



TOWN OF LOXAHATCHEE GROVES  
TOWN COUNCIL MEETING AGENDA  
TUESDAY, JULY 2, 2013 @ 8:00 P.M.

*Mayor David Browning (Seat 4)*

*Vice Mayor Ron Jarriel (Seat 1)*

*Councilman Tom Goltzené (Seat 5)*

*Councilman Ryan Liang (Seat 3)*

*Councilman Jim Rockett (Seat 2)*



# Town of Loxahatchee Groves

## Town Council Meeting

Tuesday, July 2, 2013 at **8:00** p.m.

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

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

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: June 18, 2013

**3. PUBLIC COMMENT**

**4. PRESENTATIONS - None**

**5. COMMITTEE REPORTS - None**

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

**6. PUBLIC HEARINGS (Ordinances 2<sup>nd</sup> Reading) –**

**7. ORDINANCES (1<sup>st</sup> Reading) - None**

- a. Public Hearing:

**8. RESOLUTIONS**

- a. **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE VALLEY CREST SITE PLAN AMENDMENT, 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.**

**9. ADMINISTRATIVE UPDATE – *Town Manager Kutney***

**10. OLD BUSINESS**

**11. NEW BUSINESS**

- a. Engineering Contracts (*Contracts are currently being negotiated and due to time constraints may not be included as part of this Agenda Packet, but will be included as addenda to the Agenda Packet*)
- b. Town Council Ratification of Selection of Solid Waste vendor (*If complete, may be addressed as addendum item*)

**12. CLOSING COMMENTS**

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

**13. ADJOURNMENT**

The next Town Council Meeting is scheduled for Tuesday, July 16, 2013 at 7:00 p.m.

**Comment 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. CONSENT AGENDA**

TOWN OF LOXAHATCHEE GROVES  
 Att: Mayor David Browing  
 14579 Southern Boulevard  
 Suite 2  
 Loxahatchee FL 33470

ACCOUNT NO: 1574-0706600R  
 STATEMENT NO: 24

Solid Waste Special Assessment

		HOURS	
05/31/2013	MDC	Review schedule, telephone conference with MK, prepare memo on schedule.	0.80
06/03/2013	MDC	Finalize memo and forward to Town.	0.30
06/19/2013	BJS	Review and draft preliminary Solid Waste Resolution for MDC review.	0.50
06/20/2013	MDC	Review and revise Preliminary Assessments Resolution.	0.80
		FOR CURRENT SERVICES RENDERED	2.40      444.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	1.90	\$185.00	\$351.50
BRIAN J. SHERMAN	0.50	185.00	92.50

TOTAL CURRENT WORK 444.00

BALANCE DUE \$444.00

**REVISED STATEMENT**

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.

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  
14579 Southern Blvd., Ste 2  
Loxahatchee Groves FL 33470

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06/24/2013  
ACCOUNT NO: 1574-1107571R  
STATEMENT NO: 2

adv. Todd McLendon (Code Enforcement Violation)

*mnc*

		HOURS
05/31/2013		
MDC	Review Reply filed by McLendon's counsel, confer with SW.	0.30
SRW	Meet w/ MDC re: response to Request for Reconsideration. Review McLendon's reply brief. Review applicable case law and rules of appellate procedure.	1.60
06/03/2013		
MDC	Review, revise Sur-Reply to Special Magistrate.	0.50
SRW	Draft response to Respondent's reply brief. Research re: same.	1.80
06/04/2013		
MDC	Continue review and revising of Sur-Reply.	0.50
06/06/2013		
MDC	Finalize and file Sur-Reply.	0.30
06/07/2013		
MDC	Review correspondence, agenda for 6/19/13 hearing.	0.30
06/13/2013		
MDC	Phone conference with MK, BT on status of case, preparation for 6/19/13 hearing.	0.60
06/17/2013		
MDC	Phone conference with MK, BT re: 6/19 hearing.	0.50
06/19/2013		
MDC	Review materials, prepare for and attend hearing on fine certification in Loxahatchee Groves.	3.20
06/21/2013		
SRW	Review e-mail from Greg Kino re: costs; review Florida Statutes; review case law cited; research re: same; e-mail correspondence re: same.	0.80

adv. Todd McLendon (Code Enforcement Violation)

	<u>HOURS</u>	<u>1,924.00</u>
FOR CURRENT SERVICES RENDERED	10.40	
RECAPITULATION		
<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>
MICHAEL D. CIRULLO	6.20	\$185.00
STACEY R WEINGER	4.20	185.00
		<u>TOTAL</u>
		\$1,147.00
		777.00
COPYING COST		<u>10.50</u>
TOTAL EXPENSES THRU 06/30/2013		10.50
TOTAL CURRENT WORK		1,934.50
BALANCE DUE		<u>\$1,934.50</u>

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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TOWN OF LOXAHATCHEE GROVES  
 14579 Southern Blvd., Ste 2  
 Loxahatchee Groves FL 33470

ACCOUNT NO: 1574-1107570R  
 STATEMENT NO: 5

adv. McLendon, Todd

*MDC*

		HOURS	
05/24/2013	MDC	Review Reply filed in case, update Council.	0.40
06/06/2013	MDC	Review and research status of state law, HB 537; prepare Notice of Filing of Chapter 2013-115, Laws of Florida.	0.70
	BAM	Telephone calls to Florida Governor Rick Scott's Legislative Information Office and State of Florida Division of Administrative Code re: obtaining signed copy of HB 537/Chapter 2013-115, Laws of Florida to file with court; Review correspondence from Liz Cloud, Supervising Officer, Administrative Code, re: copy of signed bill.	0.50
06/18/2013	BAM	Telephone call with Liz Cloud, Department of State Laws of Florida re: copy of signed HB 7019; Review correspondence from Cloud re: same.	0.20
06/20/2013	MDC	Prepare Notice of Filing of Laws of Florida, Chapter 2013-213.	0.30
		FOR CURRENT SERVICES RENDERED	2.10      388.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	1.40	\$185.00	\$259.00
BRAM A. MARAVENT	0.70	185.00	129.50
TOTAL CURRENT WORK			388.50
BALANCE DUE			<u>\$388.50</u>

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

ACCOUNT NO: 1574-1107568R  
 STATEMENT NO: 7

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

*MDC*

		HOURS	
06/05/2013	MDC	Phone conference with MB, review status of case; prepare statutory settlement letter and statement of uses.	1.50
06/06/2013	MDC	Phone conference with MB, phone conference with JF on zoning issues re: settlement offer and statement of uses.	0.80
06/07/2013	MDC	Phone conference with MB, JF; revise letters to Day; prepare memo for agenda.	0.90
06/10/2013	MDC	Finalize letters, memos for 6/18/13 meeting, forward to SE, MK.	0.30
06/19/2013	MDC	Review and finalize settlement letter and statement of claim.	0.20
		FOR CURRENT SERVICES RENDERED	3.70 <u>684.50</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	3.70	\$185.00	\$684.50
TOTAL CURRENT WORK			684.50
BALANCE DUE			<u>\$684.50</u>

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06/24/2013

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

ACCOUNT NO: 1574-1107567R  
 STATEMENT NO: 7

Valley Crest Site Plan

		HOURS	
06/19/2013	MDC	Review resolution, draft notices, provide comments to JF.	1.00
		FOR CURRENT SERVICES RENDERED	1.00
			<u>185.00</u>

RECAPITULATION			
<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	1.00	\$185.00	\$185.00

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: 82

General Matters

*MDC*

		HOURS
05/24/2013	MDC	
	Prepare resolution and memo for 6/04/13 agenda; telephone conference with MK and PU on contract revision; review correspondence on contracts.	1.90
05/28/2013	MDC	
	Prepare ordinance for ULDC Amendment (Animal Rescue); review correspondence on contracts.	0.50
05/29/2013	MDC	
	Review revised zoning materials; telephone conference with MK, PU on budget matters; review status of agenda materials for 6/04/13 meeting.	0.70
05/31/2013	BAM	
	Review correspondence from Mark Kutney, Town Manager, re: bid/response information from Sirdar Trucking, the second-low bidder for mowing and vegetative services.	0.20
06/01/2013	MDC	
	Draft agreement for vegetative and mowing services between Town and Sirdar Trucking, Inc.	0.70
06/03/2013	BAM	
	Review correspondence from Mark Kutney, Town Manager, re: revisions to proposed agreement between Town and District.	0.40
	MDC	
	Review Sirdar Agreement for vegetation and mowing; review agenda materials for 6/04/13 meeting.	0.40
06/04/2013	MDC	
	Phone conference with Council; review correspondence with WCD; telephone conference with MK on pending items; prepare for and attend Council meetings.	6.20
	BAM	
	Continue reviewing drafts of Water District's changes to	

General Matters

HOURS

	Town's proposed agreements for road repair, road grading, and emergency call outs; conference call with MDC and Mark Kutney re: same.	1.00
06/05/2013		
MDC	Phone conference with MK on pending items from 6/04/13 meeting; review status of LGWCD contracts.	0.60
BAM	Conference with MDC re: negotiating Water District's disputed/amended provisions to vendor services agreements; Draft correspondence to Mark Kutney, Town Manager, re: same; Conference call with Kutney and Susan Eichhorn, Town Clerk, re: same, as well as negotiating strategy.	1.50
06/10/2013		
BAM	Review, revise, and provide comments to proposed agreements between Town for road grading/base rock, road repair, and emergency call out services; Draft correspondence to FP and SY re: same.	1.40
06/11/2013		
MDC	Phone conference with MK on status of agenda items, budget.	0.30
BAM	Review correspondence from Steve Yohe re: contract negotiations for vendor agreements; Draft correspondence re: confirming attendance at negotiations.	0.20
06/12/2013		
MDC	Review status of LGWCD agreements.	0.20
BAM	Conference with MDC re: call with District counsel regarding changes to three vendor service agreements; Conference call with Frank Palen, District counsel, re: same; Draft correspondence to Mark Kutney and Perla Underwood re: results of call; Telephone call with Underwood re: potential issues with meeting in light of opposing counsel's objections; Telephone call with Palen re: same, confirming cancellation of meeting; Review correspondence from Palen re: agreeing to all substantive changes and presenting additional concern; Draft response re: same.	2.00
06/13/2013		
MDC	Review issues with LGWCD Agreements, telephone conference with MK, PU on solid waste collection RFP.	0.50
BAM	Review correspondence from Frank Palen re: modified Road Grading/ Base Rock Agreement; Telephone conference with Palen re: remaining issues; Legal research re: section 768.28(19), Florida Statutes, as applied to agreements with District; Telephone call with Palen re: final changes; Draft correspondence to all parties re: same; Conference with MDC re: solid waste agreements; Conference call with Kutney re: same; Review	

## General Matters

		HOURS
	correspondence from Palen re: approving final drafts.	1.50
06/14/2013		
BAM	Telephone call with Mark Kutney, Town Manager, re: next steps regarding three vendor agreements with Water Control District; Draft correspondence re: documents for Town Council's review for upcoming meeting; Review correspondence from Perla Underwood re: solid waste bid and addendum.	0.60
06/15/2013		
BAM	Begin reviewing bid for solid waste collection.	0.40
06/17/2013		
BAM	Complete review of Solid Waste RFP and Addendum for purpose of providing comments to Town Manager; conference with MDC re: same; draft correspondence to Perla Underwood and Mark Kutney re: same.	2.80
MDC	Review agenda items for 6/18/13 meeting; correspond with planner and clerk on attachment to ordinance; miscellaneous telephone calls with Council members; review addenda to agenda, final LGWCD Agreements; meeting with BM, review Solid Waste Collection RFP documents/proposed addenda.	2.30
06/18/2013		
BAM	Review correspondence from Perla Underwood re: comments with respect to solid waste bid and addendum; Telephone call with Perla Underwood re: same; Review correspondence from Dennise Rodriguez re: prior solid waste agreement and ILA; Review correspondence from Perla Underwood re: revised Addendum; Conference with MDC re: same; Draft correspondence to PU re: same.	2.50
MDC	Phone conference with Council members; review and research issues for meeting; prepare for and attend Council meeting.	5.70
06/19/2013		
BJS	t/c with MDC with review and draft of Tentative Millage Rate Resolution for MDC review.	0.60
BAM	Continue drafting client memorandum discussing effects of changes re: SB 2/Chapter 2013-36, Laws of Florida (Ethics).	0.10
06/20/2013		
MDC	Begin review and preparation of millage resolution for 7/16/13 meeting.	0.40
BAM	Review correspondence from Mark Kutney, Town Manager, re: information for three new vendor agreements (general Town engineering, surveying, and traffic engineering); telephone calls with Mark Kutney re: same; review correspondence from Kutney re: Addendum to	

General Matters

		HOURS	
	RFQ; continue review of Chapter 2013-36, Laws of Florida and effects on Public Employees/Officials.	0.90	
BJS	Review and revise draft TRIM Resolutions with comments from MDC.	0.40	
06/21/2013			
MDC	Review and revise millage resolutions; miscellaneous telephone calls on status of same.	0.30	
	FOR CURRENT SERVICES RENDERED	37.20	6,882.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	20.70	\$185.00	\$3,829.50
BRIAN J. SHERMAN	1.00	185.00	185.00
BRAM A. MARAVENT	15.50	185.00	2,867.50

COPYING COST	276.50
TOTAL EXPENSES THRU 06/30/2013	276.50
TOTAL CURRENT WORK	7,158.50
BALANCE DUE	\$7,158.50

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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

ACCOUNT NO: 1574-1107560R  
 STATEMENT NO: 11

Water Control District Matters

*MDC*

HOURS

05/16/2013				
	DJD	Revise dedication.	0.30	
06/18/2013				
	DJD	Review documentation; telephone conference with Bill Underwood.	1.10	
	MDC	Review status of transfer of roads with DJ, review correspondence from District.	0.40	
06/19/2013				
	DJD	Telephone conference with Mike Cirullo.	0.30	
		FOR CURRENT SERVICES RENDERED	2.10	388.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
D.J. DOODY	1.70	\$185.00	\$314.50
MICHAEL D. CIRULLO	0.40	185.00	74.00
TOTAL CURRENT WORK			388.50
BALANCE DUE			<u>\$388.50</u>

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# Town of Loxahatchee Groves

## Town Council Meeting

Tuesday, June 18, 2013 at 7:00 p.m.

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

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

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. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzené Ryan Liang and Jim Rockett. Also present were Town Manager Mark Kutney, Town Clerk Susan Eichhorn, Town Attorney Michael D. Cirullo, Jr., Town Planning Consultant Jim Fleischmann, and Town Planning Technician Braeden Garrett.

b. Pledge of Allegiance & Invocation – Mayor Browning

c. Approval of Agenda

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

**2. CONSENT AGENDA**

a. Minutes for Approval: June 4, 2013

Councilman Rockett brought attention to the portion of the minutes under Resolution No. 2013-04, and stated that he thought there had been consensus of the Town Council regarding his suggestion that a statement of the balance sheet should always accompany any proposed budget changes. Also, he noted that, under the Administrative Update portion of the minutes, he thought that there had been consensus of the Town Council regarding his suggestion that the FAAC and the Town Council have input and review all bids prior to bids being put out.

Virginia Standish, member of FAAC: Recalled that there was a debate at the FAAC meeting, and she thought Chairman Chiu was under the impression that RFP and bids should be reviewed by the FAAC and the question was whether it was in the Resolution governing the FAAC or not.

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

Phil Liu, 142<sup>nd</sup> Terr: Commented that FAAC brought up reviewing the bids because it was not in the policy, and the Town Council could consider changing the policy if that was desired.

**3. PUBLIC COMMENT**

**4. PRESENTATIONS - None**

**5. COMMITTEE REPORTS - None**

## 6. PUBLIC HEARINGS (Ordinances 2<sup>nd</sup> Reading)–

### **Ordinance No. 2013-03**

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND ARTICLE 20, ENTITLED “RESIDENTIAL ZONING DISTRICTS,” SECTION 20-015, ENTITLED “PERMITTED USES” TO ADD “RESCUED ANIMAL CARE” AS A PERMITTED PRINCIPAL USE SUBJECT TO ARTICLE 80 AND TO A SPECIAL EXCEPTION IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING CATEGORY; AMENDING ARTICLE 80, ENTITLED “CONDITIONAL USES” TO CREATE A NEW SECTION 80-060, ENTITLED “RESCUED ANIMAL CARE,” TO PROVIDE FOR REGULATIONS RELATING TO RESCUED ANIMAL CARE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Ordinance No. 2013-03 by title, as printed above.

Town Planning Consultant Fleischmann reviewed the staff report. He noted that the ordinance was approved on first reading, subject to two changes: revise the language of the ordinance so that it was more general and not specifically oriented towards dogs and cats, and to revise the language so that we could better understand the number of animals that may be permitted in any given facility. Those changes had been made. Regarding the number of animals, reference was made to other agencies that control the number of animals in any facility.

Councilman Goltzené suggested that since the reference to native wildlife would preclude animals that were not from Florida or North America, the word “native” should be removed wherever it was referenced as “native wildlife.” Staff was in agreement, and Mr. Fleischmann indicated that he would include reference to specific agencies that would govern animals that were not native wildlife.

After further discussion, Town Attorney Cirullo advised that language would be added to item No. 6 of the Staff Alternate Proposal, indicating that the U.S. Department of the Interior and any other applicable agency regulations of such animals.

Mayor Browning mentioned that he has heard that people can hear the dogs from far distances, and he believed that noise could affect someone's lifestyle. He also discussed the facility being located on Southern or Okeechobee, if services to the public were offered. He noted that if they do not offer those services to the public they could put it anywhere in Loxahatchee Groves, and that he thought that needed to be changed – if it was going to go forward, it would need to be on Southern or Okeechobee.

Discussion took place regarding noise and noise regulations, and the approval by special exception, whereby neighboring parties would have a chance to comment and the Town Council would make a decision which would include compatibility with the neighborhood. It was noted that the Town Council could also attach conditions to any approval that would be necessary to make it compatible to the neighbors.

In response to Vice Mayor Jarriel, Town Planning Consultant Jim Fleischmann stated that the facility could have their services opened to the public, if they fronted on Okeechobee Blvd., or Southern Blvd.

**MOTION: Councilman Goltzené made a motion to adopt Ordinance No. 2013-03, on second reading, with the conditions that the term “native” is deleted wherever necessary, per earlier discussion, and to allow the language suggested by Town Attorney Cirullo that language would be added to Staff’s Alternate Proposal Item F., No. 6, indicating the U.S. Department of the Interior and any other applicable agency with regulations of such animals. The motion was seconded by Councilman Rockett. (*Clarification was made after Public Comments that the requirement for a waste management plan was part of the motion to approve.*)**

Public Comments:

Jeff Brophy, agent for Big Dog Ranch: Explained that the current facility is not specific to the dogs, and a new facility would be specific to the dogs. The dog rescue operation was always allowed in Loxahatchee Groves; what we came for was for approval of veterinarian services and dog boarding. The existence of the operation is allowed anywhere in the AR Zoning District without those two services. We understand that the discussion does not end tonight. All of the

meetings so far have brought up different issues that we are taking into account, and we look forward to continuing the process with you and the community as we select a site. He thanked staff as they have worked very hard to put together something that is fair to the community and Big Dog Ranch.

John Ryan, 3508 A Road: Commented that he was generally in favor of this type of facility. He discussed the effect on water in the canals. The only restriction on sanitation is that there be approval by the Palm Beach County Health Dept. The real benefit along Okeechobee and Southern is that it could tie into city sewer. Perhaps in addition to Palm Beach County Health Department, conditions that the LGWCD may feel is necessary for things that would affect the quality of the water could be included.

Town Planning Consultant Fleischmann advised that Palm Beach County does have requirements for proximity to water and sewer requirements, but that is something that we can require in special exception application.

Jeff Brophy stated that if the facility was located on Southern or Okeechobee, the Palm Beach County Utility Department would require water and sewer hookup.

After further discussion regarding the effect on water and the waste generated in this type of facility, it was the **CONSENSUS OF THE TOWN COUNCIL that an additional requirement would be added to the Staff Alternate Proposal, Item F, that the applicant must have a waste management plan as part of their program.**

Public Comment:

Bill Kline, E Road: Commented regarding whether dogs would be enclosed in a building so that neighbors would not have to listen to barking; mentioned raising alligators, which was aquaculture and asked if there would be a problem with that.

Frank Schiola, 13434 Marcella Blvd.: Commented regarding the Town becoming the home of non-profits, who get all of the community services but don't pay for the benefits.

Town Attorney Cirullo requested clarification of the motion made by Councilman Goltzené, as to whether the requirement for a waste management plan was part of his motion. **Councilman Goltzené clarified that a waste management plan was part of his motion to approve.**

**On roll call the motion to adopt Ordinance No.2013-03, on second reading with the conditions that the term “native” is deleted wherever necessary, per earlier discussion, and to allow the language suggested by Town Attorney Cirullo that language would be added to Staff’s Alternate Proposal Item F., No. 6, indicating that the U.S. Department of the Interior and any other applicable agency with regulations of such animals and to add the requirement under Item F that there would be a waste management plan, seconded by Councilman Rockett was approved 4/1, with Mayor Browning casting a dissenting vote.**

**7. ORDINANCES** (1<sup>st</sup> Reading) - *None*

a. Public Hearing:

**8. RESOLUTIONS**

**9. ADMINISTRATIVE UPDATE** – *Town Manager Kutney*

- Administrative Policy 3-13 was approved at the last meeting under Consent Agenda; changes were made and the Town Council now had a final copy.
- On June 10, Vice Mayor Jarriel and staff had a conference call with FDOT, and provided our concerns and factors affecting a signal in that area.
- Update on Palm Beach County surplus property. Palm Beach County had requested a copy of the Town Council meeting minutes where acceptance of the property was approved, a confirmation acknowledgement that the Town was accepting the property in as is condition, and information on the proposed use of the property. After discussion, it was the **CONSENSUS OF THE TOWN COUNCIL that the proposed use would be stated as: Any public purpose authorized by law.**

## 10. OLD BUSINESS

- a. Consideration of request of Bianca Berktold, 15045 Collecting Canal Rd., regarding permit to install swimming pool.

Town Manager Kutney provided an update on the request. He noted that staff met with Ms. Berktold on June 7, 2013, and there were two solutions for this situation: a ULDC text amendment, which would affect all properties in the Town with this situation; or a variance request. He indicated that the text amendment would probably be the less expensive route at a cost of approximately \$2,500, whereas a variance would have approximate costs of \$3,500, or higher. He also noted that handling these types of items on a cost recovery basis was very important to the FAAC, and that Ms. Berktold had requested that she return to the meeting tonight to address the Town Council. Town Planning Consultant Fleischmann had also gathered further information.

Town Planning Consultant Fleischmann addressed the Town Council, and made the following comments: that one of the big issues that we need to keep in mind is unintended consequences. We have one property that has an issue, and if we make some general code changes, there could be unintended consequences with other property owners requesting the same thing. I think the way to go is the variance. When I first was looking at the various alternatives, I thought a variance might be difficult to approve, but I did some additional research, a lot of which would make a case for variance. I found out that this property, along with the property to the north comes up to 5 acres. In 1973, this property was rezoned by the County Commission to residential estate, which allows 2.5 acre parcels under the zoning district. I think what happened was that a house was built on the 5 acres fairly central in the property. After the property was rezoned, the property was subdivided into two parcels, and now the northern property line comes close to this house. That is the reason why the rear setback does not meet either the Town or County requirement. On that basis, I think a fairly simple argument could be made to justify a variance on this property, and at the same time not incorporate general code language that could result in unintended consequences in this Town.

Councilman Goltzené commented that he did not think that these residents could be held responsible for things that had happened in the past. His understanding was that the Town ULDCs expanded the setbacks from what the County required, and that he thought that this was something that was going to affect everyone because of the setback issue.

Councilman Rockett commented that our ULDC was in place when this property was purchased, and that he did not have a problem with asking for a variance.

Vice Mayor Jarriel commented that a variance should not be required. If the surrounding residents want her to put a pool in, and that brings the value of the property up that would bring revenue to the Town. A text amendment was needed, and the Berktolds should not have to pay for it. He stated that we handle each problem as it comes up before this Council. Both neighbors had approved of it, the value of the property would be increased, and a text amendment was needed.

**Motion: Vice Mayor Jarriel made a motion to do a text amendment and take care of this accessory problem and the Town should have to pay for it, because it will benefit the residents of this community. Councilman Liang seconded the motion.**

Town Planning Consultant Fleischmann explained what he meant by unintended consequences: I was not necessarily talking about swimming pools. Making changes for setbacks for accessory uses includes a whole variety of structures. It was possible to do a text amendment – Sec. 20-01(h) that talks about swimming pools specifically. Let's just amend that section, so we are allowing some relaxation for swimming pools, rather than making broad sweeping changes to accessory uses.

Further discussion took place regarding Palm Beach County setbacks, the Town setbacks, and accessory structures.

Town Manager Kutney clarified that the intent of the cost recovery program was that the applicant would be paying for the planner to change the code. If the Town Council was directing the Town Management firm to pay for it, it would take quite some time, as there were other priorities that needed attention.

Vice Mayor Jarriel stated that he said that he did not think the applicant should have to pay for it, but DID NOT say that he did not care about the Town spending money, and he wanted that clear in the record.

Councilman Goltzené commented that he did not think that the Management Company should have to do this text amendment; we ought to pay them. He also did not think that the Berktolds should have to pay. When people do things right we should not penalize the first person that points out something in the code.

Vice Mayor Jarriel added to his motion to do a text amendment and take care of this accessory problem and the Town should have to pay for it, because it will benefit the residents of this community. He added that the text amendment be made specific for swimming pools and spas and screened enclosure. Councilman Liang seconded the amendment to the motion. On roll call vote, the motion passed 4/1 with Councilman Rockett casting a dissenting vote.

- b. Contracts for ITB 2013-001 (Gravel Road Grading, Mowing, and Vegetative Removal Services) –
  - i. LGWCD contracts – *Not finalized prior to Agenda disbursement.*

Town Manager Kutney advised that the contracts were now ready; however, Town Attorney Cirullo and he were speaking today about whether the Town Council wanted to ratify the contracts tonight, or wait until the LGWCD reviews them at their next meeting.

After discussion **MOTION: Councilman Rockett made a motion to accept the contracts with the Loxahatchee Groves Water Control District (LGWCD) for ITB 2012-001, for Road Grading and Base Rock, Road Repair, and Emergency Call Out, and that the Mayor signs it tonight. The motion was seconded by Vice Mayor Jarriel. On roll call vote, the motion passed 5/0.**

Public Comment:

John Ryan stated that a couple of the supervisors did have some comments and he understood that all had come into agreement. The LGWCD would have a meeting on June 24, 2013, and everyone could sign at that meeting.

- ii. Mowing and Vegetative Removal Contract – Sirdar Trucking, Inc.

Town Attorney Cirullo advised that the lowest bidder, C & C Loader, however they had withdrawn, so that Town went to the number two bidder, Sirdar Trucking, Inc. They had signed the contract, and a motion could be made confirming that the contract is being awarded to Sirdar Trucking Inc, and that the Town Council approves the contract and authorizes its execution.

**Motion: Councilman Rockett made a motion to approve and confirm the award of the contract for ITB 2013-001, with Sirdar Trucking, Inc., for mowing and vegetative removal. The motion was seconded by Councilman Liang. On roll call vote, the motion passed 5/0.**

Vice Mayor Jarriel commented that he wanted Town Council consensus, so that there was no misunderstanding with the Management. Back in July, 2012, he had put in a request to have 161<sup>st</sup> Terrace North hedged, and neighbors were asking month after month about it. In December 2012, April 2013 and May 2013 he had also put in requests. The grader operator was complaining about the limbs hitting him and he cannot do a good job on the street, so he hoped that he could get consensus that 161<sup>st</sup> Terrace, a little over two miles long, would be at the top of the list, plus he could keep an eye on the new contractor and see what kind of job is done.

There was no action taken by the Town Council regarding Vice Mayor Jarriel's request.

## **11. NEW BUSINESS**

- a. Consideration of Offer of Settlement and Written Statement of Allowable Uses – Town of Loxahatchee Groves adv. Day/Bert J. Harris Claim

Town Attorney Cirullo referred to his memorandum dated June 18, 2013, regarding Town of Loxahatchee Groves ("Town") adv. Day/Bert J. Harris Claim. He requested approval of two letters that he had prepared to forward them tomorrow to plaintiff's attorney, Bernard Lebedeker, Esq.

**Motion: Councilman Rockett made a motion to authorize Town Attorney Cirullo to forward the letters he had prepared to Bernard Lebedeker, Esq., the plaintiff's attorney. The motion was seconded by Vice Mayor Jarriel. On roll call vote, the motion passed 5/0.**

- b. Request Revision to the Adopted FY2013 Budget Amendment Relating the Debt Assistance to the Loxahatchee Groves Water Control District – Allocating Funds from Transportation Fund Second Local Option Fuel (5 cent) – *Councilman Jim Rockett*

Councilman Rockett addressed which fund to use to pay the LGWCD the \$28,893.02 debt assistance, before it is paid, and suggested that the 5c gas tax money could be used in accordance with FS 336.025. He explained that the process of OGEMing the roads was an enhancement to our roadway network and we were moving forward in getting transfer of title to the roads. He

also requested that staff move forward with the Comp Plan amendment to use our 5c money for capital improvement. He said that money has been allocated out of our general funds, and we have not been committing any money out of the 5c fund money. He asked Town Attorney Cirullo if there was anything that says that we cannot use this paragraph to use the 5c funds, and that he would like to ask the Town Council to approve using the 5c money rather than the general fund.

Town Attorney Cirullo replied that there were different pools of gas tax money to be used for different things. He looked at the statute as providing flexibility when it was amended in 2003. He suggested that he could sit down with the Management Company and see if we can get our review of these funds consistent. Before the next meeting some guidance could be provided for the Town Council on this issue.

Councilman Goltzené commented that he thought the Town Council should wait for some guidance from Town Attorney Cirullo, because of the significant disagreement relative to the Town Management's stance on the subject.

Town Manager Kutney stated that staff was working on the CIP element, and planned to have it to the Planning and Zoning Board by July. He acknowledged that the Town Attorney and Town Management had a different opinion regarding the gas tax money, and that they would meet with the Town Attorney to discuss.

Councilman Rockett stated that we are using the general fund too quickly, and that where the 5c money can be used; that needs to be done. He stated that he did not agree with the North Road expenditure coming out of the general fund, and it should be taken out of the capital improvement fund.

Councilman Goltzené commented that, as he understood capital improvements, it was for things we own. In the end it may come down to an Attorney General's opinion. Unless someone has a deed, the law cannot be skirted, and things had to be done right and in the proper way. There were things that we have to think about when you declare what is a road and what is not a road.

Councilman Rockett replied that North Road was as public a road as anything in this community. This is a public road. I am not suggesting that we do anything that is not right.

Vice Mayor Jarriel commented that he happened to agree with Councilman Rockett. He agreed that North Road was a public road. We have been getting gas tax money from it ever since we incorporated. I think the 5c can be used.

Town Manager Kutney noted that the payment of North Road was pointed out by the auditor, and that Management, the Town Attorney and the auditor had all discussed it.

**It was the CONSENSUS OF THE TOWN COUNCIL that discussion would occur with staff and Town Attorney and a report would be provided at the next meeting.**

- c. Discussion Relative to Request to Assist Resident with Variance ULDC Text Amendment Change for Accessory Structures – *Vice Mayor Ron Jarriel* –  
*See Agenda Item 10.a.*
- d. Discussion Relative to Assignment of Commercial Land Use to Morello Property - Southern Boulevard – *Vice Mayor Ron Jarriel*

Councilman Goltzené declared a voting conflict and removed himself from the dais.

Vice Mayor Jarriel explained the issue, which was that a small section of the Morello property had not been changed to commercial.

Town Planning Consultant Fleischmann distributed a map of the Town, and explained how the right of way was moved, and the County did not compensate to assign commercial designation to that piece of property. He explained that when the Morello properties came through for the rezoning, the three lots that had previously been given a commercial designation were simply assigned a commercial zoning designation, but that could not be done to the lot in question, because it did not have a future land use designation of commercial. He noted that he had talked to County staff and pointed out that it was a scrivener's error, but they did not agree. So, the property is left all by itself on the east side of C road that has a residential land use designation.

Mr. Fleischmann stated that there were two alternatives to assigning a future land use designation to the property:

1. We are in the process of going through some land use amendments and we could make that change as part of the amendments we are doing along Southern Blvd.
2. We could do a small scale amendment separately and just address that parcel. The fastest way would be to address the parcel by itself. However, there was the issue of cost recovery. If we incorporated it into the land use plan amendments that would be the least costly approach, however, he did not know whether that would affect the work authorization to do the amendments.

Discussion took place regarding incorporating the Morello property into the overall land use plan amendments, or doing a small scale amendment separately to just address that property.

Town Attorney Cirullo stated that if you are going to allow someone to kind of hitch on to what we are doing, it needs to be clarified as to why we are doing it – scrivener’s error as opposed to something else. In dealing with specific property I would want the property owner to be an applicant, but the Town is the applicant for the overall text amendment. Those are two issues that we need to be concerned about.

After further discussion, **IT WAS THE CONSENSUS OF THE TOWN COUNCIL that Mr. Morello would be contacted and offered the two options to get the property zoned as commercial.**

- e. Discussion Relative to Preliminary Budget Requests for FY2014 – *Vice Mayor Ron Jarriel*
  - i. Request \$150,000 Gas Tax Funds to LGWCD – Substantial Drainage Projects to protect OGEM Roads

Vice Mayor Jarriel commented that he would like to see the LGWCD add into their preliminary budget the \$150,000 for drainage improvements and the \$28,893 for the debt assessment that we agreed to last year.

- ii. Request \$28,893 Debt Assistance Subsidy to LGWCD – OGEM Roads
- iii. Request to Allocate Fund to Employ Lobbyist to Assist Town Relative to Traffic Light – Southern Boulevard and “D” Road.

Vice Mayor Jarriel stated that he had done some research on lobbyists as far as obtaining traffic signals, and that he wanted the Town Council to keep in mind that if we want a light at Southern and D Road we may want to retain a lobbyist.

Councilman Goltzené commented that he did not have a problem of including the \$150,000 and \$28,893 in the preliminary budget for LGWCD, but that we need to be cognizant of reduced revenues and increased expenditures. He did not want to raise taxes to provide funds to the LGWCD. If the roads were turned over to the Town, then why the \$150,000? The other issue

relative to who was going to raise taxes – right now the LGWCD was charging everybody, but when it comes to the Town taxes, all the ag properties and the churches were not paying. So, if we are raising the Town taxes in order to help the district, the homeowners are paying.

Councilman Rockett stated that the \$150,000 was for maintenance money, and that he would consider ratcheting that down relative to the number of roads they grade. He suggested that another category could also be added to identify their expenses incurred on maintenance.

Councilman Goltzené commented that he did think that the money should be focused – we would like to see some improvements on “x” road and have those projects discussed in advance between the Town staff and LGWCD staff. I would like to see some line item voting on some of these things as to whether we agree with it or not when doing the budget.

Vice Mayor Jarriel commented that drainage projects protect OGEM roads, and on any future road that was OGEMed we need to do a better job on drainage.

Town Manager Kutney stated that this has been a very useful discussion. I think you will see that I am looking for you to ratify that we will have the preliminary budget workshop on July 2nd prior to the regular TC meeting. I think when everyone sees the budget package you will be in a position to make decisions. He requested a motion tonight to have the Budget Workshop prior to the regular meeting on July 2, 2013.

**Motion: Councilman Liang made a motion to have the Budget Workshop meeting on July 2, 2013, beginning at 6:00 p.m., with the Regular Town Council Meeting beginning at 8:00 p.m. The motion passed 5/0.**

e. Discussion Relative to Preliminary Budget Requests for FY2014 – *Vice Mayor Ron Jarriel* Continued

iv. Request Surfacing (OGEM) of “D” Road from Collecting Canal to Southern Boulevard

Vice Mayor Jarriel stated that in order to get a traffic signal the road needs to be paved and he wanted the Town Council to think about that, and his request to OGEM “D” Road from Collecting Canal to Southern Boulevard.

Public Comment:

Virginia Standish, 15410 North Rd.: Commented that at the last Town Council meeting a reduction in garbage services was proposed as a way to save money, and all she had heard tonight was spend, spend, spend. Spoke about the traffic signal issue. Saw no reason for this Town to continue to pay for infrastructure for the outside world. Spoke about lobbyist. Spoke about OGEMing roads and strongly urged a slowdown.

John Ryan 3508 A Road: Several comments were made regarding Southern States Land and Timber, the Quit Claim deeds, the existence of public roads – there is a lot of misunderstanding and he would be glad to meet some time with any of the Town Council that want to go through information so that facts are known.

Marge Herzog, A Rd.: As part of the preliminary budget would like the Town Council to consider putting the LGWCD in charge of the signs within this Town. Right now the Town staff is assigning the responsibility for signs to Frank Schiola. Why are the taxpayers paying thousands of extra dollars to have someone else to it when the water LGWCD did it for so many years.

Councilman Goltzené responded and pointed out that there is a significant difference in the actual cost of the signs themselves; and if it was the LGWCD responsibility, we are all aware that there were a lot of signs that were never there. The Town has responsibility for Town roads, and most of the signs went up on Town roads as far as I can see.

f. Discussion Relative to the Gun License Matter – Bill Kline – *Vice Mayor Jarriel*

Vice Mayor Jarriel explained that Mr. Kline wants to operate out of his home. He can explain his license.

Councilman Gotzené commented that Mr. Kline has to live with the rules. Mr. Kline is still sitting here and we had a solution for him that night. Town Manager Kutney knows what the solution is, and we voted on it, and then the rules came and said we couldn't do it. I think we should go back to what we had originally done and do what our professionals tell us. I am willing to listen to our professional staff as to how we can solve this problem.

Vice Mayor Jarriel stated that if we removed foot traffic, the state does not have a problem with that.

Town Manager Kutney advised that staff had received some new information. The approach staff was taking involved a number of issues, and ultimately it was recommended that staff needed to review the whole thing comprehensively. Staff had recently spoken with Lisa Ryan of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and Mr. Kutney read her comments into the record (attached hereto). He advised that he thought staff could work with ATF, but it was going to take some very complicated and precise regulation to address this issue. Ms. Ryan had offered to come and speak to the Town Council, and Mr. Kutney offered to request that she attend a Town Council meeting to provide information.

Town Attorney Cirullo pointed out that we are prohibited by statute from gun specific regulations.

Mayor Browning noted that it had been suggested at the Town Council meeting, when the proposed ordinance had been heard, that we just take out the line that says no foot traffic, and asked if that would resolve the issue.

Town Manager Kutney replied that there are a number of problems and issues with the ULDC between residential enterprise, office use, and home occupation problems, and it is something that would need to be addressed.

Vice Mayor Jarriel stated that the one sentence regarding foot traffic could be removed in order to allow Mr. Kline to operate. He noted that Mr. Kline had specifically said that he does business with farmers.

Councilman Goltzené agreed with Vice Mayor Jarriel.

Mayor Browning stated that he thought that taking the line out that says no foot traffic would take care of it.

Town Manager Kutney indicated that he believed the ordinance was tabled at second reading, and he would check on that and review what may be necessary as a result of discussion today. He asked if the Mayor and Town Council would like him to invite Ms. Ryan, from ATF, to the next meeting, per her offer. The response was no.

Mr. Billy Kline stated that he had received a permit from the County in the 1980's for E Road in Loxahatchee Groves. He was then told that he had to move to a commercial location, which he did for a few years. Palm Beach County had reversed their rules, and he now wanted to move it

back to where he started it 31 years ago, however, Palm Beach County indicated that the Town was now incorporated and he would need to follow the Town ULDC.

Town Attorney Cirullo advised that a provisional motion could be made to take it off the table, and direct staff to put it on the table for the July meeting.

**Motion: Councilman Goltzené made a provisional motion to take the ordinance off the table, and directed staff to put it on the table for the July 2, 2013, Town Council meeting. The motion was seconded by Councilman Liang. The motion passed 5/0.**

## 12. CLOSING COMMENTS

a. Public

None

b. Town Attorney

Provided update on Bryan Road; the history of properties was being reviewed in order to confirm easements. He requested confirmation with the Town Council that up to three title searches along Bryan Road could be ordered on some of those properties. The title search fee was \$250 each.

**It was the CONSENSUS OF THE TOWN COUNCIL TO CONFIRM THAT UP TO THREE TITLE SEARCHES COULD BE ORDERED ALONG BRYAN ROAD.**

Town Attorney Cirullo reminded all that he would be out of town from July 3rd and will be back in the office on July 15. He requested that any issues were provided to him early.

Town Manager Kutney noted that the Town Council meeting on July 16<sup>th</sup> would be heavy because Valley Crest and both PUDs were coming back. It was also budget review.

After discussion, it was **CONSENSUS OF THE TOWN COUNCIL** that **Valley Crest would be moved to the July 2, 2013, Town Council Meeting; and the PUDs would be moved to the August 6, 2013 Town Council Meeting. The second meeting in July would be limited to budget and Mr. Kline. All other applicants will go to first meeting in August, except for Valley Crest, which will be in July.**

c. Town Council Members

**Councilman Rockett:** I liked the capital presentation and fund balance and we should see that every time. Discussed budget calendar, and the business plan update, wherein Town Management priorities would be discussed. Appreciates everyone coming. *(See additional comments below)*

**Councilman Liang:** Thanks for coming

**Vice Mayor Jarriel:** Noted that there was a resident on Compton Road with a pothole issue. Asked Mr. Kutney if there was the capability of filling that. Mr. Kutney replied that he would have Mr. Schiola look at.

**Councilman Goltzené:** Thanks to everyone for coming.

**Mayor Browning:** Would like to find out what the residents of Loxahatchee Groves would like to see on Okeechobee. I would like to see in the next election that the people vote on what their vision is for Okeechobee – what is your vision - do you want commercial on Okeechobee. It is something that I would like to see happen. The last time we hired a lobbyist, that was a lot of trouble. Regarding the traffic signal, I am totally against having to make U turns to have to get from D Road to B Road.

**Councilman Rockett:** Regarding Input from residents on Okeechobee, suggested a straw poll type of input, perhaps with a survey. Noted the issue with Palm Beach State College, and that the Statutes say you cannot have a referendum on this type of issue. Town Attorney Cirullo said that he did not know if the statute covered a straw poll, and he would look into that. He noted that the timing and language would need to be verified with the Supervisor of Elections and he suggested that any technical changes to the Charter could be considered at the same time, if so desired. Those ordinances could be presented to the Town Council in October. Mr. Rockett noted that any question set forth regarding Okeechobee would need to be published saying that the information was for informational purposes only.

### **13. ADJOURNMENT**

There being no further business, the Town Council Meeting of June 18, 2013, was adjourned at 10:50 p.m.

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Susan Eichhorn, Town Clerk

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David Browning, Mayor

(SEAL)

**These minutes were approved by the Town Council on July 2, 2013**

Ms. Ryan said the ATF is aware of many dealers that indicate on their applications that they are "internet only," but once they get approval, they have customers visit their homes to conduct business. The ATF is very cautious when it comes to home sales. Ms. Ryan said that firearms dealers that operate from home are often targeted by home invaders because guns are a very popular item for thieves, and homes provide much less security than a gun shop. This is a big problem for the ATF because guns become untraceable once they are stolen. Not only does Ms. Ryan caution against permitting foot traffic for firearms home sales, but she raises specific concerns with Mr. Kline's operation.

Ms. Ryan indicated that Mr. Kline's original license for firearms sales was for a storefront address located at 2511 Division Ave., West Palm Beach, FL. Her records show that around 2006, Mr. Kline requested that the license be transferred to his home address at 3191 "E" Road, Loxahatchee Groves, FL. According to her records, Mr. Kline would not qualify for grandfathering since he has not continuously operated from his home address. Another area of concern regarding Mr. Kline is the lack of transparency with his license application. He had indicated that he would be operating as internet only, but upon inspection it was discovered that he was allowing customers on site. Ms. Ryan explained that this is a consistent problem with gun dealers that operate out of their homes. Most of them apply under the guise of "internet only" because it is the easiest way to gain approval, but once they are issued the proper federal, local, and state documents, they allow customers on site.

Ms. Ryan reiterated that permitting home sales of firearms, where customers would be allowed on the premises, could be problematic. She would "caution against it." Ms. Ryan offered to speak with the Council to offer her knowledge and experience with these matters first hand.

Letter read into the record by  
Town Manager Kutney  
RE: Item 11. NEW BUSINESS, Item. f



**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 June 18, 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, GARY MORELLO;
- 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:

Item No. 11. New Business - Agenda for Town Council Meeting of June 18, 2013  
d. Discussion Relative to Assignment of Commercial Land Use to Morello Property - Southern Boulevard.

6.21.13  
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.

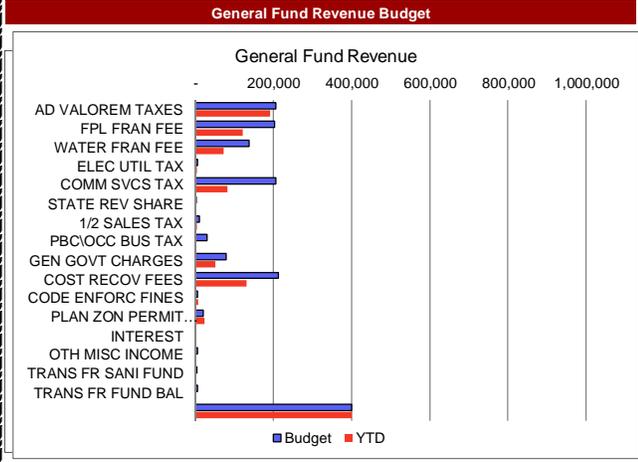


5. COMMITTEE REPORTS

FAAC



**Town of Loxahatchee Groves**  
**Financial Activity Report as of April 30, 2013**  
 (67% of year elapsed)



General Fund Revenues			
Revenues	Budget	Year-to-Date	%
AD VALOREM TAXES @ 1.2000	206,025	191,834	93.1%
ELECTRIC UTILITY TAX	202,000	121,574	60.2%
COMMUNICATION SERVICES TAX	136,726	71,503	52.3%
COUNTY OCCUPATIONAL LICENSES	5,000	3,875	77.5%
FPL FRANCHISE FEE	206,000	82,317	40.0%
HAULER LICENSE FEE	2,000	2,000	100.0%
PBC WATER UTILITY FRANCHISE	10,500	3,417	32.5%
PLANNING & ZONING PERMIT FEES	30,000	76	0.3%
STATE REVENUE SHARING	77,873	51,071	65.6%
HALF CENT SALES TAX	212,024	130,659	61.6%
GENERAL GOVERNMENT CHARGES	5,000	7,701	154.0%
COST RECOVERY FEES	20,000	23,005	115.0%
COURT FINES	-	1,390	-
CODE ENFORCEMENT FINES	5,000	300	6%
INTEREST	3,600	158	4.4%
OTHER MISC. INCOME	5,000	2,204	44.1%
<b>TRANSFER FROM FUND BALANCE*</b>	<b>400,000</b>	<b>400,000</b>	<b>100.0%</b>
<b>Total Revenues</b>	<b>1,526,748</b>	<b>1,093,084</b>	<b>71.6%</b>

General Fund Expenditures			
Expenditures	Budget	Year-to-Date	%
LEGISLATIVE	39,235	15,455	39.4%
EXECUTIVE	275,259	199,968	72.6%
FINANCIAL AND ADMINISTRATIVE	23,750	18,891	79.5%
LEGAL COUNSEL	60,000	56,795	94.7%
COMPREHENSIVE PLANNING & ZONING	148,700	99,854	67.2%
OTHER GENERAL GOVERNMENT	695,519	596,630	85.8%
LAW ENFORCEMENT	275,285	183,190	66.5%
PUBLIC WORKS	9,000	1,970	21.9%
<b>Total Expenditures</b>	<b>1,526,748</b>	<b>1,172,753</b>	<b>76.8%</b>
Excess(deficiency)	-	(79,668)	-

YTD-Total Funds Expen. Budget			
Expenditures	Budget	Year-to-Date	%
<b>Total Townwide Budget</b>	<b>3,675,754</b>	<b>1,504,407</b>	<b>40.9%</b>

Selected Other Funds			
Fund	Budget	Year-to-Date	%
<b>Transportation Fund</b>			
FIRST LOCAL OPTION FUEL TAX (6 CENT)	249,245	142,540	57.2%
SECOND LOCAL OPTION FUEL (5 CENT)	117,326	66,080	56.3%
CONTRIBUTION FROM GENERAL FUND	-	-	-
TRANSFER FROM FUND BALANCE	-	-	-
<b>Total Revenues</b>	<b>366,571</b>	<b>208,620</b>	<b>56.9%</b>
TRAFFIC CONTROL SIGNS (6 CT) MAINT.	9,245	16,627	179.9%
NON-DISTRICT ROADS (6 CT) MAINT.	40,000	5,368	13.4%
DISTRICT ROADS (6 CT) MAINT.	-	-	-
ROADS AND STREETS (5 CT)	150,000	901.00	-
SPECIAL PROJECTS (6 CT)	50,000	-	-
148th TERR BRIDGE(5)/CULVERT	-	-	-
CONSTRUCTION TOWN RDS & STREETS	-	-	-
TRANSFER TO FUND BALANCE	117,326	-	-
<b>Total Expenses</b>	<b>366,571</b>	<b>22,896</b>	<b>6.2%</b>
Excess(deficiency)	-	<b>185,724</b>	-
<b>Solid Waste Fund</b>			
SOLID WASTE ASSESSMENTS	346,361	319,363	92.2%
DISCOUNT FEES	(10,392)	(10,214)	98.3%
SWA RECYCLING INCOME	8,000	5,573	69.7%
CONTRIBUTION FROM GENERAL FUND	126,000	126,000.00	100.0%
<b>Total Revenues</b>	<b>469,969</b>	<b>440,721</b>	<b>93.8%</b>
CONTRACTUAL-WASTE OVERSIGHT	12,000	4,202	35.0%
PBC ADMINISTRATION FEE 1%	3,463	3,189.05	92.1%
POSTAGE & FREIGHT	500	28.00	-
SOLID WASTE CONTRACTOR	451,634	301,090	66.7%
OTHER SANITATION SERVICES	1,500	250	16.7%
LEGAL ADVERTISING	872	-	0.0%
MANAGEMENT FEES	-	-	-
<b>Total Expenses</b>	<b>469,969</b>	<b>308,759</b>	<b>65.7%</b>
Excess(deficiency)	-	131,963	-
<b>Capital Improvement Program (CIP) Fund</b>			
CONTRIBUTION FROM GENERAL FUND	400,000	-	0.0%
TRANSFER FROM FUND BALANCE	912,466	400,000	43.8%
<b>Total Revenues</b>	<b>1,312,466</b>	<b>400,000</b>	<b>30.5%</b>
DEVELOP TOWN HALL ALTERNATIVES	500,000	-	-
TRAILS	200,000	-	-
OGEM PAVING/COST SHARING	-	-	-
ROAD & DRAINAGE IMPROVEMENT	362,466	-	-
TRAFFIC LIGHT OKEECHOBEE	250,000	-	-
<b>Total Expenses</b>	<b>1,312,466</b>	<b>0.0%</b>	<b>0.0%</b>
Excess(deficiency)	-	400,000	-
<b>Contract Services Expenditures</b>			
<b>Expenditures</b>	<b>Budget</b>	<b>Year-to-Date</b>	<b>%</b>
Waste Pro	451,634	301,089.60	66.7%
Palm Beach County Sheriff	275,285	183,190.00	66.5%
Underwood Management Services Group	330,835	222,098.00	67.1%
Goren, Cherof, Doody, Ezrol	60,000	68,072.30	113.5%
Tew & Associates	35,000	23,841.85	68.1%
Land Research Management	-	22,439.11	-
Calvin Giodorno	-	507.50	-
Frank Schiola	25,000	11,895.05	47.6%
YEE's Corporation	10,800	8,100.00	75.0%
Loxahatchee Water Control District	150,000	7,420.78	4.9%
<b>Total Expenses</b>	<b>1,338,554</b>	<b>848,654.19</b>	<b>63.5%</b>

\* Funds provided from unassigned fund balance not a true revenue by definition



**BUDGET VS ACTUAL**  
**as of MAY 31, 2013**  
 67% 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	(6,117.64)	191,834.29	-	206,025.00	(14,190.71)	93.1%
	<b>Ad Valorem Taxes Subtotal</b>	<b>(6,117.64)</b>	<b>191,834.29</b>		<b>206,025.00</b>	<b>(14,190.71)</b>	
001-314-100-000	Electric Utility Tax	16,346.50	121,574.45	-	202,000.00	(80,425.55)	60.2%
001-315-100-000	Communications Services	9,478.74	71,502.51	-	136,726.00	(65,223.49)	52.3%
001-316-200-000	County Occupational License	79.62	3,875.19	-	5,000.00	(1,124.81)	77.5%
	<b>Local Taxes Subtotal</b>	<b>25,904.86</b>	<b>196,952.15</b>		<b>343,726.00</b>	<b>(146,773.85)</b>	
001-323-100-000	FPL Franchise Fee	12,491.40	82,317.29	-	206,000.00	(123,682.71)	40.0%
001-323-125-000	Haulers License Fee	-	2,000.00	-	2,000.00	-	100.0%
001-323-300-000	PBC Water Utility Franchise	400.03	3,417.40	-	10,500.00	(7,082.60)	32.6%
001-329-100-000	Planning & Zoning Permit	-	76.00	-	30,000.00	(29,924.00)	0.3%
	<b>Permits, Franchise Fees &amp; Special Subtotal</b>	<b>12,891.43</b>	<b>87,810.69</b>		<b>248,500.00</b>	<b>(160,689.31)</b>	
001-335-120-000	State Revenue Sharing	6,383.98	51,070.70	-	77,873.00	(26,802.30)	65.6%
001-335-180-000	Half Cent Sales Tax	20,517.39	130,658.65	-	212,024.00	(81,365.35)	61.6%
	<b>Intergovernmental Revenue Subtotal</b>	<b>26,901.37</b>	<b>181,729.35</b>		<b>289,897.00</b>	<b>(108,167.65)</b>	<b>62.7%</b>
001-341-000-000	General Government Charges	1,324.15	7,700.82	-	5,000.00	2,700.82	154.0%
001-343-349-000	Cost Recovery Fees	4,093.75	23,005.43	-	20,000.00	3,005.43	115.0%
	<b>Charges for Services Subtotal</b>	<b>5,417.90</b>	<b>30,706.25</b>		<b>25,000.00</b>	<b>5,706.25</b>	
001-351-100-000	Court Fines	-	1,389.67	-	-	1,389.67	
001-354-100-000	Code Enforcement Fines	-	300.00	-	5,000.00	(4,700.00)	6.0%
	<b>Code Enforcement Fines Subtotal</b>	<b>-</b>	<b>1,689.67</b>		<b>5,000.00</b>	<b>(3,310.33)</b>	
001-361-100-000	Interest	13.96	158.40	-	3,600.00	(3,441.60)	4.4%
001-369-000-000	Other Misc Income	2,000.00	2,203.50	-	5,000.00	(2,796.50)	44.1%
	<b>Other Misc Revenue Subtotal</b>	<b>2,013.96</b>	<b>2,361.90</b>		<b>8,600.00</b>	<b>(6,238.10)</b>	
001-399-000-000	Transfer from Fund Balance*	-	400,000.00	-	400,000.00	-	100.0%
	<b>Other Non-operating Sources Subtotal</b>	<b>-</b>	<b>400,000.00</b>		<b>400,000.00</b>	<b>-</b>	
	<b>Grand Total Revenue</b>	<b>67,011.88</b>	<b>1,093,084.30</b>	<b>-</b>	<b>1,526,748.00</b>	<b>(433,663.70)</b>	<b>71.6%</b>

\* Funds provided from unassigned fund balance not a true revenue by definition



**TOWN OF LOXAHATCHEE GROVES**  
**BUDGET VS ACTUAL**  
**as of MAY 31, 2013**  
 67% 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%
001-511-499-000	Other Current Charges - Council Reimbursement	2,500.00	7,500.00	-	-	(7,500.00)	-
001-511-500-000	Education & Training	-	-	-	1,000.00	1,000.00	0.0%
001-511-510-000	Office Supplies	26.57	37.77	-	300.00	262.23	12.6%
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	741.27	3,027.45	-	5,350.00	2,322.55	56.6%
	<b>Legislative Total</b>	<b>3,267.84</b>	<b>15,455.22</b>	<b>-</b>	<b>39,235.00</b>	<b>23,779.78</b>	<b>39.4%</b>
001-512-340-000	Other Services	27,762.25	183,731.42	-	254,635.00	70,903.58	72.2%
001-512-400-000	Travel	206.04	997.33	-	1,000.00	2.67	99.7%
001-512-410-000	Communication Services	-	130.00	-	-	(130.00)	-
001-512-420-000	Postage & Freight - NEW	142.79	1,202.16	-	1,000.00	(202.16)	120.2%
001-512-490-000	Legal Advertising	-	817.44	-	500.00	(317.44)	163.5%
001-512-492-000	Other Operating Expenses	62.16	167.35	-	944.00	776.65	17.7%
001-512-493-000	Election Expense	94.50	6,841.07	-	8,010.00	1,168.93	85.4%
001-512-510-000	Office Supplies	1,414.13	5,931.01	-	8,600.00	2,668.99	69.0%
001-512-521-000	Loxahatchee Groves CERT - MOVED	(1,136.56)	150.60	-	-	(150.60)	-
001-512-540-000	Books, Publications & Subscriptions	-	-	-	570.00	570.00	0.0%
	<b>Executive Total</b>	<b>28,545.31</b>	<b>199,968.38</b>	<b>-</b>	<b>275,259.00</b>	<b>75,290.62</b>	<b>72.6%</b>
001-513-320-000	Accounting and Auditing	3,700.00	16,100.00	-	18,000.00	1,900.00	89.4%
001-513-470-000	Printing and Binding	-	1,880.76	-	4,750.00	2,869.24	39.6%
001-513-490-000	Legal Advertising	-	910.00	-	1,000.00	90.00	91.0%
001-513-493-000	Election Expense (moved)	-	-	-	-	-	0.0%
	<b>Financial &amp; Administrative Total</b>	<b>3,700.00</b>	<b>18,890.76</b>	<b>-</b>	<b>23,750.00</b>	<b>4,859.24</b>	<b>79.5%</b>
001-514-310-000	Professional Services	7,418.70	56,794.90	-	60,000.00	3,205.10	94.7%
	<b>Legal Total</b>	<b>7,418.70</b>	<b>56,794.90</b>	<b>-</b>	<b>60,000.00</b>	<b>3,205.10</b>	<b>94.7%</b>



**TOWN OF LOXAHATCHEE GROVES**  
**BUDGET VS ACTUAL**  
**AS OF MAY 31, 2013**  
 67% 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	5,105.00	30,499.41	-	40,000.00	9,500.59	76.3%
001-515-340-000	Other Services	(612.50)	38,366.58	-	76,200.00	37,833.42	50.4%
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	4,093.75	27,053.95	-	25,000.00	(2,053.95)	108.2%
001-515-490-000	Legal Advertising - NEW	-	3,933.60	-	2,500.00	(1,433.60)	157.3%
	<b>Comprehensive Planning &amp; Zoning Total</b>	<b>8,586.25</b>	<b>99,853.54</b>		<b>148,700.00</b>	<b>48,846.46</b>	<b>67.2%</b>
001-519-315-000	Special Magistrate	-	13,434.34	-	16,000.00	2,565.66	84.0%
001-519-354-000	Code Compliance	424.00	17,576.75	-	41,000.00	23,423.25	42.9%
001-519-410-000	Communications Services	454.53	3,613.10	-	5,100.00	1,486.90	70.9%
001-519-440-000	Rentals and Leases	1,969.08	13,374.98	-	16,305.00	2,930.02	82.0%
001-519-450-000	Insurance	-	17,485.00	-	16,500.00	(985.00)	106.0%
001-519-460-000	Repair & Maint - Building	200.00	1,600.00	-	2,126.00	526.00	75.3%
001-519-470-000	Printing and Binding	-	-	-	-	-	0.0%
001-519-480-000	Promotional Activities	-	-	-	-	-	0.0%
001-519-490-000	Computer Repair	271.79	1,070.63	-	4,500.00	3,429.37	23.8%
001-519-491-000	Computer Services	140.00	1,230.06	-	11,131.00	9,900.94	11.1%
001-519-494-000	Inspector General Office	-	-	-	5,280.00	5,280.00	0.0%
001-519-820-000	Loxahatchee Groves CERT	1,244.85	1,244.85	1,243.49	2,000.00	(488.34)	124.4%
001-519-900-000	Transfer toTransportation Fund	-	-	-	-	-	0.0%
001-519-910-000	Transfer to Sanitation Fund	-	126,000.00	-	126,000.00	-	100.0%
001-519-920-000	Transfer to Capital Projects	-	400,000.00	-	400,000.00	-	100.0%
001-519-990-000	Contingency	-	-	-	49,577.00	49,577.00	0.0%
	<b>Other Governmental Services Total</b>	<b>4,704.25</b>	<b>596,629.71</b>		<b>695,519.00</b>	<b>97,645.80</b>	<b>85.8%</b>
001-521-341-000	Professional Services-PBSO	22,898.75	183,190.00	-	274,785.00	91,595.00	66.7%
001-521-342-000	Contractual-ADDL PBSO	-	-	-	500.00	500.00	0.0%
	<b>Law Enforcement Total</b>	<b>22,898.75</b>	<b>183,190.00</b>		<b>275,285.00</b>	<b>92,095.00</b>	<b>66.5%</b>
001-539-310-000	Other Services	-	-	-	-	-	0.0%
001-539-340-000	Professional Services	160.00	1,970.13	-	9,000.00	7,029.87	21.9%
	<b>Public Works Total</b>	<b>160.00</b>	<b>1,970.13</b>		<b>9,000.00</b>	<b>7,029.87</b>	<b>21.9%</b>
	<b>Grand Total Expenditure</b>	<b>79,281.10</b>	<b>1,172,752.64</b>	<b>1,243.49</b>	<b>1,526,748.00</b>	<b>352,751.87</b>	<b>76.9%</b>
	<b>Net Revenue</b>	<b>(12,269.22)</b>	<b>(79,668.34)</b>		<b>-</b>		



**TOWN OF LOXAHATCHEE GROVES**  
**BUDGET VS ACTUAL**  
**AS OF MAY 31, 2013**  
 67% 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	22,305.25	142,540.21	-	249,245.00	(106,704.79)	57.2%
101-312-420-000	2nd Local Option Fuel Tax	10,134.83	66,079.96	-	117,326.00	(51,246.04)	56.3%
101-363-990-000	Contribution from General Fund	-	-	-	-	-	0.0%
101-399-000-000	Transfer from Fund Balance	-	-	-	-	-	0.0%
	<b>Total Revenue</b>	<b>32,440.08</b>	<b>208,620.17</b>		<b>366,571.00</b>		<b>56.9%</b>

**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.	3,199.00	16,627.42	-	9,245.00	(7,382.42)	179.9%
101-541-468-000	Non-District Roads (6 ct) Maint.	-	5,367.59	-	40,000.00	34,632.41	13.4%
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)	901.00	901.00	-	50,000.00	49,099.00	1.8%
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%
	<b>Total Expenditure</b>	<b>4,100.00</b>	<b>22,896.01</b>	<b>-</b>	<b>366,571.00</b>		<b>6.2%</b>
	<b>Net Revenue</b>	<b>28,340.08</b>	<b>185,724.16</b>		<b>-</b>	<b>-</b>	



**TOWN OF LOXAHATCHEE GROVES**  
**BUDGET VS ACTUAL**  
**AS OF MAY 31, 2013**  
 67% 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	-	400,000.00	-	912,466.00	(512,466.00)	43.8%
	<b>Total Revenue</b>	<b>-</b>	<b>400,000.00</b>	<b>-</b>	<b>1,312,466.00</b>	<b>(912,466.00)</b>	<b>30.5%</b>

**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%
	<b>Total Expenditure</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,312,466.00</b>	<b>1,312,466.00</b>	<b>0.0%</b>
	<b>Net Revenue</b>	<b>-</b>	<b>400,000.00</b>		<b>-</b>	<b>400,000.00</b>	



**TOWN OF LOXAHATCHEE GROVES**  
**BUDGET VS ACTUAL**  
**AS OF MAY 31, 2013**  
 67% 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	24,139.55	319,362.67	-	346,361.00	(26,998.33)	92.2%
405-325-206-000	Discount Fees	(382.16)	(10,213.83)	-	(10,392.00)	178.17	98.3%
405-343-120-000	SWA Recycling Income	1,066.07	5,572.57	-	8,000.00	(2,427.43)	69.7%
405-363-990-000	Contributions from General Fund	-	126,000.00	-	126,000.00	-	100.0%
<b>Total Revenue</b>		<b>24,823.46</b>	<b>440,721.41</b>	<b>-</b>	<b>469,969.00</b>	<b>(29,247.59)</b>	<b>93.8%</b>

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
405-534-345-000	Contractual - Waste Over	530.00	4,202.00	-	12,000.00	7,798.00	35.0%
405-534-346-000	PBC Administration Fee 1	578.51	3,189.05	-	3,463.00	273.95	92.1%
405-534-420-000	Postage & Freight	-	28.00	-	500.00	472.00	5.6%
405-534-434-000	Solid Waste Contractor	37,636.20	301,089.60	-	451,634.00	150,544.40	66.7%
405-534-436-000	Other Sanitation Service	-	250.00	-	1,500.00	1,250.00	16.7%
405-534-490-000	Legal Advertising	-	-	-	872.00	872.00	0.0%
405-534-595-000	TOLG Management Fee	-	-	-	-	-	0.0%
<b>Total Expenditure</b>		<b>38,744.71</b>	<b>308,758.65</b>	<b>-</b>	<b>469,969.00</b>	<b>161,210.35</b>	<b>65.7%</b>
<b>Net Revenue</b>		<b>(13,921.25)</b>	<b>131,962.76</b>		<b>-</b>		



**8. RESOLUTIONS**

**TOWN OF LOXAHATCHEE GROVES  
TOWN COUNCIL AGENDA  
REGULAR MEETING  
July 2, 2013  
7:00 P.M.**

**STAFF SUMMARY: RESOLUTION 2013-05  
SITE PLAN AMENDMENT APPLICATION SPA 2013-01**

*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:* Wholesale Nursery Principal Use/Landscape Service Accessory  
Use (Refer to Resolution 2013-02, Attachment A)

*Proposed Use:* Landscape Service Principal Use (Refer to Proposed Site Plan  
and Statement of Use, Attachment B).

### **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).

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 submitted a Site Plan Approval application to the Town for approval of a "Wholesale Nursery Principal Use/ Landscape Service Accessory Use" business.

The proposed site plan was approved (Resolution 2013-02) by the Town Council on March 5, 2013. Resolution 2013-02 included several conditions of approval, including General Condition 5, which required the applicant, within 6 months, to file a site plan amendment application requesting that the Wholesale Nursery Principal Use and the Landscape Nursery Accessory Use be deleted and replaced by a Landscape Service Principal Use.

### **Summary of Request**

The property is currently being used as a landscape service business, and the subject of a Town code enforcement action (i.e. Case Number CE 08-067). The proposed site plan amendment for a landscape service principal use represents the applicant's response to Condition 5 of Resolution 2013-02 approving the current site plan (i.e. Wholesale Nursery Principal Use and the Landscape Nursery Accessory Use). Approval of the proposed site plan will allow the property to become compliant with Special Magistrate's Order and Condition 5 of Town Resolution 2013-02.

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

- 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 (860 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:

- Vegetative Waste Storage Area - A 100' x 100' area setback a minimum of 50 feet from adjacent property lines where vegetative waste 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 vegetative waste pile height is limited to 10', exceeding 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 Fields – Rather than conventional parking lots, two parking areas are 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 through Friday.

### **Recent Compliance Activity**

The applicant has completed the following activities related to compliance with Resolution 2013-02 conditions of approval:

1. General Condition #6 - Resolution 2013-02 has been filed with the Palm Beach County Clerk of Courts on May 31, 2013; (Record Book 26056/Pages 884 – 898).
2. Public Safety Condition #1 – A Knox Box has been installed at the entry gate in case of emergency. Once the Knox Box was installed, Valley Crest ceased truck parking in front of the entrance gate during evening hours.
3. Utilities and Services Condition #3 – The existing septic tank and drain field have been replaced. Evidence of the replacements and approval by the Florida Department of Health has been provided by the Applicant.
4. Use Limitations Conditions #1(d) and (e) – The vegetative waste pile was adjusted to comply with the following requirements: 10 foot height limit; 100 feet x 100 feet vegetative waste area limitation; 20 foot clearance for emergency and fire vehicle access; and 50 foot setback from the property line.

5. Multiple berms to screen the vegetative waste pile from Okeechobee Boulevard have been constructed and planted with landscape material. Vegetative material has been shifted to various on-site locations during the berm construction process.
6. Green mesh screening has been added to the chain link fence along Okeechobee Boulevard to further enhance buffering of the roadway.

### **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 parcel 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. According to the applicant, both of these improvements have been completed.

## **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 of the initial site plan amendment application) 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, which included impacts generated by both the wholesale nursery and landscape service businesses, 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.

The proposed site plan amendment includes only a landscape service use. A letter from Applicant’s traffic engineer has been provided stating that traffic from the proposed site plan amendment will not exceed the level generated by the approved site plan. It is therefore determined by staff that the County’s previous conclusion (i.e. the wholesale nursery and landscape service uses meet the Traffic Performance Standards) remains valid and subject to the above stated condition of approval.

### **Findings and Recommendation**

The initial site plan approval (Resolution 2013-02) included an existing landscape service business expanded to include a wholesale nursery operation. Due to the minimal amount of site development proposed, staff waived several site plan application requirements based on the property owner’s certification (Ref: signed Affidavit included in Attachment C of the initial 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.

The proposed site plan amendment will allow for the existing use to become a legal conforming use, per Section 75-010 of the ULDC. Due to the minimal amount of site development proposed, staff has again waived several site plan application requirements. Staff will include a condition of approval linking the proposed site plan amendment to the Affidavit included in Attachment C of the initial site plan application, included herein by reference.

Comments were received from the following agencies at a pre-application meeting for the initial site plan application 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).

As each of the above comments relate to the landscape service use, they remain valid concerns in terms of evaluating the proposed site plan amendment.

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. Based upon this recommendation, the Applicant has replaced the septic tank and repaired the drainfield.

### **Planning and Zoning Board Recommendation**

The Town Planning and Zoning Board, at its June 13, 2013 meeting, recommended approval of the site plan amendment application by a 4 – 0 vote subject to the following:

1. The maximum allowed vegetative material grinding operations should be increased from four to twelve times per year.

2. Outdoor storage of unprocessed vegetative waste shall be limited to 30 days per year.
3. Exterior lighting shall be directional in nature to avoid overspill and glare onto adjacent properties.

### **Staff Finding**

Based upon the applicant's Statement of Use, the Vegetative Waste Storage Area will be used to temporarily store, decompose and chip, as necessary, imported yard waste, consisting primarily of palm tree fronds, and tree branches, as well as grass clippings for the purpose of spreading it as mulch material on on-site pervious areas. Staff therefore determines that the Vegetative Waste Storage Area is an open facility used for the temporary storage and recycling of an unprocessed resource (vegetation waste) for use on the property, and not an area for the outdoor storage of debris.

Town Planning staff, its consultants, and the Development Review Committee (DRC) reviewed Site Plan Application SP 2012-01 (Valley Crest) in terms of the requirements of the Palm Beach County ULDC. Further, Town Planning staff and the Planning and Zoning Board have reviewed the Site Plan Amendment Application SPA 2013-01 in terms of the requirements of the Palm Beach County ULDC.

Staff finds the application, subject to the Conditions off Approval, as stated in Attachment D of Resolution 2013-05, 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 SPA 2013-01 subject to the conditions presented in Attachment D of Resolution 2013-05.

  
\_\_\_\_\_  
Jim Fleischmann, Town Planning Consultant

**TOWN OF LOXAHATCHEE GROVES**

**RESOLUTION NO. 2013-05**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE VALLEY CREST SITE PLAN AMENDMENT, 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, on March 5, 2013, adopted Resolution 2013-02 approving the Site Plan Approval Application to the Town for a "Wholesale Nursery Principal Use and a Landscape Service Accessory Use; and.

**WHEREAS**, General Condition 5 of Resolution 2013-02 required the applicant to file, within six months, a Site Plan Amendment Application requesting the approved Wholesale Nursery Principal Use and Landscape Service Accessory Use to be deleted and replaced by a Landscape Service Principal Use; and

**WHEREAS**, in response to General Condition 5 of Resolution 2013-02, the property owner submitted Site Plan Amendment Application SPA 2013-01 to the Town for a Landscape Service Principal Use; 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 June 13, 2013 recommended approval of the Valley Crest Site Plan Amendment Application SPA 2013-01; and

**WHEREAS**, the Valley Crest Site Plan Amendment Application SPA 2013-01, was presented to the Town Council at a quasi-judicial public hearing conducted on July 2, 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 Amendment 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 Amendment, 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 Amendment 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 Amendment 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 Amendment 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 Amendment Control No. SPA 2013-001 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 amended site plan, 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.

*[The remainder of this page intentionally left blank.]*

**RESOLVED AND ADOPTED** by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 2<sup>nd</sup> day of July, 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

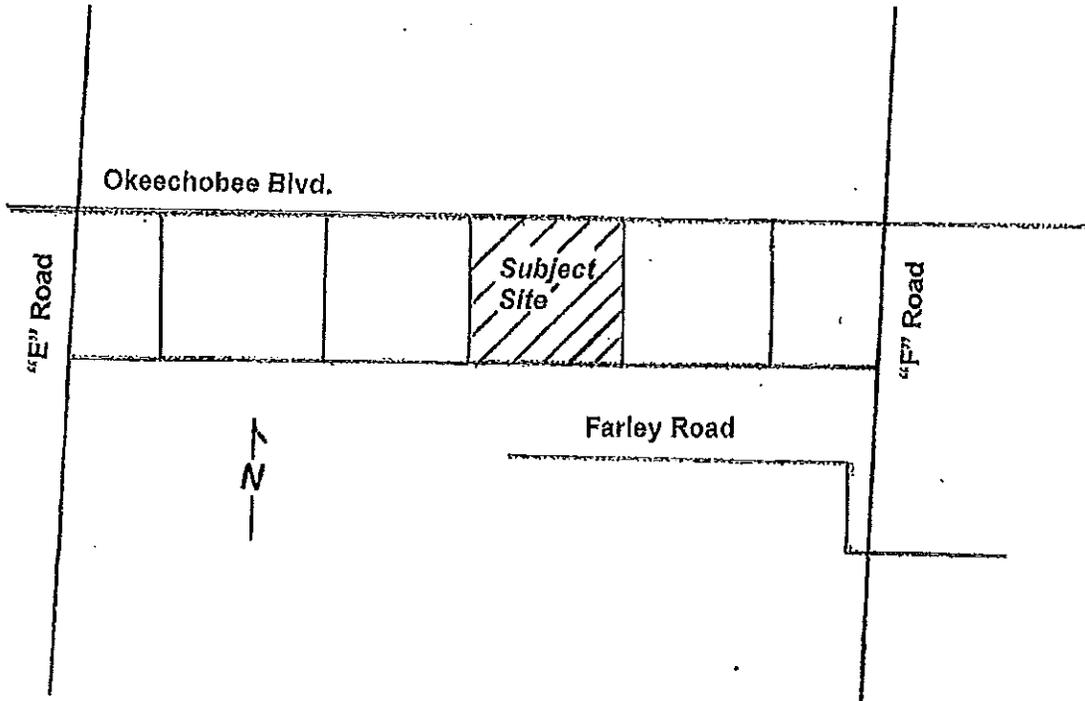
**EXHIBIT A**

**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.

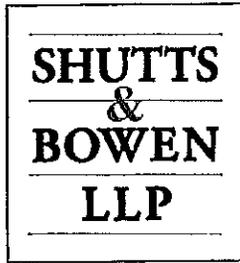
PARCEL CONTROL NUMBER: 41-41-43-17-01-510-0030

**EXHIBIT B**  
**VICINITY SKETCH**



**EXHIBIT C**  
**VALLEY CREST AMENDED 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

May 20, 2013

**VIA U.S. MAIL AND 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") – Amendment to 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 amendment to 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 March 18, 2013.

**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 landscape service 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 service equipment.

Storage Building adjacent to Office (860 square feet) -- this structure serves as storage for the landscape service business. 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 additional storage for the landscape service business, 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 to be screened from the right-of-way by a landscaped berm where vegetative waste material generated 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 is 100 feet by 100 feet with a maximum height of 10 feet, and is setback a minimum of 50 feet from the property line. The storage area 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 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. Due to the size of the Property, 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 service vehicles. The fuel tank/pump is setback greater than 20 feet from the boundary of the Property, and is screened from view.

Mr. Mark Kutney  
May 20, 2013  
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: Jim Fleishmann, Town Planner  
Magic Properties V, LLC

MIADOCS 7642121 1

**EXHIBIT 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 (Valley Crest Site Plan and Statement of Use) of Resolution 2013-05. The approved Site Plan is dated March 18, 2013. The approved Statement of Use is dated May 20, 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 a 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 rear property lines; however, any additional future principal or accessory buildings shall observe a 50 foot setback.

**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.
4. Landscape buffers shall be maintained as follows:
  - a. A 20 foot right-of-way buffer along the Okeechobee Boulevard frontage;
  - b. 15 foot incompatibility buffers along the western and southern property lines; and
  - c. A 5 foot compatibility buffer along the eastern property line.
5. The Vegetative Waste Storage Area shall be screened from view from Okeechobee Boulevard by a landscaped berm.

## **EXTERIOR LIGHTING**

1. Exterior lighting shall be directional in nature to avoid overspill and glare onto adjacent properties.

## **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 landscape service use.

b. Vegetative waste operations shall consist solely of importing, temporary storage, decomposing, vertical grinding and on-site use or licensed off-site disposal of recycled materials.

c. Fees shall not be charged to import unprocessed vegetative waste materials to the on-site Vegetative 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 10 feet. A minimum 20 feet of clearance shall be provided for emergency and fire vehicular access.

d. Outdoor storage of unprocessed vegetative waste shall be limited to the 100 foot x 100 foot Vegetative 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 Okeechobee Boulevard.

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 12 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, as opposed to vegetative waste processed for reuse, is prohibited.

3. Temporary outdoor storage of other non-debris items shall only be allowed when incidental to the permitted principal use 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 adequately screened from view from Okeechobee Boulevard, as determined by Town staff.
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 need not be screened provided that they are maintained in the current location, as illustrated on the approved Site Plan. Containers shall be screened from view by a solid opaque enclosure if they are moved from the current location. 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.

## **PUBLIC SAFETY**

1. A Knox Box shall be continuously maintained at the main entry gate for use in case of emergency by Palm Beach County Fire Rescue and Sheriff.

## **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 May 20, 2013 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. Issuance of a stop work order and/or a cease and desist order; denial or revocation of a building permit or 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.