



Town of Loxahatchee Groves
Special Town Council Meeting
Tuesday, September 10, 2013 at 5:05 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
PUBLIC HEARING
SOLID WASTE ASSESSMENT

Tentative
Subject to Revision

1. OPENING

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

2. PUBLIC HEARING

a. Resolution No. 2013-12

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE PROVISION OF RESIDENTIAL SOLID WASTE COLLECTION SERVICES IN THE TOWN OF LOXAHATCHEE GROVES, FLORIDA; APPROVING THE ASSESSMENT RATE FOR RESIDENTIAL SOLID WASTE COLLECTION SERVICES FOR FISCAL YEAR 2013-2014; IMPOSING A RESIDENTIAL SOLID WASTE COLLECTION ASSESSMENT AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF LOXAHATCHEE GROVES FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2013; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

13. ADJOURNMENT

The next Town Council Meeting is scheduled for September 17, 2013

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.

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2013-12

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE PROVISION OF RESIDENTIAL SOLID WASTE COLLECTION SERVICES IN THE TOWN OF LOXAHATCHEE GROVES, FLORIDA; APPROVING THE ASSESSMENT RATE FOR RESIDENTIAL SOLID WASTE COLLECTION SERVICES FOR FISCAL YEAR 2013-2014; IMPOSING A RESIDENTIAL SOLID WASTE COLLECTION ASSESSMENT AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF LOXAHATCHEE GROVES FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2013; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Loxahatchee Groves, Florida, enacted Ordinance No. 2008-05, on July 1, 2008, which authorized the imposition of a Residential Solid Waste Collection Assessment, pursuant to the procedures contained within the Town's Code of Ordinances (collectively, "the Ordinance") for the provision of Solid Waste Collection Services for single-family residential properties that receive residential solid waste collection services within the Town, and provided for findings of special benefit and the method of apportionment of the Residential Solid Waste Collection Assessment; and

WHEREAS, the imposition of a Solid Waste Collection Assessment for Solid Waste Collection Services for each Fiscal Year is an equitable and efficient method of allocating and apportioning Residential Solid Waste Collection Assessed Costs among parcels of Assessed Property; and,

WHEREAS, the Town Council desires to impose a Residential Solid Waste Collection Assessment within the Town for the Fiscal Year beginning on October 1, 2013 using the tax bill collection method; and

WHEREAS, the Town Council, on July 16, 2013, adopted Resolution No. 2013-06 (the "2013 Preliminary Assessment Resolution"), referencing the Residential Solid Waste Collection Services to be provided to Assessed Property, describing the method of apportioning the Residential Solid Waste Collection Assessed Cost to compute the Residential Solid Waste Collection Assessment for Solid Waste Collection Services against Assessed Property, estimating a rate of assessment, and directing the preparation of the Assessment Roll and provision of the notice to the affected landowners; and

WHEREAS, in order to impose the Residential Solid Waste Collection Special Assessment for the Fiscal Year beginning October 1, 2013, the Ordinance requires the Town Council to adopt an Annual Rate Resolution during its budget adoption process for each Fiscal Year, which establishes the rate of assessment and approves the Assessment Roll for the upcoming Fiscal Year, with such amendments as the Town Council deems appropriate, after hearing comments and objections of all interested parties; and

WHEREAS, the updated Assessment Roll has heretofore been made available for inspection by the public, as required by the Ordinance; and

WHEREAS, notice of public hearing has been provided as required by the Ordinance, as evidenced by the Affidavit of Mailing, attached hereto as Exhibit "A", and the proof of publication attached hereto as Exhibit "B"; and

WHEREAS, a public hearing was held on September 10, 2013, and comments and objections of all interested parties have been heard and considered.

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

SECTION 1. The aforementioned “WHEREAS” clauses are hereby ratified as true and correct and incorporated herein.

SECTION 2. AUTHORITY. This Resolution is adopted pursuant to the provisions of the Ordinance, the 2013 Preliminary Assessment Resolution, sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 3. DEFINITIONS AND INTERPRETATION. This Resolution constitutes the Annual Assessment Resolution as defined in the Ordinance. All capitalized terms in this Resolution shall have the meanings defined in the Ordinance and the 2013 Preliminary Assessment Resolution.

SECTION 4. IMPOSITION OF RESIDENTIAL SOLID WASTE COLLECTION ASSESSMENT.

(A) The parcels of Assessed Property described in the Assessment Roll, as updated and which is hereby approved, are hereby found to be specially benefitted by the provision of the Solid Waste Collection Services described in the 2013 Preliminary Assessment Resolution, in the amount of the Residential Solid Waste Collection Assessment set forth in the Assessment Roll, a copy of which was present or available for inspection at the above-referenced public hearing and is incorporated herein by reference. It is hereby ascertained, determined, and declared that each parcel of Assessed Property within the Town will be specifically benefitted by the Town's provision of Residential Solid Waste Collection, facilities and programs in an amount not less than the Residential Solid Waste Collection Assessment of such parcel, computed in the manner set forth in the 2013 Preliminary Assessment Resolution. Adoption of this Annual

Assessment Resolution constitutes a legislative determination that all assessed parcels derive a special benefit, as set forth in the Ordinance and the 2013 Preliminary Assessment Resolution, from the Residential Solid Waste Collection Services to be provided, and a legislative determination that the Residential Solid Waste Collection Assessments are fairly and reasonably apportioned among the properties that receive the special benefit as set forth in the 2013 Preliminary Assessment Resolution.

(B) The method of computing the Residential Solid Waste Collection Assessment described in the 2013 Preliminary Assessment Resolution, as modified, amended, and supplemented herein, is hereby approved.

(C) For the Fiscal Year beginning October 1, 2013, the estimated Residential Solid Waste Collection Assessed Cost to be assessed is \$432,873.00. The Residential Solid Waste Collection Assessment to be assessed and apportioned among benefitted parcels pursuant to the Cost Apportionment and Parcel Apportionment to generate the estimated Residential Solid Waste Collection Assessed Costs for the 2013-2014 Fiscal Year, commencing October 1, 2013, is hereby established at \$344.37 annually, per residential unit. This assessment rate is hereby approved. It is hereby determined that the assessed properties will receive a benefit from solid waste collection services in an amount not less than the amount they are assessed. Except as otherwise provided herein, the Residential Solid Waste Collection Assessment for Residential Solid Waste Collection Services in the amounts set forth in the Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Property described in the Assessment Roll.

(D) The Residential Solid Waste Collection Assessment shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county,

district or municipal taxes and other non-ad valorem Assessment. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles, and claims, until paid.

(E) The Assessment Roll as herein approved, together with the correction of any errors or omissions as provided for in the Ordinance, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance.

SECTION 5. CONFIRMATION OF PRELIMINARY ASSESSMENT RESOLUTION. The Preliminary Assessment Resolution adopted July 16, 2013, except where in conflict herein, is confirmed.

SECTION 6. EFFECT ON ADOPTION OF RESOLUTION. The adoption of this Annual Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll and the levy and lien of the Residential Solid Waste Collection Assessment), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 calendar days from the date of this Annual Assessment Resolution.

SECTION 7. SEVERABILITY. If any clause, section or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Resolution.

SECTION 8. CONFLICTS. That all prior Resolutions or parts of resolutions in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 9. EFFECTIVE DATE. This Annual Assessment Resolution shall take effect immediately upon its passage and adoption.

RESOLVED AND ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida, this 10th day of September, 2013.

ATTEST:

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

TOWN CLERK

Mayor David Browning

APPROVED AS TO LEGAL FORM:

Vice Mayor Ron Jarriel

Office of the Town Attorney

Council Member Tom Goltzene

Council Member Ryan Liang

Council Member Jim Rockett

MDC

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EXHIBIT "A"
AFFIDAVIT OF MAILING

AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared Mark Kutney, who, after being duly sworn, depose and say:

1. Mark Kutney, as Town Manager of the Town of Loxahatchee Groves, Florida ("Town"), pursuant to the authority and direction received from the Town Council, timely directed the preparation of the Assessment Roll and the preparation, mailing, and publication of notices in accordance with Ordinance No. 2008-05 (the "Assessment Ordinance") in conformance with the Preliminary Assessment Resolution adopted by the Town Council on July 16, 2013.

2. In accordance with the Assessment Ordinance, the Town timely provided all necessary information for notification of the Residential Solid Waste Collection Special Assessment to the Property Appraiser of Palm Beach County to be included as part of the notice of proposed property taxes under section 200.069, Florida Statutes, the truth-in-millage notification. The information provided to the Property Appraiser to be included on the truth-in-millage notification included the following: the Residential Solid Waste Collection Assessment rate expressed in dollars and cents per billing unit, the associated Residential Solid Waste Collection Assessment amount, and the purpose of the Assessment.

3. Because the preliminary assessment rate exceeded the amount assessed in Fiscal Year 2012-2013, notice by first class mail to the Owner of each parcel of Assessed Property is required by the Assessment Ordinance and state law.

4. I have caused the mailed notices required by the Assessment Ordinance to be prepared in conformance with the Preliminary Assessment Resolution. An exemplary form of

such notice is attached hereto.

3. On or before August 21, 2013, I caused the mailing of the above-referenced notices in accordance with Assessment Ordinance, the Preliminary Assessment Resolution, and state law, by First Class Mail to each affected owner, at the addresses then shown on the real property assessment tax roll database maintained by the Palm Beach County Property Appraiser for the purpose of the collection of ad valorem taxes.

FURTHER AFFIANT SAYETH NOT.

Mark Kutney, affiant

STATE OF FLORIDA
COUNTY OF PALM BEACH COUNTY

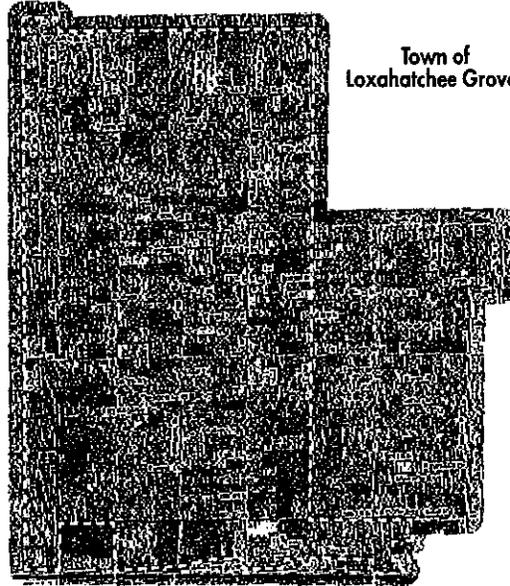
The foregoing Affidavit of Mailing was sworn to and subscribed before me this ____ day of _____, 2013 by Mark Kutney, Town Manager, Town of Loxahatchee Groves, Florida. He is personally known to me or has produced _____ as identification and did take an oath.

Printed Name: _____
Notary Public, State of Florida
At Large
My Commission Expires: _____
Commission No.: _____

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EXHIBIT "B"
PROOF OF PUBLICATION

Town of
Loxahatchee Groves



NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SOLID WASTE COLLECTION SERVICES SPECIAL ASSESSMENTS

Notice is hereby given that the Town Council of the Town of Loxahatchee Groves will conduct a public hearing to consider imposing Solid Waste Collection Services Special Assessments upon residential dwellings that receive residential solid waste collection services, for the Solid Waste Collection Services provided by the Town to such properties within the Town of Loxahatchee Groves.

The hearing will be held at **5:05 p.m.**, on **September 10, 2013**, at Loxahatchee Groves Water Control District Headquarters, 101 West "D" Road, Town of Loxahatchee Groves, Florida, for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to file written objections with the Town Council within 20 days of this notice. If a person decides to appeal any decision made by the Town Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town Clerk's Office at (561) 793-2418, at least seven days prior to the date of the hearing.

The assessment for each parcel of property will be based upon each parcel's classification and the total number of dwelling units attributed to that parcel. The proposed Solid Waste Collection Services Assessment is as follows:

**RESIDENTIAL DWELLING UNITS FOR FISCAL YEAR 2013-2014:
\$344.37 PER UNIT**

Copies of the Assessment Ordinance, the Preliminary Assessment Resolution and the preliminary Assessment Roll are available for inspection at the Town Clerk's Office, 14579 Southern Blvd, Suite #2, Loxahatchee Groves, Florida 33470.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2013, as authorized by section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property, which may result in a loss of title.

If you have any questions, please contact the Town Clerk at (561) 793-2418, Monday through Friday between 8:00 a.m. and 5:00 p.m.

TOWN CLERK TOWN OF LOXAHATCHEE GROVES

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