site modifications related to drainage are proposed to accommodate the proposed site plan.

The Town is located within the C-51 Basin, and is therefore subject to the South Florida Water Management District C-51 Basin criteria, as well as its other stormwater quality and quantity rules.

Solid Waste

The Solid Waste Authority (SWA) of Palm Beach County is responsible for the disposal of solid waste generated in Palm Beach County. The SWA has indicated in January 2011 that the current lifespan of the landfill is 2031.

The Town has contracted a private hauler to collect and transport residential solid waste to the appropriate SWA facility. Commercial businesses and nurseries are required to contract for these services directly with a private hauler. The applicant has indicated that vegetative waste generated by the nursery and landscape businesses will remain on-site, decomposed over time, and spread over the property and/or used as mulch or transported to an approved disposal location.

Traffic

The applicant submitted an analysis (Ref: Site Plan Application, Attachment D) used to review future traffic impacts consistent with the requirements and standards of Article 12 of the Palm Beach County Unified Land Development Code. Based on the study, the Palm Beach County Traffic Division stated (Letter dated July 30, 2012) that the proposed site plan meets the Traffic Performance Standards of Palm Beach County subject to the following condition which must be included in any development order for the project:

“In order to comply with the Mandatory Traffic Performance Standards in place at the time of this approval, no Building Permits for the site shall be issued after December 31, 2013”.

Any future request to modify the above condition of approval must be based on an approved traffic study which complies with Mandatory Traffic Performance Standards in place at the time of the request.

Staff Finding and Recommendation

Staff Finding

As an existing business expanded only to include a wholesale nursery operation, staff initially waived several site plan application requirements based on the property owner's certification (Ref: signed Affidavit included in Attachment C of the site plan application) that the following actions or improvements will not occur unless appropriate permits are received from the Town and any other agencies having jurisdiction, including the provision of necessary associated application documents:

- Paving or drainage improvements.
- Provision of central water and sewer facilities.

- Erection of signs or outdoor lighting.
- Structure additions or improvements.
- Existing vegetation removal.

Comments were received from the following agencies at a pre-application meeting on May 16, 2012:

- Palm Beach County Health Department (PCHD) – Provided that the proposed operations consist of importing, grinding and on-site use of vegetative materials, no permit is required from PBCHD.
- Palm Beach County Solid Waste Authority (SWA) – As long as fees are not charged to import vegetative materials to the on-site Yard Waste Storage Area an SWA permit is not required.
- Palm Beach County Fire Rescue – Accessibility to the Yard Waste Storage Area and a water source are two issues. In terms of accessibility, it is recommended that a Knox Box be installed at the entry gate for use in case of emergency if the driveway is blocked. Also, the farthest extent of the vegetative waste pile must be within 1,000 feet of a fire hydrant that produces a flow of at least 1,000 gallons per minute (gpm).

The applicant has contacted the Palm Beach County Water Utilities Department (PBCWUD) and received correspondence stating that a water flow test had been conducted showing that the fire hydrant located on Okeechobee Boulevard in front of the subject property currently discharges water at a rate of 1,200 gpm. Flow test results satisfy the Palm Beach County Fire Rescue concern.

The only comments received from the Town's Development Review Committee (DRC) were from the Palm Beach County Health Department (PBCHD), which stated no objections to the proposed site plan. However, as the site is served by a Limited Use Well and an Onsite Sewage Treatment and Disposal System (OSTDS), PBCHD requested that the applicant supply a letter from a Certified Septic contractor as to the size and condition of the septic tank and drainfield.

A survey of the septic system was completed by a licensed contractor. The septic tank capacity is 900 gallons per day and the drainfield is 1,350 sq. ft. (5 trenches at 15 feet x 18 feet each). At 15 gpd per employee and 15 gpd per 100 sq. ft. of drainfield, the system is sized to accommodate existing on-site employment. The survey also indicated that the septic tank needs to be replaced and the drainfield repaired.

Planning and Zoning Board Recommendation

The Town Planning and Zoning Board, at its January 10, 2013 meeting, recommended denial of the site plan application by a 5 – 0 vote based upon a finding that the site plan is inconsistent with:

1. The outdoor storage requirements in the AR (Agricultural Residential District).
2. The buffering requirements of the ULDC (proper buffers not indicated).
3. The handicapped parking requirements of the ULDC (handicapped space not shown).
4. The loading space requirements of the ULDC (loading space not shown).

In addition, the following 5 independent motions were made and passed by the Planning and Zoning Board by a 5 – 0 vote:

1. The applicant provide 70% pervious area consistent with the current Town ULDC.
2. Provide a 100% opaque screening/landscape berm or buffer – a minimum of 4 feet in height to reach 6 feet in height within two years- along the front property line to the east of the main entry and along the west side of the rear property line unless it is determined that existing vegetation provides adequate screening.
3. Any additional buildings must observe the Town's 50-foot setback and a Resolution containing all conditions will be recorded at the expense of the applicant.
4. The existing septic tank shall be replaced and the drain field repaired within 30 days of the approval of the site plan by the Town Council.
5. All parking and loading should occur on-site, as indicated on the proposed site plan.

Staff Finding

Since the Planning and Zoning Board meeting, the proposed site plan and conditions of approval have been revised by the applicant and staff to address the basis for the Planning and Zoning Board recommendation for denial and the independent motions recommending additional actions on the part of the applicant.

The applicant has made the following changes to the site plan in order to address the Planning and Zoning Board's basis for a recommendation for denial:

1. A 20-foot right-of-way buffer has been added to the area east of the main entrance consistent with ULDC requirements.
2. Two 15-foot incompatibility buffers have been added consistent with ULDC requirements. One along the southernmost portion of the east property line and one along the easternmost portion of the south property line.
3. A handicapped parking space, consistent with ULDC requirements, has been added in front of the existing office.
4. A loading area, consistent with ULDC requirements, has been added adjacent to the west side of the yard waste storage area.
5. A note has been added indicating that the yard waste storage area will be screened from the public right-of-way.

The above site plan revisions adequately address Planning and Zoning Board basis of denial items #2 - #4.

The Planning and Zoning Board basis of denial item #1 is Article 4 Chapter B Section 77.d of the Palm Beach County ULDC (i.e. ULDC in effect at the time of the Notice of Violation) which states that landscape service businesses shall not store debris outdoors. It was Planning and Zoning Board's opinion that the Yard Waste Storage Area constitutes outdoor storage of debris.

Based upon the applicant's Statement of Use, the Yard Waste Storage Area will be used as an area to temporarily store, decompose and chip, as necessary, imported yard waste for the purpose of spreading it as mulch material on the wholesale nursery and other on-site pervious areas. Staff therefore determines that the Yard Waste Storage Area is an open facility used for the temporary storage of an unprocessed resource for the wholesale nursery and not an area for the outdoor storage of debris.

As the term "debris" is not defined in the ULDC, Webster's Dictionary is used. Webster's includes three basic characteristics to define the term;

- Debris consists of the remains of something broken down or destroyed.
- Debris consists of an accumulation of fragments of rock.
- Debris is something discarded.

As the yard waste is processed and used as a mulch resource, it is not discarded and, in staff's opinion, is therefore not debris. As a result, staff does not concur with the Planning and Zoning Board finding that the site plan violates outdoor storage requirements in the AR District.

The revised site plan includes a reduced Yard Waste Storage Area which increases the pervious area to in excess of 70%, adequately addressing independent motion #1. The site plan has been further revised to include the right-of-way and incompatibility buffers and note added to screen the yard waste storage area which, in combination, adequately address independent motion #2. In addition to the above, staff has added proposed conditions of approval to address independent motions #3 - #5.

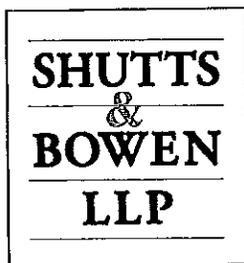
Town Planning staff, its consultants, and the Development Review Committee (DRC) have reviewed (Ref: Attachment C) Site Plan Approval Application SP 2012-01 (Valley Crest) in terms of the requirements of the Palm Beach County ULDC. Staff finds the application, as amended and conditioned following the Planning and Zoning Board meeting, consistent with the requirements of the Palm Beach County ULDC (effective March 19, 2008).

Staff Recommendation

Based upon the analysis performed, staff recommends approval of SP 2012-01 subject to the conditions presented in Attachment D.


Jim Fleischmann, Town Planning Consultant

**ATTACHMENT A
VALLEY CREST SITE PLAN* AND STATEMENT OF USE**



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December 31, 2012

VIA E-MAIL

Mr. Mark Kutney, Town Manager
Town of Loxahatchee Groves
14579 Southern Boulevard, Suite 2
Loxahatchee Groves, Florida 33470

**Re: 13710 Okeechobee Boulevard ("Property") – Site Plan Approval (SP-12-1)
REVISED STATEMENT OF USE**

Dear Mr. Kutney:

As you know, this firm represents the owner of the Property, Magic Properties V, LLC (the "Owner"), in connection with the above referenced site plan approval application. Below is a revised Statement of Use describing the use of each building, fuel pumps and vegetative waste storage, including location and dimensions, as shown on the revised Site Plan prepared by H&L Consultants dated March 7, 2012 and revised to December 31, 2012.

I. Statement of Use:

ValleyCrest Companies, the parent company of the Owner, is the largest landscape services company in the nation, offering landscape design, installation and maintenance. The facility located at the Property will serve as a wholesale nursery (principal use) and landscape service (accessory use) facility serving the greater Palm Beach County area.

A. Structures:

The existing structures on the Property as shown on the Site Plan will be utilized as follows:

Office Building (2,166 square feet) – this structure serves as the main office for the facility and includes general office space, conference areas and an employee lounge.

Maintenance Building (2,200 square feet) – this structure serves as the primary area for minor repairs and maintenance of the landscape and nursery equipment utilized in connection with both the landscape service and wholesale nursery components of the business.

Storage Building adjacent to Office (860 square feet) – this structure serves as storage for both the landscape service and wholesale nursery components. It also includes employee areas.

Storage Buildings to the rear of the Property (1,691 square feet and 235 square feet) - the structures serve as storage for both the landscape service and wholesale nursery components, including storage of fertilizers and other chemicals.

B. Vegetative Waste Storage Area (Management Plan):

The vegetative waste storage area consists of a dedicated area of the Property where vegetative waste material generated primarily by the landscape service business is dropped-off on a daily basis from job sites within Palm Beach County. The material, entirely free of non-organics, consists primarily of palm tree fronds and tree branches, as well as grass clippings. A separate fee for removal and disposal of the material from job sites is not charged to customers.

The “vegetative waste storage area” as shown on the Site Plan has been reduced in size from 100 feet by 200 feet to 100 feet by 100 feet with a maximum height of 15 feet, and complies with all Palm Beach County fire prevention requirements. Specifically, a minimum of 20 feet clearance is provided for emergency and fire vehicular access. Further, there is an approved water supply capable of delivering 1,000 gallons per minute within 1,000 feet of the vegetative waste storage area (i.e., the existing fire hydrant on Okeechobee Boulevard).

Within the size limitations described above, the unprocessed material remains on the Property for approximately 90 days. During this time, the natural composting of the finer material is significant. After 90 days, a grinder is brought on the Property and used to chip the larger tree branches. To minimize dust and avoid any impact to surrounding property, a vertical grinder is used. Moreover, the grinding is limited to 4 times a year. On those particular days, the grinder will be operated during the hours of 9:00 a.m. to 5:00 p.m., and will not be operated on weekends.

Once the material is composted and/or chipped, it is deposited on the Property within the nursery area. Due to the size of the Property, and the nursery area in particular (i.e., 2.5 acres), on-site use of the material is feasible.

C. Fuel Tank/Pump:

The Property contains a fuel tank/fuel pump located in the center of the Property, which provides fuel to the landscape maintenance vehicles. The fuel tank/pump is setback greater than 20 feet from the boundary of the Property, and will be completely screened from view by a continuous solid opaque hedge a minimum of 4 feet in height.

Mr. Mark Kutney
December 31, 2012
Page 3

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

SHUTTS & BOWEN LLP



David J. Coviello

Enclosures

cc: Magic Properties V, LLC

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ATTACHMENT B
VALLEY CREST SITE PLAN: HISTORY AND APPROVAL PROCESS

I. INTRODUCTION

On November 20, 2007 (Ordinance 2007-07) the Town Council enacted a moratorium to November 30, 2008 on the processing and review of applications, including site plan approval, for new projects. The purpose of the moratorium was to allow the Town adequate time to adopt its initial comprehensive plan and unified land development code. Due to a series of delays related to the adoption of the comprehensive plan, several extensions to the moratorium were enacted by the Town (i.e. Ordinances 2008-08, 2009-02, 2010-01 and 2010-04). The net effect upon site plan applications was to extend the moratorium to January 1, 2011.

On March 19, 2008, a citizen Code Enforcement Complaint was filed with the Town regarding a potential violation of the Palm Beach County Unified Land Development Code (ULDC) concerning the operation of a landscape maintenance business (i.e. Valley Crest) on a parcel not properly zoned for such an activity. As the Town had been incorporated but not yet adopted its own regulations, the Palm Beach County ULDC was the effective land development code at that time.

A Notice of Violation (Code Enforcement No. 08-67) was issued to the owner (Magic Properties V LLC) of the subject property, located at 13710 Okeechobee Boulevard, on August 7, 2008. At the time of the Notice of Violation, the property was located in the County's Rural Service Area (RSA), and assigned an RR-5 (Rural Residential 5) future land use and an AR (Agricultural Residential) zoning designation.

The Notice of Violation stated that the Valley Crest operation was in violation of the Loxahatchee Groves (Palm Beach County) ULDC Article 4, Chapter A Section 3A Table 4.A.3-1 and Chapter B Section 1A.77, which are summarized as follows:

- Article 4, Chapter A Section 3A Table 4.A.3-1 is the Use Matrix which identifies uses that are allowed in each zoning district.

Allowed uses in Table 4.A.3-1 are classified as one of the following: P (Permitted by Right); D (Permitted subject to approval by the Development Review Officer); S (Permitted by Special Permit); A (Class A Conditional Use – Approved by the Board of County Commissioners); and B (Class B Conditional Use – Approved by the Zoning Commission).

Per Table 4.A.3-1, a landscape service may be permitted (principal or accessory use) by Class A Conditional Use approval of the Board of County Commissioners in the Rural Service Area within the AR zoning district. *(NOTE: Such approval had not been granted by the County at the time of the Notice of Violation).*

- Article 4, Chapter B of the ULDC contains supplementary standards for specific uses. Section 1A.77. *Landscape Service* contains the basic standards governing the approval of landscape service businesses. Principal standards include:
 1. Landscape service definition: An establishment engaged in the provision of landscape maintenance or installation services, such as lawn mowing, tree, shrub or hedge trimming, leaf blowing, landscape design, and landscape installation.
 2. A landscape service as a principal use shall be located on a collector or arterial street. The minimum lot size shall be three acres.
 3. A landscape service may be allowed as an accessory use to a retail or wholesale nursery on a minimum of three acres.

The entirety of Section 1A.77 is contained in Exhibit B-1.

In response to the Notice of Violation, the property owner filed a zoning confirmation request asking the County to confirm that wholesale nursery is permitted on the property and that a landscape service can also be allowed as an accessory use.

In a written response to the request, the Palm Beach County Zoning Division, on October 15, 2008, stated that a wholesale nursery in the AR District is permitted on ten acres or less, subject to receiving Concurrency approval. Further, a landscape service may be allowed as an accessory use to either a retail or wholesale nursery on a minimum of three acres.

It was also stated in the County's response that, pursuant to Article 5, Chapter B Section 1.A.1.c(1) *Accessory Uses and Structures – Floor Area – Non-Residential District*, any accessory uses and structures shall not exceed 30 percent of the gross floor area (GFA) and/or business receipts of the principal use, or uses whichever is more restrictive. *(NOTE: As Article 5, Chapter B Section 1.A.1.c(1) pertains to accessory uses in a non-residential district, and the subject property is located in a residential district – AR – it is staff's opinion that this requirement does not apply to the Valley Crest property).*

On September 10, 2008, the Town of Loxahatchee Groves Code Enforcement Special Magistrate, in an Order Finding Violation, directed the property owner to comply, by December 10, 2008, with Sections of the ULDC cited in the Notice of Violation (i.e. Article 4, Chapter A Section 3A Table 4.A.3-1 and Chapter B Section 1A.77). Due to moratorium Ordinance 2007-07, an application could not be filed at that time.

On May 19, 2009, the Town enacted Resolution 2009-010 which abated enforcement actions in Loxahatchee Groves with respect to Article 4, Chapter A Section 3, with respect to uses that do not comply with the use matrix, and Chapter B, with respect to supplementary use standards, of the ULDC until such time that the Council adopts its Comprehensive Plan and Uniform Land Development Code, or a resolution providing for the conclusion of the abatement period. The Town's Land Development Code was adopted in November of 2010 and the Comprehensive Plan became effective in August of 2011.

On January 11, 2012, the Loxahatchee Groves Code Enforcement Special Magistrate placed the case on hold for 120 days to provide the owner time to obtain necessary site plan and zoning approvals, to include a wholesale nursery as the primary use of the property. The status of the case was reported to the Special Magistrate at the May 2012 hearing and placed on hold for an additional 120 days.

II. COURSE OF ACTION

The Special Magistrate directed the property owner to comply with Article 4, Chapter A Section 3A Table 4.A.3-1 and Chapter B Section 1A.77 of the Town's (i.e. Palm Beach County) ULDC. In response to the Special Magistrate's Order and the County's October 15, 2008 response to the property owner's zoning confirmation request, the property owner submitted a Site Plan Approval Application to the Town for a "Nursery/Landscape Maintenance" use on August 6, 2012.

A. Zoning District

A zoning review indicates that the subject property was assigned an AR (Agricultural Residential) zoning designation under the County ULDC on the date of the Notice of Violation and is currently assigned an AR zoning designation under the Town's ULDC. As such, the zoning designation of the property is not an issue.

B. Use Determination

1. Palm Beach County ULDC

The proposed Site Plan submitted on August 6, 2012 included "Nursery" and "Landscape Maintenance" uses.

Wholesale Nursery is defined in Article 4, Chapter B Section 1A.89 of the (Palm Beach County) ULDC as the cultivation and wholesale of horticultural specialties such as flowers, shrubs, sod, and trees, intended for ornamental or landscaping purposes. Per Article 4, Chapter A Section 3A Table 4.A.3-1, a wholesale nursery use is permitted by right in the Rural Service Area (RSA) in the AR District subject to approval by the Development Review Officer (DRO).

Landscape Service is defined in Article 4, Chapter B Section 1A.77 of the ULDC as an establishment engaged in the provision of landscape maintenance or installation services, such as lawn mowing, tree, shrub or hedge trimming, leaf blowing, landscape design, and landscape installation. Per Article 4, Chapter A Section 3A Table 4.A.3-1, a landscape service is an allowed Conditional Use A in the RSA in the AR District subject to approval by the Board of County Commissioners. Further, per Article 4, Chapter B Section 1A.77e, landscape service uses may also be allowed as an accessory use to a retail or wholesale nursery on a minimum of three acres.

The terms principal and accessory use are defined in Article 1, Chapter 1, Section 2 of the Palm Beach County ULDC as follows:

- **Principal Use:** The primary and major purpose for which land or building is used as allowed by the applicable zoning district.
- **Accessory Use:** A permitted use that is customarily associated with the principal use and clearly incidental to the principal use and is subordinate in area, extent, or purpose to and serves only the principal use.

2. Loxahatchee Groves ULDC

The proposed Site Plan included a 2.55 acre "Nursery" use component. The term "Nursery" is defined in Section 10-015 of the Town's ULDC as . . . "A place where plants are propagated and/or grown to usable size sale, or for experimentation, and which may include such accessory uses as the limited and incidental sale of accessory items, the provision of landscape design services, and delivery and installation of plants purchased from the nursery. This term expressly excludes lawn and landscape maintenance businesses and mulching operations as commercial or principal uses." Wholesale nursery is further defined as . . . "A nursery, the products of which are sold to a retailer and not directly to the ultimate user."

Pursuant to the ULDC (Section 20-015: *Permitted uses*), a wholesale nursery is a permitted principal use in the AR district, while a retail nursery is permitted subject to obtaining Special Exception approval by the Town Council.

The proposed Site Plan also included a 2.45 acre "Landscape Maintenance" use. Section 20-020 of the ULDC expressly prohibits irrigation installation/maintenance and landscape maintenance operations in the AR District.

The terms principal and accessory use are defined in Section 10-015 of the Town's ULDC as follows:

- **Principal Use:** The primary use of a parcel of land as distinguished from secondary or accessory uses. There may be more than one principal use on a parcel of land unless prohibited within a given zoning district.
- **Accessory Use:** A use naturally and customarily incidental, subordinate, and subservient to the principal use of the premises, and located on the same plot as the principal use. The area of an accessory use shall be subordinate to that of the principal use.

3. Conclusion

The Palm Beach County ULDC permits wholesale nursery as a principal use and landscape service as an accessory use in the AR Zoning District. The Town's current ULDC permits wholesale nursery as a principal use, but expressly prohibits landscape maintenance businesses in the AR district, although the use is not defined.

Staff concludes that the initial Site Plan application for a "Nursery/Landscape" use should be revised to include a wholesale nursery (principal use) and landscape service (accessory use). The revision will appropriately address the Special Magistrate's Order to comply with Chapter A Section 3A Table 4.A.3-1 and Chapter B Section 1A.77 of the ULDC; land development regulations in effect at the time of the initial Notice of Violation (August 7, 2008).

The proposed revision is also consistent with the October 15, 2008 Palm Beach County Zoning Division opinion that a wholesale nursery is a permitted use and a landscape service may be allowed as an accessory use to a wholesale nursery in the AR zoning district subject to County Commission approval.

Staff further concludes that the proposed wholesale nursery use is a permitted principal use under the current Loxahatchee Groves ULDC and the landscape service use, based upon the County's definition, is expressly prohibited.

Although containing a use (landscape service) currently prohibited by the Loxahatchee Groves ULDC, the staff recommended site plan revision, consisting of a wholesale nursery principal use and a landscape service accessory use can be processed by the Town, due to its consistency with the Palm Beach County ULDC in effect at the time that the Notice of Violation and the Special Magistrate's Order were issued.

C. Development Standards

As the Notice of Violation and Magistrate's Order both cite violations of sections of the Palm Beach County ULDC, basic development standards therein are relied upon to determine code compliance of the proposed site plan. However, where process flexibility permits, Town standards are used to prepare conditions of approval in order to maximize consistency with the Loxahatchee Groves ULDC.

A comparison of the basic Agricultural Residential (AR) district land development regulations of Palm Beach County to those of Loxahatchee Groves, as they pertain to the proposed site plan, is presented in Table 1.

From Table 1, it is concluded that a site plan that complies with the Palm Beach County regulations will generally meet the requirements of the current Loxahatchee Groves ULDC. The only differences in the two codes are rear setback and minimum pervious area regulations. County regulations require a 100 foot rear setback for the principal use, but allow a 25 foot setback for accessory structures, while Town regulations require 50 feet for all structures. In addition, the County has no minimum pervious area requirement, while the Town requires 70% of the lot area to be pervious.

Palm Beach County AR District regulations are used as the basis to review the proposed site plan since they were in effect at the time of the Notice of Violation. Further, due to the similarities in the regulations, issues related to inconsistencies are minimal.

In addition to the basic standards listed in Table 1, both Palm Beach County and Loxahatchee Groves have additional supplemental standards that pertain to the proposed uses. These standards can be used to review the proposed site plan and incorporate conditions of approval.

1. Supplemental Palm Beach County Standards

Article 4, Chapter A Section 3A Table 4.A.3-1 (Use Matrix) and Chapter B Sections 1A.77 and 1A.89 of the ULDC contain basic standards governing the approval of wholesale nursery and landscape service uses in the Rural Service Area in the AR Zoning District. ULDC Sections 1A.77 and 1A.89 are contained in Exhibit B-1.

Table 1 – Agricultural Residential (AR) District Regulations

Regulation	Palm Beach County	Loxahatchee Groves
Minimum lot size	5 acres	5 acres
Minimum frontage/width	300 feet	200 feet
Minimum depth	300 feet	NA
Maximum Floor-Area-Ratio	0.15	0.15
Maximum building coverage	15%	15%
Front setback	100 feet	100 feet
Side setback	50 feet	50 feet
Rear setback	100 feet*	50 feet
Minimum pervious area	NA	70%
Maximum building height	35 feet	35 feet

* - Per Article 5 Section 1.A.2 accessory structures may be setback 25 feet from the side and rear property lines on lots with conforming width and depth lot dimensions.

Source: Palm Beach County and Loxahatchee Groves ULDCs; LRM, Inc.

2. Supplemental Loxahatchee Groves Standards

The Loxahatchee Groves ULDC does not contain any additional specific standards for wholesale nursery or landscape service uses. However, there are supplemental standards in Section 20-010 of the ULDC governing the approval of all land uses in the AR Zoning District. Section 20-010 standards pertinent to the proposed site plan are contained in Exhibit B-2.

D. Approval Process

The staff recommended revised Site Plan includes “Wholesale Nursery (Principal use)” and Landscape Service (accessory use)” uses. Per Article 4, Chapter A Section 3A Table 4.A.3-1 of the Palm Beach County ULDC in effect at the time of the code violation, a wholesale nursery use is permitted by right on the property subject to an administrative approval by the Development Review Officer (DRO). Further, a landscape service is an allowed accessory use to a wholesale nursery subject to approval by the Board of County Commissioners (Conditional Use A). Use limitations for wholesale nursery and landscape service are contained in Article 4, Chapter B Sections 1A.77 and 1A.89 of the ULDC.

Following incorporation and prior to the effective date of the Loxahatchee Groves ULDC, development order applications were reviewed on behalf of the Town by Palm Beach County staff (Resolution 2007-122) and considered by the Town Council. Development order approval, including zoning and site plan applications, was accomplished by Town resolution. Consistent with that procedure, the proposed site plan should be subject to approval by resolution of the Town Council.

The Loxahatchee Groves ULDC became effective in November 2010. Pursuant to Section 20-015: *Permitted uses*, a wholesale nursery is a permitted principal use in the AR district; however, Section 20-020 expressly prohibits landscape maintenance operations. However, in order to address the Special Magistrate's Order to comply with land development regulations in effect at the time of the initial Notice of Violation (August 7, 2008), staff concludes that the proposed site plan is appropriately processed by the Town as an application for wholesale nursery (principal use) and landscape service (Conditional Use A accessory use) uses.

EXHIBIT B-1
Palm Beach County Supplemental Use Standards

Article 4 Chapter B Section 77. Landscape Service

An establishment engaged in the provision of landscape maintenance or installation services, such as lawn mowing, tree, shrub or hedge trimming, leaf blowing, landscape design, and landscape installation.

a. AR District

A landscape service as a principal use shall be located on a collector or arterial street. The minimum lot size shall be three acres.

b. AGR District (*Not Applicable*)

c. Landscape Buffer

Any incompatibility buffer as required by Article 7.F. Perimeter Buffer Landscape Requirements may be waived if the use is adjacent to farm worker quarters or mobile home accessory to a bona fide agricultural use.

d. Storage

Outdoor storage of debris shall be prohibited.

e. Accessory Use

May be allowed as an accessory use to a retail or wholesale nursery on a minimum of three acres.

Article 4 Chapter B Section 89. Nursery, Wholesale

The cultivation and wholesale of horticultural specialties such as flowers, shrubs, sod, and trees, intended for ornamental or landscaping purposes.

a. Limitations of Sales

Sales from a wholesale nursery are limited to exporters, distributors, landscape contractors, retailers, or other businesses.

b. Approval Process

Permitted use in the Rural Service Area in the AR District on ten acres or less.

c. Hours of Operation

Operation of commercial vehicles over one ton rated capacity or gross vehicle weight of 10,000 pounds, including load, from 7:00 p.m. to 6:00 a.m. is prohibited.

d. Parking and Loading

All parking and loading shall occur on site.

e. AR District

May be operated in conjunction with a residence.

f. Buffering

A buffer shall be provided along all property lines that are not screened by plant material.

1) Incompatibility Buffer

A Type 3 incompatibility buffer shall be required adjacent to all office, parking, loading, internal roads and other non-growing areas within 50 feet of a property line. The buffer requirements may be satisfied by plant material for sale provided that the plant material is grown in the ground, ten feet on center, six feet high, and the growing area is at least 20 feet wide. The width of the buffer may be reduced to ten feet if the buffer contains permanent landscaping only and not for-sale plant inventory.

2) Compatibility Buffer

A compatibility buffer shall be provided around all growing areas less than 50 feet in width. The buffer requirements may be satisfied by plant material for sale provided that the plant material is grown in the ground, ten feet on center, six feet high and the growing area is a minimum of five feet wide.

3) R-O-W Buffer

A R-O-W buffer shall be required adjacent to all office, parking, loading, internal roads, and other non-growing areas within 50 feet of a R-O-W. A R-O-W buffer shall be required adjacent to all growing areas unless the growing area is at least 50 feet in width and contains plant materials providing a six foot high visual buffer equivalent in opacity to a R-O-W buffer. Existing native vegetation within the R-O-W buffer shall be preserved.

4) Barbed Wire

The use of barbed wire shall be prohibited.

g. Office

An office is permitted as an accessory use, provided it is not a mobile home.

h. U/S Tier (*Not Applicable*)

i. Outdoor Bulk Storage

Outdoor bulk storage of mulch, rock, soil or similar material shall comply with the outdoor storage standards contained in Article 5.B, Accessory and Temporary Uses. Outdoor bulk storage in residential zoning districts shall be setback a minimum of 50 feet or the district setback, whichever is greater.

j. Agricultural Reserve (AGR) Tier (*Not Applicable*)

k. Site Plan

Relocation of structures on a Zoning Commission or Board of County Commission approved site plan due to South Florida Water Management District or Environmental Resources Management requirements may exceed the Development Review Officer limitations contained in Article 2.D.1, Development Review Officer.

**Article 5 Chapter B Section 1.A Accessory And Temporary Uses
Supplementary Regulations (*Note: Sections deemed not applicable are excluded from the text*).**

1. General

The following standards in this Section shall apply to all development in standard, PDD or TDD zoning districts, unless otherwise stated:

a. Standards

An accessory use or structure shall be subject to the same regulations that apply to the principal use or structure, except as otherwise stated.

b. Location

All accessory uses, buildings and structures except for approved off-site parking, shall be located on the same lot as the principal use. No accessory structure shall be located in the front or side street yard.

c. Floor Area – *Not Applicable*

d. Setbacks, Accessory Structure

1) Residential Districts, Except AR: *Not Applicable*

2) AR District

a) Conforming Lot Dimensions

Accessory structures may be setback a distance of 25 feet from the side and rear property lines on lots with conforming width and depth lot dimensions.

b) Nonconforming Lot Dimensions – *Not Applicable*

c) Accessory Structure

Must be five feet from all established easements and may not be located within the required landscape buffer or within the required front or side street setback.

3) Nonresidential Districts: *Not Applicable*

4) Dimensions Urban/Suburban Tier: *Not Applicable*

2. Fences, Walls and Hedges – *Not Applicable*.

3. Outdoor Storage

Outdoor storage of merchandise, inventory, equipment, refuse, or similar material in all nonresidential districts shall be subject to the following standards.

a. General

Outdoor storage may only be allowed when incidental to the use located on the premises.

b. Location

Outdoor storage areas shall not be located in any of the required setbacks.

c. Nonresidential Districts, Except Industrial – *Not Applicable*

d. Industrial Districts – *Not Applicable*

e. Exceptions

The following uses or material are exempt from this Section:

- 1) Storage and sales of landscape plant material.
- 2) Storage of material used for road construction on a lot directly adjacent to the roadway under construction.
- 3) Uses which allow outdoor storage by definition or in another Section.

4. Outdoor Display – *Not Applicable*

5. Docks – *Not Applicable.*

6. Entry Features – *Not Applicable.*

7. Fuel, Gas, or Chemical Storage Tanks

Above ground accessory fuel, gas, or chemical storage tanks, shall be setback a minimum of 20 feet and shall be completely screened from view by a continuous solid opaque hedge a minimum of four feet in height around the perimeter of the tank enclosure.

8. Dumpsters

Each use shall provide a method for the removal of refuse when individual collection, from a licensed solid waste hauler is not provided. All outdoor receptacles for the storage and disposal of refuse, vegetation, and recyclable material, such as dumpsters, trash compactors, and recycling containers, shall meet the following standards:

a. Storage Area

A minimum of one refuse container and one recycling container shall be provided per each nonresidential project. All refuse containers shall be stored in a storage area. Storage areas shall have a minimum dimension of ten feet by ten feet.

b. Location

Containers shall be located to minimize turning and back up movements by pick-up and removal vehicles.

c. Setback

Containers shall be setback a minimum of 25 feet from adjacent residential districts and uses.

d. Screening

Containers shall be screened from view by a solid opaque enclosure. The open end of the enclosure shall have an opaque gate which provides a minimum of ten feet of clearance when open for service. All exposed exterior sides of the enclosure, other than the open end, shall be landscaped with one 36-inch high shrub planted 24 inches on center.

e. Retrofitting of Existing Developments –*Not Applicable*

EXHIBIT B-2
Loxahatchee Groves AR District Supplemental Use Standards
(Note: Sections deemed not applicable are excluded from the text).

Section 20-010 – General provisions.

The following requirements shall apply to the Agricultural Residential (AR) Zoning District.

(A) Accessory dwelling units – Not Applicable.

(B) Animals and livestock – Not Applicable.

(C) Caretaker's quarters – Not Applicable.

(D) Construction trailers – Not Applicable.

(E) Fences, walls, hedges, gates and entry features. Fences, hedges, gates and entry features are permitted on all properties with a zoning designation of Rural Residential or Agricultural Residential. Walls are not permitted on a property line that abuts a road unless a Special Exception is granted by the Town.

(1) Height. Fences and walls shall not exceed six feet in height in front yards and eight feet in height in side or rear yards. Hedges and natural vegetation shall not be subject to maximum height limitations. Height shall be measured adjacent to the fence or wall from the lowest grade on either side of the fence or wall.

(2) Appearance. The exterior surface of a wall shall be finished with paint, stucco, or other commonly accepted material, and continuously maintained in its original appearance. Dark or fluorescent colors are prohibited.

(3) Materials. Fences and walls shall not be electrified or contain any materials such as broken glass, spikes, nails, razors or barbs designed to inflict discomfort, pain, or injury to a person or animal, except as permitted below:

a. Barbed wire. Barbed wire shall be permitted for use as fencing material on all plots.

b. Low voltage electric wire. Low voltage electric wire, otherwise known as hot wire, shall be permitted for use as fencing material on all plots.

(4) Sight distance. Fences, walls and hedges shall comply with Article 105, "Sight Distance."

(5) Decorative gates, features, and light posts. Decorative gates, features, and light posts attached to fences or walls may exceed the height of fences or walls by three feet provided that they are located in the front yard.

(F) Groom's quarters – *Not Applicable.*

(G) Outdoor storage. Outdoor storage of merchandise and inventory, vehicles and equipment, refuse and other similar materials shall be subject to the following standards.

(1) Generally. All outdoor storage shall only be permitted when incidental to the use located on the premises or explicitly permitted as a primary use in Section 20-015, "Permitted uses."

(2) Location. Outdoor storage of merchandise and inventory, vehicles and equipment, refuse or similar materials shall not be located in any required setbacks, easements, or rights-of-way, except as permitted below:

a. Construction Vehicles, equipment and fill –*Not Applicable*

b. Nursery plants and trees. Nursery plants and trees may be permanently stored in all required setbacks.

(3) Screening. All outdoor storage shall not be visible from roadways or neighboring properties except as permitted below:

a. Farm and land cultivation equipment. Farm and land cultivation equipment necessary for conducting a permissible agricultural use does not need to be screened from view provided that the vehicles are operable for immediate use, located on the plot upon which they are used, and are registered to an owner or lessee of said plot.

b. Equestrian transports – *Not Applicable.*

c. Nursery plants and trees. Nursery plants and trees do not need to be screened from view.

d. Construction vehicles, equipment and fill – *Not Applicable.*

e. Commercial and recreational vehicles – *Not Applicable.*

f. Inactive vehicles and equipment – *Not Applicable.*

(4) Fluids – *Not Applicable.* .

(H) Swimming pools – *Not Applicable.*

ATTACHMENT C - VALLEY CREST SITE PLAN REVIEW

A. Land Use and Zoning Designation

1. PCN: 41-41-43-17-01-510-0030
2. Previous Approval: None
3. Current Use: Lawn Maintenance Business
4. Proposed Use: Principal Use – Wholesale Nursery; Accessory Use – Lawn Maintenance Business
5. Future Land Use (FLU) Designation: RR-5 Zoning District: AR
6. Consistency of Proposed Use: FLU - Yes ; Zoning - Yes

B. Zoning Provisions: AR Zoning District

Criterion	Requirement	Proposed	Consistent with Code
Minimum plot size	5 acres	5 acres	Yes
Frontage	300 feet	488 foot frontage on Okeechobee Blvd.	Yes: See "Access" criterion below
Minimum dimension	300 feet x 300 feet	488 feet x 445 feet	Yes
Maximum plot size	None	5 acres	Yes
Plot coverage	Combined area of buildings and roofed structures shall not exceed 15% of the plot area	3.3%	Yes
Floor-area-ratio	Maximum 0.15	0.033	Yes
Front setback	100 feet	116 feet	Yes
Side setback	50 feet	75.3feet	Yes
Rear setback	100 feet*	47.2 feet	Yes
Side street setback	NA	NA	Yes
Building height	35 feet	One story	Yes

* Per Article 5 Section 1.A.2 accessory structures may be set back 25 feet from the side and rear property lines on lots conforming with width and depth lot dimensions.

C. Parking and Loading Requirements

Criterion	Requirement	Proposed	Consistent with Code
Minimum parking requirement	Wholesale Nursery =2 Landscape Buildings – 1 per 500 sq. ft. = 11 Maint/storage area – 1 per 2,500 sq. ft. area = 11*	24	Parking and loading area provided - Yes
Parking area design	Refer to Section 95-100 of the ULDC/Parking area setback 10 feet	20 feet from Okeechobee Blvd.	Yes
Size of parking spaces	Standard – 9'x18.5' Handicap – 12'x18.5'	NA	Parking and loading area provided - Yes
Minimum loading space(s)	1 per 10,000 sq. ft. gfa + 1/each additional 15,000 sq. ft. gfa.	One	Yes
Size of loading space	15 feet wide x 55 feet long with a 15 foot vertical clearance	NA	Parking and loading area provided - Yes
Location of loading space	Adjacent to building it serves	Within designated parking and loading area	Yes
Drive Aisles	25 feet wide	26 feet	Yes
Dumpster	Section 25-010 of ULDC	Dumpster provided	Yes

* Requirement in addition to vehicles operated or used in the business

D. Access Requirements

Criterion	Requirement	Proposed	Consistent with Code
Access	Legal access from a public street required	Okeechobee Blvd.	Yes
Number of driveways	Max. 2 with frontage on one street	Two	Yes
Driveway requirements	18 - 44 feet min/max width	53 feet	Yes
Separation	On collector and arterial roads, driveway entrances at least 100' apart	NA	Yes
Sight distance triangle	Driveway and street: 10' from intersection (driveway and street)	10 feet on Okeechobee Blvd.	Yes
Sight distance triangle	Two streets - 25' from the intersection (both streets)	NA	Yes

E. Landscaping

Criterion	Requirement	Proposed	Consistent with Code
Landscape plan	Landscape plan required unless waived	Waiver	Yes

F. Signage

Criterion	Requirement	Proposed	Consistent with Code
Number of signs	Mandatory Building Wall Sign	None	Yes

G. Miscellaneous Provisions

Criterion	Requirement	Proposed	Consistent with Code
Screening	Commercial vehicles shall not be visible from roadways or neighboring properties	Existing perimeter landscaping + proposed buffer	Yes

**ATTACHMENT D
CONDITIONS OF APPROVAL**

GENERAL

1. Development of the site is limited to the uses approved by the Town of Loxahatchee Groves in Exhibit A (Site Plan and Statement of Use) of Resolution 2013-02 and described in the Revised Statement of Use dated December 31, 2012. The approved site plan is dated February 6, 2013. All modifications to the approved site plan must be approved by the Town Council unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.
2. The landscape service use is approved as an accessory use and shall remain operational only in conjunction with the wholesale nursery principal use.
3. None of the following activities shall take place on the site without first obtaining necessary approvals by or permits from the Town of Loxahatchee Groves: new construction of a structure or additions or improvements to an existing structure; paving or drainage improvements; existing vegetation removal; provision of central water and sewer facilities; erection of signs or outdoor lighting.
4. Existing accessory structures may be set back a distance of 25 feet from the side and rear property lines; however, any additional future principal or accessory buildings shall observe a 50 foot setback.
5. The final site plan approval resolution shall be recorded with the Palm Beach County Clerk of Courts at the expense of the applicant.

ARCHITECTURAL REVIEW

1. Not applicable.

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:
 - A) No Building Permits for the site may be issued after December 31, 2013. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code.

2. Corridor Conveyance of Road Right of Way: Not Applicable
3. The Property owner shall construct the following: Not Applicable

LAND CLEARING AND LANDSCAPING

1. Any land clearing activities must comply with the Loxahatchee Groves Native Tree Preservation, Soil Stabilization and Invasive Exotic Removal regulations (Ordinance 2010-008).
2. Existing native vegetative along all property lines shall be maintained.
3. Prior to the issuance of any future building permit, the property owner shall submit a Landscape Plan application to the Town of Loxahatchee Groves for review and approval.

EXTERIOR LIGHTING

1. Not Applicable.

PALM TRAN

1. Not Applicable.

PARKING AND LOADING

1. All parking and loading shall occur on site as indicated on the approved site plan.

SIGNS

1. Not Applicable.

USE LIMITATIONS

1. Vegetative Waste Storage and Processing is permitted subject to the following:
 - a. Unprocessed vegetative waste shall be generated solely by the wholesale nursery and landscape service uses.
 - b. Vegetative waste operations shall consist solely of importing, temporary storage, decomposing, vertical grinding and on-site use or licensed off-site disposal of materials.

c. Fees shall not be charged to import unprocessed vegetative waste materials to the on-site Yard Waste Storage Area.

d. Outdoor storage of unprocessed vegetative waste material shall be limited to 90 days and the pile height of storage material shall be limited to a maximum of 15 feet. A minimum 20 feet of clearance shall be provided for emergency and fire vehicular access.

e. Outdoor storage of unprocessed vegetative waste shall be limited to the 100 foot x 100 foot Yard Waste Storage Area, as depicted on the approved site plan, which shall be set back a minimum of 50 feet from any property line and screened from view from a public road.

f. Chipping and mulching of vegetative waste shall only be performed by a "vertical grinder" on an "as-needed" basis, not to exceed a maximum of 4 times per year, during the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday. The vertical grinder shall not be permanently located on-site; rather it shall be imported to the site when needed from an off-site location.

2. Outdoor storage of debris, defined as an accumulation of material to be discarded, is prohibited.

3. Outdoor storage of other than vegetative waste shall only be allowed when incidental to the permitted principal and accessory uses of the property.

4. Operation of commercial vehicles over one ton rated capacity or gross vehicle weight of 10,000, including load, is prohibited from 7:00 p.m. to 6:00 a.m. daily.

5. The use of barbed wire is prohibited.

UTILITIES AND SERVICES

1. Above ground accessory fuel, gas or chemical storage tanks shall be setback a minimum of 20 feet from any property line and shall be completely screened from view by a continuous solid opaque hedge a minimum of 4 feet in height around the perimeter of the tank enclosure.

2. A minimum of one refuse container and one recycling container shall be provided. The refuse container shall be stored in a storage area and have a minimum dimension of 10 feet by 10 feet. Containers shall be screened from view by a solid opaque enclosure. The open end of the enclosure shall have an opaque gate which provides a minimum of 10 feet of clearance when open for service. All exposed exterior sides of the enclosure, other than the open end, shall be landscaped with one 36-inch high shrub planted 24 inches on center.

3. The existing septic tank shall be replaced and drain field repaired within 30 days of the approval of the site plan by the Town Council.

PUBLIC SAFETY

1. A Knox Box shall be installed at the entry gate for use in case of emergency.

COMPLIANCE

1. In granting this approval, the Town of Loxahatchee Groves relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Town Manager for review under the compliance condition of this approval.

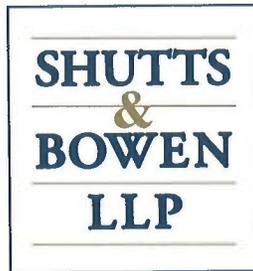
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or

b. The revocation of the site plan approval; and/or

c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or

d. Referral to Code Enforcement Special Master.



DAVID J. COVIELLO
PARTNER
(305) 415-9437 Direct Telephone
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E-MAIL ADDRESS:
dcoviello@shutts.com

February 26, 2013

VIA E-MAIL

Mr. Mark Kutney, Town Manager
Town of Loxahatchee Groves
14579 Southern Boulevard, Suite 2
Loxahatchee Groves, Florida 33470

**Re: 13710 Okeechobee Boulevard ("Property") – Site Plan Approval (SP-12-1)
REVISED FINAL SITE PLAN**

Dear Mr. Kutney:

As you know, this firm represents the owner of the Property, Magic Properties V, LLC (the "Owner"), in connection with the above referenced site plan approval application. In response to the issues raised by the Town's Planning and Zoning Board ("PZB") at its meeting of January 10, 2013, Owner hereby submits the attached revised Final Site Plan prepared by H&L Consultants dated March 7, 2012 with revisions through February 6, 2013 (the "Site Plan").

Specifically, the Site Plan has been amended to fully address certain deficiencies with the applicable provisions of the Palm Beach County Land Development Regulations (the "Regulations") cited by the PZB in its findings, which served as the basis for its recommendation of denial.

1. Landscape buffers. **Provided on the Site Plan.**
2. Handicap parking space. **Provided on the Site Plan.**
3. Designated loading space. **Provided on the Site Plan.**

In addition, Owner acknowledges that outdoor storage of debris on the Property, as indicated in Attachment D Conditions of Approval to Resolution 2013-02 ("Conditions of Approval"), is prohibited. Owner also accepts all use limitations relative to Vegetative Waste Storage and Processing as provided in the Conditions of Approval.

In addition to the above referenced revisions to the Site Plan, Owner also hereby addresses a number of other issues raised by certain members of the PZB by separate motion.

1. A minimum of 70% pervious area required. **Provided on Site Plan.**
2. Along front boundary line of the Property east of entry drive, an opaque screening/landscape berm or buffer at a minimum height of 4 feet at the time of installation and 6 feet within two years shall be provided. Existing vegetation along west of entry drive and rear boundary of the Property shall be sufficient so long as it provides adequate screening. **Agreed.**
3. Any additional building constructed on the Property in the future shall comply with the 50 foot setback. **Agreed.**
4. A Resolution containing all conditions of Site Plan approval shall be recorded in the public records of Palm Beach County at the expense of Owner. **Agreed.**
5. Within 30 days of approval of the Site Plan, Owner shall repair and/or replace the septic tank and drain field on the Property. **Agreed.**
6. All parking and loading on the Property shall occur within designated areas as shown on the Site Plan. **Agreed.**

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

SHUTTS & BOWEN LLP



David J. Coviello

Enclosures

cc: Jim Fleischmann, Town Planning Consultant
Magic Properties V, LLC

MIADOCS 7302850 1

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2013-02

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE VALLEY CREST SITE PLAN, FOR LAND OWNED BY MAGIC PROPERTIES V, LLC, CONSISTING OF 5.0 ACRES MORE OR LESS, LOCATED AT 13710 OKEECHOBEE BOULEVARD; SOUTH SIDE OF OKEECHOBEE BOULEVARD APPROXIMATELY 0.25 MILES WEST OF "F" ROAD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT "A" TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, On March 19, 2008, a citizen Code Enforcement Complaint was filed with the Town regarding a potential violation of the Palm Beach County Unified Land Development Code (County ULDC) concerning the operation of a landscape maintenance business (i.e. Valley Crest) on a parcel not properly zoned for such an activity; and

WHEREAS, a Notice of Violation (Code Enforcement No. 08-67) was issued to the owner (Magic Properties V LLC) of the subject property, located at 13710 Okeechobee Boulevard, on August 7, 2008; and

WHEREAS, on September 10, 2008, the Town of Loxahatchee Groves Code Enforcement Special Magistrate, in an Order Finding Violation, directed the property owner to comply with Sections of the County ULDC cited in the Notice of Violation; and

WHEREAS, in response to the Special Magistrate's Order, the property owner submitted a Site Plan Approval Application to the Town for a "Nursery/Landscape Maintenance" use in order to address the Order Finding Violation; and.

WHEREAS, the Town Council, as the governing body of the Town of Loxahatchee Groves, Florida ("Town"), pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider applications relating to site plans for development on property within the Town; and

WHEREAS, the Council, pursuant to Article 2 (Development Review Process) of the Town of Loxahatchee Groves Unified Land Development Code is authorized and empowered to consider, approve, approve with conditions or deny site plans; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Town of Loxahatchee Groves Unified Land Development Code have been satisfied; and

WHEREAS, the Town Planning and Zoning Board (P&Z Board), at its meeting of November 8, 2012, deferred consideration of the Valley Crest Site Plan Application; and

WHEREAS, the P&Z Board, at its January 10, 2013, meeting, recommended denial based on four issues: 1) outdoor storage; 2) buffering requirements; 3) handicapped parking; and 4) loading spaces.

WHEREAS, subsequent to the Town P&Z Board meeting of January 10, 2013, the applicant revised the proposed Valley Crest Site Plan to address the reasons for the P&Z Board recommendation of denial; and

WHEREAS, the Valley Crest Site Plan Application, Control No. SP 2012-01, was presented to the Town Council at a quasi-judicial public hearing conducted on March 5, 2013; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the applicant and other interested parties and the recommendations of Town staff and Town P&Z Board; and

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the Town of Loxahatchee Groves Unified Land Development Code (Town ULDC) and other provisions requiring that development commence in a timely manner.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Loxahatchee Groves as follows:

Section 1. Each “WHEREAS” clause set forth above is true and correct and herein incorporated by this reference.

Section 2. The Town Council has considered the findings in the staff report and Town Planning and Zoning Board recommendation and makes the following findings of fact:

1. This Site Plan is consistent with the purposes, goals, objectives and policies of the Town of Loxahatchee Groves Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Site Plan, as presented in Exhibit C hereto, complies with relevant and appropriate portions of applicable local land development regulations. This Site Plan, along with conditions of approval, as adopted and presented in Exhibit D hereto, complies with standards imposed on it by all other applicable provisions of the Town ULDC. The Town Council finds the conditions, as presented in Exhibit D hereto, to be reasonable, and rationally related to the proposed development, and consistent with the Town’s character.
3. This Site Plan and Statement of Use, as presented in Exhibit C hereto, along with conditions of approval, as adopted and presented in Exhibit D hereto, are compatible as defined in the Town ULDC; provided that the use is compatible with the County ULDC, with which the Applicant was ordered to comply by the Town’s Code Enforcement Special Magistrate, and generally consistent with the uses and character of the land

surrounding and in the vicinity of the land proposed for development.

4. The proposed design, with conditions as adopted and presented in Exhibit D hereto, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Site Plan and Statement of Use as presented in Exhibit C hereto, along with conditions of approval, as adopted and presented in Exhibit D hereto, minimize environmental impacts, including but not limited to water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.
6. This Site Plan and Statement of Use, as presented in Exhibit C hereto, along with conditions of approval, as adopted and presented in Exhibit D hereto, will result in logical, timely and orderly development patterns.

Section 3. The Town of Loxahatchee Groves Unified Land Development Code requires that the action of the Town Council of Loxahatchee Groves be adopted by resolution. Therefore, the Town Council of the Town of Loxahatchee Groves approves the Valley Crest Site Plan, Control No. SP 2012-001 for the parcel of land legally described in EXHIBIT "A", attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT "B", attached hereto and made a part hereof. A copy of the site plan and statement of use subject to the approved conditions presented in Exhibit D, is attached hereto as Exhibit C and made a part hereof.

Section 4. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 6. This Resolution shall become effective upon adoption.

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RESOLVED AND ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 5th day of March, 2013.

ATTEST:

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

TOWN CLERK

Mayor David Browning

APPROVED AS TO LEGAL FORM:

Vice Mayor

Town Attorney

Council Member

Council Member

Council Member

EXHIBIT A

LEGAL DESCRIPTION

THE WEST 487.68 FEET OF TRACT 10, BLOCK "E", LOXAHATCHEE GROVES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL CONTROL NUMBER: 41-41-43-17-01-510-0030

EXHIBIT B
VICINITY SKETCH

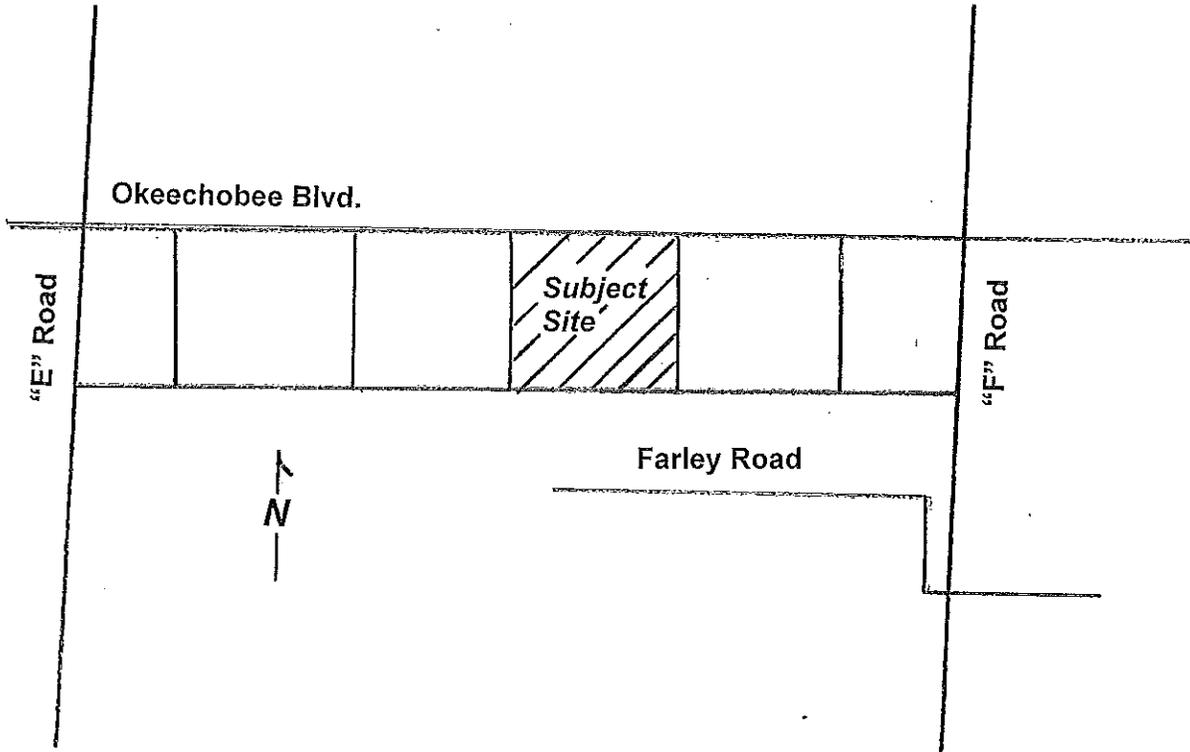
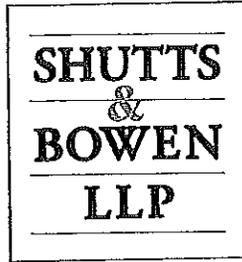


EXHIBIT C
VALLEY CREST SITE PLAN
AND
STATEMENT OF USE



DAVID J. COVIELLO
PARTNER
(305) 415-9437 Direct Telephone
(305) 415-9837 Direct Facsimile

E-MAIL ADDRESS:
dcoviello@shutts.com

December 31, 2012

VIA E-MAIL

Mr. Mark Kutney, Town Manager
Town of Loxahatchee Groves
14579 Southern Boulevard, Suite 2
Loxahatchee Groves, Florida 33470

**Re: 13710 Okeechobee Boulevard ("Property") – Site Plan Approval (SP-12-1)
REVISED STATEMENT OF USE**

Dear Mr. Kutney:

As you know, this firm represents the owner of the Property, Magic Properties V, LLC (the "Owner"), in connection with the above referenced site plan approval application. Below is a revised Statement of Use describing the use of each building, fuel pumps and vegetative waste storage, including location and dimensions, as shown on the revised Site Plan prepared by H&L Consultants dated March 7, 2012 and revised to December 31, 2012.

I. Statement of Use:

ValleyCrest Companies, the parent company of the Owner, is the largest landscape services company in the nation, offering landscape design, installation and maintenance. The facility located at the Property will serve as a wholesale nursery (principal use) and landscape service (accessory use) facility serving the greater Palm Beach County area.

A. Structures:

The existing structures on the Property as shown on the Site Plan will be utilized as follows:

Office Building (2,166 square feet) – this structure serves as the main office for the facility and includes general office space, conference areas and an employee lounge.

Maintenance Building (2,200 square feet) – this structure serves as the primary area for minor repairs and maintenance of the landscape and nursery equipment utilized in connection with both the landscape service and wholesale nursery components of the business.

Storage Building adjacent to Office (860 square feet) – this structure serves as storage for both the landscape service and wholesale nursery components. It also includes employee areas.

Storage Buildings to the rear of the Property (1,691 square feet and 235 square feet) - the structures serve as storage for both the landscape service and wholesale nursery components, including storage of fertilizers and other chemicals.

B. Vegetative Waste Storage Area (Management Plan):

The vegetative waste storage area consists of a dedicated area of the Property where vegetative waste material generated primarily by the landscape service business is dropped-off on a daily basis from job sites within Palm Beach County. The material, entirely free of non-organics, consists primarily of palm tree fronds and tree branches, as well as grass clippings. A separate fee for removal and disposal of the material from job sites is not charged to customers.

The “vegetative waste storage area” as shown on the Site Plan has been reduced in size from 100 feet by 200 feet to 100 feet by 100 feet with a maximum height of 15 feet, and complies with all Palm Beach County fire prevention requirements. Specifically, a minimum of 20 feet clearance is provided for emergency and fire vehicular access. Further, there is an approved water supply capable of delivering 1,000 gallons per minute within 1,000 feet of the vegetative waste storage area (i.e., the existing fire hydrant on Okeechobee Boulevard).

Within the size limitations described above, the unprocessed material remains on the Property for approximately 90 days. During this time, the natural composting of the finer material is significant. After 90 days, a grinder is brought on the Property and used to chip the larger tree branches. To minimize dust and avoid any impact to surrounding property, a vertical grinder is used. Moreover, the grinding is limited to 4 times a year. On those particular days, the grinder will be operated during the hours of 9:00 a.m. to 5:00 p.m., and will not be operated on weekends.

Once the material is composted and/or chipped, it is deposited on the Property within the nursery area. Due to the size of the Property, and the nursery area in particular (i.e., 2.5 acres), on-site use of the material is feasible.

C. Fuel Tank/Pump:

The Property contains a fuel tank/fuel pump located in the center of the Property, which provides fuel to the landscape maintenance vehicles. The fuel tank/pump is setback greater than 20 feet from the boundary of the Property, and will be completely screened from view by a continuous solid opaque hedge a minimum of 4 feet in height.

Mr. Mark Kutney
December 31, 2012
Page 3

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

SHUTTS & BOWEN LLP



David J. Coviello

Enclosures

cc: Magic Properties V, LLC

MIADOCS 6663467 2

**ATTACHMENT D
CONDITIONS OF APPROVAL**

GENERAL

1. Development of the site is limited to the uses approved by the Town of Loxahatchee Groves in Exhibit C (Site Plan) of Resolution 2013-02. The approved site plan is dated February 6, 2013. All modifications to the approved site plan must be approved by the Town Council unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.
2. The landscape service use is approved as an accessory use and shall remain operational only in conjunction with the wholesale nursery principal use.
3. None of the following activities shall take place on the site without first obtaining necessary approvals by or permits from the Town of Loxahatchee Groves: new construction of a structure or additions or improvements to an existing structure; paving or drainage improvements; existing vegetation removal; provision of central water and sewer facilities; erection of signs or outdoor lighting.
4. Existing accessory structures may be set back a distance of 25 feet from the side and rear property lines; however, any additional future principal or accessory buildings shall observe a 50 foot setback.
5. The final site plan approval resolution shall be recorded with the Palm Beach County Clerk of Courts at the expense of the applicant.

ARCHITECTURAL REVIEW

1. Not applicable.

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

A) No Building Permits for the site may be issued after December 31, 2013. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code.

2. Corridor Conveyance of Road Right of Way: Not Applicable
3. The Property owner shall construct the following: Not Applicable

LAND CLEARING AND LANDSCAPING

1. Any land clearing activities must comply with the Loxahatchee Groves Native Tree Preservation, Soil Stabilization and Invasive Exotic Removal regulations (Ordinance 2010-008).
2. Existing native vegetative along all property lines shall be maintained.
3. Prior to the issuance of any future building permit, the property owner shall submit a Landscape Plan application to the Town of Loxahatchee Groves for review and approval.

EXTERIOR LIGHTING

1. Not Applicable.

PALM TRAN

1. Not Applicable.

PARKING AND LOADING

1. All parking and loading shall occur on site as indicated on the approved site plan.

SIGNS

1. Not Applicable.

USE LIMITATIONS

1. Vegetative Waste Storage and Processing is permitted subject to the following:
 - a. Unprocessed vegetative waste shall be generated solely by the wholesale nursery and landscape service uses.
 - b. Vegetative waste operations shall consist solely of importing, temporary storage, decomposing, vertical grinding and on-site use or licensed off-site disposal of materials.
 - c. Fees shall not be charged to import unprocessed vegetative waste materials to the on-site Yard Waste Storage Area.
 - d. Outdoor storage of unprocessed vegetative waste material shall be limited to 90 days and the pile height of storage material shall be limited to a maximum of 15 feet. A minimum 20 feet of clearance shall be provided for emergency and fire vehicular access.
 - e. Outdoor storage of unprocessed vegetative waste shall be limited to the 100 foot x 100 foot Yard Waste Storage Area, as depicted on the approved site plan, which shall be set back a minimum of 50 feet from any property line and screened from view from a public road.

f. Chipping and mulching of vegetative waste shall only be performed by a “vertical grinder” on an “as-needed” basis, not to exceed a maximum of 4 times per year, during the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday. The vertical grinder shall not be permanently located on-site; rather it shall be imported to the site when needed from an off-site location.

2. Outdoor storage of debris, defined as an accumulation of material to be discarded, is prohibited.

3. Outdoor storage of other than vegetative waste shall only be allowed when incidental to the permitted principal and accessory uses of the property.

4. Operation of commercial vehicles over one ton rated capacity or gross vehicle weight of 10,000, including load, is prohibited from 7:00 p.m. to 6:00 a.m. daily.

5. The use of barbed wire is prohibited.

UTILITIES AND SERVICES

1. Above ground accessory fuel, gas or chemical storage tanks shall be setback a minimum of 20 feet from any property line and shall be completely screened from view by a continuous solid opaque hedge a minimum of 4 feet in height around the perimeter of the tank enclosure.

2. A minimum of one refuse container and one recycling container shall be provided. The refuse container shall be stored in a storage area and have a minimum dimension of 10 feet by 10 feet. Containers shall be screened from view by a solid opaque enclosure. The open end of the enclosure shall have an opaque gate which provides a minimum of 10 feet of clearance when open for service. All exposed exterior sides of the enclosure, other than the open end, shall be landscaped with one 36-inch high shrub planted 24 inches on center.

3. The existing septic tank shall be replaced and drain field repaired within 30 days of the approval of the site plan by the Town Council.

PUBLIC SAFETY

1. A Knox Box shall be installed at the entry gate for use in case of emergency.

COMPLIANCE

1. In granting this approval, the Town of Loxahatchee Groves relied upon the oral and written representations, including the Revised Statement of Use dated December 31, 2012 drafted by applicant’s agent Shutts Bowen LLP, of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Town Manager for review under the compliance condition of this approval.

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or

b. The revocation of the site plan approval; and/or

c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or

d. Referral to Code Enforcement Special Master.



10.a. Initiative Petition Certificate of Insufficiency

TOWN OF LOXAHATCHEE GROVES

MEMORANDUM NO. 2013-02

TO: Mayor David Browning
Members of the Town Council

CC: Mark Kutney, Town Manager
Susan Eichhorn, Town Clerk

FROM: Michael D. Cirullo, Jr., Office of the Town Attorney *MDC*

DATE: February 26, 2013

RE: Town of Loxahatchee Groves ("Town")/Citizen's Initiative to Rescind Ordinances 2012-04 and 2012-05

Background

As you are aware, the Town Council adopted two (2) ordinances on August 21, 2012 to facilitate the development of a new campus for Palm Beach State College. Ordinance 2012-04 amended the Town's Comprehensive Plan pursuant to Chapter 163, Florida Statutes, to amend the Land Use for property located at the northwest corner of Southern Boulevard and "B" from the Multiple Land Use Designation, to the RR-5 Land Use Designation on 75 acres and the Commercial Low Designation on the remaining approximately 21 acres. Ordinance 2012-05 amended the Town's Comprehensive Plan pursuant to Chapter 163, Florida Statutes, to insert text into the Town's Comprehensive Plan to regulate development of the 75 acre portion of the property (RR-5) for use by Palm Beach State College.

No appeals were filed as to either of the ordinances. Shortly after the expiration of the statutory appeal period, in October, 2012, Palm Beach State College closed on the Property.

Approximately one month after Palm Beach State College purchased the property, on November 7, 2012, an attorney, Robert Hartsell, filed with the Town Clerk a Commencement of Proceedings Affidavit, which established a Committee to circulate petitions to rescind Ordinances 2012-04 and 2012-05. Mr. Hartsell has since advised that he has no role in the matter or with any of the committee members.

Town Charter Initiative and Referendum Process

Section 8 of the Town Charter, entitled "Initiative and referendum" provides a process for a citizens' initiative to seek the rescission of an ordinance adopted by the Town Council. Subsection 8(2) of the Charter requires a committee of ten (10) electors to form a committee to circulate petitions. Subsection 8(3) provides that the committee has sixty (60) days to circulate

the petition and obtain the required number of signatures, a number equal to ten percent (10%) of the registered electors in the last regular town election.

Pursuant to subsection 8(4), once the committee files the Petition with the required signatures with the Town Clerk, the Town Clerk has twenty (20) days to review the Petition for Sufficiency. The Town Clerk's review is constrained by the literal language in the Charter, so for any item open for interpretation the Town Clerk will not rely on such for a finding of Insufficiency, and will defer to the Town Council for interpretation. Grounds for insufficiency are limited to those grounds in the charter.

Pursuant to subsection 8(5), a Petition deemed sufficient is then presented to the Town Council, which has thirty (30) days to either rescind the ordinance or schedule a referendum. Any referendum must be conducted between 30-60 days from the Town Council's decision.

Pursuant to subsection 8(4), if a Petition is found insufficient by the Town Clerk, the committee is to be formally notified of such by registered mail. The express language in the charter provides for the right to amend only as to a lack of the required number of signatures. Otherwise, the committee cannot amend the Petition. Upon receiving a Certificate of Insufficiency, the committee may seek to obtain additional signatures if that was the basis for a determination of Insufficiency, or must request review by the Town Council.

If the committee does not request review by the Town Council, the determination of the Town Clerk is Final. If the committee does request review by the Town Clerk, subsection 8(4)(b) expressly provides: "The town council shall review the certificate at its next meeting following the town council's filing of such request..." Thus, the filing of a request by the committee for review by the Town Council commences a two-step process for the Town Council. First, the Town Council "files" the request. This is a ministerial act, has nothing to do with consideration of the merits, and reflects no decision on the request by the Town Council. It merely provides public notice of the filing of the request and the scheduling of it at the next scheduled meeting of the Town Council. Then, at the second meeting, the Town Council considers the request. In considering the committee's request, the Town Council can confirm the Town's Clerk's Determination of Insufficiency, consider other issues where the charter is open to interpretation, or overrule the Town Clerk and find the Petition to be Sufficient. The determination of the Town Council is Final.

The Pending Citizen's Initiative

The committee that filed on November 7, 2012, did not turn any signatures for either petition into the Town Clerk. Instead, on January 7, 2013, on the sixtieth (60th) day after filing with the Town Clerk, a committee, a majority of which comprised the membership of the initially filed committee, filed affidavits to rescind the same two (2) ordinances that were the subject of the November 7, 2012, filing.

On February 4, 2013, the committee turned in the signed petitions for each ordinance. The Supervisor of Elections verified that the requisite number of signatures had been obtained for each petition. The Town Clerk reviewed the Petitions for Sufficiency pursuant to the requirements of the Town Charter. On February 14, 2013, the Town Clerk issued Certificates of Insufficiency to the committee for each of the petitions. The grounds for the determinations were identical as to each petition: The petitions filed with the Town Clerk did not have the entire text of the ordinance attached to them, and the affidavits of the circulators indicated that signers had the opportunity to review the text of the "petition," but the charter requires the affidavits to indicate that the signers had the opportunity to review the text of the "ordinance." The members of the committee were notified by registered mail (note that the committee specifically indicated that notice was to be sent to each member; in other words, it did not designate one person for notice. Therefore, ten separate registered mail notices had to be mailed by the Town Clerk).

In the Certificates of Insufficiency, the Town Clerk noted that since the Insufficiency was not based upon the number of signatures, the charter did not permit the petition to be amended.

On February 15, 2013, one of the members of the committee, Todd McLendon, filed an affidavit for each petition indicating that the full text of the ordinance was actually attached to the petitions and that signers had the opportunity to read the full text of the ordinance. The Town Clerk has considered these affidavits to be requests to have the Town Council review the Town Clerk's determination of Insufficiency.

Next Steps

As indicated above, once a request for review is received from the committee, a two-step process commences. As a result:

March 5, 2013: Town Council accepts and files the Affidavits of Todd McLendon. This is a ministerial step only. The merits of the affidavit or the Town Clerk's determination need not be discussed and are not relevant at this point in the process. Adopting a "Motion to File and Accept" is not a comment on the merits of the request, the merits of the Town Clerk's determination, or an indication of support or opposition, either way. It is simply public acknowledgement of the request and that the item will be considered at the next meeting of the Town Council.

March 19, 2013: The Town Council considers the Affidavits of Todd McClendon and reviews the Town Clerk's determination of Insufficiency. At this time, the Town Council can adopt the Town Clerk's determination of Insufficiency or find the petitions sufficient. In considering the Town Clerk's determination, the Town Council may also look at charter language that may be open to interpretation should it wish to review other issues related to the petitions, and the Town Clerk's determinations.

Should the Town Council agree with the Town Clerk, such is the final determination. If the Town Council disagrees with the Town Clerk and finds the petitions sufficient, it will need to schedule the petitions for either of the Town Council meetings in April (April 2, 2013 or April 16, 2013). At that point, the options for Town Council would be to commence the process of rescinding the ordinances, schedule a referendum on the petitions, or seek any judicial review the Council deems appropriate. Taking no action is not an option because the charter provides that in the event the Council does not act in a timely manner, a referendum is to be conducted.

Upon your review, please advise if you have any questions or require any additional information.

H:_GOV CLIENTS\LOX 1574\070240 GMMEMOS 2013\2013-02 (Initiative).docx



CERTIFICATE AS TO SUFFICIENCY/INSUFFICIENCY OF INITIATIVE PETITION

COMES NOW, the Town Clerk, Susan Eichhorn, pursuant to Section 8(4)(a) of the Town Charter of the Town of Loxahatchee Groves, Florida, and hereby provides this Certificate of Sufficiency/Insufficiency as follows:

Petition for Initiative for Repeal of Town of Loxahatchee Groves Ordinance 2012-04

I. PETITION PAPERS: Section 8(3)(b) of the Town Charter requires the following:

1. Papers of a petition shall be assembled as one instrument of filing: **SUFFICIENT**
2. Each signature shall be executed in ink and followed by the printed name and address of the person signing: **SUFFICIENT**
3. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered: **INSUFFICIENT**

II. AFFIDAVITS OF CIRCULATORS: Section 8(3)(c) of the Town Charter requires each paper in the petition to have an affidavit attached, and lists the required contents of the affidavit:

1. Affidavit indicates circulator personally circulated the paper: **SUFFICIENT**
2. Affidavit indicates the number of signatures thereon: **SUFFICIENT**
3. Affidavit indicates that all signatures were affixed in their presence: **SUFFICIENT**
4. Affidavit indicates that he or she believes them to be the genuine signatures of the persons whose names they purport to be: **SUFFICIENT**
5. Affidavit indicates that each signer had an opportunity to read the full text of the ordinance sought to be reconsidered. **INSUFFICIENT**

III. TIMING FOR COLLECTION OF SIGNATURES: Section 8(4) of the Town Charter requires filing of the petition signatures within 60 days of the date on which the proceedings with respect to the initiative are commenced: **SUFFICIENT**

IV. REQUIRED NUMBER OF SIGNATURES: According to the Voting Rolls for the Town as of the last Municipal Election, March 13, 2012, there were 2069 registered voters in the Town. On February 7, 2013, the Palm Beach County Supervisor of Elections, certified **241** signatures on the Petition to repeal Ordinance Number 2012-04, as being registered voters of the Town: **SUFFICIENT**

DETERMINATION

BASED UPON THE REVIEW OF THE PETITION AS SET FORTH IN THIS CERTIFICATE, THE ABOVE REFERENCED PETITION IS CERTIFIED:

INSUFFICIENT (PARAGRAPHS I(3) AND II(5), ABOVE)

Section 8(4)(a) of the Town Charter provides that “[a] petition certified for lack of the required number of valid signatures may be amended once[.]” The Charter does not provide for an amendment for a certification of insufficiency for any other reason. The above referenced petition was found insufficient for other reasons.

The Committee has the right to have the Town Council review this Certificate. Pursuant to Section 8(4)(b) of the Town Charter, should the Committee desire for the Town Council to review this Certification of Insufficiency, it is required to file a request with the Town Clerk within two (2) business days after receipt of this Certificate. A failure to timely file a request for the Town Council to review this Certificate shall result in this Certificate being FINAL. In the event of review by the Town Council, the determination of the Town Council is FINAL.

Done and Dated this 14th day of February, 2013.



Susan Eichhorn
Town Clerk

(SEAL)

Sent by certified mail, return receipt requested to:

Donna M. Dalimonte-Ulrich, Marshal Newell, Todd McLendon, Shire McLendon, Robin Davidson, Brian P. McNeil, Louis W. Lucas, Vicky Borrego, Barbara Flynn, Stephen Mark Komar



CERTIFICATE AS TO SUFFICIENCY/INSUFFICIENCY OF INITIATIVE PETITION

COMES NOW, the Town Clerk, Susan Eichhorn, pursuant to Section 8(4)(a) of the Town Charter of the Town of Loxahatchee Groves, Florida, and hereby provides this Certificate of Sufficiency/Insufficiency as follows:

Petition for Initiative for Repeal of Town of Loxahatchee Groves Ordinance 2012-05

- I. PETITION PAPERS:** Section 8(3)(b) of the Town Charter requires the following:
1. Papers of a petition shall be assembled as one instrument of filing: **SUFFICIENT**
 2. Each signature shall be executed in ink and followed by the printed name and address of the person signing: **SUFFICIENT**
 3. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered: **INSUFFICIENT**
- II. AFFIDAVITS OF CIRCULATORS:** Section 8(3)(c) of the Town Charter requires each paper in the petition to have an affidavit attached, and lists the required contents of the affidavit:
1. Affidavit indicates circulator personally circulated the paper: **SUFFICIENT**
 2. Affidavit indicates the number of signatures thereon: **SUFFICIENT**
 3. Affidavit indicates that all signatures were affixed in their presence: **SUFFICIENT**
 4. Affidavit indicates that he or she believes them to be the genuine signatures of the persons whose names they purport to be: **SUFFICIENT**
 5. Affidavit indicates that each signer had an opportunity to read the full text of the ordinance sought to be reconsidered. **INSUFFICIENT**
- III. TIMING FOR COLLECTION OF SIGNATURES:** Section 8(4) of the Town Charter requires filing of the petition signatures within 60 days of the date on which the proceedings with respect to the initiative are commenced: **SUFFICIENT**

- IV. REQUIRED NUMBER OF SIGNATURES:** According to the Voting Rolls for the Town as of the last Municipal Election, March 13, 2012, there were 2069 registered voters in the Town. On February 7, 2013, the Palm Beach County Supervisor of Elections, certified **244** signatures on the Petition to repeal Ordinance Number 2012-05, as being registered voters of the Town: **SUFFICIENT**

DETERMINATION

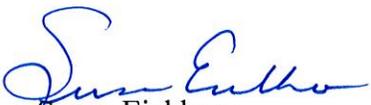
BASED UPON THE REVIEW OF THE PETITION AS SET FORTH IN THIS CERTIFICATE, THE ABOVE REFERENCED PETITION IS CERTIFIED:

INSUFFICIENT (PARAGRAPHS I(3) AND II(5), ABOVE)

Section 8(4)(a) of the Town Charter provides that “[a] petition certified for lack of the required number of valid signatures may be amended once[.]” The Charter does not provide for an amendment for a certification of insufficiency for any other reason. The above referenced petition was found insufficient for other reasons.

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Done and Dated this 14th day of February, 2013.



Susan Eichhorn
Town Clerk

(SEAL)

Sent by certified mail, return receipt requested to :Donna M. Dalimonte-Ulrich, Marshal Newell, Todd McLendon, Shire McLendon, Robin Davidson, Brian P. McNeil, Louis W. Lucas, Vicky Borrego, Barbara Flynn, Stephen Mark Komar

AFFIDAVIT OF TODD MCLENDON



STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, duly authorized to administer oaths and take acknowledgements, personally appeared Todd McLendon, who after being first duly sworn by me, deposes and says:

1. My name is Todd McLendon. I am over 18 years of age. The statements made in this affidavit are true and are based on my personal knowledge and experience.
2. I have been a resident of the Town of Loxahatchee Groves, Florida for over six years.
3. I currently reside at 3481 D Road, Loxahatchee, Florida.
4. I have owned the property at 3481 D Road, Loxahatchee, Florida for about seven years.
5. I am a member of the Committee that commenced Initiative proceedings for the reconsideration and referendum vote of Town of Loxahatchee Groves Ordinances 2012-04 and 2012-05 on November 6, 2012.
6. Throughout circulation of the Petition for Initiative for Repeal of Town of Loxahatchee Groves Ordinance 2012-04, the Petition had attached thereto Ordinance 2012-04 in full text.
7. Throughout circulation of the Petition for Initiative for Repeal of Town of Loxahatchee Groves Ordinance 2012-04, each signer had an opportunity to read the full text of Ordinance 2012-04.

I DECLARE under penalty of perjury that the foregoing is true and correct.

Executed this 15 day of February, 2013.



Todd McLendon
3481 D Road
Loxahatchee, Florida 33470

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, on this day personally appeared
TODD MCLENDON, who I know or who has shown FL DL as
legal identification, and who after being by me first duly sworn, deposes and
states that he executed the foregoing Affidavit and that the statements
contained therein are true and correct to the best of his knowledge and belief.

WITNESS my hand and official seal at Wells Fargo Bank, on
this 15 day of February, 2013.



Carlos Gasper
Notary Public
State of Florida



Notary Public CARLOS GASPER

My Commission Expires:

MY COMMISSION # EE 860703

Expires: December 26, 2016

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-04

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES FLORIDA COMPREHENSIVE PLAN TO: (1) AMEND THE COMPREHENSIVE PLAN TEXT TO RESCIND SPECIAL POLICY 1.15.1 UNDER OBJECTIVE 1.15 OF THE FUTURE LAND USE ELEMENT; AND (2) AMEND THE FUTURE LAND USE MAP FLU-1.10 TO RESCIND THE MULTIPLE LAND USE DESIGNATION AND SPECIFIC REFERENCE TO SPECIAL POLICY 1.15.1 ON THE 96.73 ACRES LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND "B" ROAD LOXAHATCHEE GROVES, FLORIDA, THUS RESTORING THE RR-5 LAND USE DESIGNATION ON THE PROPERTY; AMENDING THE FUTURE LAND USE MAP TO ASSIGN THE COMMERCIAL LOW DESIGNATION TO THE 21.73 ACRES LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND "B" ROAD LOXAHATCHEE GROVES, FLORIDA AS INDICATED ON EXHIBIT 1 HERETO; PROVIDING FOR AMENDMENT TO THE COMPREHENSIVE PLAN TO REFLECT SUCH CHANGES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, provisions of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985 require adoption of a comprehensive plan; and;

WHEREAS, the Town of Loxahatchee Groves, Florida, pursuant to the Local Government Comprehensive Planning Act, and in accordance with all of its terms and provisions, adopted its Comprehensive Plan which became effective on August 19, 2011; and,

WHEREAS, on September 20, 2011, the Town Council adopted Ordinance 2011-015, which amended the Land Use Category on the 96.73 acres located at the northwest corner of Southern Boulevard and "B" Road ("Simon Property"), within the Town of Loxahatchee Groves, Florida, from the Land Use Designation Rural Residential 5 to the Multiple Land Use ("MLU") designation to include Commercial Low, Commercial Low-Office and Rural Residential Land Uses within the MLU, and adopted Special Policy 1.15.1 under Objective 1.15 of the Future Land Use Element of the Town's Comprehensive Plan to govern the uses on the Simon Property

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-04

pursuant to the MLU designation; and,

WHEREAS, the Simon Property is now the subject of Purchase and Sale Agreement with Palm Beach State College (PBSC) for seventy-five (75) acres of the 96.73 acres for the development of a new campus for PBSC, and the remaining 21.73 acres at the southeast corner of the Simon Property are the subject of a Purchase and Sale Agreement for the development of a commercial and retail use; and,

WHEREAS, the proposed uses on the Simon Property by the two contract purchasers is incompatible with the MLU Land Use Designation; and

WHEREAS, the Rural Residential-5 Land Use Category permits the use of the 75 acres as depicted on Exhibit "1" to be purchased by PBSC to be used for its new campus ("PBSC Property"), and the Commercial Low Land Use Category will permit the use of the 21.73 acres at the southeast corner of the Simon Property as depicted on Exhibit "1" ("Commercial Property") to be used for the proposed commercial/retail use; and,

WHEREAS, the Contract Purchasers for the PBSC Property and the Commercial Property have filed Application 12-1, to amend the Town's Comprehensive Plan to rescind the MLU designation placed on the Simon Property by Ordinance 2011-015, restoring the Rural Residential – 5 Land Use on the Town's Future Land Use Map for entire Simon Property, amend the Town's Comprehensive Plan to amend the Future Land Use Map to assign the Commercial Low (CL) Land Use designation to the Commercial Property, as depicted on Exhibit "1" hereto, and to rescind Special Policy 1.15.1 of Objective 1.15 of the Town's Comprehensive Plan which would no longer govern the uses on the Simon Property upon the approval of the amendments to the Town's Future Land Use Map as set forth herein (the "Amendment"); and,

WHEREAS, the Town's Planning Consultant recommends approval of Application 12-1

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-04

and the Amendment; and,

WHEREAS, the Town's Planning Consultant recommends the transmittal of this Land Use Plan Amendment consistent with his recommendations, to the State of Florida Department of Economic Opportunity (DEO) (formerly Department of Community Affairs) and all other agencies having jurisdiction over the Amendment for their review; and,

WHEREAS, at a public hearing conducted on April 12, 2012, the Town's Planning and Zoning Board, in its capacity as the Town's Local Planning Agency, reviewed the Amendment, the records of which are incorporated herein and made specific part thereof, and recommended approval of Application 12-1 and the Amendment; and,

WHEREAS, the Town Council of the Town of Loxahatchee Groves has conducted public hearings on this Amendment; and,

WHEREAS, the Amendment will be transmitted to the DEO for review and all other agencies having jurisdiction over the Amendment for review and comments, all as provided by law; and,

WHEREAS, the Town Council of the Town of Loxahatchee Groves has deemed it to be in the best interest of the citizens and residents of the Town of Loxahatchee Groves to adopt the Amendment to the Town's Comprehensive Plan, in accordance with Chapter 163, specifically Section 163.3184 Florida Statutes, to rescind the MLU designation assigned to the Simon Property pursuant to Ordinance 2011-015, restoring the Rural Residential – 5 Land Use Category to the Simon Property, assign the Commercial Low (CL) Land Use Category to the Commercial Property, and rescind Special Policy 1.15.1 of the Future Land Use Element of the Town's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-04

TOWN OF LOXAHATCHEE GROVES, FLORIDA:

SECTION 1: That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of the Ordinance upon adoption hereof; all exhibits and reports attached hereto or referenced herein are incorporated herein and made a specific part of this Ordinance.

SECTION 2: The Town Council has reviewed the application as the governing board of the Town, and finds the following:

1. The Amendment, as approved herein, is consistent with the goals, objectives and policies of the currently effective comprehensive plan;
2. The characteristics of the surrounding area and the characteristics included in the proposed development are compatible;
3. The Town of Loxahatchee Groves has the ability or will have the ability to provide, or insure the provision of necessary services for the additional demand for public facilities.

SECTION 3: The Town Council approves and adopts the recommendations of the Town’s Planning Consultant, which are incorporated herein.

SECTION 4: The Land Use Plan Amendment to the Comprehensive Plan of the Town of Loxahatchee Groves (Application No. 12-1) reviewed by the Town’s Planning Consultant, the Town’s Planning and Zoning Board in its capacity as the Local Planning Agency, and approved by the Town Council in its capacity as the governing body of the Town, to rescind the MLU Land Use Designation placed on the Simon Property pursuant to Ordinance 2011-015, restoring the Rural Residential – 5 Land Use Category to the Simon Property, assign the Commercial Low (CL) Land Use category to the Commercial Property, and rescind Special

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-04

Policy 1.15.1 of the Future Land Use Element of the Town's Comprehensive Plan is adopted and approved.

SECTION 5: The Town's Planning Consultant is further authorized and directed to make the necessary textual changes to the Future Land Use Element and map changes to Map # FLU-1.10 of the Town's Comprehensive Plan in order to reflect the above-stated changes.

SECTION 6: All Ordinances or parts of Ordinances, including without limitation Ordinance 2011-015, and all Resolutions or parts of Resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 8: This Ordinance shall become effective as provided by law.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 26TH DAY OF JUNE, 2012.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 21ST DAY OF AUGUST, 2012.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Mayor David Browning

TOWN CLERK

Vice Mayor Jim Rockett

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-04

APPROVED AS TO LEGAL FORM:

Council Member

Council Member

Office of the Town Attorney

Council Member

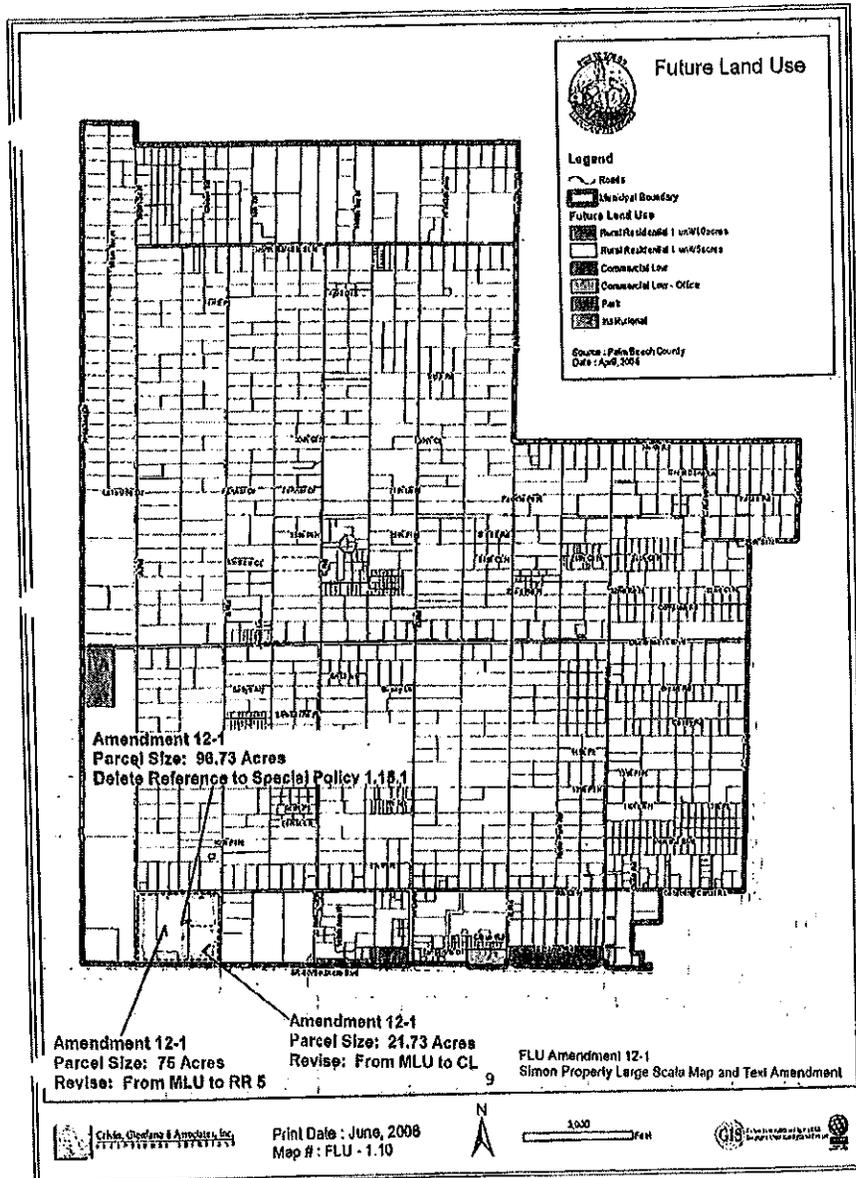
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TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-04

EXHIBIT "1"

PROPERTY SUBJECT OF THE AMENDMENT



AFFIDAVIT OF TODD MCLENDON



STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, duly authorized to administer oaths and take acknowledgements, personally appeared Todd McLendon, who after being first duly sworn by me, deposes and says:

1. My name is Todd McLendon. I am over 18 years of age. The statements made in this affidavit are true and are based on my personal knowledge and experience.
2. I have been a resident of the Town of Loxahatchee Groves, Florida for over six years.
3. I currently reside at 3481 D Road, Loxahatchee, Florida.
4. I have owned the property at 3481 D Road, Loxahatchee, Florida for about seven years.
5. I am a member of the Committee that commenced Initiative proceedings for the reconsideration and referendum vote of Town of Loxahatchee Groves Ordinances 2012-04 and 2012-05 on November 6, 2012.
6. Throughout circulation of the Petition for Initiative for Repeal of Town of Loxahatchee Groves Ordinance 2012-05, the Petition had attached thereto Ordinance 2012-05 in full text.
7. Throughout circulation of the Petition for Initiative for Repeal of Town of Loxahatchee Groves Ordinance 2012-05, each signer had an opportunity to read the full text of Ordinance 2012-05.

I DECLARE under penalty of perjury that the foregoing is true and correct.

Executed this 15 day of February, 2013.

Todd McLendon
3481 D Road
Loxahatchee, Florida 33470

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, on this day personally appeared
TODD MCLENDON, who I know or who has shown FL DL as
legal identification, and who after being by me first duly sworn, deposes and
states that he executed the foregoing Affidavit and that the statements
contained therein are true and correct to the best of his knowledge and belief.

WITNESS my hand and official seal at WELLS FARGO BANK, on
this 15 day of February, 2013.



Carlos Gasperi
Notary Public
State of Florida
Notary Public CARLOS GASPERI

My Commission Expires:

MY COMMISSION # EE 860703
Expires: December 26, 2016

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-05

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES FLORIDA COMPREHENSIVE PLAN TO (1) AMEND THE COMPREHENSIVE PLAN TEXT TO CREATE SPECIAL POLICY 1.15.4 UNDER OBJECTIVE 1.15 OF THE FUTURE LAND USE ELEMENT WHICH REGULATES DEVELOPMENT ON THE 74.99 ACRE PROPERTY LOCATED GENERALLY AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND "B" ROAD LOXAHATCHEE GROVES, FLORIDA, AS SPECIFICALLY INDICATED ON EXHIBIT 1, KNOWN AS THE PALM BEACH STATE COLLEGE PARCEL; AND (2) AMEND THE FUTURE LAND USE MAP FLU-1.10 TO INCORPORATE A SPECIFIC REFERENCE TO SPECIAL POLICY 1.15.4; PROVIDING FOR AMENDMENT TO THE COMPREHENSIVE PLAN TO REFLECT SUCH CHANGES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, provisions of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985 require adoption of a comprehensive plan; and;

WHEREAS, the Town of Loxahatchee Groves, Florida, pursuant to the Local Government Comprehensive Planning Act, and in accordance with all of its terms and provisions, adopted its Comprehensive Plan which became effective on August 19, 2011; and,

WHEREAS, the Town has adopted Ordinance 2012-04, to amend the Town's Comprehensive Plan, which approved Land Use Application 12-1 and amended the Land Use Category on the 96.7 acres located at the northwest corner of Southern Boulevard and "B" Road ("Simon Property"), within the Town of Loxahatchee Groves, Florida, to rescind the MLU designation placed on the Simon Property by Ordinance 2011-015, restoring the Rural Residential - 5 Land Use on the Town's Future Land Use Map for entire Simon Property, amended the Town's Comprehensive Plan to amend the Future Land Use Map to assign the Commercial Low (CL) Land Use designation to the 21.73 acres located at the southeast corner of the Simon Property, and rescinded Special Policy 1.15.1 of Objective 1.15 of the Town's

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-05

Comprehensive Plan which would no longer govern the uses on the Simon Property upon the approval of the Application 12-1; and,

WHEREAS, Palm Beach State College (PBSC) has entered into a Purchase and Sale Agreements for 74.99 acres of the 96.73 acres of the Simon Property (“PBSC Property”), which pursuant to the adoption of Ordinance 2012-04 has a Land Use designation of Rural Residential – 5 (RR-5), for the development of a new campus for PBSC, as depicted on Exhibit “1” hereto (the “PBSC Property”); and,

WHEREAS, the RR-5 Land Use Category placed on the Property through the adoption of Ordinance 2012-04 and approval of Application 12-1 permits the use of the 74.99 acres to be purchased by PBSC to be used for its new campus (“PBSC Property”); and,

WHEREAS, PBSC has filed Amendment 12-2 to amend the Town’s Comprehensive Plan to add Special Policy 1.15.4 to the Future Land Use Element of the Town’s Comprehensive Plan, which will be delineated on the Town’s Future Land Use Map, to regulate the development of the PBSC Property as a college campus (the “Amendment”); and

WHEREAS, the Town’s Planning Consultant recommends approval of Application 12-2 and the Amendment; and,

WHEREAS, the Town’s Planning Consultant recommends the transmittal of the Amendment, to the State of Florida Department of Economic Opportunity (DEO) (formerly Department of Community Affairs) and all other agencies having jurisdiction over the Amendment for their review; and,

WHEREAS, at a public hearing conducted on April 12, 2012, the Town’s Planning and Zoning Board, in its capacity as the Town’s Local Planning Agency, reviewed the Amendment, the records of which are incorporated herein and made specific part thereof, and recommended

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-05

approval of Application 12-2 and the Amendment with two (2) recommended amendments to the proposed language; and,

WHEREAS, the Town Council of the Town of Loxahatchee Groves has conducted public hearings on this Amendment; and,

WHEREAS, the Amendment will be transmitted to the DEO for review and all other agencies having jurisdiction over the Amendment for review and comments, all as provided by law; and,

WHEREAS, the Town Council of the Town of Loxahatchee Groves has deemed it to be in the best interest of the citizens and residents of the Town of Loxahatchee Groves to adopt the Amendment to the Town's Comprehensive Plan, in accordance with Chapter 163, specifically Section 163.3184 Florida Statutes, to add Special Policy 1.15.4 to the Future Land Use Element of the Town's Comprehensive Plan, which will be delineated on the Town's Future Land Use Map, to regulate the development of the PBSC Property as a college campus.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA:

SECTION 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of the Ordinance upon adoption hereof; all exhibits and reports attached hereto or referenced herein are incorporated herein and made a specific part of this Ordinance.

SECTION 2: The Town Council has reviewed the Application as the governing board of the Town, and finds the following:

1. The Amendment, as hereinafter approved herein, is consistent with the goals, objectives and policies of the currently effective comprehensive plan;

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-05

2. The characteristics of the surrounding area and the characteristics included in the proposed development are compatible;

3. The Town of Loxahatchee Groves has the ability or will have the ability to provide, or insure the provision of, necessary services for the additional demand for public facilities.

SECTION 3: The Town Council approves and adopts the recommendations of the Town's Planning Consultant, and Planning and Zoning Board, which are incorporated herein.

SECTION 4: The Amendment to the Comprehensive Plan of the Town of Loxahatchee Groves (Application No. 12-2) reviewed by the Town's Planning Consultant, the Town's Planning and Zoning Board in its capacity as the Local Planning Agency, and approved by the Town Council in its capacity as the governing body of the Town, to amend the Town's Comprehensive Plan to add Special Policy 1.15.4 to the Future Land Use Element of the Town's Comprehensive Plan, which will be delineated on the Town's Future Land Use Map, to regulate the development of the PBSC Property as a college campus, as set forth as Attachment A1 in the Planning Consultant's Report, and attached to this Ordinance as Exhibit "2" and incorporated herein, is adopted and approved.

SECTION 5: The Town's Planning Consultant is further authorized and directed to make the necessary textual changes to the Future Land Use Element and map changes to Map # FLU-1.10 of the Town's Comprehensive Plan in order to reflect the above-stated changes.

SECTION 6: All Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-05

applications of this Ordinance that can be given affect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 8: This Ordinance shall become effective as provided by law.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 26TH DAY OF JUNE, 2012.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 21ST DAY OF AUGUST, 2012.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Mayor David Browning

TOWN CLERK

Vice Mayor Jim Rockett

APPROVED AS TO LEGAL FORM:

Council Member

Council Member

Office of the Town Attorney

Council Member

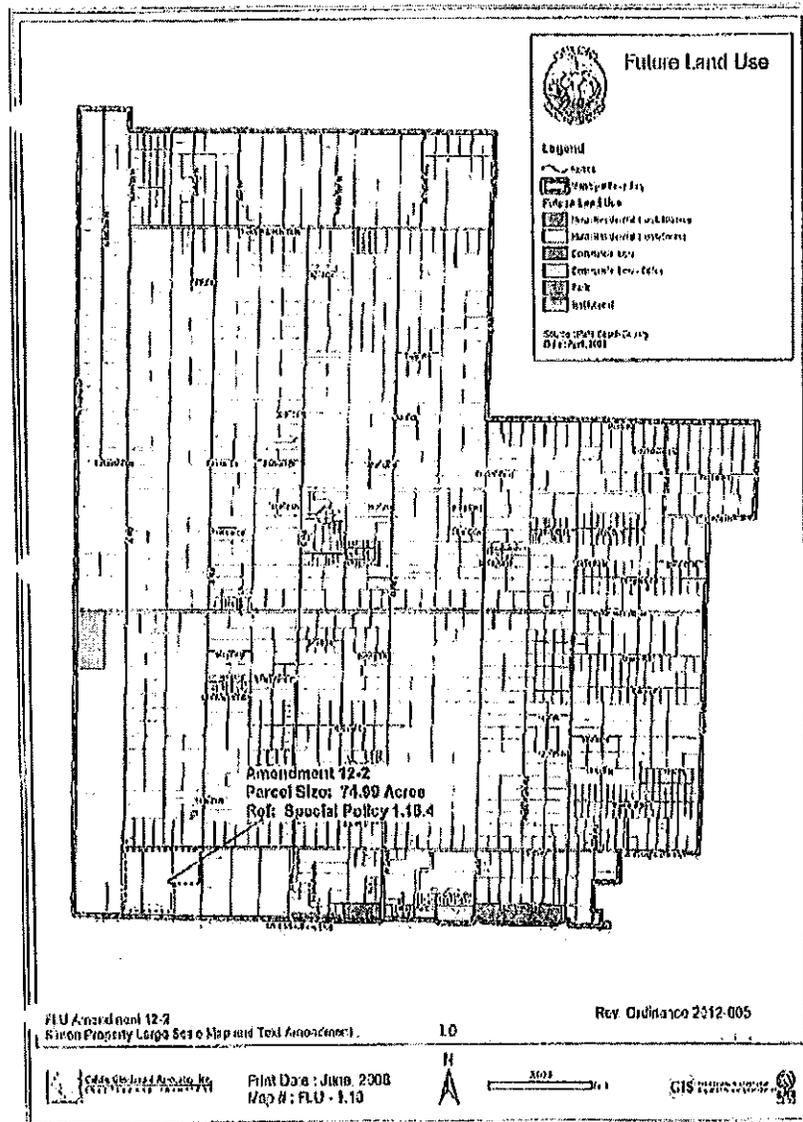
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TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-05

EXHIBIT "1"

DEPICTION OF PROPERTY SUBJECT TO AMENDMENT



TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-05

EXHIBIT "2"

SPECIAL POLICY 1.15.4

Words underlined are additions to the current text of the Loxahatchee Groves Comprehensive Plan.

1.15.4 Special Policy:

Policy 1.15.4: Development on the Palm Beach State College Property delineated as "Special Policy 1.15.4" on the Future Land Use Map, Map # FLU-1.10, shall be regulated by the following criteria:

i. Policy 1.15.4-a: Development of the property shall be governed only by the following regulations:

- a. SREF- State Requirements for Educational Facilities as adopted in Rule 6A-2.0010
- b. Florida Building Code
- c. Florida Fire Prevention Code
- d. South Florida Water Management District
- e. Loxahatchee Groves Water Control District

ii. Policy 1.15.4-b: A "Master Site Development Plan" providing the following information for the overall site shall be submitted to the Town for approval prior to issuance of the first building permit:

- a. Site Acreage
- b. Site boundaries clearly identified, and ties to section corners.
- c. Existing and proposed land uses and existing uses on adjacent land.
- d. Generalized location of development areas and uses.
- e. Indication of vehicular connections to public rights-of-way.
- f. A valid Conceptual Driveway Permit approval from the Florida Department of Transportation issued pursuant to the "State Highway System Access Management Classification System and Standards", as amended.
- g. Design Guidelines to be consistent with the intentions of the Town's Rural Vista Guidelines as can be applied to a college campus.

- h. All adjacent public and private rights-of-way and easements, indication of ultimate right-of-way line, centerline, width, pavement width, existing and proposed median cuts and intersections, street light poles and other utility facilities and easements.
 - i. Indication of existing native vegetation that will be preserved.
 - j. A detail of the proposed buffer for screening along the northern boundary, including addressing removal of invasive vegetation and replanting.
 - k. Site Data, including the maximum intensity permitted on site.
- iii. Policy 1.15.4-c: A copy of the "Campus Master Plan" prepared pursuant to REF- State Requirements for Educational Facilities as adopted in Rule 6A-2.0010 and all future 5-year updates shall be submitted to the Town of Loxahatchee Groves for informational purposes. The 5 - year updates to the "Campus Master Plan" shall be submitted to the Town of Loxahatchee Groves for informational purposes prior to submission of the Plan to the Department of Education. During the development of the Educational Plant Survey and the Campus Master Plan, the Town shall be given the opportunity to raise any issues or concerns with the Plan for consideration by the College.

Ordinance 2012-05



10.b. Martin McCabe issue – Councilman Ron Jarriel



10.c. Abandonment/Foreclosure Properties Information

ORDINANCE NO. 847

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA AMENDING CHAPTER 6. BUILDINGS AND BUILDING REGULATIONS. AT ARTICLE II. BUILDING CODE. BY REPEALING SECTIONS 6-21., 6-22., 6-23., 6-24. AND 6-26. IN THEIR ENTIRETY AND READOPTING SECTIONS 6-21. 6-22., 6-24. AS REVISED, IN ORDER TO ADOPT NEW AMENDMENTS TO CHAPTER 1. ADMINISTRATION. OF THE LATEST EDITION OF THE FLORIDA BUILDING CODE IN ACCORDANCE WITH STATE LAW ALONG WITH PERMIT FEE AUTHORIZATION AND RESERVING SECTIONS 6-23. AND 6-26. FOR FUTURE LEGISLATION; FURTHER AMENDING CHAPTER 6. AT ARTICLE XI. STANDARD HOUSING CODE. BY ADOPTING AN ENTIRELY NEW DIVISION 3. TO BE ENTITLED "REGISTRATION OF REAL PROPERTY SUBJECT TO FORECLOSURE" IN ORDER TO PROVIDE REGULATIONS REGARDING THE REGISTRATION OF REAL PROPERTY UPON DEFAULT BY THE MORTGAGOR OR UPON SALE OF PROPERTY BACK TO A MORTGAGEE; PROVIDING A CONFLICTS CLAUSE; A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Florida legislature has adopted a statewide Building Code as part IV. of Chapter 553, *Florida Statutes*, which is known as the "Florida Building Codes Act"; and

WHEREAS, all local governments must follow the rules and regulations as promulgated in that statewide building code with certain exceptions being permitted for administrative amendments thereto as now set forth in Chapter 6. Buildings and Building Regulations.; and

WHEREAS, the Village Council of the Village of Royal Palm Beach desires to amend Chapter 6. in order to update its administrative amendments to the Florida Building Code and to provide for a process by which real property, subject to foreclosure, is maintained in accordance with the Village's property maintenance code along with a mechanism for keeping track of the current owner or mortgage holder of the property; and

WHEREAS, the Village Council believes that these amendments to Chapter 6. adopting certain administrative amendments and/or supplements to implement the Florida Building Code as provided for in the state statutes and providing for a process to track the ownership and maintenance of property which has been subject to foreclosure is in the best interests of the citizens of the Village of Royal Palm Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA THAT:

Section 1: Chapter 6. Buildings and Building Regulations. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article II. Building Code. by repealing Sections 6-21. Florida Building Code incorporated by reference., 6-22. Amendments to Chapter 1, Administration. of the Florida Building Code., 6-23. Basic wind speed line designation, 6-24. Building permit fees established by resolution of the village council., and 6-26. Technical code amendments.; and readopting only Sections 6-21., 6-22. and 6-24. as revised, while reserving Sections 6-23. and 6-26.-6-35 for future legislation; providing that Article II. Building Code. shall hereafter read as follows:

Article II. Building Code.

Sec. 6-21. Florida Building Code Incorporated by reference.

The Florida Building Code, as adopted by the state legislature, is hereby incorporated by reference as the building code for the Village of Royal Palm Beach, Florida with the amendments set forth in Sec. 6-22. ~~6-23., 6-26. and 6-175.~~ hereinbelow.

Sec. 6-22. Amendments to Chapter 1. Administration. of the Florida Building Code.

The Village of Royal Palm Beach hereby amends and supplements Chapter 1. Administration. of the Florida Building Code, updated as of 2007, by the adoption or deletion of the following sections of said chapter. Chapter 1. as hereby amended shall be in full force and effect within the Village of Royal Palm Beach. The local amendments to the Florida Building Code for Chapter 1 as set forth and contained in Exhibit A, are hereby adopted and incorporated herein and shall be maintained on file with the offices of the Village Clerk and the Community Development Department.

Sec. 6-23. Reserved. ~~Basic wind speed line designation.~~

(Note for codification: The regulations formerly set forth Sec.6-23. have been deleted in their entirety.)

Sec. 6-24. Building permit fees established by resolution of the Village Council.

The Village council shall, by resolution, establish reasonable rates to be charged for permit fees required for all buildings, structures or alterations requiring a permit. The fee shall be paid as required at the time of filing application in accordance with the schedule as established by resolution and shall be based on the total cost valuation of the work. Total cost valuation may be established by submission of a signed, notarized contract. Additional administrative fees for such additional items as reinspection, demolition, condemnation, structural pest control and moving of buildings shall also be established by resolution of the Village council.

The current resolution setting forth the schedule of all current fees and charges levied by the Village shall be available for inspection at the Village hall during regular business hours.

~~All fees for building permits and/or other services rendered to the public by the building department shall be established by resolution of the Village council; which resolution shall be on file at the office of the building department, as well as the office of the village clerk for inspection by the public during regular business hours.~~

Sec. 6-25. Vacant commercial properties.

(Shall remain the same as previously adopted.)

Secs. 6-26.— 6-35. Reserved.

(Note for codification: The regulations formerly set forth Sec.6-26. have been deleted in their entirety.)

Section 2. Chapter 6. Buildings and Building Regulations. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article XI. Standard Housing Code. by adopting an entirely new Division 3. to be entitled “Registration of Real Property Subject to Foreclosure” to provide for new regulations regarding the registration and maintenance of real property subject to foreclosure in the Village; providing that new Division 3. at Article XI. shall hereafter read as follows:

DIVISION 3. REGISTRATION OF REAL PROPERTY SUBJECT TO FORECLOSURE

Section 6-197. Registration required.

(a) This Division shall apply to any and all of the following categories of properties:

- (1) properties that are under a current notice of default and/or notice of mortgagee’s sale by lender as evidenced in the public records;
- (2) properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure; and
- (3) properties transferred to the mortgagee under a deed in lieu of foreclosure/sale.

(b) Any mortgagee who holds a mortgage on real property located within the Village which is subject to this Division as outlined hereinabove shall register the property with the Village’s Code Enforcement Officer, his/her designee, or the Village’s authorized representative, on forms provided by the Village or the Village’s designee and shall perform an inspection at least once a month of the property that is the security for the mortgage.

(c) Registration pursuant to this division shall contain at least the following:

- (1) the name of the mortgagee;
- (2) the direct mailing address of the mortgagee;
- (3) a direct contact name, telephone and facsimile number of mortgagee;

- (4) the local property management company responsible for the security and maintenance of the property if different than the mortgagee; and
- (5) the direct contact name and telephone number of the property manager, facsimile number and email address, and mobile telephone number for direct contact.

(d) An annual registration fee in the amount which shall be set by a resolution of the Village Council shall accompany the registration.

(e) Properties subject to this Division shall remain under the annual registration requirement, security and maintenance standards of this division until the mortgagor or other party remedies the default or a certificate of title is issued by a Court of competent jurisdiction to a party who is not the mortgagee or beneficiary of a mortgagee.

(f) Any person or corporation that has registered a property under this Division shall report any change of information contained in the registration within ten (10) days of the change. In addition, the registrant shall notify the Village official, designated on the registration forms, if the property should become vacant or show evidence of vacancy as this condition is defined hereinbelow at Sec. 6-199.

Sec. 6-198. Maintenance standards for real property subject to foreclosure.

(a) In addition to the complying with Sec. 6-25. of Article II. and the Village's Minimum Property Standards at Division 2. of Article XI. hereinabove, properties subject to this Division shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, and discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned or vacant.

(b) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.

(c) Front, side, and rear yard landscaping shall be maintained in accordance with the Village's Code of Ordinances at Chapter 15. and in accordance with the following standards at the time registration was required:

- (1) Landscaping shall include, but not be limited to, grass, ground cover, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for installation.
- (2) Landscaping shall not show evidence of gravel, broken concrete, asphalt or similar material unless xeriscape plans incorporating same have been approved by the Village.

(3) Landscaping maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing of required landscape and removal of all trimmings.

(d) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the Village Code and Florida Building Code, as such may be amended from time to time.

(e) Failure of the mortgagee and/or property owner of record to properly maintain the property subject to this Division shall be deemed a violation of this Code and may result in the issuance of a citation or notice of violation/notice of hearing by a Village Code Enforcement Officer. Pursuant to a finding of violation and order of the Village's Code Enforcement Special Magistrate, the Village may take the necessary abatement action to ensure compliance with this Division.

Sec. 6-199. Security, inspection and notice requirements.

(a) Properties subject to this Division which have also been determined to be vacant or show evidence of vacancy shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Evidence of vacancy shall mean any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant which include, but are not limited to, the following: overgrown and/or dead vegetation; an accumulation of abandoned personal property such as personal articles or machinery left abandoned and unprotected from the elements; or statements by neighbors, passers-by, delivery agents or government agents indicating that the property is vacant.

(1) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property and/or structure.

(2) Broken windows shall be secured by re-glazing, not by boarding over.

(b) The mortgagee and/or owner shall contract with a local property management company which shall perform inspections at least once a month to verify compliance with the requirements of this Division and any other applicable regulations; and upon the request of the Village, the local property management company shall provide a copy of the inspection reports to the Code Enforcement Department.

(c) The property which is determined to be vacant or shows evidence of vacancy shall be posted with the name and twenty-four (24) hour contact phone number of the local property management company. The posting shall be no more than an eight and a half inch (8 1/2") by eleven inch (11") sign. The posting shall contain the following language and information:

THIS PROPERTY IS MANAGED BY:

[Name of property management company]

TO REPORT PROBLEMS OR CONCERNS CALL

(Telephone number of property management company)

(1) The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible; or

(2) if no such area exists, the posting shall be placed on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property; and

(3) Exterior posting shall be constructed of and printed with weather-resistant materials.

(d) Failure of the mortgagee and/or property owner of record to properly secure and notice the vacant property shall be deemed a violation of this Code and may result in the issuance of a citation or notice of violation/notice of hearing by a Village Code Enforcement Officer. Pursuant to a finding of violation and order of the Village's Code Enforcement Special Magistrate, the Village may take the necessary abatement action to ensure compliance with this Division.

Secs. 6-200. — 6-205. Reserved.

Section 3: Each and every other section and subsection of Chapter 6. Buildings and Building Regulations. shall remain in full force and effect as previously enacted.

Section 4: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

Section 5: Should any Section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

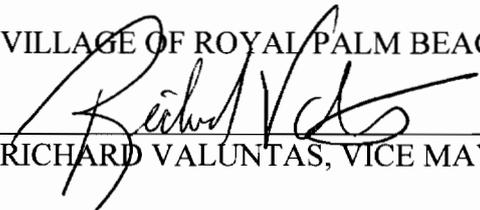
Section 6: Specific authority is hereby granted to codify this Ordinance.

Section 7: The Ordinance enacting amendments to the Florida Building Code shall be transmitted to the Florida Building Commission within thirty (30) days after adoption.

Section 8: This Ordinance shall take effect immediately upon adoption.

FIRST READING this 7th day of April, 2011.

SECOND READING AND FINAL READING this 21st day of April, 2011.

VILLAGE OF ROYAL PALM BEACH


RICHARD VALUNTAS, VICE MAYOR
(SEAL)

ATTEST:



DIANE DISANTO, VILLAGE CLERK

CHAPTER 1 ADMINISTRATION

SECTION 101 GENERAL

101.1 Title.

These regulations shall apply to and be part of the *Florida Building Code*, hereinafter referred to as "this code."

101.2 Scope.

The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures as herein amended by the Village of Royal Palm Beach.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the *Florida Building Code, Residential*.
2. Existing buildings undergoing repair, alterations or additions and change of occupancy shall comply with Chapter 34 of this code.

101.2.1 Appendices.

Provisions in the appendices shall not apply unless specifically adopted.

101.3 Intent.

The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

101.3.1 Quality Control. Quality control of materials and workmanship is not within the purview of this code except as it relates to purposes stated herein.

101.3.2 Permitting, Plan Review and Inspection. The permitting, plan review or inspection of any building, system or plan by this Village under the requirements of this code shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy. The Village shall not be liable in tort for damages or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting. Further, no Building Department employee shall be liable in tort for damages from such conditions, in accordance with Section 768.28(9)(a), Florida Statutes, as may be amended.

101.4 Referenced codes.

The other codes listed in Sections 101.4.1 through 101.4.8 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

101.4.1 Electrical.

The provisions of Chapter 27 of the *Florida Building Code*, Building shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

101.4.2 Gas.

The provisions of the *Florida Building Code, Fuel Gas* shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

101.4.3 Mechanical.

The provisions of the *Florida Building Code, Mechanical* shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

101.4.4 Plumbing.

The provisions of the *Florida Building Code, Plumbing* shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

101.4.5 Reserved.

101.4.6 Fire prevention.

For provisions related to fire prevention, refer to the *Florida Fire Prevention Code*. The *Florida Fire Prevention Code* shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

101.4.7 Energy.

The provisions of Chapter 13 of the *Florida Building Code*, Building shall apply to all matters governing the design and construction of buildings for energy efficiency.

101.4.8 Accessibility.

For provisions related to accessibility, refer to Chapter 11 of the *Florida Building Code, Building*.

101.4.9 Manufactured buildings.

For additional administrative and special code requirements, see Section 428, *Florida Building Code, Building*, and Rule 9B-1 F.A.C.

SECTION 102 APPLICABILITY

102.1 General.

Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

102.1.1

The *Florida Building Code* does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair or demolition of public or private buildings, structures or facilities or to programmatic requirements that do not pertain to enforcement of the *Florida Building Code*. Additionally, a local code enforcement agency may not administer or enforce the *Florida Building Code*, *Building* to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law. In addition to the requirements of this code, there may be other regulations by other agencies affecting details of development, building design and construction, such as, but not limited to:

OTHER AGENCIES:

Federal EPA & State DEP:

State Health Department:

PBG Police Department:

PBG Growth Management Department:

TOPICS REGULATED:

Wetlands & Dock Permitting

Wells & Septic Systems

Commercial Building Security

Floodplain Regulation

Zero Lot Line Homes

Townhouses

Patio Screens and Roofs

Setbacks

Height Limitations

Irrigation Rainfall Sensors

Roof Overhangs in Easements

102.2 Building.

The provisions of the *Florida Building Code* shall apply to the construction, erection, alteration, modification, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every public and private building, structure or facility or floating residential structure, or any appurtenances connected or attached to such buildings, structures or facilities. Additions, alterations, repairs and changes of use or occupancy group in all buildings and

structures shall comply with the provisions provided in Chapter 34 of this code. The following buildings, structures and facilities are exempt from the *Florida Building Code* as provided by law, and any further exemptions shall be as determined by the legislature and provided by law:

- (a) Building and structures specifically regulated and preempted by the federal government.
- (b) Railroads and ancillary facilities associated with the railroad.
- (c) Nonresidential farm buildings on farms.
- (d) Temporary buildings or sheds used exclusively for construction purposes.
- (e) Mobile or modular structures used as temporary offices, except that the provisions of Part V (Section 553.501-553.513, Florida Statutes) relating to accessibility by persons with disabilities and permits shall be required for structural support and tie down, electric supply and all other such utility connections to such mobile or modular structures as required by this Village.
- (f) Those structures or facilities of electric utilities, as defined in Section 366.02, Florida Statutes, which are directly involved in the generation, transmission, or distribution of electricity within the Village.
- (g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.
- (h) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.

102.2.1

In addition to the requirements of Section 553.79 and 553.80, Florida Statutes, facilities subject to the provisions of Chapter 395, Florida Statutes, and Part II of Chapter 400, Florida Statutes, shall have facility plans reviewed and construction surveyed by the state agency authorized to do so under the requirements of Chapter 395, Florida Statutes, and Part II of Chapter 400, Florida Statutes, and the certification requirements of the federal government.

102.2.2

Buildings or structures for residential uses moved into or within a county or municipality shall not be required to be brought into compliance with the state minimum building code in force at the time the building or structure is moved, provided:

1. The building or structure is structurally sound for wind speed requirements of the new location and in occupiable condition for its intended use;

2. The occupancy use classification for the building or structure is not changed as a result of the move;
3. The building is not substantially remodeled;
4. Current fire code requirements for ingress and egress are met;
5. Electrical, gas and plumbing systems meet the codes in force at the time of construction and are operational and safe for reconnection; and
6. Foundation plans are sealed by a professional engineer or architect licensed to practice in this state, if required by the applicable Florida Statutes for all residential buildings or structures of the same residential occupancy class.

102.2.3

The building official shall apply the same standard to a moved residential building or structure as that applied to the remodeling of any comparable residential building or structure to determine whether the moved structure is substantially remodeled.

The cost of the foundation on which the moved building or structure is placed shall not be included in the cost of remodeling for purposes of determining whether a moved building or structure has been substantially remodeled.

102.2.4

This section does not apply to the jurisdiction and authority of the Department of Agriculture and Consumer Services to inspect amusement rides or the Department of Financial Services to inspect state-owned buildings and boilers.

102.2.5

Each enforcement district shall be governed by a board, the composition of which shall be determined by the affected localities. The building official, at his or her option, may promulgate rules granting the owner of a single-family residence one or more exemptions from the *Florida Building Code* relating to:

1. Addition, alteration or repair performed by the property owner upon his or her own property, provided any addition or alteration shall not exceed 1,000 square feet (93 m²) or the square footage of the primary structure, whichever is less.
2. Addition, alteration or repairs by a nonowner within a specific cost limitation set by rule, provided the total cost shall not exceed \$5,000 within any 12-month period.
3. Building and inspection fees.

Each code exemption, as defined in this section, shall be certified to the local board 10 days prior to implementation and shall be effective only in the territorial jurisdiction of the enforcement district or local enforcement agency implementing it.

102.3 Application of references.

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

102.4 Referenced codes and standards.

The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

102.5

Reserved.

102.6 Existing structures.

The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, or the Florida Fire Prevention Code, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

102.7 Relocation of manufactured buildings.

- (1) Relocation of an existing manufactured building does not constitute an alteration.
- (2) A relocated building shall comply with wind speed requirements of the new location, using the appropriate wind speed map. If the existing building was manufactured in compliance with the Standard Building Code (prior to March 1, 2002), the wind speed map of the Standard Building Code shall be applicable. If the existing building was manufactured in compliance with the Florida Building Code (after March 1, 2002), the wind speed map of the Florida Building Code shall be applicable.

102.8 Rules of Construction. The rules of construction set out in this section shall be observed, unless such construction is inconsistent with the manifest intent of this chapter. The rules of construction and definitions set out here shall not be applied to any section of this chapter which contains any express provisions excluding such construction, or where the subject matter or content of such section would be inconsistent with this section.

102.8.1 Generally. All provisions, terms, phrases and expressions contained in this chapter shall be liberally construed in order that the true intent and meaning of the administration of the jurisdiction may be fully carried out. Terms used in this chapter, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of this state for the same terms.

102.8.2 Text. In case of any difference of meaning or implication between the text of this chapter and any figure, the text shall control.

102.8.3 Delegation of authority. Whenever a provision appears requiring the building official or some other officer or employee to do some act or perform some duty, it is to be construed to authorize the building official or other officer to designate, delegate and

authorize professional level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

102.8.4 Month. The word “month” shall mean a calendar month.

102.8.5 Shall, may. The word “shall” is mandatory; “may” is permissive. The word “shall” takes precedence over “may”.

102.8.6 Written or in writing. The term “written” or “in writing” shall be construed to include any representation of words, letters or figures whether by printing or otherwise.

102.8.7 Year. The word “year” shall mean a calendar year, unless a fiscal year is indicated.

102.8.8 Interpretation. Interpretations of this chapter shall be made by the building official.

102.9 Words Defined

Abandon or abandonment. (1) Termination of a construction project by a contractor without just cause or proper notification to the owner including the reason for termination. (2) Failure of a contractor to perform work without just cause for ninety (90) days. (3) Failure to obtain an approved inspection within one hundred eighty (180) days from the previous approved inspection.

Appraised value. For the purpose of this section, appraised value is defined as either (1) one hundred and twenty (120) percent of the assessed value of the structure as indicated by the County Property Appraiser’s Office or (2) the value as indicated in a certified appraisal from a certified appraiser.

Assessed value. The value of real property and improvements thereon as established by the County Property Appraiser.

Authorized agent. A person specifically authorized by the holder of a certificate of competency to obtain permits in his stead.

Basic Wind Speed Line. The basic wind speed line for the Village shall be as established by the wind speed contour map attached to, and made part of, this code. .

Board. *The Village of Royal Palm Beach Building Board of Adjustments and Appeals.*

Building shell. The structural components that completely enclose a building, including, but not limited to, the foundation, structural frame, floor slabs, exterior walls and roof system.

Building system. A functionally related group of elements, components and/or equipment, such as the electrical, plumbing and mechanical systems of a building.

Certificate of occupancy. (C.O.). An official document evidencing that a building satisfies the requirements of the Village for the occupancy of a building.

Certificate of completion. (C. of C.). An official document evidencing that a building satisfies the requirements of the Village for the completion of a building.

Change of occupancy. A change from one Building Code occupancy classification or sub classification to another.

Commercial building. Any building, structure, improvement or accessory thereto, other than a one- or two-family dwelling.

Demolition. The act of razing, dismantling or removal of a building or structure, or portion thereof, to the ground level.

Examination. An exam prepared, proctored and graded by a recognized testing agency unless otherwise implied in context or specifically stated otherwise.

Imminent Danger. Structurally unsound conditions of a structure, or portion thereof, that are likely to cause physical injury to a person entering the structure: or, due to structurally unsound conditions, any portion of the structure is likely to fall, be carried by the wind, or otherwise detach or move, and in doing so, cause physical injury or damage to a person on the property, or to a person or property nearby: or, the condition of the property is such that it harbors or is inhabited by pests, vermin, or organisms injurious to human health, the presence of which constitutes an immediate hazard to the people in the vicinity.

Inspection warrant. A court order authorizing the official or his designee to perform an inspection of a particular property named in the warrant.

Intensification of use. An increase in capacity or number of units of a residential or commercial building.

Permit card or placard. A document issued by the Village evidencing the issuance of a permit and recording of inspections.

Resident Inspector. An individual appropriately licensed pursuant to FS 468, retained by the property owner, who provides special onsite inspection duties during the course of construction, throughout the term of the project, based upon requirements unique to the nature of the proposed construction, The resident inspector serves at the discretion and under the direct supervision of the building official,.

Site preparation. The physical clearing of the site in preparation for foundation work including, but not limited to, site clearing, excavation, dewatering, pilings and soil testing activities.

SECTION 103 BUILDING DEPARTMENT

103.1 Establishment. There is hereby established a department to be called the building department, and the person in charge shall be known as the building official. All code officials employed by the department shall be certified in accordance with Chapter 468, Part XII, Florida Statutes.

103.2 Employee qualifications.

103.2.1 Building official's qualifications. The building official shall have at least ten years combined experience as an architect, engineer, construction code official, contractor or construction superintendent with at least five years of such experience in supervisory positions. The building official shall be certified as a building official or building code administrator by the State of Florida.

103.2.2 Deputy building official qualifications. The building official may designate as a deputy an employee in the department who shall, during the absence or disability of the building official, exercise all the powers of the building official. The deputy building official shall have the same qualifications listed in 103.2.1.

103.2.3 Plans examiner and inspector qualifications. The building official, with the approval of the applicable governing authority, may appoint or hire such number of officers, plans examiners, inspectors, assistants and other employees as shall be authorized from time to time. A person shall not be appointed or hired as a plans examiner or inspector of construction who has not had at least five years experience as a building inspector, engineer, architect, or as a superintendent, foreman, or competent mechanic in charge of construction, in the corresponding trade. The plans examiners and inspectors shall be certified, through the State of Florida for the appropriate trade.

103.3 Restrictions on employees. An officer or employee connected with the department, except one whose only connection is as a member of the board, shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, structure, service, system or in the making of plans or of specifications thereof, within the jurisdiction of the department, unless he is the owner of such. This officer or employee shall not engage in any other work which is inconsistent with his duties or conflict with the interests of the department.

103.4 Records. The building official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection.

103.5 Reserved.

103.6 Liability. Any officer or employee, or member of the Building Board of Adjustments and Appeals, charged with the enforcement of this code, acting for the Village in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability, for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee or member because of such act performed by him in the enforcement of any

provisions of this code shall be defended by the Village Attorney until the final termination of proceedings, unless such person is found to have acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for the safety, health and welfare of the public.

SECTION 104 DUTIES AND POWERS OF BUILDING OFFICIAL

104.1 General. The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code, and shall not have the effect of waiving requirements specifically provided for in this code.

104.2 Right of entry.

104.2.1 Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the building official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code. If such building or premises are occupied, he shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

104.2.2 When the building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this code.

104.3 Reserved

104.4 Revocation of permits. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any provisions of this code.

104.4.1 Misrepresentation of application. The building official may revoke a permit or approval, issued under the provisions of this code, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

104.4.2 Violation of code provisions. The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair,

moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this code.

104.5 Unsafe buildings or systems. All buildings, structures, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of this code. The extent of repairs shall be determined by the building official.

When the building official determines that an unsafe building, structure or service system cannot be reasonably repaired in accordance with this or the technical codes, it shall be demolished in accordance with this section.

104.5.1 When the building official determines a building, structure, electrical, gas, mechanical or plumbing system or portion thereof is unsafe, as set forth in this Code, or in reference to the International Property Maintenance Code ("IPMC"), current edition, promulgated by the International Code Council, Inc., he/she shall, in accordance with established procedure for legal notices, give the owner, agent or person in control of such building, structure, electrical, gas, mechanical or plumbing system written notice stating the defects thereof. This notice shall require the owner within a stated time either to complete specified repairs or improvements, or to demolish and remove the building, structure, electrical, gas, mechanical or plumbing system or portion thereof. The building official shall refer to the International Property Maintenance Code exclusively for safety purposes and not for aesthetic purposes, and only as to structural, electrical, gas, mechanical or plumbing deficiencies. For the purposes of protecting life, health, property, and ensuring public safety, enforcement activity by the building official shall be limited to Chapter 2, Chapter 3 – Sections 303, 304 (excluding 304.3), 305, and 306, Chapter 4, Chapter 5, and Chapter 6 of the IPMC.

104.5.2 If necessary, such notice shall also require the building, structure, electrical, gas, mechanical, plumbing systems or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the building official. The building official shall cause to be posted at each entrance to such building a notice stating: THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL. Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or its officers, agents, or other servants, to remove such notice without written permission of the building official, or for any person to enter the building, or use such systems except for the purpose of making the required repairs or of demolishing same.

1. Upon failure of the owner, agent or person in control to comply with the notice provisions within the time given, the building official shall post on the premise or on defective equipment a placard bearing the word "Condemned" and a

statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

2. The building official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the building official shall be subject to the penalties provided by this code.

104.5.3 The owner, agent or person in control shall have the right to appeal from the decision of the building official, as provided hereinafter, and to appear before the Building Board of Adjustments and Appeals pursuant to section 113 of this chapter to show cause why he should not comply with said notice, except that an appeal of a notice for demolition may be made to the circuit court in and for Palm Beach County without the necessity to appeal to the Building Board of Adjustments and Appeals.

104.5.4 In case the owner, agent, or person in control cannot be found within the stated time limit, or, if such owner, agent, or person in control shall fail, neglect, or refuse to comply with notice to repair, rehabilitate, or to demolish, and remove said building, structure, electrical, gas, mechanical or plumbing system or portion thereof, the building official, after having ascertained the cost, shall cause such building, structure, electrical, gas, mechanical or plumbing system or portion thereof, to be secured, or required to remain vacant or unused.

104.5.5 The decision of the building official shall be final in cases of emergency, which, in the opinion of the building official, involve imminent danger to human life or health, or the property of others. He/she shall promptly cause such building, structure, electrical, gas, mechanical or plumbing system or portion thereof to be made safe or cause its removal. For this purpose he/she may at once enter such structure or land on which it stands, or abutting land or structures, with such assistance and at such cost as he may deem necessary. He/she may order the vacating of adjacent structures and may require the protection of the public by appropriate fence or such other means as may be necessary, and for this purpose may close a public or private way.

104.5.6 Costs incurred under 104.5.4 and 104.5.5 shall be charged to the owner of the premises involved. If charges are not paid within a ten (10) day period following the billing notification sent by certified mail, the owner of the premises will be charged in the following manner:

1. The building official shall assess the entire cost of such vacation, demolition, or removal against the real property upon which such cost was incurred, which assessment shall include but not be limited to all administrative costs, postal expenses, newspaper publication, and shall constitute a lien upon such property superior to all others except taxes.

2. The building official shall file such lien in the public records of Palm Beach County showing the nature of such lien, the amount thereof and an accurate legal description of the property, including the street address, which lien shall be effective from the date of filing and recite the names of all persons notified and interested persons. After three (3) months from the filing of any such lien which remains unpaid, the Village may foreclose the lien in the same manner as mortgage liens are foreclosed. Such lien shall bear interest from date of abatement of nuisance at the rate of 10 percent per annum and shall be enforceable if unsatisfied as other liens may be enforced by the Village.

104.6 Requirements not covered by code. Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this or the other technical codes, shall be determined by the building official.

104.7 Reserved.

104.8 Reserved.

104.9 Approved materials and equipment.

Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

104.9.1 Used materials and equipment.

The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

104.10 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety. (See also Sec.112.4.2 Variances)

104.11 Alternative materials, design and methods of construction and equipment.

The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in

this code in quality, strength, effectiveness, fire resistance, durability and safety. When alternate life safety systems are designed, the SFPE Engineering Guide to Performance-Based Fire Protection Analysis and Design of Buildings, or other methods approved by the building official may be used. The building official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternative.

104.11.1 Research reports.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

104.11.2 Tests.

Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

104.11.3 Accessibility.

Alternative designs and technologies for providing access to and usability of a facility for persons with disabilities shall be in accordance with Section 11.2.2.

**SECTION 105
PERMITS**

105.1 Required.

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

105.1.1 Annual facility permit.

In lieu of an individual permit for each alteration to an existing electrical, gas, mechanical, plumbing or interior nonstructural office system(s), the building official is authorized to issue an annual permit for any occupancy to facilitate routine or emergency service, repair, refurbishing, minor renovations of service systems or manufacturing equipment installations/relocations. The building official shall be notified of major changes and shall retain the right to make inspections at the facility site as deemed necessary. An annual facility permit shall be assessed with an annual fee and shall be valid for one year from date of issuance. A separate permit shall be obtained for each facility and for each construction trade, as applicable. The permit application shall

contain a general description of the parameters of work intended to be performed during the year.

105.1.2 Annual permit records.

The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all reasonable times. The permit holder shall list or identify all work performed on a form approved by the building official. At the end of the permit validation period, a copy of the log shall be filed with the building official. The building official is authorized to revoke or withhold the issuance of the future annual permits if code violations are found to exist.

105.1.3 Food permit.

As per Section 500.12, Florida Statutes, a food permit from the Department of Agriculture and Consumer Services is required of any person who operates a food establishment or retail store.

105.2 Work exempt from permit.

Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code. Permits shall not be required for the following:

Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part which does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.
8. The installation, replacement, removal or metering of any load management control device.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

105.2.1 Emergency repairs.

Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

105.2.2 Minor repairs.

Ordinary minor repairs or installation of replacement parts may be made with the prior approval of the building official without a permit, provided the repairs do not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; additionally, ordinary minor repairs shall not include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring systems or mechanical equipment or other work affecting public health or general safety, and such repairs shall not violate any of the provisions of the technical codes.

105.2.3

Reserved.

105.3 Application for permit.

To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the building department for that purpose. Permit application forms shall be in the format prescribed by the building official and must comply with the requirements of Section 713.135(5) and (6), Florida Statutes.

Each application shall be inscribed with the date of application, and the code in effect as of that date. For a building permit for which an application is submitted prior to the effective date of the latest edition of the *Florida Building Code*, the state minimum building code in effect in the permitting jurisdiction on the date of the application governs the permitted work for the life of the permit and any extension granted to the permit.

105.3.1 Action on application.

The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefore. If

the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefore as soon as practicable. When authorized through contractual agreement with a school board, in acting on applications for permits, the building official shall give first priority to any applications for the construction of, or addition or renovation to, any school or educational facility.

105.3.1.1

If a state university, state community college or public school district elects to use the Village's code enforcement offices, fees charged by the Village for enforcement of the *Florida Building Code* on buildings, structures, and facilities of state universities, state colleges, and public school districts shall not be more than the actual labor and administrative costs incurred for plans review and inspections to ensure compliance with the code.

105.3.1.2

No permit may be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit provides to the building official any of the following documents which apply to the construction for which the permit is to be issued and which shall be prepared by or under the direction of an engineer registered under Chapter 471, Florida Statutes:

1. Electrical documents for any new building or addition which requires an aggregate service capacity of 600 amperes (240 volts) or more on a residential electrical system or 800 amperes (240 volts) or more on a commercial or industrial electrical system and which costs more than \$50,000.
2. Plumbing documents for any new building or addition which requires a plumbing system with more than 250 fixture units or which costs more than \$50,000.
3. Fire sprinkler documents for any new building or addition which includes a fire sprinkler system which contains 50 or more sprinkler heads. A Contractor I, Contractor II, or Contractor IV, certified under Section 633.521, Florida Statutes, may design a fire sprinkler system of 49 or fewer heads and may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation, addition or deletion of not more than 49 heads, notwithstanding the size of the existing fire sprinkler system.
4. Heating, ventilation, and air-conditioning documents for any new building or addition which requires more than a 15-ton-per-system capacity which is designed to accommodate 100 or more persons or for which the system costs more than \$50,000. This paragraph does not include any document for the replacement or repair of an existing system in which the work does not require altering a structural part of the building or for work on a residential one, two, three or four-family structure.

An air-conditioning system may be designed by an installing air-conditioning contractor certified under Chapter 489, Florida Statutes, to serve any building or

addition which is designed to accommodate fewer than 100 persons and requires an air-conditioning system with a value of \$50,000 or less; and when a 15-ton-per system or less is designed for a singular space of a building and each 15-ton system or less has an independent duct system. Systems not complying with the above require design documents that are to be sealed by a professional engineer.

Example 1: When a space has two 10-ton systems with each having an independent duct system, the contractor may design these two systems since each unit (system) is less than 15 tons.

Example 2: Consider a small single-story office building which consists of six individual offices where each office has a single three-ton package air conditioning heat pump. The six heat pumps are connected to a single water cooling tower. The cost of the entire heating, ventilation and air-conditioning work is \$47,000 and the office building accommodates fewer than 100 persons. Because the six mechanical units are connected to a common water tower this is considered to be an 18-ton system. It therefore could not be designed by a mechanical or air conditioning contractor.

NOTE: It was further clarified by the Commission that the limiting criteria of 100 persons and \$50,000 apply to the building occupancy load and the cost for the total air-conditioning system of the building.

5. Any specialized mechanical, electrical, or plumbing document for any new building or addition which includes a medical gas, oxygen, steam, vacuum, toxic air filtration, halon, or fire detection and alarm system which costs more than \$5,000.

Documents requiring an engineer seal by this part shall not be valid unless a professional engineer who possesses a valid certificate of registration has signed, dated, and stamped such document as provided in Section 471.025, Florida Statutes.

105.3.2 Time limitation of application.

An application for a permit for any proposed work shall be deemed to have been abandoned, becoming null and void, 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing prior to the abandonment date and justifiable cause demonstrated.

105.3.3 The Village may not issue a building permit for any building construction, erection, alteration, modification, repair or addition unless the permit either includes on its face or there is attached to the permit the following statement: "NOTICE: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies."

105.3.4 A building permit for a single-family residential dwelling must be issued within 30 working days of application therefore unless unusual circumstances require a longer time for processing the application or unless the permit application fails to satisfy the *Florida Building Code* or the Village's laws or ordinances.

105.3.5 Identification of minimum premium policy. Except as otherwise provided in Chapter 440, Florida Statutes, Workers' Compensation, every employer shall, as a condition to receiving a building permit, show proof that it has secured compensation for its employees as provided in Section 440.10 and 440.38, Florida Statutes.

105.3.6 Public right of way. A permit shall not be given by the building official for the construction of any building, or for the alteration of any building where the building is to be changed and such change will affect the exterior walls, bays, balconies, or other appendages or projections fronting on any street, alley or public lane, or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has made application for right of way permits from the authority having jurisdiction over the street, alley or public lane.

105.4 Conditions of the permit.

105.4.1 Permit intent.

A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter or set aside any of the provisions of the technical codes, nor shall issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans, construction or violations of this code. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six months after the time the work is commenced.

105.4.1.1

If work has commenced and the permit is revoked, becomes null and void, or expires because of lack of progress or abandonment, a new permit covering the proposed construction shall be obtained before proceeding with the work.

105.4.1.2

If a new permit is not obtained within 180 days from the date the initial permit became null and void, the building official is authorized to require that any work which has been commenced or completed be removed from the building site. Alternately, a new permit may be issued on application, providing the work in place and required to complete the structure meets all applicable regulations in effect at the time the initial permit became null and void and any regulations which may have become effective between the date of expiration and the date of issuance of the new permit.

105.4.1.3

Work shall be considered to be in active progress when the permit has received an approved inspection within 180 days. This provision shall not be applicable in case of civil commotion or strike or when the building work is halted due directly to judicial injunction, order or similar process.

105.4.1.4

The fee for renewal reissuance and extension of a permit shall be set forth by the Village.

105.5 Expiration. Failure to obtain an approved inspection within 180 days of the previous approved inspection shall constitute suspension or abandonment. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. Permits issued for the demolition of a structure shall expire sixty (60) days from the date of issuance. For a justifiable cause, one (1) extension of time for a period not exceeding thirty (30) days may be allowed. Such request shall be in writing to the building official.

105.6 Suspension or revocation. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

105.7 Placing of permit. Work requiring a permit shall not commence until the permit holder or his agent places the permit card and all related documents in a conspicuous place on the premises. The permit and all related documents shall be protected from the weather and located in such position as to allow the building official or representative to conveniently make the required entries thereon. The permit and all related documents shall be maintained in such position by the permit holder until the Certificate of Occupancy or Completion is issued by the building official.

105.10 Certificate of protective treatment for prevention of termites.

A weather-resistant job-site posting board shall be provided to receive duplicate treatment certificates as each required protective treatment is completed, providing a copy for the person the permit is issued to and another copy for the building permit files. The treatment certificate shall provide the product used, identity of the applicator, time and date of the treatment, site location, area treated, chemical used, percent concentration and number of gallons used, to establish a verifiable record of protective treatment. If the soil chemical barrier method for termite prevention is used, final exterior treatment shall be completed prior to final building approval.

105.11 Notice of termite protection.

A permanent sign which identifies the termite treatment provider and need for reinspection and treatment contract renewal shall be provided. The sign shall be posted near the water heater or electric panel.

105.12 Work starting before permit issuance.

Upon approval of the building official, the scope of work delineated in the building permit application and plan may be started prior to the final approval and issuance of the permit, provided any work completed is entirely at risk of the permit applicant and the work does not proceed past the first required inspection.

105.13 Phased permit approval.

After submittal of the appropriate construction documents, the building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted. Corrections may be required to meet the requirements of the technical codes.

105.14 Permit issued on basis of an affidavit.

Whenever a permit is issued in reliance upon an affidavit or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the building official, are hazardous or complex, the building official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations shall supervise such work. In addition, they shall be responsible for conformity to the permit, provide copies of inspection reports as inspections are performed, and upon completion make and file with the building official written affidavit that the work has been done in conformity to the reviewed plans and with the structural provisions of the technical codes. In the event such architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are reviewed by the building official. The building official shall ensure that any person conducting plans review is qualified as a plans examiner under Part XII of Chapter 468, Florida Statutes, and that any person conducting inspections is qualified as a building inspector under Part III of Chapter 468, Florida Statutes. Nothing aforesaid shall preclude plan review or inspections by the building official.

SECTION 106 CONSTRUCTION DOCUMENTS

106.1 Submittal documents.

Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a design professional where required by the statutes. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a design professional.

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

If the design professional is an architect legally registered under the laws of this state regulating the practice of architecture as provided for in Chapter 481, Florida Statutes, Part I and Rule 61G1, Florida Administrative Code, or engineering as provided for in Chapter 471, Florida Statutes and Rule 61G15, Florida Administrative Code, then he or she shall affix his or her official seal, original signature and date to said drawings, specifications and accompanying data, as required by Florida Statute. If the design professional is a landscape architect registered under the laws of this state regulating the practice of landscape architecture as provided for in

Chapter 481, Florida Statutes, Part II, then he or she shall affix his or her seal, original signature and date to said drawings, specifications and accompanying data as defined in Section 481.303(6)(a)(b)(c)(d), Florida Statutes and Rule 61G10, Florida Administrative Code.

106.1.1 Information on construction documents.

Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the building official (see also Section 106.3.5).

106.1.1.1 Fire protection system shop drawings.

Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9.

106.1.1.2

For roof assemblies required by the code, the construction documents shall illustrate, describe, and delineate the type of roofing system, materials, fastening requirements, flashing requirements and wind resistance rating that are required to be installed. Product evaluation and installation shall indicate compliance with the wind criteria required for the specific site or a statement by an architect or engineer for the specific site must be submitted with the construction documents.

106.1.2 Additional data. The building official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the building official to be prepared by an architect or engineer shall be affixed with an official seal, signature and date as state law requires.

106.1.3 Quality of building plans. The building official may establish through departmental policy, standards for plans and specifications, in order to provide conformity to its record retention program. This policy may include such things as minimum size, shape, format, contrast, clarity, or other items related to records management.

106.1.4 Hazardous occupancies. The building official may require the following:

1. General site plan. A general site plan drawn at a legible scale which shall include, but not be limited to, the location of all buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of hazardous materials stored.

2. Building floor plan. A building floor plan drawn to a legible scale, which shall include, but not be limited to, all hazardous materials storage facilities within the

building and shall indicate rooms, doorways, corridors, exits, fire rated assemblies with their hourly rating, location of liquid tight rooms, and evacuation routes. Each hazardous materials storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class of the hazardous materials stored.

106.2

Reserved.

106.3 Examination of documents.

The building official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

Exceptions:

1. Building plans approved pursuant to Section 553.77(5), Florida Statutes, and state-approved manufactured buildings are exempt from local codes enforcing agency plan reviews except for provisions of the code relating to erection, assembly or construction at the site. Erection, assembly (excluding utility crossover connections) and construction at the site are subject to local permitting and inspections.
2. Industrial construction on sites where design, construction and fire safety are supervised by licensed design and inspection professionals and which contain adequate in-house fire departments and rescue squads is exempt, subject to approval of the building official, from review of plans and inspections, providing the appropriate licensed design and inspection professionals certify that applicable codes and standards have been met and supply appropriate approved drawings to local building and fire-safety inspectors.

106.3.1 Approval of construction documents.

When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." An electronic record of all construction documents so reviewed shall be retained by the building official. All other sets shall be returned to the applicant. One set shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.

106.3.2 Previous approvals.

This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

106.3.3 Product approvals. Those products which are regulated by Rule 9B-

72, Florida Administrative Code, shall be reviewed and approved in writing by the designer of record prior to submittal for Village approval.

106.3.4 Reserved

106.3.4.1 Reserved

106.3.4.2 Reserved.

106.3.4.3

Certifications by contractors authorized under the provisions of Section 489.115(4)(b), Florida Statutes, shall be considered equivalent to sealed plans and specifications by a person licensed under Chapter 471, Florida Statutes, or Chapter 481, Florida Statutes, by the Village for plans review for permitting purposes relating to compliance with the wind-resistance provisions of the code or alternate methodologies approved by the Florida Building Commission for one- and two-family dwellings. The Village may rely upon such certification by contractors that the plans and specifications submitted conform to the requirements of the code for wind resistance. Upon good cause shown, the building official may accept or reject plans sealed by persons licensed under Chapters 471, 481 or 489, Florida Statutes.

106.3.5 Minimum plan review criteria for buildings.

The examination of the documents by the building official shall include the following minimum criteria and documents: a floor plan; site plan; foundation plan; floor/roof framing plan or truss layout; and all exterior elevations:

106.3.5.1 Commercial Buildings:

106.3.5.1.1 Building

1. Site requirements:
 - Parking
 - Fire access
 - Vehicle loading
 - Driving/turning radius
 - Fire hydrant/water supply/post indicator valve (PIV)
 - Set back/separation (assumed property lines)
 - Location of specific tanks, water lines and sewer lines
2. Occupancy group and special occupancy requirements shall be determined.
3. Minimum type of construction shall be determined (see Table 503).
4. Fire-resistant construction requirements shall include the following components:

- Fire-resistant separations
- Fire-resistant protection for type of construction
- Protection of openings and penetrations of rated walls
- Fire blocking and draftstopping and calculated fire resistance

5. Fire suppression systems shall include:

- Early warning smoke evacuation systems
- Schematic fire sprinklers
- Standpipes
- Preengineered systems
- Riser diagram

6. Life safety systems shall be determined and shall include the following requirements:

- Occupant load and egress capacities
- Early warning
- Smoke control
- Stair pressurization
- Systems schematic

7. Occupancy load/egress requirements shall include:

- Occupancy load
- Gross
- Net
- Means of egress
- Exit access
- Exit
- Exit discharge
- Stairs construction/geometry and protection
- Doors
- Emergency lighting and exit signs
- Specific occupancy requirements
- Construction requirements
- Horizontal exits/exit passageways

8. Structural requirements shall include:

- Soil conditions/analysis
- Termite protection
- Design loads
- Wind requirements
- Building envelope
- Structural calculations (if required)
- Foundation
- Wall systems
- Floor systems
- Roof systems

Threshold inspection plan
Stair systems

9. Materials shall be reviewed and shall at a minimum include the following:

Wood
Steel
Aluminum
Concrete
Plastic
Glass
Masonry
Gypsum board and plaster
Insulating (mechanical)
Roofing
Insulation

10. Accessibility requirements shall include the following:

Site requirements
Accessible route
Vertical accessibility
Toilet and bathing facilities
Drinking fountains
Equipment
Special occupancy requirements
Fair housing requirements

11. Interior requirements shall include the following:

Interior finishes (flame spread/smoke development)
Light and ventilation
Sanitation

12. Special systems:

Elevators
Escalators
Lifts

13. Swimming pools:

Barrier requirements
Spas
Wading pools

106.3.5.1.2 Electrical

1. Electrical:
 - Wiring
 - Services
 - Feeders and branch circuits
 - Overcurrent protection
 - Grounding
 - Wiring methods and materials
 - GFCIs
2. Equipment
3. Special occupancies
4. Emergency systems
5. Communication systems
6. Low voltage
7. Load calculations

106.3.5.1.3 Plumbing

1. Minimum plumbing facilities
2. Fixture requirements
3. Water supply piping
4. Sanitary drainage
5. Water heaters
6. Vents
7. Roof drainage
8. Back flow prevention
9. Irrigation
10. Location of water supply line
11. Grease traps
12. Environmental requirements
13. Plumbing riser

106.3.5.1.4 Mechanical

1. Energy calculations
2. Exhaust systems:
 - Clothes dryer exhaust
 - Kitchen equipment exhaust
 - Specialty exhaust systems
3. Equipment
4. Equipment location
5. Make-up air
6. Roof-mounted equipment
7. Duct systems
8. Ventilation
9. Combustion air
10. Chimneys, fireplaces and vents
11. Appliances
12. Boilers
13. Refrigeration
14. Bathroom ventilation
15. Laboratory

106.3.5.2 Gas

1. Gas piping
2. Venting
3. Combustion air
4. Chimneys and vents
5. Appliances
6. Type of gas

7. Fireplaces
8. LP tank location
9. Riser diagram/shutoffs

106.3.5.3 Demolition

1. Asbestos removal

106.3.5.4 Residential (one- and two-family)

1. Site requirements
 - Set back/separation (assumed property lines)
 - Location of septic tanks
2. Fire-resistant construction (if required)
3. Smoke detector locations
4. Egress
 - Egress window size and location stairs construction requirements
5. Structural requirements shall include:
 - Wall section from foundation through roof, including assembly and materials connector tables wind requirements structural calculations (if required)
6. Accessibility requirements: show/identify accessible bath
7. Electrical:
 - Electric service riser with wire sizes, conduit detail and grounding detail.
 - Complete load calculations, Panel schedules
8. Mechanical
 - Energy calculations, Equipment and location, Duct systems
9. Plumbing
 - Plumbing riser

106.3.5.5 Manufactured / Mobile Homes

1. Site requirements

setback/separation (assumed property lines)
location of septic tanks (if applicable)

2. Structural
 - wind zone
 - anchoring
 - blocking
3. Plumbing
 - List potable water source and meter size (if applicable)
4. Mechanical
 - Exhaust systems
 - clothes dryer exhaust
 - kitchen equipment exhaust
5. Electrical
 - exterior disconnect location

106.3.5.6 Swimming pools:

1. Barrier requirements, Spas, Wading pools

106.3.5.7 Exemptions.

Plans examination by the building official shall not be required for the following work:

1. Replacing existing equipment such as mechanical units, water heaters, etc.
2. Reroofs except as required by FS 553.844 and Rule 9B-3.0475
3. Minor electrical, plumbing and mechanical repairs
4. Annual maintenance permits
5. Prototype plans

Except for local site adaptations, siding, foundations and/or modifications.

Except for structures that require waiver.

6. Manufactured buildings plan except for foundations and modifications of buildings on site.

106.4 Amended construction documents.

Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the reviewed construction documents shall be resubmitted for approval as an amended set of construction documents.

106.5 Retention of construction documents.

One set of approved construction documents shall be retained by the building official for a period of not less than 180 days from date of completion of the permitted work, or as required by Florida Statutes.

106.6 Affidavits.

The building official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the technical codes. For buildings and structures, the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and, if accompanied by drawings, show the structural design and that the plans and design conform to the requirements of the technical codes as to strength, stresses, strains, loads and stability. The building official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the building official copies of inspection reports as inspections are performed and upon completion of the structure, electrical, gas, mechanical or plumbing systems a certification that the structure, electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the technical codes. Where the building official relies upon such affidavit, the architect or engineer shall assume full responsibility for compliance with all provisions of the technical codes and other pertinent laws or ordinances. The building official shall ensure that any person conducting plans review is qualified as a plans examiner under Part XII of Chapter 468, Florida Statutes, and that any person conducting inspections is qualified as a building inspector under Part XII of Chapter 468, Florida Statutes.

SECTION 107 TEMPORARY STRUCTURES AND USES

107.1 General.

The building official is authorized to issue a permit for temporary structures and temporary uses. For the purposes of building code requirements, such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause.

107.2 Conformance.

Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

107.3 Temporary power.

The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in Chapter 27 of the Florida Building Code, Building.

107.4 Termination of approval.

The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

SECTION 108 FEES

108.1 Prescribed fees.

A permit shall not be issued until fees authorized under Section 553.80, Florida Statutes, have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, due to an increase in the estimated cost of the building, structure, electrical, plumbing, mechanical or gas systems, has been paid.

108.2 Schedule of permit fees.

On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the Village.

108.2.1 Types of Fees Enumerated. Fees may be charged for but not limited to the following:

- Permits;
- Plans examination;
- Certificates of competency (including fees for applications, examinations, renewal, late renewal, and reciprocity);
- Re-inspections;
- Variance requests;
- Administrative appeals;
- Violations; and
- Other fees as established by local ordinance.

108.3 Building permit valuation. If, in the opinion of the building official, the claimed valuation of building, alteration, structure, electrical, gas, mechanical or plumbing systems appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates, and/or bona fide signed contracts (excluding land value) to meet the approval of the building official. For permitting purposes, valuation of buildings and systems shall be total replacement value to include structural, electric, plumbing, mechanical, interior finish, normal site work (excavation and backfill for buildings), architectural and design fees, marketing costs, overhead and profit; excluding only land value. Valuation references may include the latest published date of national construction cost analysis services (Marshall-Swift, Means, etc.) or as published by International Code Congress bi-annually.

108.4 Work commencing before permit issuance.

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the building official's approval or the necessary permits may be subject to a penalty of 400 percent of the usual permit fee in addition to the required permit fees or as provided by Village ordinance. This provision shall not apply to emergency work when delay would clearly have placed life or property in imminent danger. But in all such cases the required permit(s) must be applied for within three (3) business days and any unreasonable delay in obtaining those permit(s) shall result in the charge of a double fee. The payment of a

double fee shall not preclude or be deemed a substitute for prosecution for commencing work without first obtaining a permit. The building official may grant extensions of time or waive fees when justifiable cause has been demonstrated in writing.

108.5 Reserved.

108.6 Reserved.

SECTION 109 INSPECTIONS

109.1 General.

Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. The building official shall be permitted to require a boundary line survey prepared by a qualified surveyor whenever the boundary lines cannot be readily determined in the field. Neither the building official nor the Village shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

109.1.1 Manufacturers and fabricators. When deemed necessary by the building official, he shall make, or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the technical codes.

109.1.2 Inspection service. The building official may make, or cause to be made, the inspections required by section 109. He or she may accept reports of department inspectors, independent inspectors or of recognized inspection services, provided that after investigation he/she is satisfied as to their licensure, qualifications and reliability. A certificate required by any provision of this code shall not be based on such reports unless the same are recorded by the building code inspector or the architect or engineer performing building code inspections in a manner specified by the building official. The building official shall ensure that all persons making such inspections shall be certified in accordance to Chapter 468, Florida Statutes.

109.2 Preliminary inspection.

Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

109.3 Required inspections.

The building official upon notification from the permit holder or his or her agent shall make the following inspections, and such other inspections as deemed necessary, and shall either release

that portion of the construction or shall notify the permit holder or his or her agent of any violations which must be corrected in order to comply with the technical codes. The building official shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection.

Building

1. Foundation inspection. To be made after trenches are excavated and forms erected and shall at a minimum include the following building components:
 - Stem-wall
 - Monolithic slab-on-grade
 - Piling/pile caps
 - Footers/grade beams
 - 1.1 Slab Inspection: To be made after the reinforcement is in place, all concealed conduit, piping, ducts and vents are installed and the electrical, plumbing and mechanical work is complete. Slab shall not be poured until all required inspections have been made and passed.
 - 1.2 A foundation/Form board survey prepared and certified by a registered surveyor shall be required for all new construction prior to approval of the slab inspection. The survey shall certify placement of the building on the site, illustrate all surrounding setback dimensions and shall be available at the job site for review by the building inspector. In lieu of providing a survey, the contractor may elect to uncover all property line markers and string-up all property lines in preparation for inspection.
2. Framing inspection. To be made after the roof, all framing, fireblocking and bracing is in place, all concealing wiring, all pipes, chimneys, ducts and vents are complete and shall at a minimum include the following building components:
 - Window/door framing and installation
 - Vertical cells/columns
 - Lintel/tie beams
 - Framing/trusses/bracing/connectors (including truss layout & Engineered drawings)
 - Draft stopping/fire blocking
 - Curtain wall framing
 - Energy insulation
 - Accessibility.
 - 2.1. Insulation Inspection: To be made after the framing inspection is approved and the insulation is in place.
 - 2.2 Gypsum board nailing inspection
3. Sheathing inspection. To be made either as part of a dry-in inspection or done separately at the request of the contractor after all roof and wall sheathing and fasteners are complete and shall at a minimum include the following building components:
 - Roof sheathing
 - Wall sheathing

- Sheathing fasteners
- Roof/wall dry-in.
- Sheathing/cladding inspection
- Window/door buck attachment

NOTE: Sheathing fasteners installed and found to be missing the structural member (shiners) shall be removed and properly reinstalled prior to installation of the dry-in material.

4. Roofing inspection. To be made in at least two inspections and shall at a minimum include the following building components:

- Dry-in
- Insulation
- Roof coverings (including In Progress)
- Flashing

5. Final inspection. To be made after the building is completed and ready for occupancy.

6. Swimming pool inspection.

First inspection to be made after excavation and installation of reinforcing steel, bonding and main drain and prior to placing of concrete shell.

Underground electric inspection.

Underground plumbing inspection including a pressure test.

Deck inspection: to be made prior to installation of the deck material (with forms, deckdrains, and any reinforcement in place)

Final inspection to be made when the swimming pool is complete and all required enclosure requirements are in place.

In order to pass final inspection and receive a certificate of completion, a residential swimming pool must meet the requirements relating to pool safety features as described in Section 424.2.17.

7. Demolition inspections. First inspection to be made after all utility connections have been disconnected and secured in such manner that no unsafe or unsanitary conditions shall exist during or after demolition operations.

Final inspection to be made after all demolition work is completed.

8. Manufactured building inspections. The building department shall inspect construction of foundations; connecting buildings to foundations; installation of parts identified on plans as site installed items, joining the modules, including utility crossovers; utility connections from the building to utility lines on site; and any other work done on site which requires compliance with the Florida Building Code. Additional inspections may be required for public educational facilities (see Section 423.27.20).

Electrical

1. Underground inspection. To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.
2. Rough-in inspection. To be made after the roof, framing, fireblocking and bracing is in place and prior to the installation of wall or ceiling membranes.
3. Final inspection. To be made after the building is complete, all required electrical fixtures are in place and properly connected or protected, and the structure is ready for occupancy.

Plumbing

1. Underground inspection. To be made after trenches or ditches are excavated, piping installed, and before any backfill is put in place.
2. Rough-in inspection. To be made after the roof, framing, fireblocking and bracing is in place and all soil, waste and vent piping is complete, and prior to this installation of wall or ceiling membranes.
3. Final inspection. To be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

Note: See Section P312 of the Florida Building Code, Plumbing for required tests.

Mechanical

1. Underground inspection. To be made after trenches or ditches are excavated, underground duct and fuel piping installed, and before any backfill is put in place.
2. Rough-in inspection. To be made after the roof, framing, fire blocking and bracing are in place and all ducting, and other concealed components are complete, and prior to the installation of wall or ceiling membranes.
3. Final inspection. To be made after the building is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.

Gas

1. Rough piping inspection. To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.
2. Final piping inspection. To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.

3. Final inspection. To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes, to ensure compliance with all the requirements of this code and to assure that the installation and construction of the gas system is in accordance with reviewed plans.

Site Debris

1. The contractor and/or owner of any active or inactive construction project shall be responsible for the clean-up and removal of all construction debris or any other miscellaneous discarded articles prior to receiving final inspection approval. Construction job sites must be kept clean, such that accumulation of construction debris must not remain on the property for a period of time exceeding 14 days.

2. All debris shall be kept in such a manner as to prevent it from being spread by any means.

109.3.1 Written release. Work shall not be done on any part of a building, structure, electrical, gas, mechanical or plumbing system beyond the point indicated in each successive inspection without first obtaining a written release from the building official. Such written release shall be given only after an inspection has been made of each successive step in the construction or installation as indicated by each of the foregoing inspections.

109.3.2 Reserved.

109.3.3 Reinforcing steel and structural frames.

Reinforcing steel or structural frame work of any part of any building or structure shall not be covered or concealed without first obtaining a release from the building official. Certification that field welding and structural bolted connections meet design requirements shall be submitted to the building official, upon request.

109.3.4 Termites.

Building components and building surroundings required to be protected from termite damage in accordance with Section 1503.6, Section 2304.13 or Section 2304.11.6, specifically required to be inspected for termites in accordance with Section 2114, or required to have chemical soil treatment in accordance with Section 1816 shall not be covered or concealed until the release from the building official has been received.

109.3.5 Shoring.

For threshold buildings, shoring and associated formwork or false work shall be designed and inspected by a Florida licensed professional engineer, employed by the permit holder or subcontractor, prior to any required mandatory inspections by the threshold building inspector.

109.3.6 Threshold building.

109.3.6.1 The enforcing agency shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to the building department prior to the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plans is to provide specific inspection procedures and

schedules so that the building can be adequately inspected for compliance with the permitted documents.

109.3.6.3 The fee owner of a threshold building shall select and pay all costs of employing a special inspector, but the special inspector shall be responsible to the building department. The inspector shall be a person certified, licensed or registered under Chapter 471, Florida Statutes, as an engineer or under Chapter 481, Florida Statutes, as an architect.

109.3.6.4 The Village shall require that, on every threshold building:

109.3.6.4.1 The special inspector, upon completion of the building and prior to the issuance of a certificate of occupancy, file a signed and sealed statement with the enforcement agency in substantially the following form: "To the best of my knowledge and belief, the above described construction of all structural load-bearing components complies with the permitted documents, and the shoring and reshoring conforms to the shoring and reshoring plans submitted to the enforcement agency."

109.3.6.4.2 Any proposal to install an alternate structural product or system to which building codes apply be submitted to the building department for review for compliance with the codes and made part of the building department's recorded set of permit documents.

109.3.6.4.3 All shoring and reshoring procedures, plans and details be submitted to the enforcement agency for recordkeeping. Each shoring and reshoring installation shall be supervised, inspected and certified to be in compliance with the shoring documents by the contractor.

109.3.6.4.4 All plans for the building which are required to be signed and sealed by the architect or engineer of record contain a statement that, to the best of the architect's or engineer's knowledge, the plans and specifications comply with the applicable minimum building codes and the applicable fire-safety standards as determined by the local authority in accordance with this section and Chapter 633, Florida Statutes.

109.3.6.5 The building department may not issue a building permit for construction of any threshold building except to a licensed general contractor, as defined in Section 489.105(3)(a), Florida Statutes, or to a licensed building contractor, as defined in Section 489.105(3)(b), Florida Statutes, within the scope of her or his license. The named contractor to whom the building permit is issued shall have the responsibility for supervision, direction, management and control of the construction activities on the project for which the building permit was issued.

109.3.6.6 The building department may allow a special inspector to conduct the minimum structural inspection of threshold buildings required by this code, Section 553.73, Florida Statutes, without duplicative inspection by the building department. The building official is responsible for ensuring that any person conducting inspections is qualified as a building inspector under Part XII of

Chapter 468, Florida Statutes, or certified as a special inspector under Chapter 471 or 481, Florida Statutes. Inspections of threshold buildings required by Section 553.79(5), Florida Statutes, are in addition to the minimum inspections required by this code.

109.3.7 Other inspection services. The building official may make, or cause to be made by others, the inspections required by Section 109. He/she may accept reports of inspectors of recognized inspection services, provided that after investigation he/she is satisfied as to their qualifications and reliability. A certificate called for by any provision of the technical codes shall not be based on such reports unless the same are in writing and certified by a responsible officer of such service. The building official may require the owner to employ an inspection service in the following instances:

1. For buildings or additions of Type I or Type II construction
2. For all major structural alterations
3. Where the concrete design is based on compressive strength ($f'c$) in excess of 3000 pounds per square inch
4. For pile driving
5. For buildings with area greater than 20,000 square foot
6. For buildings more than 2 stories in height
7. For buildings and structures of unusual design or methods of construction

Such inspectors shall be adequately present at times work is underway on the structural elements of the building. Such inspectors shall be a registered architect, or engineer, or a person licensed under Chapter 468, Part XII, Florida Statutes. Such inspectors shall submit weekly progress reports including the daily inspections to the building official, and including a code compliance opinion of the resident inspector.

At the completion of the construction work or project, such inspectors shall submit a certificate of compliance to the building official, stating that the work was done in compliance with this code and in accordance with the permitted drawing. Final inspection shall be made by the building official before a Certificate of Occupancy or Certificate of Completion is issued; and confirmation inspections may be made at any time to monitor activities and resident inspectors.

109.3.8 Plaster fire protection. In all buildings where plaster is used for fire protection purposes, the permit holder or his agent shall notify the building official after all lathing and backing is in place. Plaster shall not be applied until the release from the building official has been received..

109.3.9 Fire resistant joints and penetrations. The protection of joints and penetrations in required fire resistant construction assemblies shall not be covered or concealed from view without first obtaining a release from the building official.

109.3.10 Impact of construction All construction activity regulated by this code shall be performed in a manner so as not to adversely impact the condition of adjacent property. This includes, but is not limited to, the control of dust, noise, water or drainage run-offs, debris, and the storage of construction materials. New construction activity shall not adversely impact legal historic surface water drainage flows serving adjacent properties, and may require special drainage design complying with engineering standards to preserve the positive drainage patterns of the affected sites. Accordingly, developers, contractors and owners of all new

residential development, including additions, pools, patios, driveways, decks or similar items, on existing properties resulting in a significant decrease of permeable land area on any parcel or has altered the drainage flow on the developed property shall, as a permit condition, provide a professionally prepared drainage plan clearly indicating compliance with this paragraph. Upon completion of the improvement, a certification from a licensed engineer shall be submitted to the inspector in order to receive approval of the final inspection..

109.4 Inspections prior to issuance of Certificate of Occupancy or Completion.

The building official shall inspect or cause to be inspected, at various intervals, all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, electrical, gas, mechanical or plumbing system upon completion, prior to the issuance of the Certificate of Occupancy or Certificate of Completion. In performing inspections, the building official shall give first priority to inspections of the construction, addition, or renovation to, any facilities owned or controlled by a state university, state community college or public school district.

109.5 Inspection requests.

It shall be the duty of the holder of the building permit or its duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

109.6 Approval required.

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

SECTION 110 CERTIFICATE OF OCCUPANCY

110.1 Use and occupancy.

110.1.1 Building occupancy No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

110.1.2 Certificate issued.

After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the building department , the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.

2. The address of the structure.
3. The name and address of the owner.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy, in accordance with the provisions of Chapter 3.
9. The type of construction as defined in Chapter 6.
10. The design occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

110.1.2.1 Digital Drawings The building official is authorized to require the submittal of digital “as-built” drawings, in a format acceptable to the Village GIS Manager, for all modified commercial occupancies, subsequent to the final inspection, in order to assist emergency services responders at the site in the event of an emergency situation. The building official is further authorized to withhold release of any certificate of completion or certificate of occupancy for commercial facilities until such digital images are on file.

110.1.3 Temporary occupancy.

The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid. The building official may require a cash surety be provided for 110% of the value of the remaining work outstanding based upon the estimation of value of the design professional. The Village retains the right to have the applicant surrender the cash surety which then may be utilized to complete the remaining work. The surety may be returned to the applicant upon approval of all required final inspections, and upon written request, pending the approval of the building official.

110.2 Certificate of Completion. Upon satisfactory completion of a building, structure, electrical, gas, mechanical or plumbing system, a Certificate of Completion may be issued. This certificate is proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. This certificate does not grant

authority to occupy or connect a building, such as a shell building, prior to the issuance of a Certificate of Occupancy.

110.3 Posting floor loads

110.3.1 Occupancy. An existing or new building shall not be occupied for any purpose that will cause the floors thereof to be loaded beyond their safe capacity.

The building official may permit occupancy of a building for mercantile, commercial or industrial purposes, by a specific business, when he/she is satisfied that such capacity will not thereby be exceeded.

110.3.2 Storage and factory-industrial occupancies. It shall be the responsibility of the owner, agent, proprietor or occupant of Group S and Group F occupancies, or any occupancy where excessive floor loading is likely to occur, to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by an affidavit from the architect or engineer stating the safe allowable floor load on each floor in pounds per square foot uniformly distributed. The computations and affidavit shall be filed as a permanent record of the building division.

110.3.3 Signs required. In every building or part of a building used for storage, industrial or hazardous purposes, the safe floor loads, as reviewed by the building official on the plan, shall be marked on plates of approved design which shall be supplied and securely affixed by the owner of the building in a conspicuous place in each story to which they relate. Such plates shall not be removed or defaced, and if lost, removed or defaced, shall be replaced by the owner of the building.

110.4 Revocation.

The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

SECTION 111 SERVICE UTILITIES

111.1 Connection of service utilities.

No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until released by the building official.

111.2 Temporary connection.

The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power for the purpose of testing building service systems or for use under a temporary Certificate of Occupancy.

111.3 Authority to disconnect service utilities.

The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

SECTION 112

BUILDING BOARD OF ADJUSTMENTS AND APPEALS

112.1 Establishment. The Building Board of Adjustments and Appeals. (the "Board") has been established by the Code of Ordinances for the Village of Royal Palm Beach as set forth in Chapter 2. Administration. at Division 7. of Article IV. Boards and Commissions.

112.2 Quorum and voting. A simple majority of the board shall constitute a quorum. In varying any provision of this code or modifying a decision of the building official the affirmative votes of the majority present, but not less than three affirmative votes, shall be required.

112.3 Powers. The Building Board Adjustments and Appeals shall have the power, further defined in 112.4, to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes.

112.4 Appeals

112.4.1 Decision of the building official. The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the building official to the Building Board of Adjustments and Appeals whenever any one of the following conditions are claimed to exist:

1. The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.

2. The provisions of this code do not apply to this specific case.

3. That an equally good or more desirable form of installation can be employed in any specific case.

4. The true intent and meaning of this code or any of the regulations there under have been misconstrued or incorrectly interpreted.

112.4.2 Variances. The Building Board of Adjustments and Appeals, when so appealed to and after a hearing, may vary the application of any provision of this code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:

1. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.

2. That the special conditions and circumstances do not result from the action or inaction of the applicant.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other buildings, structures or service system.

4. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.

5. That the grant of the variance will be in harmony with the general intent and purpose of this code and will not be detrimental to the public health, safety and general welfare.

112.4.2.1 Conditions of the variance. Variances granted must be exercised within six (6) months or they shall be automatically rendered null and void. The board may prescribe

appropriate conditions and safeguards in conformity with this code. Violation of the conditions of a variance shall be deemed a violation of this code.

112.4.3 Notice of appeal. Notice of appeal shall be in writing and filed within thirty (30) calendar days after the decision is rendered by the building official. Appeals shall be in a form acceptable to the Town. Appeals relating to provisions of the Florida Building Code, other than local amendments, may be appealed to the Florida Building Commission, pursuant to Section 120.569, Florida Statutes, regarding the local government's action. Notice of Administrative Rights may be obtained from the building department.

112.4.4 Unsafe or dangerous buildings or service systems. In the case of a building, structure or service system which, in the opinion of the building official, is unsafe, unsanitary or dangerous, the building official may, on his order, limit the time for such appeals to a shorter period so long as sufficient due process is provided based upon any special circumstances.

112.5 Procedures of the Board

112.5.1 Rules and regulations. The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet on call of the chairman. The board shall meet within thirty (30) calendar days after notice of appeal has been received.

112.5.2 Decisions. The Building Board of Adjustments and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the building official or varies the application of any provision of this code, the building official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept in the office of the building official. Every decision of the board shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.

SECTION 113

VIOLATIONS

113.1 Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted there under, shall be considered in violation of the Florida Building Code and the Village of Royal Palm Code of Ordinances. Each such violation shall be considered a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued. Upon determination that any such violation exists, such person shall be penalized within the limits as provided by law and local ordinance.

SECTION 114 STOP WORK ORDER

114.1 Authority.

Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or in a dangerous or unsafe manner, the building official is authorized to issue a stop work order.

114.2 Issuance.

The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Where an emergency exists, the building official shall not be required to give a written notice prior to stopping the work.

114.3 Unlawful continuance.

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

SECTION 115 SEVERABILITY

115.1 If any section, subsection sentence, clause or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 116 VIOLATIONS AND PENALTIES

116.1 Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted there under, shall be guilty of a misdemeanor of the second degree. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued. Upon conviction of any such violation such person shall be punished within the limits as provided by law and local ordinance.

**PROVISION OF SERVICES AGREEMENT
BETWEEN THE VILLAGE OF ROYAL PALM BEACH
AND
FEDERAL PROPERTY REGISTRATION CORP.**

This agreement, entered into the 13th day of December, 2011, **effective upon execution by both parties**, by and between the Village of Royal Palm Beach, a municipal corporation with offices located at 1050 Royal Palm Beach Boulevard, Royal Palm Beach, Fl. 33411, organized in accordance, with the laws of Florida, hereinafter referred to as the "VILLAGE" and Federal Property Registration Corp, a Florida Corporation, with offices at 6767 N. Wickham Rd., Suite 400, Melbourne, Fl. 32940, hereinafter referred to as the "FPRC" and

WITNESSETH:

WHEREAS, foreclosures on residential and commercial properties that result in violation of the VILLAGE code of ordinances concerning the care of neglected lawns and exterior maintenance of structures are difficult to deal with through normal code enforcement processes due to lack of property maintenance being performed by often absentee, original or subsequent owners; and

WHEREAS, FPRC is able to assist the VILLAGE to physically and financially relieve it of the financial and labor burdens associated with the oversight of such properties that are in violation of its codes and property maintenance standards by providing an electronic registration of neglected, vacant, abandoned and foreclosed property (hereinafter "foreclosed property"); and

WHEREAS, FPRC has agreed to perform such services for the City of Jacksonville, Florida, through current agreement dated November 17, 2010, as extended by the "First Amendment to Agreement" dated October 1, 2011 (City Contract No. 9544), and is also willing to perform the same registration services of property subject to foreclosure for the VILLAGE under substantially the same terms as that being offered to the City of Jacksonville, Florida; and

WHEREAS, the VILLAGE has adopted Ordinance No. 847, as codified at Division 3. of Chapter 6 at Article XI. of the Village Code, which allows the VILLAGE's authorized representative to inspect and register property subject to foreclosure in conformance with Sec. 6-197. of the Village Code of Ordinances.

NOW, THEREFORE, and in consideration of mutual terms, conditions, promises, covenants and payments set forth, VILLAGE and FPRC agree as follows:

1. **Recitals:** The above recitals are true and correct and incorporated herein.

2. **Scope of services:** The following services will be provide by FPRC on behalf of the VILLAGE in conformance with Division 3. Registration of Real Property Subject to Foreclosure. set forth in Chapter 6. at Article XI. Standard Housing Code. at Sec. 6-197. of the VILLAGE's Code of Ordinances ("VILLAGE CODE"):

a. FPRC will cite the VILLAGE CODE to mortgagees and proactively contact those that file a public notice of default, lis pendens,

foreclosure action, and or take title to real property via foreclosure or other any legal means, including by deed in lieu of foreclosure;

b. FPRC will electronically provide for registration of foreclosed properties in violation of the VILLAGE CODE;

c. FPRC will pay for all expenses related to registration of all foreclosed property, and all administrative costs and fees related thereto, including but not limited to, the costs of FPRC employees attending code enforcement hearings concerning any failure by entities or persons to properly register property after notice of the requirement for same under Village Code has been provided by FPRC;

d. FPRC will investigate, report, or take corrective measures monthly to update property status of all foreclosed property electronically registered and in compliance with the VILLAGE CODE; and

e. FPRC agrees to provide a website for the registration of each foreclosed property enabling compliance of the VILLAGE CODE, which will direct registrants to the VILLAGE's website at www.royalpalmbeach.com and further directing traffic via a hyperlink to www.VacantRegistry.com. The website found at www.VacantRegistry.com will automatically allow lenders and/or responsible parties to comply with the VILLAGE CODE.

3. **Location:** The above-referenced services will be performed for properties lying within the municipal boundaries of the Village of Royal Palm Beach, Fl. 33411,

4. **Compensation:** FPRC will charge an annual registration fee per applicant in an amount that has been set by resolution of the Village Council pursuant to Sec.6-197. to register all mortgagees who comply with VILLAGE CODE, and FPRC's fee shall be fifty percent (50%) of the registration fee, or \$75.00, whichever is greater; and the remaining fifty percent (50%) of the fee will be paid to the VILLAGE, for the above-referenced services. VILLAGE will designate and authorize an employee/representative to sign any documents necessary to require and authorize all lending institutions and lenders to pay FPRC directly for the electronic registration fees and services they provide in order to provide for distribution of a portion of such fee back to the VILLAGE.

5. **Term; Termination of Agreement:**

The initial term of this agreement begins on the Effective date referenced hereinabove and shall run through September 30, 2012. In addition, the parties may agree to renew this Agreement for up to two, additional terms of one (1) year each through the execution of a written addendum to the agreement executed by both parties. Notwithstanding the above, either party, upon thirty (30) days' notice to the other party via hand delivery or certified mail to the following addresses, may terminate this agreement.

THE VILLAGE:

The Village of Royal Palm Beach
1050 Royal Palm Beach Boulevard
Royal Palm Beach, Fl. 33411

Attn:Raymond C. Liggins,
Village Manager

FPRC

Thomas R. Darnell, Vice President
Federal Property Registration Corp.
6767 N. Wickham Rd., Ste. 400
Melbourne, Fl. 32940

6. Independent Contractor

It is specifically understood that FPRC is an independent contractor and not an employee of the VILLAGE. The VILLAGE and FPRC agree that this agreement is not a contract of employment and that no relationship of Employer/Employee or Principal/Agent is or shall be created hereby nor shall hereafter exist by reason of the performance of the services herein provided.

7. Indemnification:

FPRC shall at all times hereafter indemnify and hold Harmless the VILLAGE, its agent, servants and employees, from and against any claim, demand, or cause of action of whatsoever kind of nature, arising out of error, omission, negligent act, conduct, or misconduct of FPRC, in the performance of services under this Agreement. FPRC shall take all proper safety and health precautions to protect the VILLAGE, the public, and property of others. The foregoing indemnification shall not constitute any waiver of sovereign immunity by the VILLAGE for services performed on its behalf by FPRC beyond the limits set forth at Sec. 768.28, *Florida Statutes*. In no case whatsoever shall such limits extend beyond \$200,000 for any one person or beyond \$300,000 for any judgment which, when totaled with all other judgments, arises out of the same incident or occurrence. These provisions shall not be construed to constitute agreement by either party to indemnify the other for such other's negligent, willful or intentional acts or omissions.

8. Governing Laws:

This agreement shall be governed and construed in accordance with the laws of the State of Florida, and venue shall be in Palm Beach County, Florida, should any dispute arise with regard to same.

9. Attorney's Fees:

Should a dispute arise, the prevailing party, both on the trial and appellate Levels, shall be entitled to all costs and attorney's fees.

10. No transfer of Powers; No waiver of Sovereign Immunity:

Nothing contained in this Agreement shall be construed to constitute a transfer of powers or waiver of sovereign immunity in any way, whatsoever. This Agreement is solely an agreement for the provision of services on a contact basis

11. **Non Assignment:**

This Agreement may not be assigned without prior written consent of the parties.

12. **Subject to Countywide Inspector General Ordinance:**

Pursuant to Palm Beach County Code Sec.2-421—2-432., Palm Beach County established the Office of Inspector General, which is authorized and empowered to review past, present, and proposed VILLAGE agreements, contracts, transactions, accounts and records. All parties doing business with the VILLAGE will fully cooperate with the Inspector General. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and to audit, investigate, monitor, and inspect the activities of the Village, its officers, agents, employees, and lobbyists in order to ensure compliance with this Agreement, and to detect waste, corruption, and fraud.

13. **The Entire Agreement:**

This Agreement constitutes the entire understanding of the parties with respect to the provision of services as set forth herein to be performed with the VILLAGE. It may be modified, or any of its provisions waived, unless such modification and/or waiver is in writing and is agreed to and signed by both parties.

WITNESSES (for FPRC)

1 Michelle Wells

2 (Signature)

WITNESS (Village)

1 Kathleen Drake

ATTEST:

Diane DiSanto

FPRC

(Signature)

Thomas R. Darnell, VP.

Thomas R. Darnell

Print Name

Date 12/6, 2011

VILLAGE OF ROYAL PALM

(Signature)

Raymond C. Liggins, P.E.

Village Manager

Diane DiSanto, Village Clerk

Date Dec 13, 2011

**FIRST ADDENDUM TO PROVISION OF SERVICES AGREEMENT
BETWEEN
THE VILLAGE OF ROYAL PALM BEACH
AND
FEDERAL PROPERTY REGISTRATION CORPORATION**

THIS FIRST ADDENDUM, made and entered into this 17th day of August 2012, effective October 1, 2012, by and between the Village of Royal Palm Beach, Florida, a municipal corporation organized and existing in accordance with the laws of the State of Florida with offices located at 1050 Royal Palm Beach Boulevard, Royal Palm Beach, FL 33411, hereinafter referred to as the "VILLAGE", and Federal Property Registration Corp, a Florida Corporation, with offices at 6767 N. Wickham Rd., Suite 400, Melbourne, Fl. 32940, hereinafter referred to as the "FPRC", both of whom agree that the current Provision of Services Agreement made and entered into by the VILLAGE and FPRC on the 13th day of December, 2011 between the parties is hereby amended in the following manner:

Section 1: The above-referenced Provision of Services Agreement is extended to run from October 1, 2012 until September 30, 2013. This is the first extension of the Agreement for an additional one (1) year term as permitted by the terms of the Agreement at paragraph 5. The Agreement may be extended for one (1) final, one (1) year term if agreed to by the parties pursuant to the current Provision of Services Agreement dated December 13, 2011.

Section 2: All other Sections and recitals of the above-referenced Services Agreement shall remain in full force and effect.

Section 3: This First Addendum shall be attached to the current Provision of Services Agreement and shall become a part thereof.

IN WITNESS WHEREOF, the VILLAGE has caused this First Addendum to be signed and executed on its behalf by its Village Manager; and FPRC has signed and executed this First Addendum, both in duplicate, with an effective date as noted above.

Witnesses:
Deane DeSanto

Jaqueline Shimbue-Dary

Village of Royal Palm Beach

[Signature]
By: Raymond C. Liggins, P.E.
Its: Village Manager

(SEAL)

Date: 8/17/12

Witnesses:
Michael Lee

Mykel J. [Signature]

FPRC
[Signature]

By: Thomas R. Darnell
Title: Vice President

Date: 8/26/12