



TOWN OF LOXAHATCHEE GROVES

TOWN COUNCIL MEETING AGENDA

TUESDAY, OCTOBER 1, 2013 @ 7:00 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, October 1, 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.

Tentative
Subject to Revision

PUBLIC NOTICE/AGENDA

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.

Town Council Agenda
10/01/2013

- b. Minutes for Approval: Minutes of August 20, 2013; Minutes of September 3, 2013; Minutes of September 17, 2013 Minutes of September 20, 2013

3. PUBLIC COMMENT

4. PRESENTATIONS - None

5. COMMITTEE REPORTS –None (FAAC Meeting scheduled for September 23, 2013 was postponed to the October 28 2013 FAAC meeting date)

6. PUBLIC HEARINGS –

7. PUBLIC HEARINGS (Ordinances 2nd Reading) – None

a. **Ordinance No. 2013-05**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING PART III, ENTITLED "SUPPLEMENTAL REGULATIONS," ARTICLE 80, ENTITLED "CONDITIONAL USES," SECTION 80-020, ENTITLED "RESIDENTIAL ENTERPRISE," OF THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE TO PERMIT A LIMITED NUMBER OF CUSTOMERS TO TRANSACT BUSINESS AT THE LOCATION OF A RESIDENTIAL ENTERPRISE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

8. ORDINANCES (1st Reading) -

a. Public Hearing:

Ordinance No. 2013-07

**Town Council Agenda
10/01/2013**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE OPERATION OF GOLF CARTS ON PUBLIC ROADS WITHIN THE TOWN; PROVIDING FOR LEGISLATIVE FINDINGS; AUTHORIZING THE OPERATION OF GOLF CARTS ON PUBLIC ROADS OVER WHICH THE TOWN HAS TRAFFIC CONTROL JURISDICTION PURSUANT TO SECTION 316.212, FLORIDA STATUTES; CONFIRMING THAT GOLF CARTS MAY NOT BE OPERATED ON OR ACROSS THE PORTIONS OF FOLSOM ROAD, OKEECHOBEE BOULEVARD AND SOUTHERN BOULEVARDS THAT LIE WITHIN THE TOWN; PROHIBITING THE OPERATION OF GOLF CARTS BY UNLICENSED DRIVERS; PROVIDING FOR IMPLEMENTATION OF THIS ORDINANCE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

10. OLD BUSINESS

- a. Management Evaluation

11. NEW BUSINESS

- a. Office of Inspector General Grant Agreement
- b. Discussion of Highland Dunes PUD

12. CLOSING COMMENTS

- a. Public

- b. Town Attorney
 - 1. "B" Road Improvements

- c. Town Council Members

13. ADJOURNMENT

The next regular Town Council Meeting is scheduled for November 5, 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.



CONSENT AGENDA

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

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

TOWN OF LOXAHATCHEE GROVES
14579 Southern Boulevard
Suite 2
Loxahatchee Groves FL 33470

Page: 1
09/24/2013
ACCOUNT NO: 1574-0702400R
STATEMENT NO: 85

Attn: Mark Kutney, Town Manager

General Matters

MDC

			HOURS
08/27/2013	MDC	Phone conference with MK on items for 9/03/13 Council meeting; review budget and procurement items; confirm renewal provisions of Tew and Taylor Agreement, advise MK.	1.50
08/28/2013	MDC	Review filing status of P&Z members (Form 1s).	0.20
09/03/2013	MDC	Miscellaneous telephone conference with counsel on agenda items; telephone conference with PU on agenda, budget items; review materials; prepare for and attend Council meeting.	5.10
09/05/2013	MDC	Phone conference with PU on vendor items.	0.30
09/06/2013	MDC	Review materials on contract, payment issues.	0.40
09/09/2013	MDC	Review materials, prepare millage and budget resolutions; telephone conference with JF on notice issues.	0.90
09/11/2013	MDC	Phone conference with MK on agenda materials for 9/17/13, status of Sirdar matter.	0.50
09/12/2013	MDC	Phone conference with PU on budget agenda items; telephone conference with JF on status of P&Z Board matters.	0.40
09/16/2013	MDC	Phone conference with MK re: budget/millage hearing matters, Sirdar Trucking; review correspondence on resetting hearing.	0.80
	BAM	Legal research re: section 200.065, Florida Statutes, as to the time for advertising for the second hearing; Draft correspondence to MDC re: same.	0.40
09/17/2013	MDC	Review agenda materials; miscellaneous telephone calls Council members; prepare for and attend Council meeting; revise resolutions for 9/20 meeting (millage and budget); review addendum to agenda.	5.60
09/18/2013	MDC	Review items from 9/17/13 meeting; review draft of legal notices; meet with MK on pending items.	0.50
09/20/2013	MDC	Review materials, prepare ordinance on golf carts; review agenda	

General Matters

		HOURS	
	materials; telephone conference with SE; telephone conference with counsel members; prepare for and attend special meeting on budget and millage.	3.20	
BAM	Legal research re: implications of TRIM Notice non-compliance.	0.50	
09/23/2013	MDC Revise ordinance on golf carts; telephone conference with MK on pending matters.	0.60	
	FOR CURRENT SERVICES RENDERED	20.90	<u>3,866.50</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	20.00	\$185.00	\$3,700.00
BRAM A. MARAVENT	0.90	185.00	166.50

COPYING COST	84.00
TOTAL EXPENSES THRU 09/23/2013	<u>84.00</u>
TOTAL CURRENT WORK	3,950.50
BALANCE DUE	<u>\$3,950.50</u>

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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 09/24/2013
 ACCOUNT NO: 1574-0706600R
 STATEMENT NO: 27

Attn: Mark Kutney, Town Manager

Solid Waste Special Assessment

			HOURS	
09/10/2013	MDC	Review materials, prepare for and attend hearing on solid waste assessment.	1.60	
		FOR CURRENT SERVICES RENDERED	1.60	296.00
RECAPITULATION				
	<u>TIMEKEEPER</u>		<u>HOURS</u>	<u>HOURLY RATE</u>
	MICHAEL D. CIRULLO		1.60	\$185.00
				<u>TOTAL</u>
				\$296.00
		TOTAL CURRENT WORK		296.00
		BALANCE DUE		<u>\$296.00</u>

MDC

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 09/24/2013
 ACCOUNT NO: 1574-1004840R
 STATEMENT NO: 20

Attn: Mark Kutney, Town Manager

Loxahatchee Groves Commons

			HOURS	
09/18/2013	MDC	Review materials, prepare for and attend meeting with developer and Town management and planner re: B Road, processing PUD zoning application.	1.00	
		FOR CURRENT SERVICES RENDERED	1.00	185.00
RECAPITULATION				
	<u>TIMEKEEPER</u>		<u>HOURS</u>	<u>HOURLY RATE</u>
	MICHAEL D. CIRULLO		1.00	\$185.00
		TOTAL CURRENT WORK		185.00
		BALANCE DUE		<u>\$185.00</u>

MDC

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 09/24/2013
 ACCOUNT NO: 1574-1007290R
 STATEMENT NO: 3

Attn: Mark Kutney, Town Manager

Sun Sport Resort

		HOURS	
09/18/2013	MDC Review materials, prepare for and attend meeting with developer and Town management and planner re: B Road, processing PUD zoning application.	1.00	
	FOR CURRENT SERVICES RENDERED	1.00	185.00
RECAPITULATION			
<u>TIMEKEEPER</u>		<u>HOURS</u>	<u>HOURLY RATE</u>
MICHAEL D. CIRULLO		1.00	\$185.00
			<u>TOTAL</u>
	TOTAL CURRENT WORK		185.00
	BALANCE DUE		<u>\$185.00</u>

MDC

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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 09/24/2013
 ACCOUNT NO: 1574-1107560R
 STATEMENT NO: 17

Attn: Mark Kutney, Town Manager

Water Control District Matters

09/17/2013	MDC	Phone conference with MV on status of road transfers.	HOURS	
			0.30	
		FOR CURRENT SERVICES RENDERED	0.30	55.50
		RECAPITULATION		
	<u>TIMEKEEPER</u>		<u>HOURS</u>	<u>HOURLY RATE</u>
	MICHAEL D. CIRULLO		0.30	\$185.00
				<u>TOTAL</u>
				\$55.50
		TOTAL CURRENT WORK		55.50
		BALANCE DUE		<u>\$55.50</u>

MDC

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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 ACCOUNT NO: 1574-1107564R
 STATEMENT NO: 9

Attn: Mark Kutney, Town Manager

Wellington Edge Code Matter

			HOURS	
09/19/2013	MDC	Review order from court, exchange correspondence with Smiley's new counsel on status of case.	0.40	
		FOR CURRENT SERVICES RENDERED	0.40	74.00
RECAPITULATION				
	TIMEKEEPER	HOURS	HOURLY RATE	TOTAL
	MICHAEL D. CIRULLO	0.40	\$185.00	\$74.00
		TOTAL CURRENT WORK		74.00
		BALANCE DUE		<u>\$74.00</u>

MDC

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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 09/24/2013
 ACCOUNT NO: 1574-1107567R
 STATEMENT NO: 10

Attn: Mark Kutney, Town Manager

Valley Crest Site Plan

		HOURS	
08/27/2013	MDC Review materials of inquiry for cost recovery, prepare memo and forward to MK, JF to review.	0.50	
	FOR CURRENT SERVICES RENDERED	0.50	92.50

RECAPITULATION			
TIMEKEEPER	HOURS	HOURLY RATE	TOTAL
MICHAEL D. CIRULLO	0.50	\$185.00	\$92.50

COPYING COST	2.10
TOTAL EXPENSES THRU 09/23/2013	2.10
TOTAL CURRENT WORK	94.60
BALANCE DUE	<u>\$94.60</u>

MDC

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TOWN OF LOXAHATCHEE GROVES
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ACCOUNT NO: 1574-1107570R
 STATEMENT NO: 7

Attn: Mark Kutney, Town Manager

adv. McLendon, Todd

		HOURS	
09/19/2013	MDC Phone conference with judicial assistant on status of case.	0.30	
09/20/2013	MDC Review status of case, telephone calls to opposing counsel.	0.30	
	FOR CURRENT SERVICES RENDERED	<u>0.60</u>	<u>111.00</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	0.60	\$185.00	\$111.00

TOTAL CURRENT WORK 111.00

BALANCE DUE \$111.00

MDL

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 09/24/2013
 ACCOUNT NO: 1574-1107571R
 STATEMENT NO: 5

Attn: Mark Kutney, Town Manager

adv. Todd McLendon (Code Enforcement Violation)

09/18/2013	MDC	Review order dismissing appeal; update MK; update Council.	HOURS	
			0.40	
		FOR CURRENT SERVICES RENDERED	0.40	<u>74.00</u>
		RECAPITULATION		
	<u>TIMEKEEPER</u>		<u>HOURS</u>	<u>HOURLY RATE</u>
	MICHAEL D. CIRULLO		0.40	\$185.00
				<u>TOTAL</u>
				\$74.00
		TOTAL CURRENT WORK		74.00
		BALANCE DUE		<u>\$74.00</u>

MDC

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 09/24/2013
 ACCOUNT NO: 1574-1107573R
 STATEMENT NO: 1

Attn: Mark Kutney, Town Manager

Sirdar Trucking

			HOURS	
09/17/2013	MDC	Review correspondence, public records request from Sirdar Trucking counsel.	0.30	
09/18/2013	MDC	Meet with PU, MK; review materials and correspondence.	0.60	
FOR CURRENT SERVICES RENDERED			0.90	<u>166.50</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	0.90	\$185.00	\$166.50

TOTAL CURRENT WORK 166.50

BALANCE DUE \$166.50

MDC

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE



CONSENT AGENDA

2. b. Minutes for Approval



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, August 20, 2013 at 7:00p.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

Mayor Browning called the meeting to order at 7:00 p.m. Present were Mayor David Browning, Councilmen Tom Goltzené, and Jim Rockett. Vice Mayor Jarriel and Councilman Ryan Liang were not present. Also present were Town Manager Mark Kutney, Town Clerk Susan Eichhorn, Town Attorney Michael D. Cirullo, Jr., and Town Planning Consultant Jim Fleischmann.

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

Town Council Agenda
08/20/2013

2. CONSENT AGENDA

- a. Minutes for Approval: Revised Minutes of July 16, 2013

Motion: Councilman Rockett made a motion to approve the Consent Agenda. The motion was seconded by Councilman Goltzené. The motion passed 3/0.

3. PUBLIC COMMENT

Phyllis Maniglia, 359 West “D” Rd.: Commented regarding a code enforcement issue that had been ongoing and that she had never received anything in writing from code enforcement, regarding the statutes that were cited. She suggested that the code enforcement employees need to address people in writing, and advise as to the progress of the case.

Keith Harris, 2580 C Rd.: Commented regarding the \$80,000 in 2014 for funding of equestrian trails between “A” Road and Folsom Road, the motion made by the Town Council on March 6, 2012 regarding acquiring a portion of the canal from 6th Court North to C Road; the horse trail between E and C Roads. He referred to the Town Council minutes from March 6, 2012 when a motion was made to acquire a portion of the canal from 6th Court North to C Road, not to exceed \$30,000. He referred to the August 21, 2012 Town Council minutes that stated that despite the fact that the Town Council voted for a horse trail between C and D Roads there was an email from a former LGWCD official that said that there was not an easement for that property. He suggested that it be determined if there was an easement, and volunteered to do the legwork if the Town Council so wished. He stated that the development of a master plan is essential and that each and every dollar will require attention and consideration to make the equestrian trails for Loxahatchee Groves successful for all parties concerned. He requested that it be on a future agenda.

Councilman Goltzené commented regarding the comments of Mr. Harris regarding the \$80,000 funding for equestrian trails between “A” road and Folsom Road, and stated that the plat was located and the easement to the LGWCD did exist, and Town Manager Kutney was now aware of it. Town Manager Kutney replied that the issue would be scheduled for discussion at an upcoming meeting.

Councilman Goltzené also suggested that Solar Sports people should have the conservation easement in place before they come in for approval; all the way from “C” road over. It has not been cleared because there were Brazilian peppers along that way.

4. PRESENTATIONS - None

5. COMMITTEE REPORTS - None

6. PUBLIC HEARINGS (Ordinances 2nd Reading)–

7. ORDINANCES (1st Reading) - None

a. Public Hearing:

8. RESOLUTIONS

9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

- Update on the ULDC Review Committee: Staff had previously indicated that they would more than likely need to double up on meetings starting in October; any Town Council concerns would be provided to give to the Committee. A public comment had been received from Howard Voren, a ULDC Review Committee member, requesting that the Town Council approve an extra meeting this month, since the Planning and Zoning Board meeting was cancelled this month.
- Sirdar Trucking Contract: Town engineering consultants were measuring as to the cubic yard issue, and the Public Works consultant and Town Manager were reviewing all aspects of the service and invoice. Councilman Rockett commented that he was concerned with the vegetation contract and the way it was structured as an hourly service provider, and said that it was not a reasonable basis. He suggested that we cancel the contract, pay what we owe, and go out again for services only on that particular need, and do it on a per mile basis, per road mile (lane mile). He stated that he thought that we have gone down the wrong path on an hourly basis, and it made it difficult to administer. He suggested to the Town Council that we move to do that expeditiously, because obviously we need the service. It was the consensus of the Town Council to include this item on the Agenda for the next meeting for discussion.
- Received the population estimate of 3,185 from the University of Florida as of April 1 2013.

- Representative of Cotleur & Hearing had invited the Mayor and Vice Mayor to discuss the Callery Judge project, and if any other Town Council members were interested staff would contact Cotleur Hearing to make arrangements for a meeting.

10. OLD BUSINESS

- a. Town Council Discussion and Direction to Staff Regarding Use of Golf Carts and Dune Buggies on Town Roads

Mayor Browning suggested that he would like to discuss this with the full Town Council present.

Motion: Councilman Rockett made a motion to move this item to the next available meeting option. The motion was seconded by Councilman Goltzené. The motion passed 3/0.

- b. Transmission (email) from Tim Hart Woods

Town Manager Kutney advised that in March 2013, the Town Council had asked that code enforcement efforts be stopped in the Palms West Plaza. He had then advised Mr. Yee, the landlord, that the Town was not making any requirements, however, Mr. Yee wanted to resolve life safety issues. In the Resolution R-88-1546, which approved the Zoning Petition for the Plaza, signed with the County, provision No. 15 stated that “No access shall be permitted onto West Tangerine Road or West “D” Road.” That was one liability that concerned Mr. Yee. Town Manager Kutney explained that, at this point, anything Mr. Yee wanted to do would be done without consultation or affirmation from him.

Town Manager Kutney then discussed the email received from Mr. Hart Woods, which said that Mr. Yee had indicated that Town Manager Kutney had directed Mr. Yee to shut the gate in that area. Mr. Kutney explained that the management company was very concerned with threats that Mr. Hart Woods put in an email about bricks coming through the Town offices window, etc., and he wanted the Town Council to be aware of it. Any action to be taken was up to the Town Council.

Discussion took place.

Town Attorney Cirullo commented that there was a Resolution that says no access. He suggested meeting with the property owner if that is a condition he wants to seek formally, and leave it up to him to see if he wants to ask for relief from that condition. If you want to formalize that access, then you should do it the right way.

Public Comments:

John Ryan, 3508 "A" Rd.: Commented that the existence of a formal resolution ought to be respected. A formal request for change by Mr. Yee would allow public comment from those affected by the road. If the Town collects gas tax on that section it would argue for that being a public road. If Tangerine was extended and made a more formal road for public use at some point, it would be appropriate. Mr. Yee should make a formal request, pay any associated costs, and people who live there ought to be involved in the process.

Phyllis Maniglia, 359 West "D" Rd.: Commented that she very much encouraged Mr. Hart Woods' business, and that we need to embrace the agriculture people. Pineapple was a road that used to go through all the way, and she thought it should be opened, and that was how she felt as a resident in the neighborhood,

Frank Schiola, Marcella Blvd: Commented that the gate issue could be solved through Town Council approval, if that is what the shopping center wants. The second part of this is something that we have seen in Loxahatchee Groves for the last six months, and that is an elevated threat level. The Town Management company is receiving phone calls such as, grade my roads today or I will come in there and beat the crap out of you, and the threats are coming more and more often.. He cited the killings at a Connecticut council meeting over a sewer matter. He said that in almost every other municipality, if you send a threatening email you will get a visit from someone, and that he thought the Town Council needed to address this.

Mayor Browning requested that the Town Manager contact Mr. Yee and see if he wants to bring this forward.

11. NEW BUSINESS

- a. Clarification of Valley Crest Development Matter

Town Manager Kutney provided a brief update on this matter, and noted that Attorney David Coviello was present to address the cost recovery issue.

Attorney David Coviello, on behalf of Magic Properties V, LLC, addressed the Town Council, stating that the violation that precipitated this whole site plan process went on for over two years after a code enforcement violation. The violation stated that a landscape service business was only permitted in the zoned area in conjunction with a retail or wholesale nursery. It was now known that was an error -- there was always the opportunity to have a stand alone landscape service business. Because of that error, the applicant was required to come back twice for site plan approval, and he stated that he did not think it was fair to impose the costs from the second time that the applicant came back.

Attorney Coviello explained that he was referring to the County Code, when the violation was imposed. The applicant had been travelling under the County Code in this entire proceeding. The County Code said that a stand alone landscape business was permitted in that zoning district as a principal use, but the applicant was cited under the AGR district, which the property was not in.

Town Attorney Cirullo commented that the case dated back to 2008 and was cited under County Code. He did not know how long the error was allowed to perpetuate, and he had not spent the time to go back and review it in terms of this cost recovery issue. He stated that he looked at it more a fairness request to you, and whether you want to consider that as an equity issue.

Councilman Goltzené stated that he thought it was important to understand whether they went through a six year process because of an error on the Town's part. It would be very material when the fine was discussed.

Attorney Coviello stated that the property owner had discovered that it was always permitted. We knew that the Town code changed, so his client was willing to work with the Town staff. When we came before you, we looked at the code and confirmed that we never needed a nursery component and that is when you directed us to come back and take out the nursery component. There was an error in the violation.

Discussion took place.

Town Attorney Cirullo advised that he would go back and get the application and the code review it with attorney Coviello, so that we can get on the same page so that we know what was done in this matter.

Public Comments:

***Town Council Agenda
08/20/2013***

John Ryan, 3508 A Rd.: Commented that he agreed that one of the background issues is that this business was operating under the County before we adopted our Code. That is one reason that the ULDC committee has focused on a simplified special exception process. It may not have been handled as a special exception because there was a legal business under the County Code, but there was confusion because that was in place before the Town's ULDC was in place.

Frank Schiola, Marcella Blvd.: Commented that before we had a Town and we were incorporated, the county gave BTRs to anyone who wanted it, without any research at all. The County rarely sent code enforcement. It was in an AR zone. They come in and bring in all of the trucks and trailers and it is basically a commercial operation. I think that's where it all comes to. I think you will find that it is AR, and it ended up changing into a commercial enterprise.

Todd McLendon, 3481 D Rd.: Commented that if the Town made a mistake are they going to refund him all the money that was wasted. I find it very distasteful that there is a Town Council member that has a family member that has, under our new Code, opened up the exact type of business as he did, and that is acceptable. But, we want him to stick to the letter of the law and pay thousands of dollars to do the exact same thing that this Council member's relative is doing.

Councilman Rockett commented that there were certain operational procedures about directing something to Town Council members.

Ken Johnson, Collecting Canal: Commented that he was not talking about this business or what Todd just said, but I sit on the committee that he is talking about. If you look at the expenditures that the Town is paying up front every 30 days, all of those bills add up. We are incurring, as a Town, all of these costs, and that money is coming out of all of our pockets. We have got to recoup that money to keep our taxes where they should be.

Town Manager Kutney commented that this has been like the perfect storm for a code enforcement case. You have had two governments involved, two Special Magistrates involved, two code enforcement companies involved, and three management companies involved. You can see why it has been such a confusing mess.

Town Attorney Cirullo advised that he would confer with Mr. Coviello and get back to the Town Council within the next couple of meetings and give you my analysis in order for you to make a decision.

Councilman Rockett stated the following: that if Mr. McLendon was talking about this particular Town Council member he is completely incorrect. I do not have the same situation with a family

member. He has twisted information as he always does, and that needs to be said. If it is not me, then I don't know anybody else on the Council that has that problem either.

b. Solid Waste Collection Agreement

Town Manager Kutney provided a brief report regarding the Solid Waste and Recycling Collection Franchise Agreement with Waste Pro of Florida.

Councilman Rockett suggested more specificity regarding the schedule, to include the statement that recycling is on Saturday and vegetative is on Wednesday.

Town Attorney Cirullo stated that if the vendor objects he can get up or confirm that we can add those two sentences.

Chris Schulle of Waste Pro stated that the service days are going to stay the same.

Motion: Councilman Rockett made a motion to accept the contract with sentences added which would accomplish that service days of the week are vegetative pick-up on Wednesday, recycling on Saturday, and solid waste on Wednesday and Saturday. The motion was seconded by Councilman Goltzené.

Public Comments:

Ken Johnson, Collecting Canal Rd.: Commented regarding land values in Loxahatchee Groves, and suggested that the area could be cleaned up and look better; he suggested recycling as another way to obtain free money, which could help reduce taxes.

John Ryan, 3508 "A" Rd.: Commented as follows: Page 10 of 50, item 4.a.1. It implies that all vegetative waste will be containerized. I don't think that is the case. Then on page 32 of 50, there is a basis for complaint that I think would be unreasonably burdensome, item 21 – requires Waste Pro to have supervisory present on all of Town routes. That wording might be unduly burdensome.

The motion to approve the Waste Pro contract passed 3/0.

12. CLOSING COMMENTS

a. Public

Lisa Glenn, 1311 Folsom Rd.: Commented regarding a short dead end road, 13th Place North, which lies between her two properties. She asked if it was possible to acquire that road, as she was trying to put a perimeter fence around her personal property and put a gate on 13th Place.

Town Attorney Cirullo responded that there is a process of abandonment. He would speak with staff tomorrow to review it. It could eventually be done through Resolution; it could be abandoned and would no longer be a public road.

Town Manager Kutney commented that Ms. Glenn had called the town offices, and had been very patient. The Town Attorney would now be involved, and the road was on the Town gas tax map.

Mayor Browning commented that if any of the roads we are collecting gas tax on are really driveways, we need to get ahead of the game.

Keith Harris, 2580 C Rd.: Commented that he has heard the term Resolution used, and requested that the Town Attorney provide an explanation of a resolution and how it is legally binding.

Town Attorney Cirullo replied that matters of law are done by ordinance, and matters of procedure are done by resolution, and are binding.

Phyllis Maniglia, 359 West "D" Rd.: Commented regarding the security situation for the members of our Loxahatchee Groves management and where the offices are. She stated that she would like to see the offices in that corner unit where the bait and tackle used to be. Right now where they are, anybody could walk in there and they would not know it until they were right on top of them. She asked that it be considered seriously.

Frank Schiola, Marcella Blvd: The baton team that the Town Council sponsored won honors. His daughter was ranked in the nation. The baton group is going to come here and thank you all at your next meeting.

Marge Herzog: A Rd: Reminds everyone that Thursday, Aug 21st is the Loxahatchee Landowners Meeting. A representative from the TV and film commission will be present. Also

a representative from FAU will be talking about landscaping best management practices and concentrating on fertilizers. Next month. On Sept 21st, the National Honor Society would do a cleanup from Folsom to Seminole Pratt.

b. Town Attorney

c. Town Council Members

Councilman Rockett: Thanked everyone for coming.

Councilman Goltzené thanked Ken Johnson and Phyllis Maniglia for their concern about the area, and their community pride. We do have problems in the Plaza.

Mayor Browning: Thanked everyone for coming. Referred to keeping properties clean. We may have to come down harder on some of these properties that are owned by banks, etc.

Councilman Rockett: Requested that Town look at laws regarding foreclosed properties.

13. ADJOURNMENT

There being no further business, the Town Council Meeting of August 20, 2013, was adjourned at 8:45 p.m.

Susan Eichhorn, Town Clerk

David Browning, Mayor

(SEAL)

Town Council Agenda
08/20/2013



Town of Loxahatchee Groves
Town Council Meeting
Tuesday, September 3, 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 pm. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzene and Ryan Liang. Councilman Jim Rockett arrived at 7:10 p.m. Also present were Town Manager Mark Kutney, Perla D Underwood, UMSG, Town Attorney Michael D. Cirullo, Jr., and William F. Underwood, UMSG.

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

MOTION: Vice Mayor Jarriel requested that Item 2.c. is removed from the Consent Agenda for discussion immediately after the Consent Agenda as Item 3. New Business Item a. Mayor Browning requested that LGWCD Supervisor John Ryan had brought forward a time-sensitive issue relative to the taxing of Palm Beach State College. Councilman Goltzené made a motion to add the Palm Beach State College taxation item as New Business, Item 12.b. The motion was seconded by Councilman Liang. Councilman

Liang made a motion to approve the Agenda as amended. The motion was seconded by Councilman Goltzené. The motion passed 4/0.

2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: Minutes of August 6, 2013; August 20, 2013 – [*Postponed to next September 17, 2013 Town Council*]
- c. Renewal of Annual Contracts [Tew & Taylor, Inc.; Frank Schiola, Consultant Public Works Services] (*Clerk's note: this item was removed from Consent Agenda and added to the Regular Agenda as 3. New Business, Item a. – see Approval of Agenda*)

MOTION: Councilman Liang made a motion to approve the Consent Agenda as amended. The motion was seconded by Councilman Goltzene. The motion passed 4/0.

3. NEW BUSINESS

- a. Discussion of Renewal of Annual Contracts [Tew & Taylor, Inc.; Frank Schiola, Consultant Public Works Services.

Vice Mayor Jarriel questioned sections 2.3 and 4.3 and requested clarification on the Contract with Frank Shiola. Vice Mayor Jarriel stated that he feels the contract requires the contractor to include the use of equipment rather than charge the Town an hourly rate for equipment rentals as is currently done by Mr. Schiola.

Town Manager Kutney advised that in the past, Mr. Schiola provides services requested by the Town Manager, and is reimbursed by the Town for supplies and equipment used in the performance of his assignments.

Following further discussion relative to reimbursements and what should be included as part of the Contractor's hourly service charge, Town Manager Kutney advised that if the Town Council believes that the Contractor was not entitled to reimbursement for equipment and supplies needed to complete assignments, Mr. Schiola would be required to purchase the street signs as part of his monthly contractual charge, as street signs would be considered materials.

Vice Mayor Jarriel stated that he does not want the Town to pay for rental equipment.

Councilman Rockett advised that it was his suggestion that the cost of equipment rentals be included in the Contractor's monthly invoicing, and explained his reasoning on the matter.

Councilman Rockett advised that he believes it is expensive for Mr. Schiola to supervise contractors as he feels the Town Manager should be supervising contracts as part of the Management Contract. Councilman Rockett advised that there are a lot of items that are not being done by the Town's Management.

Following discussion, **Councilman Rockett moved to exclude contract monitoring with the exception of Waste Pro from the Schiola Contract.** Town Attorney Cirullo advised that when preparing the Contract, he provided the Management with flexibility to use the Contractor as needed.

Motion failed for lack of a second.

Motion: Following discussion Vice Mayor Jarriel Moved, Seconded by Councilman Goltzene to approve the renewal of the Tew and Taylor, and Frank Schiola Contracts as presented for the period beginning October 1, 2013, and ending September 30, 2014. The motion passed unanimously, 5/0.

3. PUBLIC COMMENT

4. PRESENTATIONS - None

4. COMMITTEE REPORTS

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

FAAC Member Virginia Standish provided the Town Council an overview of the July 2013 Financial Report. Member Standish advised that the FAAC had requested the Town Council consider requesting assistance from the Florida League of Cities with respect to effective and efficient governments to included financial benefits, and exploring lending programs to assist potential residential buyers.

Councilman Rockett made a motion, seconded by Councilman Goltzene to approve the July Financial Reports as submitted. Councilman Goltzene pointed out that a trend is developing of monthly deduction in the cash balances. The motion passed 5/0.

Councilman Rockett questioned if the Town's banker can assist with providing a program for local buyers. Councilman Goltzene stated that he felt real estate agencies should be providing that service to potential buyers. Bill Underwood, UMSG advised that there are lending programs using banking consortiums that provide such functions.

6. PUBLIC HEARINGS – First Public Hearing 2013-2014 TENTATIVE MILLAGE

a. Resolution No. 2013-10

A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING THE TENTATIVE MILLAGE FOR THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PURSUANT TO THE BUDGET SUMMARY FOR THE FISCAL YEAR 2013-2014, IN ACCORDANCE WITH CHAPTER 200, FLORIDA STATUTES, AS AMENDED; SETTING FORTH THE DATE, TIME AND PLACE FOR THE SECOND AND FINAL PUBLIC HEARING TO ADOPT THE TOWN'S MILLAGE RATE FOR THE FISCAL YEAR 2013-2014 AND DIRECTING PUBLICATION OF NOTICE THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Resolution No. 2013-10 by title, as printed above.

Town Attorney Cirullo advised the Council on the requirements for procedures in this matter. He advised that if the Council is to set the tentative millage at 1.5 , this would reflect an increase of 16% of rolled back rate of 1.2845, and as such would need a unanimous vote of the Town Council for approval.

Town Attorney Cirullo advised that back in July he requested a ruling from the Florida Department of Revenue (FDOR) on the Town's requirements as it relates to the 3-mill equivalence. The Attorney advised that the FDOR has advised that the Town's Charter adopted by special act of the Legislature does not require the Town to meet the 3 mill requirement of Florida State Statutes 218.

Councilman Rockett advised that going to 1.5 was only to meet the equivalence. **Councilman Rockett moved, seconded by Vice Mayor Jarriel to set the tentative millage at 1.200 mills.**

Public Comment:

John Ryan, 3508 A Road: Recommended the Town eliminate the contingency to balance the budget.

Councilman Goltzene advised that he was not in favor of an increased millage rate, but would like to know that there is no concern with respect to the information we received from the Department of Revenue regarding the requirement of Florida SS 218. Town Attorney advised that FDOR does not give formal opinions. The attorney reported on the review process FDOR used to review the Town's request, and the discussion he had with an FDOR attorney. Mr. Cirullo advised that there are no guarantees, but he concurs

with the decision made by the FDOR attorney. Following discussion, Councilman Rockett thanked John and Elise Ryan for their assistance in this matter.

Motion: Councilman Liang moved, seconded by Vice Mayor Jarriel to adopt Resolution 2013-10 establishing the Tentative Millage at 1.200 mills. The motion passed 5/0.

b. **Resolution No. 2013-11 – TENTATIVE BUDGET**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A TENTATIVE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2014; SETTING FORTH THE DATE, TIME AND PLACE FOR THE SECOND PUBLIC HEARING FOR THE ADOPTION OF THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013, AND DIRECTING PUBLICATION OF NOTICE THEREOF; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Town Attorney Cirullo stated that the public hearing was opened. Eliminate contingency and will need to make further reduction. Goltzene questioned the lobbyist expenses. Mayor advised that he feels that the lobbyist expenses should be eliminated. Rockett requested that legal be reduced to \$90,000 from \$120,000.00

Mr. Underwood advised that this year's budget is \$120,000 and the Town has expended over \$90,000 through July.

Vice Mayor Jarriel explained that he had requested funding for a lobbyist and explained reasons why it was included. Vice Mayor Jarriel advised that if the residents are not involved in the process that a lobbyist would help in obtaining the approval for the Traffic Light.

Public Comment:

John Ryan, 3508 A Road: Advised that The District used the lobbyist that has been recommended by Vice Mayor Jarriel, by the District with respect to the Special Act for Road acquisition and recommended the Lobbyist. Mr. Ryan further advised that the Lobbyist could also be used in acquiring another Special Act by the District and Town for acquiring roads within the Town.

Vice Mayor Jarriel also reminded the Council that the Town was unable to get grants for trails because there were not easements in place, and as such the Town was not eligible for funding.

Public Comment:

Virginia Standish, 15410 North Road: Voiced her disagreement with respect to the need for a Lobbyist and as well as traffic lights on D Road at Okeechobee and Southern Boulevard. Additionally, she stated that the Town budgeted 1.3 million of the 1.8 million Budget on OGEM road projects and very little for the rest of the community.

Following discussion, **Councilman Rockett moved to reduce Legal expenses by \$30,000, and reduce contingency to balance the budget. Vice Mayor Jarriel seconded the motion. The motion passed, 5/0.**

Councilman Rockett advised that the Town will not be able to contribute to Solid Waste Assessment this year as it provided last year.

Motion: Councilman Liang moved, seconded by Vice Mayor Jarriel to adopt Resolution 2013-11. The motion passed, 5/0.

7. PUBLIC HEARINGS (Ordinances 2nd Reading) – *None*

8. ORDINANCES (1st Reading) - *None*

a. Public Hearing:

9. RESOLUTIONS - *None*

10. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

Town Manager Kutney reminded the Council that the Southern Boulevard Workshop is scheduled for Thursday, September 5, 2013 at 7:00 p.m. at Palms West Chamber of Commerce.

Town Manger Kutney also reported on the FEMA Flood Plain Map FEMA has extended the deadline until November 30, 2013 to provide technical information. Palm Beach County and Palm Beach County League of Cities leading the program. South Florida Water Management District (SFWMD) is revising maps on the C51 canal. Palms West Chamber is involved by getting business owners involved as it will affect them as well.

Reported on Code Enforcement complaint filed by the Loxahatchee Groves Land Owners Association on a specific property on Gruber Lane. The Town Manager detailed the allegations, and advised that he has asked Code Enforcement to move forward, and provided the PBSO with complaint so that it can address the Life Safety issues included in the complaint.

Councilman Goltzené asked that Town Manager Kutney address attendance at the RETGA Meetings. Town Manager Kutney advised that two members (Patrick Painter and David Miles) are not attending meetings, and the Town Council will need to address this in the future. He would verify the terms of the Resolution that created the Committee to determine how many meetings a member could miss. Town Council appointees are Goltzené and Liang.

Councilman Rockett would like to get confirmation on how the millage was entered as 1.2 mills, rather than 1.5 mills. Town Manager Kutney advised that staff members had entered the data as 1.5, and that information goes to the Property Appraiser, and how it got to 1.2 was something that would need to be sorted out with the Property Appraiser. Councilman Rockett suggested that some type of confirmation be acquired from the Property Appraiser that the correct data is in place.

Councilman Rockett questioned if Mr. Yee has no incentive to come forward with respect to the opening on Tangerine. Councilman Rockett advised that he had gone to the area where he saw that the gate had been removed, and if we do not say that Mr. Yee must put the gate back in place, then we are ignoring laws being broken. He stated that would file a code complaint on this matter, and would like the Town Council to rule on this matter of enforcement. He noted that he will be filing a complaint on the property next door, which has now turned into a storage facility. He stated that he believes the Town Council should not ignore this matter.

Councilman Goltzene would like to include that the Plaza is supposed to have a particular percentage of offices, so he hoped that some of the current occupants would be replaced with offices while we are enforcing rules and laws, since we cannot pick and choose.

Town Attorney Cirullo advised that Mr. Yee must be advised that Resolution that governs his Property and he must either go along with that Resolution in the Development Order or seek to request change. Councilman Goltzene commented that it would be better to work directly with Yee rather than using Code Enforcement, and incurring further costs to the Town. Councilman Rockett remarked that he believes that unless Town Council takes action nothing will be done.

He requested that the Planning & Zoning Board review the Residential Enterprise amendment to eliminate foot traffic and that the Town Council include it in the Town Council agenda. Town Manager Kutney replied that it could go to the Planning & Zoning Board on the September 12th and on September 17th to the Town Council for first reading, with second reading at the October 1, 2013, Town Council meeting.

Mayor Browning explained that at the last meeting his comments on the Plaza were based on a practical aspect – that he had nothing to do with approval of that Plaza and that it seemed strange that a guardrail would be put between Mr. Yee's property and Mr. Yee's property. Safety was also considered an access to eliminate traffic on Southern Boulevard; he was not looking to help any individual business or anything else. Councilman Goltzené stated that there were plenty of other violations in the Plaza, and that the Town should not focus on one person or business, but needs to address all.

Town Attorney Cirullo advised that Management was told to stand down on code enforcement on the Plaza, and further direction needs to be made by the Town Council. Vice Mayor Jarriel commented that when the Plaza was built it was built under Palm Beach County rule, and if there were other problems with drinking, etc., in the Plaza the Town needed to get with PBSO. He stated that he believed that a better access to get out of the Plaza onto Southern Blvd. was needed. If code enforcement was started with the Plaza, it would need to be started with everyone. He would like to try to work with Mr. Yee through Management rather than Code Enforcement. He also suggested that the Florida Department of Transportation provide more information on the traffic light on Southern Blvd. and "D" Road.

Mayor Browning discussed the reason for directing Code Enforcement to stand down on the Plaza, which was because of the suddenness of it. Basically a stay was given to the Plaza, and now they have had time to fix many of the things, and the Town Council was still expecting that the violations are addressed. He supported Vice Mayor Jarriel's position to attempt to work with Mr. Yee through management rather than Code Enforcement.

Councilman Rockett moved that the Town Council direct Town Manager Kutney not to act on Code Enforcement on the Plaza with respect to the gate and the storage facility with trucks parked in the area. Councilman Liang seconded the motion.

Public Comment:

Ken Johnson, Collecting Canal Rd.: Addressed the matter as with respect to the widening of Southern Blvd., and that the gate should stay open and residents should sign the Petition on the traffic signal on Southern Boulevard at D Road.

The motion to direct Town Manager Kutney not to act on Code Enforcement in the Plaza with respect to Gate and Storage Facility with trucks parked in the area passed 4/1, on roll call vote with Councilman Rockett casting an opposing vote.

******Recess at 9:00 pm Reconvened at 9:05 pm******

11. OLD BUSINESS

- a. Town Council Discussion and Direction to Staff Regarding the Use of Golf Carts and Dune Buggies on Town Roads

Town Attorney Cirullo advised that he needs Town Council direction on the use of Golf Carts and dune buggies on Town Roads. Vice Mayor Jarriel commend that this should be left alone, and that he does not feel that the Town Council should be dedicating roads for golf carts and

dune buggies and all should be licensed. Discussion took place regarding what equipment golf carts would need to be installed, such as lights, mirrors, etc. Councilman Goltzené would not support this if the residents are not in favor of this matter, and that it was brought forward from the RETGAC for discussion and requests. Councilman Liang also stated that he did not want to penalize property owners that want to use golf carts. Councilman Rockett stated that from a safety perspective this would be dangerous on the roads, but he did not see an issue with use on personal property.

Vice Mayor Jarriel stated that he does believe that Palm Beach Sheriff Office does not ticket those on golf carts on the Town's road currently.

Councilman Goltzené moved to allow golf carts on Town roads by licensed drivers with valid licenses. Councilman Liang seconded the motion.

Mayor Browning advised that signage will be needed.

Public Comment:

Ken Johnson, Collection Canal Rd.: Spoke regarding the safety issues on the matter: No helmets, no seatbelts, no lights. Who will make sure that the golf carts are equipped. How is golf cart going to cross Okeechobee Boulevard. Confusion by residents on what is allowed on Town roads, now. How are you going to prevent from using at night. Signage.

Ann Parker – Collecting Canal Road & B Road: Has same concerns as Mr. Johnson, but feels that if residents want to ride golf carts they should be allowed. Feels the Town should wait on approval at this time.

John Ryan, 3508 A Road: Supports Vice Mayor Jarriel's concerns over safety issues. Feels that Town will open itself up to liability. Requests that the motion is amended to include all the requirements of the state law.

Councilman Liang commented that he does not believe it is the Town's responsibility to ensure that cars are in good working order now, and it was almost the same with a golf cart and he does not feel that the Town is liable. If the motion is passed, residents would be allowed to use the golf carts on the road, but they need to be responsible. Vice Mayor Jarriel advised that if the Town doesn't follow the requirement of State guidelines, the Town will be liable. If we open up Loxahatchee Groves to golf carts, it would put more pressure on PBSO, and the safety factors on a golf cart were different from a car.

Mayor Browning commented that he thought this issue had been blown out of proportion. A licensed driver would be required. Loxahatchee Groves was a very unique community. Nurseries travel up and down the road in slow vehicles, and people tend to watch out for them and slow down. Signs could be posted so that people are aware that they will be sharing the road with golf carts.

Councilman Rockett commented that people should be notified of this, and golf carts would need to be operated in accordance with the motion. He did not see a problem.

Town Attorney Cirullo stated that this would need to be done by ordinance, and he assumed that the motion did not include swamp buggies, and was only for golf carts. Also, the only restriction that the Town Council wanted to add that was different from State law, was that the Town Council wanted to increase the minimum age from 14 to 16, so that the golf cart driver must have a valid driver's license. He also noted that signage would need to include that golf carts were permitted, valid driver's license required or any condition that is put on by the Town Council that was not in the State Statutes. He did not know how many signs were needed, or the cost, but if direction was given by Ordinance that would need to be done. He noted that he had asked that someone review the safety component, and if the Town Council was comfortable with their knowledge that golf carts could be operated safely on Town roads, then that is the direction that would be given to include in the ordinance language. If you wanted to give direction to have certain items reviewed, this would be the time to do that as well.

Mayor Browning stated that input from the public could be heard when the ordinance was before the Town Council. Councilman Rockett also noted that he would also like to have input regarding the costs for signage

The motion to allow golf carts on Town roads by licensed drivers with valid licenses passed 3/2, with Vice Mayor Jarriel and Councilman Rockett opposed.

12. NEW BUSINESS

a. Road Grading of 161st North (*Vice Mayor Jarriel*)

Vice Mayor Jarriel stated that the program on grading is on a quadrant basis, roads will be graded twice a month. 161st Terrace North is the longest road, and he would like it graded at least once a week. Also he would like the 8 loads requested in June on 161st Terrace, as well as the water truck used on 161st Terrace North.

Councilman Rockett suggested that the Town Manager is doing something that the Council did not include in the contract. Town Manager Kutney addressed Councilman Rockett's concerns and questions.

Vice Mayor Jarriel moved that a request for courtesy grading be done when requested, and moved that 161st Terrace be graded once per week. Councilman Liang seconded the motion. The motion passed 5/0.

b. Loxahatchee Groves Water Control District Request Relative to Palm Beach State College

John Ryan, 3508 A Rd.: Requested the Town Council assistance in requesting that the Palm Beach State College consider paying the Loxahatchee Groves Water Control District (LGWCD) assessment.

Vice Mayor Jarriel advised that he has spoken to Dr. Gallon on this matter.

Town Attorney Cirullo advised that the Town Council can direct that he draft a letter in support of the District request.

Vice Mayor Jarriel moved, seconded by Councilman Rockett to instruct Town Attorney Cirullo to draft a letter in support of the LGWCD assessment request, and authorize the Mayor to execute the letter. The motion passed, 5/0.

13. CLOSING COMMENTS

a. Public

Virginia Standish, 15410 North Road: Wanted to bring attention that Palm Beach County this past month had been working on an amendment to their ULDC that specifically addressed livestock being an accessory use to a residence. What was interesting was that they stated that it was permitted in areas that did not have a PUD. Her point was that she thought the Town Council needed to be honest with the residents of Loxahatchee Groves that the majority of the Town Council and the majority of the Planning and Zoning Committee had created a master overlay. A master overlay is for the purposes of development. Thank goodness Palm Beach County ULDC does not apply, because then there would be no longer be livestock in Loxahatchee Groves. This recent ruling of Palm Beach County made it very clear that there was a master PUD development for Loxahatchee Groves, and that it was very clear that you are creating a master development for this community and you are trying to get rid of agriculture, based on what she had seen play out in Palm Beach County.

Bill Klein, 3191 E Road: Inquired about his request concerning gun sales. Does not understand why this matter has not yet been approved. Mr. Klein was advised that the matter is scheduled for consideration by the Planning and Zoning Board on September 12, 2013, and will come back to the Town Council for first reading at the September 17, 2013 Town Council Meeting.

b. Town Attorney

c. Town Council Members

Councilman Goltzené: Thanked everyone.

Vice Mayor Jarriel: Thanked everyone for coming and asked if there is anyone interested in being on RETGAC.

Councilman Liang: Thanked everyone, and said that he would be looking for someone to appoint to RETGAC.

Councilman Rockett: Thanked everyone.

Mayor Browning: Thanked everyone.

14. ADJOURNMENT

There being no further business, the Town Council Meeting of September 3, 2013, was adjourned at 10:15 p.m.

Susan Eichhorn, Town Clerk

David Browning, Mayor

(SEAL)

These minutes were approved at the October 1, 2013, Town Council Meeting



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, September 17, 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.

PUBLIC NOTICE/AGENDA SECOND AND FINAL PUBLIC HEARING 2013-2014 BUDGET

PUBLIC NOTICE/AGENDA REGULAR TOWN COUNCIL MEETING

1. OPENING

- a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 pm. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzene, Ryan Liang, and Jim Rockett. Also present were Town Manager Mark Kutney, Perla D Underwood, UMSG, Town Attorney Michael D. Cirullo, Jr., and William F. Underwood, UMSG, and Town Clerk Susan Eichhorn.

***Town Council Agenda/Second Public Hearing 2013-14 Budget
Minutes 09/17/2013***

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

Vice Mayor Jarriel requested two additions to the Agenda:

- Under New Business 10.b. grading and road rock for Casey Road
- Under 10.f. old business – discussion of Sirdar Contract with TOLG

Town Attorney Cirullo advised that the matter of the Sirdar Contract had been turned over to their attorney and he had not yet had a chance to review it. If the subject is to discuss the righteousness of paying them or not paying them, he would like the ability to review everything before any discussion takes place.

Vice Mayor Jarriel replied that he disagreed with legal, and stated that this has been going on for over a month now, and I believe legal has just been brought into. I think we need to discuss it, because we are talking about breach of contract and a couple of other things, but whatever the majority of the Town Council wants to do. I think we need to discuss it tonight before we start running up legal fees.

It was the consensus of the Town Council that Item 10 b. would be added to the Agenda, and Item 10.f would not be added.

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

CONSENT AGENDA

- a. Minutes for Approval: Minutes of August 6, 2013; Minutes of August 20, 2013; Minutes of September 3, 2013; Minutes of September 10, 2013 [*Minutes not included in the Agenda Packet will be provided via an Addendum*]
- b. Permission of the Town Council for Nicholas Christian -14642 North Road for Connection of New Potable Water Service with Palm Beach County
- c. Sixth Addendum to the Law Enforcement Service Agreement

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Town Manager Kutney reported that the minutes for approval should include only the Minutes of August 6, 2013, and September 10, 2013. The remainder of the minutes listed on the Agenda were not part of the Agenda packet and would be listed for approval on future Town Council Agendas

Motion: Councilman Liang moved to approve the Consent Agenda as amended. The motion was seconded by Councilman Goltzené. The motion passed 5/0

3. PUBLIC COMMENT

Marge Herzog, A Rd.: Commented that this Saturday there will be the “Adopt a Road” program to clean up Okeechobee Blvd. The National Honor Society will be there, and pick-up trucks are needed to help. Also, on September 26, 2013, the Landowners’ Association will have George Voren presenting the Scripps grant program that he works under that deals with smoke cessation.

Vice Mayor Jarriel commented that he would like to see the National Honor Society get some recognition.

Ms. Herzog replied that the way the “Adopt a Road” program works is that an organization brings in the workers and they are given as much publicity as possible by putting it in the newspaper, etc. They are getting credit for being there and doing the work.

4. PRESENTATIONS - None

5. COMMITTEE REPORTS -None

6. PUBLIC HEARINGS – Second and Final Public Hearing 2013-2014 Millage and Budget

a. Resolution No. 2013-13

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING AND ADOPTING THE FINAL MILLAGE FOR THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PURSUANT TO THE BUDGET SUMMARY FOR THE FISCAL YEAR 2013-2014, IN ACCORDANCE WITH CHAPTER 200, FLORIDA STATUTES, AS AMENDED;

**Town Council Agenda/Second Public Hearing 2013-14 Budget
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PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

b. Resolution No. 2013-14

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A FINAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2014; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Town Manager Kutney reported that because of an advertising deadline, the Budget Hearing will be scheduled to occur on Friday, September 20, 2013 at 6:30 p.m. in the Meeting Room of the Loxahatchee Groves Water Control District, 101 West “D” Road.

Motion: Councilman Rockett made a motion to continue Res. 2013-13 and 2013-14 until September 20, 2013, in the Meeting Room of the Loxahatchee Groves Water Control District. The motion was seconded by Councilman Liang. The motion passed 5/0.

7. PUBLIC HEARINGS (Ordinances 2nd Reading) – None

8. ORDINANCES (1st Reading)

a. Public Hearing:

Ordinance No. 2013-05

[Text Amendment re: Residential Enterprise. This matter is on The Planning & Zoning Board Agenda for 9-12-13 – will be included as an Addendum to this 9-17-13 Town Council Agenda]

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING PART III, ENTITLED ‘SUPPLEMENTAL REGULATIONS,’ ARTICLE 80, ENTITLED ‘CONDITIONAL USES,’ SECTION 80-020, ENTITLED ‘RESIDENTIAL ENTERPRISE,’ OF THE TOWN OF LOXAHATCHEE GROVES UNIFIED

LAND DEVELOPMENT CODE TO PERMIT A LIMITED NUMBER OF CUSTOMERS TO TRANSACT BUSINESS AT THE LOCATION OF A RESIDENTIAL ENTERPRISE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Town Attorney Cirullo advised that Town Council had requested an amendment to the residential enterprise ordinance. He read Ordinance No. 2013-05 by title as set forth above.

Town Planning Consultant Jim Fleischmann provided the staff report regarding the text amendment, and reviewed the proposed revisions to Ordinance No. 2013-05. He noted that the amendment was an amendment to Section 80-020, and this item had been discussed at several previous Town Council meetings, the latest of which was August 6, 2013, and at that meeting the Town Council had directed staff to make revisions to sub-section 80-020 (H) of the ordinance to permit up to three customers to be present on site at any given time. He explained that the current proposed amendment was reviewed by the Planning and Zoning Board on September 12, 2013, and they had made a two-fold recommendation:

1. Recommended denial on a 5/0 basis
2. Referred the entire residential enterprise issue back to the ULDC Committee for further review.

The basis for denial was not necessarily the fact that you would be adding the ability for customers to be present on site; so much as it was with the concept of residential enterprise in the first place. They felt that there was not a clear definition of what residential enterprise was, and that may allow the proliferation of retail businesses to locate in the Town that would not be consistent with the character of the Town.

Based on the fact that this item has been in front of the Town Council at several previous meetings and at previous Planning & Zoning Board meetings, and based on the fact that Town Council directed staff to draft this language, staff recommends approval.

Councilman Rockett read from the minutes of the August 6, 2013 Town Council meeting, and said that the motion in regard to the text amendment was to strike the ULDC language regarding foot traffic, and what is being presented is modified text.

Town Planning Consultant Fleischmann replied that staff struck the language that deals with foot traffic in the code at this time. Based on addressing the Council in discussion that led to that, staff added the ability for three customers to be on the site.

Town Attorney Cirullo explained that he thought the Town Council wanted staff to bring back the first reading ordinance that was brought forward in April, and if that was not the direction, he was responsible for the ordinance that is being presented.

Discussion took place.

Motion: Councilman Goltzene made a motion to eliminate Item H completely from Section 80-020.

Councilman Goltzene commented that Planning & Zoning was really against this, and suggested that the ULDC look at residential enterprise and home office from the bottom up and talk it through.

Motion: Councilman Goltzene amended the motion to adopt Ordinance No. 2013-05 including the language relating to a limit of three clients/customers in Section 80-020, per the recommendation of staff, and that we prioritize this as something for the Unified Land Development Code Review Committee to discuss. The motion was seconded by Councilman Liang.

Councilman Rockett commented that if foot traffic was just eliminated, it would take the restriction away that Mr. Kline is facing.

Upon roll call vote, the motion passed 5/0.

Town Attorney Cirullo advised that October 1, 2013, will be the second public hearing of Ordinance No. 2013-05.

9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

- Staff met with Mr. Yee, pursuant to your direction, and we discussed issues at the Plaza Center. Mr. Yee indicated that he wants to comply and that he is also looking at making improvements to the center. I will work out a timeline with him so that I can report back to you as to how soon he can make the improvements.
- Evaluation form to review the Management Company. I will bring it back at the October 1, 2013, meeting.
- We will try in October/November to not have the second Town Council meeting. We may have to have a second meeting in October to discuss the PUDs that are coming before you in the near future.

- A letter from Steve Abrams mayor of Palm Beach County is being distributed tonight to the Town Council relating to contributing funding for the Office of the Inspector General. Staff is in the process of getting additional information, which we will provide at the October 1, 2013, meeting for review.
- The RETGAC members have been operating with three people for the last six or seven meetings. We did a review and it appears that Mr. Painter and Mr. Miles have not attended four meetings in 2013, and none in May or April of 2012. Resolution No. 2011-005 governs RETGAC, and provides that a member shall be removed by the Town Council if he/she misses five consecutive meetings within a twelve month period.

Motion: Councilman Liang made a motion to vacate the seats of Patrick Painter and David Miles from the Roadway, Equestrian Trails and Greenway Advisory Committee. The motion was seconded by Councilman Goltzene. The motion passed 5/0.

Councilman Goltzene appointed Jo Siciliano. Councilman Liang appointed Keith Harris.

- Southern Blvd. workshop was held on September 5, 2013, and staff is getting feedback relative to a survey that was sent out prior to the workshop.
- Stantec Consulting has made contact to request a meeting to talk about if the Town has any input to lighting design and aesthetics on Southern Blvd. Requested Town Council comments.

Councilman Goltzene is concerned about light pollution and noise pollution, so whatever they can do as far as treatment of the area. Mayor Browning says that we have information in our rural vista guidelines too. Vice Mayor Jarriel would like to see a sidewalk if there is room so that people could walk and bike. Councilman Liang commented that height limitations should be considered.

- Requested any other items that you would like staff to take to the ULDC Review Committee. We are getting ready to hit the period where we might do two meetings per month to allow the Committee to finish their work.
- Administrative Policy 3-13 – concern that we have items on the agenda without back up. Suggests that in the future if there is not back up, we can write into the policy that we can put the request on the agenda, but no action could be taken until back up is furnished.

Discussion took place, and it was the consensus of the Town Council that the policy would be left as is.

- Referred to the August 20, 2013, meeting wherein Councilman Rockett asked that staff look at foreclosure issues. Would the Town Council want to give consensus or would Councilman Rockett want to give more information.

Councilman Rockett stated that if you have a property that is in foreclosure mode we may have certain things we could do.

Discussion took place. Town Manager Kutney advised that he had been requested to look into this issue before, and had gotten the information from Royal Palm Beach and provided it to the Town Council on December 29, 2011, At that time he had asked for comments, and there had not been any direction given.

It was the consensus that staff would look into this issue, and that Town Manager Kutney will provide copies of the material he had previously gathered to the Town Council.

Vice Mayor Jarriel addressed the administrative update by the Town Manager, and commented that the Town Council does not know the subjects he is talking about until we come to the meeting. He requested that the Town Manager add the subjects he will be discussing under the Administrative Update on the Agenda. Town Manager Kutney replied that he would be happy to list the items. Most of them were informational; however, if something comes up on the Monday or Tuesday before the meeting he needs the ability to bring that up too.

It was the consensus of the Town Council that the subjects would be listed under the Administrative Update portion of the Agenda, and that Town Manager Kutney would have the ability to bring any item forward that came up after the Agenda was published.

10. OLD BUSINESS

- a. Clarification of Valley Crest Development Matter (Cost Recovery Fee)

Town Manager Kutney referred to his Agenda Report, Town Attorney Cirullo's report, and correspondence from Attorney Coviello.

Attorney David Coviello, on behalf of Valley Crest, addressed the Town Council, stating that the violation issued to Valley Crest was in error, and there had always been the opportunity to operate a landscape company on a stand-alone basis. Valley Crest went through a two and a half

year process scrambling to do a nursery. Valley Crest would have only had to come before the Town Council one time, but for that error. Valley Crest had already paid \$16,000 in fees for the first time, and was asking for relief on the second time.

Discussion took place.

Motion: Councilman Goltzene made a motion to proceed and not consider this any further.

Mayor Browning advised that if we make no motion at all the fees are not waived.

Councilman Goltzene withdrew his motion.

- b. Discussion of Okeechobee and “D” Road Traffic Light (*Councilman Rockett – back-up not provided*)

Councilman Rockett advised that he added this item to see if we can move this object forward to install a light, which would not be a mast arm. He suggested that the Town Council direct management staff to move forward with this as a top priority and focus our resources accordingly. He added that he would want weekly activity to see that this moves forward. The intent was to identify this as top priority and to get Town Council to so direct staff to treat it as top priority, and that includes weekly activity on it.

Motion: Councilman Rockett: made a motion that we identify this as a top priority, that we move this top priority to a weekly activity. Councilman Liang seconded the motion.

Discussion:

Councilman Goltzene suggested that the Town engineer complete a study to determine the costs and requested that Councilman Rockett accept that as an amendment to his motion. Councilman Rockett replied that he would not accept it.

Town Manager Kutney stated that staff has done a lot of work on this issue. Simmons & White engineers have looked at a potential piggy back process. The issue was that the light was going to cost \$250,000, but that was based upon the design and installation of the signal only. When discussed with Palm Beach County, there were some other issues, such as site improvements. There were funds in the CIP. He offered that he could do a notice to proceed to Simmons & White and have them move forward, if so directed.

Public Comment:

Frank Schiola, Marcella Blvd: Agrees that we need to know how much it is going to cost, or the requirements of the County. Suggests a traffic count be done.

Ken Johnson, Collecting Canal: Multi-faceted problem here. We need a light at D Road and Okeechobee and D Road and Southern as well. We also need speed control on Okeechobee Blvd. I am hearing that we cannot use the existing culvert under Okeechobee. Maybe that could be a blessing if we need a culvert.

Todd McLendon, 3481 D Rd.: I live on D road north off Okeechobee Blvd. and I don't see the need for a traffic light there. I know that there is only one Council member who lives there and agrees with me that it is not needed. The people that live there do not see the need for it. The equestrian trails would love to have that money for their trails.

Phyllis Maniglia, 359 West "D" Rd.: Please move forward with the equestrian trails; no light at D and Okeechobee Blvd.

Loring Hart-Woods, 15201 Timberlane Pl.: Move forward on equestrian trails rather than spend money on D and Okeechobee Blvd.

Rockett amended his motion to include that an engineering cost estimate would be one of the first reports. The amended motion was agreed upon by the seconder, Councilman Liang. The motion passed 3/2 with Councilman Goltzene and Mayor Browning casting dissenting votes.

Town Manager Kutney advised that he would negotiate a fee with the Town engineer – the first notice to proceed will be for them to give us their best cost estimate to move forward with a cable signal cost.

*****Break at 8:50 p.m. Reconvene at 8:55 p.m.*****

- c. Letter from Town Attorney Cirullo concerning Florida Department of Revenue revenue sharing (*Vice Mayor Jarriel*)

Vice Mayor Jarriel referred to the memorandum from Town Attorney Cirullo, included in the back-up material. He stated that he wanted the taxpayers to know one reason why we did not raise the ad valorem taxes this year is because we get credit for the LGWCD revenue sharing. The LGWCD is helping us to keep the taxes low.

- d. Discussion Regarding Grading and Road Rock Letter to Proceed for 161st Terrace N (*Vice Mayor Jarriel – back-up not provided*)

Vice Mayor Jarriel stated that after our last Town Council meeting it was agreed that 161st Terrace would get graded once per week. He stated that he had more information that he would bring back at another time and that he would have back up material.

11. NEW BUSINESS

- a. Mowing and Cleaning Out of Drainage Ditch on South Side of Okeechobee Blvd., from “A” Road to Folsom Road (*Vice Mayor Jarriel- back-up not provided*)

Vice Mayor Jarriel stated that LGWCD put in a request to Palm Beach County regarding the drainage ditch on the south side of Okeechobee, and the County did it the next day. They have a schedule that they follow and it so happened that a County vehicle was present nearby. He hoped that the Town can send a letter that they did a good job and they did it quickly. They can do weed control too. As far as cleaning the ditch out, if we are lucky, we will get that done once a year. He requested consensus of the Town Council that we send Palm Beach County a letter that we appreciate them mowing the ditch bank and they did a good job.

Motion: Vice Mayor Jarriel made a motion that the Town send Palm Beach County a letter addressed to the Superintendent of Roads and Bridges (John Brand). The motion was seconded by Councilman Rockett. The motion passed 5/0.

- b. Grading and Road Rock for Casey Road (*Vice Mayor Jarriel*)

Vice Mayor Jarriel commented that it seemed that Town Management has agreed that every Town road will be graded twice per month.

Town Manager Kutney replied that staff had received a request relative to Casey Road and the Town Public Works Consultant did an inspection with a LGWCD employee and it was his understanding that they are both in agreement that Casey Rd. needs six loads of rock. He advised that he would issue a Notice to Proceed and move forward with the work.

Councilman Goltzene commented that he would like Steve Yohe to have a letter.

Town Manager Kutney commented that he would call Mr. Yohe tomorrow, and tell him a Notice to Proceed would be forthcoming and can he get started.

Public Comment:

Raul Valiente, Casey Road: Commented that a request had been made in the past to have the road graded. Recently the same spot got graded, and his car was stuck in the road and a neighbor had to pull him out. He said that when they grade, they come in reckless, and that if they do not continuously work on it, the road will look the same as it is now.

Town Manager Kutney responded that the Town Council did not want to do the quadrant plan, which was to eliminate situations like Casey Road situation. If the Town Council wanted maintenance on that road he would need specific direction.

Mayor Browning commented that the only problem he had with the quadrant plan is that some of our roads have gone years without being maintained at all. He stated that he did not see the need for grading those twice a month, and would like to see those roads graded on an as needed basis.

Town Manager Kutney replied that staff can go ahead and amend that plan to address if there are some roads that don't need the grading.

Councilman Liang commented that he understood that the quadrant plan was first to grade all roads and see the condition of them, and then grade on a maintenance program.

Town Manager Kutney responded that if was initially desired to do a first pass on the Town and then assess. Now he needed to know what the direction is.

Councilman Rockett referred to the policy that the Town Council had endorsed for years which said that residents call in and go through the process.

Town Manager Kutney replied that the policy went aside when we did a bid, and we have a new process in place.

Councilman Goltzene commented that he thought that at this time Town Manager Kutney and Frank Schiola are trying to work something out. He would really like them to have the opportunity to do that, and did not think people should call in. Also, there is an issue through the whole Town. The roads are not up to any standard. What standard is there? We don't have a standard width, etc. There are differences in the roads and there is no one size fits all, but it should not be based on calls.

Mayor Browning commented that he thought the grid system put together is an excellent start; go through the quadrants and evaluate them.

Public Comment:

Frank Schiola, Marcella Blvd.: Commented that the quadrant system was done so that all the roads would get graded at least once for one month, and then go back and reassess how often each road needed to be done.

Ken Johnson, Collecting Canal: Commented that he heard that the assessment on this quadrant plan was going to be done twice for a base assessment. Then they would decide how often the other roads within that quadrant would need to be done. Someone needs to do an assessment to find out where deep holes are and then fill them in when it dries out.

Todd McLendon, 3481 D Rd.: Commented regarding what the LGWCD thought of this. They have had 100 years of experience. Allow them to just maintain the roads and give us a bill. They know what roads need to be maintained. He referred to the calling in process and asked if that also applied to 161st also, or if you are a Council member you get it done once a week -- other than that someone would have to call in.

Mayor Browning commented that he does not want to go with a schedule for any of the roads. I want to be able to take care of roads that are needed.

Town Manager Kutney replied that staff will get together and can modify the plan so that it is not necessarily a schedule, but it is not people calling in.

12. CLOSING COMMENTS

a. Public

Nina Corning, E Rd: Has met with Mr. Yohe and will be at the IGC meeting as a guest speaker and will also be present at the next LGWCD meeting. It is so difficult to get things moving with the two government entities, and it is the beginning of that discussion to see what concerns are there.

Harold Murphy, 13245 Compton Rd.: Commented regarding drainage.. It needs to be opened up so that it can drain properly. When are the holes on Compton going to be fixed. The fill is gone. The holes on that road are unbelievable. Someone could hit one of the holes and go into the canal. Get the road fixed and get the canal open.

Town Manager Kutney advised that he would send someone over to look at Compton.

Keith Harris, 2580 C Rd.: Commented that he wanted clarification on the motion earlier this evening on residential enterprise. It was explained to him that the Town Council approved the staff recommendation.

b. Town Attorney

c. Town Council Members

Councilman Rockett requested an update on Bryan Road. Town Attorney Cirullo replied that a notice to proceed was issued to the surveyor to look at all documents and to stake it out and figure out if the road is where it is supposed to be. Once we have that we will need to go to each individual property owner. Town Manager Kutney advised that he and the Town Attorney did meet with the surveyor and the surveyor has a Notice to Proceed.

Councilman Rockett reported that the viper protection has expired on his Town computer and asked if there was a problem could staff take a look at it. He would bring his computer in and he suggests that the other members of the Council do so as well. He thanked everyone for coming

Councilman Liang: Thanked everyone for coming, and he is happy that empty spots were filled in on RETGAC.

Vice Mayor Jarriel: Thanked everyone.

Councilman Goltzene: Thanked everyone

Mayor Browning: Thanked everyone.

13. ADJOURNMENT

There being no further business, the Town Council meeting of September 17, 2013, was adjourned at 9:37 p.m.

Susan Eichhorn, Town Clerk

David Browning, Mayor

(SEAL)

These minutes were approved at the October 1, 2013, Town Council Meeting.



Town of Loxahatchee Groves
Special Town Council Meeting
Friday, September 20, 2013 at 6:30 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

SECOND AND FINAL PUBLIC HEARING 2013-2014 BUDGET
Set for September 17, 2013 and Continued to September 20, 2013,
@ 6:30 p.m. due to a publication issue

1. OPENING

- a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 6:30 pm. Present were Mayor David Browning, Councilmen Tom Goltzene, Councilman Ryan Liang. Vice Mayor Jarriel and Councilman Rockett were not present. Also present were Town Manager Mark Kutney, Perla D Underwood,

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UMSG, Town Attorney Michael D. Cirullo, Jr., and William F. Underwood, UMSG, and Town Clerk Susan Eichhorn..

- 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 Councilman Goltzené. The motion passed 3/0.

2. PUBLIC COMMENT

There were none.

3. PUBLIC HEARINGS – Second and Final Public Hearing 2013-2014 Millage and Budget

a. Resolution No. 2013-13

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING AND ADOPTING THE FINAL MILLAGE FOR THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PURSUANT TO THE BUDGET SUMMARY FOR THE FISCAL YEAR 2013-2014, IN ACCORDANCE WITH CHAPTER 200, FLORIDA STATUTES, AS AMENDED; AMENDING RESOLUTION 2013-10 SOLELY AS TO THE DATE AND TIME OF THE SECOND PUBLIC HEARING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo advised that this was the second and final hearing on the adoption of the millage and budget for the upcoming fiscal year. This was advertised in the Palm Beach Post on Wednesday, September 18, 2013.

Motion: Councilman Liang made a motion to confirm the millage rate of 1.200. The motion was seconded by Councilman Goltzené.

Mr. Underwood, Underwood Management Services Group, provided the information that the 1.200 mills was a decrease of 6.58% from the 2012-13 rolled-back millage rate of 1.2845 mills, noting that the millage to be adopted was lower than the rolled-back rate.

Mayor Browning opened the public hearing on both the millage and budget and requested public comments.

There were none.

Mayor Browning closed the public hearing.

The motion carried 3/0.

Town Attorney Cirullo read Resolution 2013-13 by title, as printed above.

Motion: Motion made by Councilman Liang to adopt Resolution No. 2013-13. The motion was seconded by Councilman Goltzené. The motion passed, on roll call vote, 3/0.

b. Resolution No. 2013-14

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A FINAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2014; AMENDING RESOLUTION 2013-11 SOLELY AS TO THE DATE AND TIME OF THE SECOND PUBLIC HEARING; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Town Attorney Cirullo read Resolution No. 2013-14 by title, as printed above.

Motion: Motion made by Councilman Liang to adopt Resolution No. 2013-14. The motion was seconded by Councilman Goltzené. The motion passed, on roll call vote, 3/0.

Mayor Browning requested any public comments. There were none.

The motion passed, on roll call vote, 3/0.

4. CLOSING COMMENTS

- a. Public
- b. Town Attorney

Town Attorney Cirullo introduced and recognized Attorney Bram Maravent, his colleague at Goren, Cherof, Doody & Ezrol, P.A. Mr. Maravent had recently completed work for the Town in regard to Town contracts that had been issued.

- c. Town Council Members

13. ADJOURNMENT

There being no further business, the Special Town Council meeting held on September 20, 2013, was adjourned at 6:35 p.m.

Susan Eichhorn, Town Clerk

David Browning, Mayor

(SEAL)

These minutes were approved at the October 1, 2013, Town Council Meeting.

**STC Town Council Minutes/Second Public Hearing 2013-14 Budget
09/20/2013**



Item 7. A. Ordinance No. 2013-05



TOWN OF LOXAHATCHEE GROVES
OFFICE OF THE TOWN MANAGER
AGENDA REPORT

TO: Mayor and Town Council

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

DATE: September 17, 2013

SUBJECT: Proposed ULDC text amendments; Conditional Uses Section 80-20.
Residential enterprise

I. BACKGROUND/HISTORY

Per Section 05-070, the Town Council may amend the Unified Land Development Code (ULDC) for the purposes of public necessity, convenience, general welfare, or good planning and zoning practice. Any amendment to the ULDC requires a super majority of the Council. The Town Council has directed staff to prepare corrective amendments to Section 80-20. *Residential enterprise* of the ULDC that will result in a more opportunities for homesteaded properties to include small business operations.

II. DISCUSSION

Staff proposes revisions to Section 80-20. *Residential enterprise* of the ULDC per Town Council direction. The amendment will allow up to three customers of a residential enterprise to be present on-site at any given time.

III. FISCAL IMPACT

None

IV. ATTACHMENTS - Staff report.

V. REQUIRED ACTION – Approval of Ordinance 2013 – 05

STAFF REPORT – PROPOSED ORDINANCE 2013-05

I. GENERAL INFORMATION

A. APPLICANT: Town of Loxahatchee Groves.

B. PURPOSE: Staff, based upon Town Council direction, has prepared a ULDC amendment in order to create additional small business opportunities for homesteaded properties:

II. REQUESTED ULDC TEXT AMENDMENTS

Staff proposes revisions to Section 80-20. *Residential enterprise* of the ULDC. The amendment will allow up to three customers of a residential enterprise to be present on-site at any given time.

Copies of the proposed ULDC amendments are included in Attachment A.

III. STAFF ANALYSIS

The proposed text amendment will allow a minimal number of Residential Enterprise customers or clients to transact business on the premises.

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

The basic purpose of the proposed text amendment is to create additional small business opportunities for the residents of homesteaded properties.

B. REASON THE PRESENT TEXT IS INVALID OR INAPPROPRIATE:

The current text of the ULDC is not necessarily invalid or inappropriate; however, the proposed amendments will increase potential Residential Enterprise business opportunities for Town residents.

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

The proposed text amendment is a revision to one section of the ULDC oriented to increasing Residential Enterprise opportunities by allowing a minimal number of customers or clients to transact business on the premises.

The following Future Land Use Element Comprehensive Plan directives are supportive of the proposed amendment:

1. Policy 1.1.4(h) directs the Town to create codes allowing diverse low impact home-based businesses.

2. Policy 1.1.6 directs the Town to utilize creative land development regulations that enhance the rural atmosphere, reduce energy useage and reduce greenhouse gas emissions.
3. Policy 1.1.8.6 directs the Town to allow home occupation uses that will not degrade the rural character of the area.
4. Policy 1.12.4 directs the Town to allow home-based businesses to the extent that impacts are compatible with an agricultural/residential community.

In addition, the following Housing Element Comprehensive Plan directive supportive of the proposed amendment:

1. Policy 6.2.8 directs the Town to encourage job creation at locations permitted by the Town's ULDC as a means of assisting very-low, low and moderate income residents ion finding employment proximate to their homes.

D. IS THERE AN ERROR OR AMBIGUITY TO BE CORECTED: There is no error or ambiguity in the ULDC to be corrected by the proposed amendment.

IV. PLANNING AND ZONING (P & Z) BOARD ACTION: At its meeting of September 12, 2013, Planning and Zoning Board recommended denial of the proposed ULDC text amendment by a 5-0 vote.

P & Z Board concerns centered around the issue of potential retail commercial businesses being allowed as residential enterprises in the AR zoning district. As the definition of Residential Enterprise (Section 10-015 of the ULDC) and Section 80-020 Residential Enterprise of the ULDC do not define the types of businesses that may be allowed, P & Z was concerned that allowing clients or customers on the premises would encourage potentially incompatible (i.e. with the agricultural residential character of the Town) retail commercial businesses to locate in the AR District.

P & Z recommended that the definition of Residential Enterprise and the Residential Enterprise section of the ULDC be reviewed by the Town's ULDC Review Committee to better define the types of businesses allowed in order to insure that the Town's character is not compromised.

V. STAFF FINDINGS: Planning staff finds the text amendment proposed by staff to be consistent with: (1) The directive of the Town Council; (2) The intent and direction of the Loxahatchee Groves Comprehensive Plan; and (3) appropriate review criteria for a zoning change listed in Section 160-020 of the ULDC.

VI. STAFF RECOMMENDATION: Staff recommends approval of the proposed ULDC text amendments, as presented in Attachment A:

VII. TOWN COUNCIL ACTION: To be included upon Town Council consideration.

ATTACHMENT A

Proposed ULDC Text Amendments (Ref: Following Pages)

(Underlined text is to be added and struck through text is to be deleted):

1. Section 80 – 20. Residential enterprise.

Section 80-020 Residential Enterprise.

Residential enterprises as defined in Article 10, "Definitions, Abbreviations, and Construction of Terms" shall be permitted in all residential zoning districts as a use accessory to a principal residential use and subject to the following limitations:

- (A) Resident of property. The plot on which a residential enterprise is located shall be occupied by the owner who shall provide proof of a homestead exemption within one year of establishing the residential enterprise.
- (B) Size of property. Residential enterprises shall be permitted on properties of five acres or more in size.
- (C) Location of residential enterprise. A residential enterprise shall be conducted only within an accessory building on the property where the main dwelling is located, and not within the dwelling.
- (D) Number of accessory buildings. There shall be a maximum of two accessory buildings used for a residential enterprise.
- (E) Size of accessory buildings. The total floor area ratio (F.A.R.) of all accessory buildings used for a residential enterprise shall not exceed 0.01.
- (F) Appearance of accessory buildings. The accessory buildings used for a residential enterprise shall be in the same style and have the same architectural appearance as the principal residential use.

(G) Employees or contractors. In addition to any person(s) who are the residents of the property, there shall be a maximum of two outside employees or contractors who assist with the residential enterprise.

(H) Clients or customers. ~~No client or customer shall be allowed on the premises to transact business of any nature.~~ Up to three (3) clients or customers may be present at the same time to transact business on the premises.

(I) Delivery. Merchandise or goods shall be shipped by way of the U.S. Postal Service, United Parcel Service, Federal Express or similar small package carrier. If other commercial carriers are required, the residential enterprise shall be deemed to require a Special Exception pursuant to Article 170.

(J) Commercial vehicles. Commercial vehicles associated with the residential enterprise shall be subject to Section 20-010(G).

(K) [Adult entertainment.] Adult entertainment or the production of adult entertainment materials is prohibited.

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

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2013-05

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING PART III, ENTITLED "SUPPLEMENTAL REGULATIONS," ARTICLE 80, ENTITLED "CONDITIONAL USES," SECTION 80-020, ENTITLED "RESIDENTIAL ENTERPRISE," OF THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE TO PERMIT A LIMITED NUMBER OF CUSTOMERS TO TRANSACT BUSINESS AT THE LOCATION OF A RESIDENTIAL ENTERPRISE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Town Council believes that the regulations relating to Residential Enterprises should be amended to permit a limited number of customers to transaction business at the location of a Residential Enterprise; and,

WHEREAS, at its March 14, 2013, meeting, the Town's Planning and Zoning Board reviewed the proposed amendments to the regulations at a public hearing and recommended approval of the amendments; and,

WHEREAS, the Town Council finds it in the best interest of the Town to amend the Residential Enterprise regulations as set forth herein.

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

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

Section 2. Part III, entitled "Supplemental Regulations," Article 80, entitled "Conditional Uses," Section 80-020, entitled "Residential Enterprise," of the Town of Loxahatchee Groves Unified Land Development Code is amended as follows:

Section 80-020 Residential Enterprise.

Residential enterprises as defined in Article 10, "Definitions, Abbreviations, and Construction of Terms" shall be permitted in all residential zoning districts as a use accessory to a principal residential use and subject to the following limitations:

- (A) Resident of property. The plot on which a residential enterprise is located shall be occupied by the owner who shall provide proof of a homestead exemption within one year of establishing the residential enterprise.
- (B) Size of property. Residential enterprises shall be permitted on properties of five acres or more in size.
- (C) Location of residential enterprise. A residential enterprise shall be conducted only within an accessory building on the property where the main dwelling is located, and not within the dwelling.
- (D) Number of accessory buildings. There shall be a maximum of two accessory buildings used for a residential enterprise.
- (E) Size of accessory buildings. The total floor area ratio (F.A.R.) of all accessory buildings used for a residential enterprise shall not exceed 0.01.
- (F) Appearance of accessory buildings. The accessory buildings used for a residential enterprise shall be in the same style and have the same architectural appearance as the principal residential use.
- (G) Employees or contractors. In addition to any person(s) who are the residents of the property, there shall be a maximum of two outside employees or contractors who assist with the residential enterprise.
- (H) Clients or customers. ~~No client or customer shall be allowed on the premises to~~

CODING: Words in ~~struck through~~ type are deletion from existing law; words in underlined type are additions

~~transact business of any nature.~~ Up to three (3) clients or customers may be present at the same time to transact business on the premises.

(I) Delivery. Merchandise or goods shall be shipped by way of the U.S. Postal Service, United Parcel Service, Federal Express or similar small package carrier. If other commercial carriers are required, the residential enterprise shall be deemed to require a Special Exception pursuant to Article 170.

(J) Commercial vehicles. Commercial vehicles associated with the residential enterprise shall be subject to Section 20-010(G).

(K) [Adult entertainment.] Adult entertainment or the production of adult entertainment materials is prohibited.

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

Section 3. **Repeal of Laws in Conflict.** All Ordinances or part of Ordinances in conflict herewith are in the same are hereby repealed to the extent of such conflict.

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

Section 5. **Codification.** It is the intention of the Town Council of the Town of Loxahatchee Groves that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Loxahatchee Groves, Florida, and that the Sections of this ordinance may be re-numbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

CODING: Words in ~~struck through~~ type are deletion from existing law; words in underlined type are additions

Section 6. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 17th DAY OF SEPTEMBER, 2013.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 1st DAY OF OCTOBER, 2013.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Mayor David Browning

TOWN CLERK

Vice Mayor Ron Jarriel

APPROVED AS TO LEGAL FORM:

Council Member Tom Goltzené

Office of the Town Attorney

Council Member Ryan Liang

Council Member Jim Rockett

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CODING: Words in ~~struck through~~ type are deletion from existing law; words in underlined type are additions



Item 8. A. Ordinance No. 2013-07

TOWN OF LOXAHATCHEE GROVES

INTER-OFFICE CORRESPONDENCE

MEMORANDUM NO. 2013-23

TO: Mayor David Browning
Members of the Town Council
Mark Kutney, Town Manager
Susan Eichhorn, Town Clerk

FROM: Michael D. Cirullo, Jr., Town Attorney *MDC*

RE: Town of Loxahatchee Groves (“Town”) / Golf Cart and Other Vehicle Operation on Town Roads

DATE: August 6, 2013

At its July 16, 2013, meeting, the Town Council requested legal review on the legality of operating golf carts, UTVs and similar vehicles on Town Roads. This Memorandum is intended to provide guidance on these issues.

Initially, Chapter 316, Fla. Stat., is known as the “Florida Uniform Traffic Control Law.” Section 316.007, Florida Statutes, provides in pertinent part: “The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance on a matter covered by this chapter unless expressly authorized.” §316.007, Fla. Stat. Another statute, §316.008, Fla. Stat., lists the areas in which local jurisdictions have authority over the regulation of roads and streets. The legality of operating golf carts and similar vehicles on local roads is not listed in §316.008, so the regulation of those vehicles is guided by other statutes and the Town is not authorized to deviate from such.

Golf Carts

The operation of golf carts on local roads is governed by §316.212, Fla. Stat. Subsection (1) of this statute provides:

A golf cart may be operated only upon a county road that has been designated by a county, or a municipal street that has been designated by a municipality, for use by golf carts. Prior to making such a designation, the responsible local governmental entity must first determine that golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street. Upon a determination that golf carts may be safely operated on a designated road or

street, the responsible governmental entity shall post appropriate signs to indicate that such operation is allowed.

§316.212, Fla. Stat. Ann.

Thus, in order for golf carts to be legally operated on public roads within the Town, the Town Council would need to designate the public roads within the Town on which they may be operated. However, prior to making the designation, the Town Council would need to make a determination that “golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street.” Subsequent to the designation, the Town would need to erect signage to indicate that the operation of golf carts is permitted on the designated roads.

The following steps are recommended should the Town Council wish to permit golf carts to be operated on public roads within the Town:

1. Identify the roadways which the Town Council would like reviewed in order for the Town Council to make the statutorily required determination that golf carts may safely travel on such road.
2. Direct staff to review the roadways to confirm that golf carts can be safely operated on such roads.
3. Upon receipt of the completed review of the identified roadways, adopt an ordinance to designate the roadways upon which golf carts may be operated; and,
4. Install signage on such roadways to provide notice that golf carts may be operated on such roadways.

Note that the statute provides the following regulations upon the operation of golf carts on public roads designated for such:

- The golf cart may only be operated on the public roads between sunrise and sunset. If the Town Council wants to permit operation between sunset and sunrise, the Town can provide for such in the ordinance identifying the roadways, but the golf carts must be equipped with headlights, brake lights, turn signals and a windshield in order to be operated during those hours. §316.212(5), Fla. Stat.
- Golf carts operating at any time on public roadways must be equipped with “efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.” §316.212(6), Fla. Stat.
- The minimum age to operate a golf cart on public roads is 14 years old. §316.212(7), Fla. Stat.

The Town Council can place more restrictions on the operation of golf carts on public roads within the Town by ordinance. If it did so, signage must advise of the additional restrictions. §316.212(8), Fla. Stat. The Town Council cannot waive or reduce restrictions imposed by State law.

Low-Speed Vehicles and Mini-Trucks

Florida Statutes defines a “low-speed vehicle” as “any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles.” §320.01(41), Fla. Stat.

Florida Statutes defines “mini truck” as “any four-wheeled, reduced-dimension truck that does not have a National Highway Traffic Safety Administration truck classification, with a top speed of 55 miles per hour, and which is equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, and seat belts.” §320.01(44), Fla. Stat.

The operation of low speed vehicles and mini-trucks is governed by §316.2122, Fla. Stat. These vehicles are permitted to operate on public roads within the Town, unless the Town Council determines that such should be prohibited “in the interest of safety.” §316.2122(5), Fla. Stat. However, the statute does provide restrictions on such operation:

- They can be operated only on roads with a posted speed limit of 35 miles per hour or less.
- They must be equipped with headlights, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts and vehicle identification numbers.
- The vehicles must be registered with the state
- The person operating the vehicle must have their driver license in their possession.

All-terrain vehicles

Florida Statutes defines All-terrain vehicle as “any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 1,200 pounds or less, designed to travel on three or more nonhighway tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger. For the purposes of this section, ‘all-terrain vehicle’ also includes any ‘two-rider ATV’ as defined in s. 317.0003.” §316.2074, Fla. Stat. A “two-rider ATV” is defined as “any ATV that is specifically designed by the manufacturer for a single operator and one passenger.” §317.0003(10), Fla. Stat. Ann.

§316.2074(5), Fla. Stat. ***prohibits*** the operation of all-terrain vehicles on public roads “except as otherwise permitted by the managing state or federal agency.” The operation of all-terrain vehicles on public roads is preempted to the state. Attorney General Opinion 2004-39 (July 14, 2004).¹

Utility Vehicles

Florida Statutes defines a “utility vehicle” as “a motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but the term does not include any vehicle designed or used primarily for the transportation of persons or property on a street or highway, or a golf cart, or an all-terrain vehicle as defined in s. 316.2074.” §320.01, Fla. Stat.

Florida Statutes permits municipalities to operate utility vehicles on roads within the municipality, but solely by municipal employees and for a municipal purpose. §316.2126(1), Fla. Stat. There is no provision for the operation of utility vehicles on public roads by the general public. As with all-terrain vehicles, the Town Council could take no action to permit such on public roads since the subject matter is preempted by state law.

Swamp buggies

Florida Statutes defines “swamp buggy” as “a motorized off-road vehicle that is designed or modified to travel over swampy or varied terrain and that may use large tires or tracks operated from an elevated platform. The term does not include any vehicle defined in chapter 261 or otherwise defined or classified in this chapter.” §320.01(45), Fla. Stat.

The operation of swamp buggies on public roads is governed by §316.2129, Fla. Stat. In order for swamp buggies to be permitted on Town Roads, the Town Council would need to designate the roads on which they may be safely operated. Thereafter, the Town would need to post appropriate signage on such roads.

Conclusion

Low-speed vehicles and mini-trucks are permitted on Town Roads without the need for any Town Council action. However, the operation of these vehicles must be consistent with §316.2122, Florida Statutes.

Golf carts and swamp buggies are not permitted to be operated on Town Roads unless the Town Council takes action to designate the public roads on which they may be operated, and then posts appropriate signage. In both cases, the Town Council must determine that these types of vehicles may be operated safely on the designated roads. Florida Statutes also provides

¹ Note that Florida Statutes permits law enforcement agencies to use all-terrain vehicles, golf carts, low-speed vehicles, and utility vehicles on public roads for law enforcement purposes. §316.21265, Fla. Stat.

Inter-Office Memorandum 2013-23

August 6, 2013

Page 5

restrictions on the operation of golf carts on public roads. §316.212, Fla. Stat. The Town may place additional restrictions (but not waive or eliminate those in the statutes) by ordinance.

All-terrain vehicles and utility vehicles are prohibited by state law from being operated on public roads, except by law enforcement or, for utility vehicles, by a municipality for municipal purposes. The state has preempted this matter, so the Town Council cannot take any action to permit all-terrain vehicles or utility vehicles to be operated on Town Roads.

Upon your review, please advise of any questions or concerns.

MDC:clb

Enclosure

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TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-07

1 AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
2 LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE
3 OPERATION OF GOLF CARTS ON PUBLIC ROADS WITHIN THE
4 TOWN; PROVIDING FOR LEGISLATIVE FINDINGS; AUTHORIZING
5 THE OPERATION OF GOLF CARTS ON PUBLIC ROADS OVER
6 WHICH THE TOWN HAS TRAFFIC CONTROL JURISDICTION
7 PURSUANT TO SECTION 316.212, FLORIDA STATUTES;
8 CONFIRMING THAT GOLF CARTS MAY NOT BE OPERATED ON OR
9 ACROSS THE PORTIONS OF FOLSOM ROAD, OKEECHOBEE
10 BOULEVARD AND SOUTHERN BOULEVARDS THAT LIE WITHIN
11 THE TOWN; PROHIBITING THE OPERATION OF GOLF CARTS BY
12 UNLICENSED DRIVERS; PROVIDING FOR IMPLEMENTATION OF
13 THIS ORDINANCE; PROVIDING FOR CONFLICTS; PROVIDING FOR
14 SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

15
16 WHEREAS, Section 316.212, Florida Statutes, permits the operation of golf carts only
17 on public roads designated by the Town for the use of golf carts; and,

18 WHEREAS, the Town Council has considered the operation of golf carts on public roads
19 within the Town, and finds that such can be safely done given the speed, volume and character of
20 motor vehicle traffic within the Town; and,

21 WHEREAS, as permitted by Section 316.212, Florida Statutes, the Town Council finds
22 it in the best interests of the Town, its residents and users of public roads within the Town, that
23 unlicensed persons be prohibited from operating golf carts upon the public roads within the
24 Town; and,

25 WHEREAS, the Town Council determines that the adoption of this Ordinance is in the
26 interests of the health, safety and welfare of the residents and citizens of the Town of
27 Loxahatchee Groves.

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

30
31 Section 1: Recitals. The foregoing recitals are hereby ratified as true and correct and
32 incorporated herein.

TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-07

1
2 **Section 2: Legislative Findings.** In accordance with Section 316.212, Florida Statutes,
3 the Town Council hereby finds that golf carts may be safely operated on public roads within the
4 Town over which the Town has traffic control jurisdiction, based upon the following:

5 a. The speed limit on all public roads within the Town over which the Town has traffic
6 control jurisdiction is thirty (30) miles per hour;

7 b. The public roads over which the Town has traffic control jurisdiction is already
8 traveled upon by agricultural vehicles, bicycle traffic, and pedestrians, and such has
9 historically been done in a safe manner; and,

10 c. The state law regulations as to the required standards and equipment for golf cart
11 operation render the golf carts more safe than most of the agricultural vehicles
12 already using the Town’s public roads.

13 **Section 3: Authority to Operate Golf Carts on Town Roads.** Pursuant to Section
14 316.212, Florida Statutes, and except as otherwise provided herein, the Town Council hereby
15 authorizes the operation of golf carts on all public roads within the Town over which the Town
16 has traffic control jurisdiction, as listed on the Town Road List attached hereto as Exhibit “A.”

17 **Section 4: Prohibiting the Operation of Golf Carts by Unlicensed Drivers.**

18 Pursuant to the authority set forth in Section 316.212(8), Florida Statutes, the operation of
19 golf carts by unlicensed drivers within the Town is prohibited.

20 **Section 5: Confirming the prohibition of Golf Carts on certain roads.** The
21 operation of golf carts on or across any portions of Folsom Road, Okeechobee Boulevard and
22 Southern Boulevard within the Town’s jurisdiction is not authorized by this ordinance, and
23 therefore shall remain prohibited as provided by Section 316.212, Florida Statutes.

TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-07

1 **Section 6:** **Implementation.** Town Management is hereby directed and
2 authorized to take all steps necessary to implement this ordinance, including without limitation
3 the posting of required signage. Such signage shall contain language indicating that the
4 operation of golf carts by unlicensed drivers within the Town is prohibited.

5 **Section 7:** **Conflicts.** All Ordinances or parts of Ordinances, Resolutions or parts of
6 Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such
7 conflict.

8 **Section 8:** **Severability.** If any section, paragraph, sentence, clause, phrase, or word of
9 this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void,
10 such holding shall not affect the remainder of this Ordinance.

11 **Section 9:** **Effective Date.** This ordinance shall take effect immediately upon adoption.

12
13 **PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF**
14 **LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 1st DAY OF**
15 **OCTOBER, 2013.**

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TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-07

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**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN
LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS
____ DAY OF _____, 2013.**

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Mayor David Browning

TOWN CLERK

Vice Mayor Ron Jarriel

APPROVED AS TO LEGAL FORM:

Council Member Tom Goltzené

Council Member Ryan Liang

Office of the Town Attorney

Council Member Jim Rockett

TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-07

EXHIBIT A
Town Road List

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT
TOWN ROAD MAINTENANCE LOG**

APRIL 2013		
TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
A Road		3.218
B Road		3.600
C Road		3.606
D Road		3.613
E Road		3.626
F Road		2.626
Folsom Road		0.487
Upper North Road		1.958
Lower North Road		1.482
G Road East		0.718
G Road West		0.718
Collecting Canal Road		3.169
10TH PLACE NORTH	BLOCK B	0.081
11TH LANE NORTH	BLOCK F	0.351
11TH TERRACE	BLOCK C	0.244
12TH PLACE NORTH	BLOCK E	0.197
131ST TERRACE NORTH	BLOCK F	0.147
13TH PLACE NORTH	BLOCK F (FOLSOM)	0.282
13TH PLACE NORTH	BLOCK F (F ROAD)	0.166
140TH STREET NORTH	CUT-THRU / SUNSPORT	0.100
147TH AVENUE NORTH	BLOCK C	0.126
147TH DRIVE NORTH	BLOCK C	0.115
148TH TERRACE NORTH	T: 43S / R: 41E	0.339
14TH PLACE NORTH	BLOCK E	0.257
152ND WAY NORTH	BLOCK B	0.068
160TH STREET NORTH	T: 43S / R: 41E	0.394
161ST TERRACE NORTH	T: 43S / R: 40E	2.014
17TH ROAD NORTH	BLOCK B	0.076
21ST ROAD NORTH	BLOCK C	0.126
22ND COURT NORTH	BLOCK F	0.292
22ND ROAD NORTH	BLOCK C (C ROAD)	0.248
22ND ROAD NORTH	BLOCK E (E ROAD)	0.156
22ND ROAD NORTH	BLOCK F (F ROAD)	0.210
23RD COURT NORTH	BLOCK E	0.189
24TH CIRCLE NORTH	BLOCK C	0.177
24TH COURT NORTH	BLOCK C (C ROAD)	0.282
24TH COURT NORTH	BLOCK D (E ROAD)	0.194
24TH COURT NORTH	BLOCK E (WEST F)	0.250
24TH COURT NORTH	BLOCK F (EAST F)	0.406
25TH PLACE NORTH	BLOCK B (C ROAD)	0.136

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT
TOWN ROAD MAINTENANCE LOG**

APRIL 2013		
TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
27TH LANE NORTH	BLOCK C	0.135
30TH COURT NORTH	BLOCK B (C ROAD)	0.141
30TH COURT NORTH	BLOCK D (D ROAD)	0.132
34TH PLACE NORTH	BLOCK C	0.135
35TH PLACE NORTH	BLOCK D	0.127
41ST ROAD NORTH	T: 43S / R: 41E	0.068
42ND ROAD NORTH	T: 43S / R: 41E	0.153
42ND STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.234
43RD ROAD NORTH	T: 43S / R: 41E (GLOBAL)	0.194
44TH STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.235
8TH PLACE NORTH	BLOCK C	0.319
APRIL DRIVE	BLOCK C	0.164
BIDDIX ROAD	BLOCK D	0.191
BRYAN ROAD	BLOCK F	0.749
BUNNY LANE	BLOCK C	0.244
CANAL MAINTENANCE RD	T: 43S / R: 41E (40TH ST N)	1.462
(WILSON) CASEY ROAD	BLOCK F	0.748
CITRUS DRIVE	BLOCK K	0.243
COMPTON ROAD	BLOCK F	0.748
EAST CITRUS DRIVE	BLOCK K	0.501
EDITH ROAD	BLOCK E	0.197
FARLEY ROAD	BLOCK E	0.197
FERRIS LANE	BLOCK A	0.194
FLAMINGO DRIVE	BLOCK C	0.186
FOREST LANE	BLOCK B	0.188
FORTNER DRIVE	BLOCK B (B ROAD)	0.126
FORTNER DRIVE	BLOCK B (C ROAD)	0.135
FOX TRAIL	BLOCK E	0.204
GLOBAL TRAIL	T: 43S / R: 41E	0.519
GREAT DANE LANE	BLOCK F	0.130
GRUBER LANE	BLOCK C	0.489
HYDE PARK ROAD	BLOCK E	0.518
IAN TRAIL	T: 43S / R: 41E	0.384
JEWEL LANE	BLOCK B	0.103
KAZEE ROAD	BLOCK G	0.432
KERRY LANE	BLOCK E	0.260
LOS ANGELES DRIVE	BLOCK B	0.244
LOXAHATCHEE AVENUE	BLOCK K	0.180
MARCELLA BOULEVARD	BLOCK F	0.749
MARCH CIRCLE	BLOCK F	0.174
MORROW COURT	BLOCK B	0.180
ORANGE AVENUE	BLOCK K	0.075

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT
TOWN ROAD MAINTENANCE LOG**

APRIL 2013		
TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
PARADISE TRAIL	BLOCK C	0.186
PERKINS DRIVE	BLOCK F	0.336
QUAIL ROAD	BLOCK F	0.135
RACKLEY ROAD	BLOCK F	0.146
RAYMOND DRIVE	BLOCK F	0.337
ROBERTS WAY	BLOCK B	0.229
SAN DIEGO DRIVE	BLOCK B	0.244
SCOTTS PLACE	BLOCK B	0.213
SHAMROCK DRIVE	BLOCK B	0.244
SIXTH COURT NORTH	BLOCK I (WEST D)	0.177
SIXTH COURT NORTH	BLOCK K (EAST D)	1.733
SNAIL TRAIL	BLOCK C	0.244
TANGERINE DRIVE	BLOCK K	0.510
TEMPLE DRIVE	BLOCK I	0.100
TIMBERLANE PLACE	BLOCK B	0.219
TRIPP ROAD	BLOCK D	0.242
VALENCIA DRIVE	BLOCK K	0.136
WEST "B" ROAD	BLOCK A	0.340
WEST "C" ROAD	BLOCK B	0.623
WEST "D" ROAD	BLOCK I (SOUTH C.C.)	0.314
WEST "D" ROAD	BLOCK C (NORTH C.C.)	0.388
WEST "F" ROAD	BLOCK E	0.198
WILLIAMS DRIVE	BLOCK B	0.193
	MONTHLY MILEAGE =	56.718



Item 9 - Administrative Update

- IGC Update
- ULDC Review Committee Update and Request Items for Further Review
- RETGAC and Planning & Zoning Board Joint Meeting – October 11, 2013
- Update on Palms West Plaza Improvements



Item 10 - a. Management Evaluation



Item 11 - a. Office of Inspector General Grant Agreement



TOWN OF LOXAHATCHEE GROVES
OFFICE OF THE TOWN MANAGER
AGENDA REPORT

TO: Mayor and Town Council

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

DATE: September 26, 2013

SUBJECT: Office of Inspector General (OIG) Grant Funding

I. BACKGROUND/HISTORY

This issue was discussed at the September 17th Town Council Meeting and the Town Manager advised that he would bring the matter back to Town Council at the October 1, 2013 meeting. As Town Council is aware, there is a group of fourteen cities that have filed a lawsuit against Palm Beach County challenging the funding method outlined in the Inspector General Ordinance. Further, the Palm Beach County Clerk and Comptroller also joined the lawsuit requesting the Court provide direction relative to the Clerk's obligations as a result of the lawsuit. However, the Clerk and Comptroller will not collect or release previously paid fair share payments until that Office receives direction from the Court on legal obligations in that regard. This matter may continue for some time and has resulted in the OIG facing budgetary challenges to properly fund the office. The Town has paid its fair share of \$481 in 2011 and first quarterly payment of \$468 in 2012. At the time of the County's request in May 2012, the Town elected to not pay the funds due to the aforementioned issues with Palm Beach County Clerk. Palm Beach County is requesting help from the municipalities to defray the expenses associated with the OIG while the lawsuit is still ongoing.

II. DISCUSSION

Since that letter in May 2012, three municipalities have agreed to meet their funding obligation through a voluntary grant agreement with Palm Beach County. The County has issued a new August 28, 2013 letter requesting the Town's cooperation in this program and such letter was the subject of discussion at the September 17th meeting. Essentially, Palm Beach County is requesting all of the remaining municipalities not involved in the lawsuit to enter into a grant agreement with the County in the amount of \$2,218 annually (Town of Loxahatchee Groves

allocation). The draft Grant Agreement is attached to this agenda item. Should Town Council approval entering into this agreement, Town Management will modify the agreement to customize it for Loxahatchee Groves and place it on the November 5th Town Council Consent Agenda for ratification.

III. FISCAL IMPACT

Monies have been budgeted in the FY2014 Budget for the Inspector General Office

IV. ATTACHMENTS

August 28, 2013 Letter From Mayor Steven L. Abrams to Mayor David Browning

Draft Model Agreement OIG Funding

OIG Ordinance Section 2-429 Financial Support and Budgeting

V. REQUESTED ACTION

Motion by Town Council to approve entering into a grant funding agreement with Palm Beach County and authorize the Mayor to execute the same. Should Town Council approve entering into the grant agreement, Town Management Staff will bring the model ordinance back to Town Council for ratification on November 5, 2013 Town Council Agenda under Consent Agenda for ratification.



P.O. Box 1989
 West Palm Beach, FL 33402-1989
 (561) 355-2001
 FAX: (561) 355-3990
 www.pbcgov.com



**Palm Beach County
 Board of County
 Commissioners**

- Steven L. Abrams, Mayor
- Priscilla A. Taylor, Vice Mayor
- Hal R. Valeche
- Paulette Burdick
- Shelley Vana
- Mary Lou Berger
- Jess R. Santamaria

County Administrator

Robert Weisman

"An Equal Opportunity
 Affirmative Action Employer"

August 28, 2013



David Browning, Mayor
 Town of Loxahatchee Groves
 14579 Southern Boulevard, Suite 2
 Loxahatchee Groves, FL 33470

Dear Mayor Browning:

You may recall receiving a correspondence in May of 2012 regarding your municipality contributing to share in the funding of the Office of Inspector General (OIG). We sent this to each of the twenty-four municipalities that are not participating in the lawsuit challenging the funding mechanism for the OIG.

Since that correspondence, three municipalities have agreed to meet their funding obligation through a voluntary grant agreement with the Board of County Commissioners (BCC). The BCC urges you to join the commitment of these three cities and enter into a grant agreement with the County in the amount of \$2,218.00 annually.

If you are interested in pursuing such an agreement, or if you need any additional information, please contact Brad Merriman, Assistant County Administrator at 355-4019 by October 18, 2013.

Sincerely,

Steven L. Abrams, Mayor

- Cc: Board of County Commissioners
 Sharon Bock, Clerk & Comptroller
 Robert Weisman, County Administrator
 Denise Nieman, County Attorney
 Brad Merriman, Assistant County Administrator
 Liz Bloeser, Director, OFMB
 Sheryl Steckler, Inspector General
 Richard Radcliffe, Executive Director, League of Cities
 Mark Kutney, Town Manager

272 that it is appropriate to publish and deliver a report or recommendation which contains findings
273 as to the person or entity being reported on or who is the subject of the recommendation, the
274 inspector general shall provide the affected person or entity a copy of the findings. Such person
275 or entity, who is the subject of a finding or recommendation resulting from an investigation or
276 review, shall have ten (10) calendar days to submit a written explanation or rebuttal of the
277 findings before the report or recommendation is finalized. In the case of an audit, such person or
278 entity shall have twenty (20) calendar days to submit a written explanation or rebuttal of the
279 audit findings or before the report or recommendation is finalized. The inspector general shall
280 grant reasonable extensions of time for providing a written explanation or rebuttal upon written
281 request. Such timely submitted written explanation or rebuttal shall be attached to the finalized
282 report or recommendation. The requirements of this subsection shall not apply in matters subject
283 to the State of Florida's Whistle-blower's Act, or when the inspector general, in conjunction with
284 the state attorney or U.S. Attorney, determines that supplying the affected person or entity with
285 such report will jeopardize a pending criminal investigation.

286

287 **Sec. 2-428. Reporting.**

288 (1) Not later than December 31 of each year, the Inspector General shall prepare and publish a
289 written annual report summarizing the activities of the office during the immediately preceding
290 fiscal year ended September 30. The report shall be furnished to the inspector general
291 committee, the county administrator and the Palm Beach County League of Cities, Inc., and
292 posted on the inspector general's website. The report shall include, but need not be limited to: a
293 description of significant abuses and deficiencies relating to the administration of programs and
294 operations disclosed by investigations, audits, reviews, or other activities during the reporting
295 period; a description of the recommendations for corrective action made by the inspector general
296 during the reporting period with respect to significant problems, abuses, or deficiencies
297 identified; identification of each significant recommendation described in previous annual
298 reports on which corrective action has not been completed; and a summary of each audit and
299 investigation completed during the reporting period.

300 (2) The inspector general committee will meet with the inspector general every six months to
301 review the previous six month's activities and the inspector general's plans and objectives for the
302 upcoming six month.

303 **Sec. 2-429. Financial support and budgeting.**

304 (1) Pursuant to their annual budgeting processes, the county and each municipality shall
305 provide sufficient financial support for the inspector general's office to fulfill its duties as set
306 forth in this article. The county and municipalities shall fund the inspector general's office
307 proportionately, based on the actual expenses of each governmental entity as recorded in the
308 most recent audited year and reported in the Florida Department of Financial Services Local
309 Government Electronic Reporting system (LOGER), pursuant to section 218.32, Florida Statutes,
310 as may be amended.

311 (2) The county and each municipality's proportionate share shall be based on each
312 entity's actual expenses as defined in the then current Uniform Accounting System Manual,
313 published by the State of Florida, Department of Financial Services, Bureau of Local
314 Government, and shall include the following Object Categories: 30 - Operating
315 Expenditures/Expenses; 60 - Capital Outlay; and 80 - Grants and Aids. Notwithstanding the
316 above, however, law enforcement, pension funds, electric utility services, fire control, and
317 intergovernmental transfer costs shall not be included in the proportionate share calculation.

318 Nothing contained herein shall in any way limit the powers of the inspector general provided for
319 in this Ordinance to perform audits, inspections, reviews and investigations on all county and
320 municipal contracts.

321 (3) The inspector general shall establish and maintain a fiscal year which coincides with
322 that of the county. Beginning May 1, 2011, and every May 1 thereafter, the inspector general
323 shall deliver to the board a budget request including a reasonable estimate of operating and
324 capital expenditures and shall also include, but not be limited to, anticipated revenues from
325 sources other than the county and municipalities, and funds estimated to be received but not
326 expended in the current fiscal year. No later than April 1 of every year, the inspector general
327 shall deliver a preliminary budget request to the Palm Beach County League of Cities, Inc., and
328 be available to discuss the budget request with the League of Cities membership prior to May 1
329 of every year. The board shall meet with a delegation selected by the Palm Beach County League
330 of Cities, Inc., to discuss the budget request for each fiscal year. The county shall endeavor to
331 place the matter on a board agenda prior to June 15 of each year, but in no event later than June
332 30. The parties attending this meeting shall acknowledge the provisions of section 2-429.1(1).

333 (4) No later than the fifth business day in July of each year, the Office of the Clerk and
334 Comptroller shall prepare an allocation schedule based on the most current LOGER system data.
335 The proportionate share to be paid by the county and each municipality shall be reduced
336 proportionately by the anticipated revenues from sources other than the county and
337 municipalities and the amount of funds estimated to be received but not expended by the
338 inspector general in the current fiscal year.

339 (5) In the event the county or a municipality does not submit the most recent fiscal year
340 data in the LOGER system, the proportionate share for that municipality shall be based upon its
341 last LOGER system submittal, subject to an escalator for each year the submittal was not made.
342 The escalator shall be based on the Consumer Price Index for All Urban Consumers, U.S. City
343 Average, as set forth in section 193.155, Florida Statutes, as may be amended.

344 (6) The budget of the inspector general shall be subject to final approval of the board.
345 No later than September 30 of each year, the board shall set the inspector general budget for the
346 coming fiscal year and adjust the proportionate share of the county and each municipality
347 accordingly as described in this section.

348 (7) The Office of the Clerk and Comptroller shall invoice the county and each
349 municipality one-fourth of the proportionate share as adjusted on October 10, January 10, April
350 10 and July 10 of each year. Payment shall be submitted to the board and due no later than thirty
351 (30) days from the date of the invoice. Upon receipt, all funds shall be placed in the Office of
352 Inspector General, Palm Beach County, Florida Special Revenue Fund. In the event payment is
353 not timely received, the county or any municipality in compliance with this section may pursue
354 any available legal remedy.

355 (8) The county and each municipality's proportionate share for the period of June 1, 2011
356 through September 30, 2011 shall be as set forth in Exhibit A which is attached hereto and
357 incorporated herein by reference. The Office of the Clerk and Comptroller shall invoice the
358 County, upon adoption of this ordinance, \$946,764. This amount is based on the estimated
359 expenses through June 1, 2011 of \$483,333, plus the County's proportionate share as reflected
360 on Exhibit A. The Office of the Clerk and Comptroller shall invoice each municipality for their
361 proportionate share as set forth in subsection (7) beginning with the first invoice on October 10,
362 2011.

363

364 **Sec. 2-429.1 Funding Base**

365
366 (1) The funding base is a minimum level of funding, determined as a percentage of
367 contract activity of the governmental entities subject to the authority of the inspector general.
368 The purpose of establishing the funding base is to ensure the office is adequately funded. The
369 funding base is currently set at an amount equal to one quarter of one percent (0.25%) of the
370 contracts as described in section 2-429(2). Within ten (10) days following establishment of the
371 allocation schedule as described in 2-429(4), the county will determine whether the calculated
372 funding requirement meets the one quarter of one percent (0.25%) funding base. In the event the
373 calculated funding requirement is less than one quarter of one percent (0.25%), but the inspector
374 general's proposed budget is fully funded by the allocation schedule and revenues from sources
375 other than the county and municipalities, the inspector general shall request a reduction of the
376 funding base accordingly for that budget year. Nothing herein shall be construed to:

377 (a) Limit the calculated funding base to one quarter of one percent (0.25%), as may
378 be required to adequately fund the Office of the Inspector General;

379 (b) Limit the inspector general's authority to request a budget that results in a
380 calculated funding base that is less than one quarter of one percent (0.25%) at any time; or

381 (c) Prohibit the inspector general from transmitting to the county supplemental
382 budget requests.

383 No adjustment to the calculated funding base shall occur if such adjustment results in the
384 Office of the Inspector General not being adequately funded.

385 (2) On an annual basis the board of county commissioners may adjust the funding base
386 percentage upon a showing of need which shall be based upon, but need not be limited to, the
387 following criteria:

388 (a) additional expenses in a particular year necessitated by an extraordinarily large
389 investigation or audit;

390 (b) the amount of increases or decreases in budget requests by the inspector general in
391 prior years;

392 (c) the amount and frequency of supplemental budget requests made by the inspector
393 general in prior years;

394 (d) the amount and frequency of surpluses and/or shortfalls in the inspector general's
395 budget in prior years;

396 (e) the ability of the county and each municipality to bear an increase of the funding base
397 percentage in a particular year.

398 The demonstration of need shall be subject to review and recommendation by the review
399 committee as established in the Charter of Palm Beach County, section 8.3. The review
400 committee's recommendation shall only be overruled by a supermajority vote of the board of
401 county commissioners. In no event shall the funding base be reduced below one quarter of one
402 percent unless such reduction is made by the inspector general.

403
404 **Sec. 2-430. Removal.**

405 The inspector general may be removed only for cause based upon specified charges of the
406 following: neglect of duty, abuse of power or authority, discrimination, or ethical misconduct.
407 The removal process shall be initiated at a duly noticed public hearing of either the board, the
408 inspector general committee, or a funding entity as described in section 2-423(9). An affirmative
409 vote of five (5) members of the board, an affirmative vote of five (5) members of the inspector

GRANT AGREEMENT

This Grant Agreement is made the _____ day of _____, 201_, between the Town of Loxahatchee Groves, a municipality located in Palm Beach, Florida (hereinafter "MUNICIPALITY") and Palm Beach County, a political subdivision of the State of Florida, (hereinafter "COUNTY"), each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes.

W I T N E S S E T H

WHEREAS, based on overwhelming voter approval in a countywide referendum, the voters approved meaningful ethics reform for both County and municipal governments, including the creation, operation, and funding of an Office of Inspector General by countywide Ordinance 2011-009 (hereinafter "Ordinance"); and

WHEREAS, this Ordinance provides a method of apportioning the costs of the Office of Inspector General budget among the County and each MUNICIPALITY in a fair and equitable manner in order to adequately fund the Office of Inspector General operations;

WHEREAS, certain cities have filed a lawsuit challenging the validity of the Ordinance as it relates to the funding method for the Office of Inspector General operations; and

WHEREAS, MUNICIPALITY has not filed suit challenging the Ordinance, but due to the pendency of this lawsuit, the Clerk and Comptroller also having joined the lawsuit to determine its rights and responsibilities under the Ordinance, will not act in furtherance of the Ordinance until the pending case is resolved by the court or agreement of the parties;

WHEREAS, MUNICIPALITY wants to support the Office of Inspector General operations

by providing a grant for its share of funding of Inspector General operations as reflected in the Ordinance; however, the parties recognize that this grant is not being made pursuant to any ordinance, instead the MUNICIPALITY finds that voluntarily granting these funds to the County furthers the vital public purpose of meaningful ethics reform as determined by a majority of voters within the MUNICIPALITY and County, and to support the needed operations of the Office of Inspector General.

NOW THEREFORE, in consideration of the representations, terms, and covenants hereinafter set forth, the parties hereby agree as follows:

Section 1. Incorporation of Recitals

All previous recitals set forth above are specifically incorporated herein by direct reference.

Section 2. Purpose and Calculation of Funding Amount

The purpose of this Agreement is to provide for biannual grants for the adequate funding of the Office of Inspector General operations to enable the office to carry out the full scope of its duties.

The MUNICIPALITY's funding amount shall be based on its actual expenses as recorded in the most recent audited year and reported in the Florida Department of Financial Services Local Government Electronic Reporting system (LOGGER), pursuant to section 218.32, Florida Statutes, as may be amended. Each MUNICIPALITY's proportionate share shall be based on its actual expenses as defined in the then current Uniform Accounting System Manual, published by the State of Florida, Department of Financial Services, Bureau of Local Government, and shall include the following Object Categories: 30 - Operating Expenditures/Expenses; 60 - Capital Outlay; and 80 – Grants and Aids. Notwithstanding the above, however, law enforcement, pension funds, electric utility services, fire control, and intergovernmental transfer costs shall not be included in the proportionate share

calculation.

Section 3. Grant Payments and Calculations

The COUNTY and the MUNICIPALITY agree that the biannual grant payments for FY 2014 shall be \$1109.00 for a total annual grant of \$2,218.00. Future grant payment amounts for subsequent fiscal years will be recalculated for the term of this Agreement using the LOGER calculation described in Section 2 of this Agreement. The COUNTY will provide the MUNICIPALITY notice of this recalculated amount on or before August 10 of each year. For FY 2014, the COUNTY will provide notice of grant amounts due on January 10, 2014 and July 10, 2014. For subsequent fiscal years, the COUNTY will provide notice of grant amounts due on October 10 and July 10 of each year for the term of this Agreement.

Section 4. Representative/Monitoring Position

The COUNTY'S representative/contract monitor during the term of this Agreement shall be Brad Merriman, Assistant County Administrator, whose telephone number is (561) 355-4019.

The MUNICIPALITY'S representative/contract monitor during the term of this Agreement shall be _____, whose telephone number is (561) _____.

Section 5. Credit for all payments received.

In the event the COUNTY prevails in the aforementioned lawsuit, *Town of Gulf Stream, et al. v. Palm Beach County*, the COUNTY may have a cause of action against the MUNICIPALITY for all sums due the COUNTY in accordance with the Ordinance that is the subject of the lawsuit. The COUNTY acknowledges and agrees that all amounts paid by the CITY to the COUNTY pursuant to this Agreement shall be credited against an amount the COUNTY may seek in such cause of action. The terms of this provision shall survive termination of this Agreement.

Section 6. Effective Date/Term

This Agreement is retroactive in nature and shall take effect October 1, 2013. The Agreement shall continue until September 30, 2015 unless otherwise terminated as provided herein.

Section 7. Termination

This Agreement may be voluntarily terminated by either party hereto upon thirty days written notice to the other party.

Section 8. Annual Appropriation

Each party’s performance and obligation to pay under this agreement shall be assured by an annual budgetary appropriation by its respective governing body for subsequent fiscal years for the duration of this Agreement.

Section 9. Notice

All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail to the following:

COUNTY

Palm Beach County
301 N. Olive Avenue, Rm. 1101
West Palm Beach, FL 33401

MUNICIPALITY

Town of Loxahatchee Groves
14579 Southern Blvd., Suite #2
Loxahatchee Groves, FL 33470

Section 10. Delegation of Duty

Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or municipal officers.

Section 11. Liability

The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, and negligence of the other party. Further, nothing herein shall be construed as a waiver of sovereign immunity by either party, pursuant to Section 768.28, Florida Statutes, (2010), as amended. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement.

Section 12. Amendments

This Agreement may be amended only by the duly authorized and executed written amendment(s) to this Agreement.

Section 13. Captions

The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 14. Severability

In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

Section 15. Entirety of Agreement

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, written or oral, relating to this Agreement.

[Remainder of this page left intentionally blank]

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the day and year first above written.

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Mayor

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
County Attorney

By: _____

ATTEST:

_____, FLORIDA

Municipal Clerk

By: _____
Mayor

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Municipal Attorney



Item 11 - b. Discussion of Highland Dunes PUD

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

Application No.: ABN/PDD/R-2013-00499
Application Name: Highland Dunes PUD
Control No.: 2005-00394
Applicant: PBA Holdings Inc - Enrique Tomeu
Owners: Palm Beach Aggregates Inc
Agent: Urban Design Kilday Studios - Kieran J Kilday
Telephone No.: (561) 366-1100
Project Manager: Carrie Rechenmacher, Senior Site Planner

TITLE: a Development Order Abandonment REQUEST: to abandon a Class A Conditional Use for a Bona Fide Agricultural Use approved under Resolution R-2008-1146 TITLE: an Official Zoning Map Amendment to a Planned Development District REQUEST: to allow a rezoning from the Residential Transitional (RT) Zoning District to the Residential Planned Unit Development (PUD) Zoning District.

APPLICATION SUMMARY: Proposed is the rezoning of a 1,209.96-acre site from the Residential Transitional (RT) Zoning District to a Planned Unit Development (PUD) Zoning District to allow for the development of 2,000 dwelling units at a gross density of 1.65 units per acre. The site was last approved by the Board of County Commissioners (BCC) on June 30, 2008 to rezone the site from the PUD Zoning District to the RT Zoning District and a Class A Conditional Use to allow Bona Fide Agricultural in the RT Zoning District through Resolution R-2008-1146, which will be abandoned with this request.

The Preliminary Master Plan indicates 1,209.96 acres of development area which includes 1,252 Single Family Units; 628 Zero Lot Line Units; 120 Townhouse Units, which are designated as Workforce Housing; a 5.68-acre Commercial Pod to allow a maximum of 50,000 square feet of commercial or retail uses; a 24.22-acre Public Civic Pod which includes a 20-acre Park and 50,000 square feet of Offices for Government Services; and, a 15.66-Civic Pod to allow a 970-student Public Elementary School. Also proposed is 516.37 acres of open space which includes 96.51 acres of Lake Management tracts, 17.71 acres of Public Trails, and 13.61 acres of Private Recreation area. Two access points to the development will be from Southern Boulevard to the south, one access to the future extension of Okeechobee Boulevard to the north, and one cross access to a future development to the east from Via Arezzo.

SITE DATA:

Location:	Approximately 2.5 miles west of Seminole Pratt Whitney Road on the north side of Southern Boulevard (Highland Dunes PUD)
Property Control Number(s)	00-40-43-21-00-000-5000; 00-40-43-22-00-000-7000 00-40-43-27-00-000-3000; 00-40-43-28-00-000-9000 00-40-43-33-00-000-1000; 00-40-43-34-00-000-3000
Existing Land Use Designation:	Low Residential (LR-2)
Proposed Land Use Designation:	No change proposed
Existing Zoning District:	Residential Transitional (RT)
Proposed Zoning District:	PUD
Acreage:	1,209.96 acres
Tier:	No Tier- Limited Urban Service Area
Overlay District:	Glades Area Protection Overlay (GAPO)
Neighborhood Plan:	NA
CCRT Area:	NA
Municipalities within 1 Mile	Wellington
Future Annexation Area	NA

RECOMMENDATION: Staff recommends approval subject to 42 Conditions of Approval as indicated in Exhibit C.

ACTION BY THE ZONING COMMISSION: At the September 16 ZC hearing, this application was on the consent agenda. No one from the public was present to speak on the application. The Requested Use for a Public Elementary School was withdrawn as the use does not require approval by the Board of County Commissioners. The Zoning Commission recommended approval, as amended, by a vote of 7-0.

PUBLIC COMMENT SUMMARY: At the time of publication, staff had received 2 phone calls from the public asking additional information on the request.

PROJECT HISTORY:

Application No.	Resolution	Request	Approval Date
89-00052	R-89-2225	Special Exception to permit excavation and the removal of muck, sand, rock, shell, soil or other extractive materials (mining of shell rock)	June 29, 1989
89-00052	R- 90-1568	Corrective of R-89-2225 for Special Exception to permit excavation and the removal of muck, sand, shell rock	September 11, 1990
89-00052	R- 97-248	Class A Conditional Use of a Type III B Excavation in the Special Agricultural District and to modify/delete Engineering Conditions of Approval	January 30, 1997
89-00052	R- 00-0419	Development Order Amendment to modify/delete Engineering Conditions of Approval in Resolution R-97-0248	July 27, 2000
89-00052	R-00-1235	Development Order Amendment to modify/delete Hours of Operation, and Lighting Conditions of Approval in Resolution R-97-0248	August 24, 2000
89-00052	R- 97-248	Class A Conditional Use of a Type III B Excavation in the Special Agricultural District and to modify/delete Engineering Conditions of Approval	January 30, 1997
89-00052	R- 02-0496	Status Report to amend Maintenance and Monitoring Conditions of Approval in Resolution R-2002-0009	April 04, 2002
89-00052	R- 02-1472	A Development Order Amendment to add land area, expand excavation and reconfigure phasing	August 22, 2002
89-00052	R- 03-0324	Development Order Amendment Expedited Application Consideration to modify/delete Engineering Conditions of Approval	February 27, 2003
89-00052	R-04-0401	Development Order Amendment Expedited Application Consideration to modify/delete Engineering Conditions of Approval	February 26, 2004
LGA 2004-0047	Ordinance 2004-066	Changed the Future Land Use from Rural Residential, 1 unit per 10 acres (RR10) to Low Residential, 2 units per acre (LR-2)	December 13, 2004
05-00394	06-0028	Official Zoning Map Amendment from the Specialized Agricultural Zoning District to the Residential Planned Unit Development District	January 05, 2006
05-00394	06-0029	Requested Use to allow a secondary or Elementary School in the PUD Zoning District	January 05, 2006
05-00394	06-0030	Waiver to allow deviation from cul-de-sac and dead-end restrictions in a PUD	January 05, 2006
05-00394	08-1144	Revoke Requested Use granted under Resolution R-2006-029 and the Waiver of Objectives and standards granted under Resolution R-2006-030	June 30, 2008
05-00394	08-1145	Rezoning from the Residential Planned Unit Development Zoning District to the Residential Transitional Zoning District	June 30, 2008
05-00394	08-1146	Class A Conditional Use to allow Bona Fide Agricultural in the Residential Transitional Zoning District	June 30, 2008

SURROUNDING LAND USES:

BCC
 Application No. ABN/PDD/R-2013-00499
 Control No. 2005-00394
 Project No. 05168-000

September 26, 2013
 BCC District 6

NORTH:

FLU Designation: Rural Residential (RR-5)
Zoning District: Agricultural Residential District (AR) Supporting: Residential – Single Family Residential (Deer Run)

SOUTH:

FLU Designation: Conservation (CON)
Zoning District: Preservation/Conservation District (PC)
Supporting: Conservation

EAST:

FLU Designation: Rural Residential (RR-10)
Zoning District: Agricultural Residential District (AR) Supporting: Agriculture

WEST:

FLU Designation: Rural Residential (RR-10)
Zoning District: Special Agricultural District (SA)
Supporting: Excavation, FPL Power Plant and SFWMD Reservoirs (Palm Beach Aggregates Control No. 1989-00052)

FINDINGS:

Rezoning Standards:

When considering a Development Order application for an Official Zoning Map Amendment to a Standard Zoning District or a rezoning to a PDD or TDD, the BCC and ZC shall consider Standards 1-7 listed under Article 2.B.1.B of the ULDC. The Standards and Staff Analyses are indicated below. An Amendment, which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved.

1. **Consistency with the Plan** - *The proposed amendment is consistent with the Plan.*

The Planning Division has reviewed the request has determined the request is consistent with the LR-2 future land use designation and the GAPO. The site was subject to the following previous land use amendment with conditions.

Previous Land Use Amendment

The site was the subject of a previous Large Scale Land Use Amendment known as LGA 2004-047 Palm Beach Aggregates II that was approved via Ordinance 2004-066. The request amended the land use from Rural Residential 10 units/acre (RR-10) to LR-2 with 6 Conditions of Approval that read as follows:

1. The subject site shall be limited to a maximum of 2,000 dwelling units and a minimum of 30,000 square feet and a maximum of 50,000 square feet of PUD-Commercial.
2. Prior to Final DRO Master Plan approval, the applicant shall abandon all previous zoning approvals and mining permits on the subject site. [Complete: see Zoning Resolution R-2006-027]
3. Prior to Public Hearing DRO Certification, the applicant shall reserve right-of-way for potential connections to Okeechobee Blvd. on the north and shall provide interconnectivity to the adjacent site to the east if developed with an employment center. [Complete: see PMP-1 and PMP-3]
4. Prior to adoption of this site specific amendment and consistent with the purpose of the Glades Area Protection Overlay (GAPO), the applicant shall provide the County Attorney an executed restrictive covenant, approved by the County Attorney, which shall be recorded in the public records subsequent to the adoption of this site specific amendment, limiting the use of the property owned by

the applicant or affiliated entities within the area covered by the GAPO to uses already approved by the County as listed in the application and in LU Policy 2.10-b of the GAPO. No development orders will be certified until after this restrictive covenant is recorded. [Complete:ORB17900 PG257-270]

5. Prior to adoption of this site specific amendment the applicant shall provide the County Attorney an executed restrictive covenants, approved by the County Attorney, which shall be recorded in the public records subsequent to the adoption of this site specific amendment, prohibiting the property owned by the applicant or affiliated entities within the area covered by the GAPO from voluntarily annexing into a municipality, signing annexation petitions or otherwise consenting to annexation. No development orders will be certified until after this restrictive covenant is recorded. [Complete: ORB17900 PG 257-270]

6. Prior to Public Hearing DRO Certification, the applicant shall provide and indicate on the master plan a 50 foot wide open space trail corridor for the entire northern and western boundaries of the property that can link to the planned CWC Sector Plan integrated trail network. In addition, a PUD buffer shall be required to utilize the Rural Tier ULDC landscape buffer requirements for compatibility purposes. [Complete: see PMP-1]

The request is generally consistent with the conditions of the land use amendment. The request is for 2,000 units and meets the commercial requirement; future Okeechobee Boulevard is shown; all Restrictive Covenants have been recorded and the Open Space trail corridor has been provided and is shown.

Density and Workforce Housing Program (WHP)

The applicant is requesting a total of 2,000 units, which is equal to the maximum density permitted by condition 1 of the 2004 FLUA amendment. The site is obligated to provide 120 WHP units because it is located within the Limited Urban Service Area. Density and WHP calculation are as follows:

Standard Units 1,814 x %5 = 90.70 WHP obligation
PUD units 186 x 16% = 29.76 WHP obligation
2,000 Total units 120.46 WHP obligation

Housing Element Policy 1.5-g.4. states, "Workforce units built onsite can be clustered or integrated within the development." The applicant has chosen to cluster the WHP obligation within Pod K.

SPECIAL OVERLAY DISTRICT/NEIGHBORHOOD PLAN/PLANNING STUDY AREA: The request is located within the Glades Area Protection Overlay. The subject site is specifically identified by FLUE Policy 1.8-b.b., as being limited to the LR-2 Land Use designation, as well as by FLUE Policy 1.8-c as being a Limited Urban Service Area.

Policy 1.8-b.b. states, East of the L-8 Canal: Future Land Use Designation: Low Residential 2 (LR-2) and related complementary uses as approved by the Board of County Commissioners.

Policy 1.8-c: The area within the Overlay located east of the SFWMD L-8 Canal shall be designated as a Limited Urban Service Area (LUSA) based on the area meeting the criteria for a LUSA designation in FLUE Objective 3.3. The boundaries of the LUSA shall be depicted in the "Service Areas Map" contained in the Comprehensive Plan Map Series.

2. **Consistency with the Code** - *The proposed amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.*

The proposed PUD meets and exceeds the requirements of Article 3, Chapter E, Section 2 of the ULDC. The proposed PUD exceeds the required minimum land area of 12 acres and is limited to the maximum dwelling unit number of 2,000 dwelling units by FLU ORD 2004-066. Grading of the site will be required to create building pads, roadways, flow ways, and dry detention areas. The site has been filled and berms created as part of a previous excavation operation.

o Exemplary Standards

Article 3.E.2.A requires that a rezoning to the PUD Zoning District shall only be granted to a project exceeding the goals, policies and objectives in the Plan, the minimum requirements of this Code, and the design objectives and performance standards in this Article which include, but are not limited to, sustainability, trip reduction, cross access, buffering, aesthetics, creative design, vegetation preservation, recreational opportunities, mix of uses, mix of unit types, safety, and affordable housing. The proposed PUD and Preliminary Master Plan also exhibit the following attributes.

- Perimeter landscape buffers far in excess of minimum ULDC width requirements and that incorporate amenities for public access and benefit;
- Upgraded plant materials within perimeter landscape buffers;
- Promote the use of bicycle routes and other non-vehicular modes of transportation by providing an internal pedestrian transportation system and linkages to external systems;
- Incorporation of a 12-foot wide stabilized pathway to provide pedestrian access on the north and west perimeter of the site and throughout the site. The pedestrian trails in the northern and western perimeter buffers are proposed tie into a proposed Trail System in the County's Northeast Everglades Natural Area (NENA);
- Site design in a manner that includes minimal back-to-back units and that allows the vast majority of units to be adjacent to a landscape buffer, lake tract, and/or other open space feature;
- Incorporating significant open space acreage within each Residential Pod;
- Allocating land to commercial use to serve community residents and promote interconnectivity;
- Substantial civic uses within the proposed development program to serve the regional population;
- Decorative paving treatment at the point of entry from Southern Boulevard and at other strategic locations throughout the site;
- Focal points within all of the cul-de-sac and roundabout islands;
- Multiple access points into select Residential Pods;
- Recreation acreage (13.61 acres) in excess of the minimum ULDC requirement (12 acres);
- Incorporation of an internal drainage system (i.e. 200-750 foot wide flow way) that provides a significant amenity, open space, and potential recreation opportunities for community residents;
- Cross-access to the adjacent property to the north and the east;
- Density of 1.7 units per acre is consistent and below the maximum Comprehensive Plan's LR-2 Land Use Designation- (ORD Requirement);
- Lake and flow way area totaling over 350 acres; and,
- Providing a percentage of open space acreage (43%) that exceeds the minimum ULDC requirement of 40%.

To further the PUD exemplary design objective, staff is recommending that the following elements be incorporated into the final site design and development:

- 2 water fountains as a focal feature within the 96.51-acre lake tract;
- Upgraded amenities within the neighborhood recreation areas and alongside a planned 8-foot wide internal pathway system;
- Landscape focal points within cul-de-sac islands, median islands, and at the terminus of dead-end streets; and,
- Additional elements (shade structures, benches, and trash receptacles) incorporated into the 50-foot wide peripheral public trail corridor.

o Civic Pod

Pursuant to requirements of Table 3.E.2.C.15 of the ULDC, a 24-acre civic site is required to comply with the 2% civic land use requirement. To satisfy this requirement, 3.3% or 39.88 acres is being provided for a 15.66-acre Elementary School Site for 970 students and a 24.22-acre civic site which may become a future park. The use of the 17.71-acre public trails system to satisfy civic site requirements is not required.

o Commercial Pod

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Pursuant to the Comprehensive Plan Amendment ORD 2004-066, the site is required to provide a minimum of 30,000 square feet and a maximum of 50,000 square feet of PUD-Commercial building area. In compliance with this condition, the Preliminary Master Plan indicates a 5.68-acre Commercial Pod, for future development internal to the PUD. The applicant states that the specific design, uses, or the development timing for this commercial area has not been determined at this time.

o Recreation Pod

PUD standards require a recreation area totaling 12 acres. The 13.6-acre Recreational Pod will be centrally located connecting to the greenways and jogging trails around the community. The Preliminary Master Plan illustrates the two Recreation Pods are located on each side of the flow way as it meets the large lake area tract, which is located in the southeast corner of the site. A pedestrian bridge is proposed over the flow way to connect the Recreation Pods.

A detailed site plan for the Recreation Pod will be submitted for Final Site Plan approval subsequent to the application approval. The applicant states that facilities such as tennis courts, basketball courts, a swimming pool, hot tub, wading pool, tot lot, and a small fitness center will be provided; in addition, a clubhouse with an outdoor garden and grill area will be located in this recreational area. Additional recreation amenities that exceed the minimum Parks and Recreation Department recreation requirements will be provided as follows:

- Passive park areas and trails along the flow way and throughout the site.
- Neighborhood parks, pursuant to the requirements of ULDC Article 3.E.2.B.2.e., will be located within each Residential Pod.
- Open space trail corridor for the entire boundary of the site.
- Bike lanes within all rights-of-way.

o Lake Area

To create building pads, roadways, flow ways, and dry detention areas grading of the site will be required. The site has been filled and berms created as part of a previous excavation operation. A lake currently exists on site, which will be maintained as part of the community.

The lake will be approximately 96 acres and improved with littoral plantings, soft circuitous edges, and water tolerant vegetation that will be planted around the outer edges. The existing lake will generally remain in its current shape with bank slopes and existing islands reshaped or re-sloped to meet current design requirements. If possible, opportunity will be provided for non-motorized recreational activities on the lake including canoeing, kayaking, and wind surfing.

o Open Space

The community will include over 350 acres of greenway/open space that will be provided throughout the entire development to serve as both an aesthetic element and as dry detention area for storm water runoff. Open space on the Preliminary Master Plan exceeds the minimum 40% (484-acres) with the provision of 43% or 516.37 acres of open space. Numerous lots are preliminarily designed so that they front on the lake areas or open space tracts. An additional 112.81 acres of open space areas not included in this figure are proposed within the individual Residential Pods.

o Pedestrian Trails

A large portion of the open space/greenway areas will be interconnected via internal eight foot wide pedestrian trails, and will link to the various amenities throughout the development including parks, the river/flow way, the perimeter berm, the central recreational area, the civic site, the elementary school, and the commercial center. The applicant has included a Pedestrian System Plan that illustrates the trail system proposed throughout this development.

The perimeter buffers and berm will average 200-foot in width along all four perimeters and will meet the Rural Tier ULDC landscape buffer requirements. These buffers will provide a landscape buffer for the adjacent surrounding uses. Along the northern and western boundaries, a pedestrian trail is proposed as required by Ordinance 2004-066. This trail will provide a recreational amenity to both residents of the community and to the public.

The top of the berm will consist of an approximate 50-100 foot wide flat surface (plateau), which will be landscaped with the required vegetation. Also, a 50 foot wide meandering trail will be designated and platted as a continuous public access easement intended to serve as a pedestrian walkway and

public recreational corridor. Along the trail in northern and western perimeter buffers, other pedestrian features including shade structures and benches are proposed, (Landscape Condition 12.) and a 12 foot stabilized path will be provided.

The trail originally linked to the planned Central Western Corridor Sector Plan integrated trail network, consistent with Condition 6 of Ordinance 2004-066. With the Central Western Corridor Sector Plan no longer in existence, the trail network will now link to the Northeast Everglades Natural Area (NENA).

o Model Row

The Preliminary Master Plan indicates that a model row will be located within Pod E of the proposed PUD, located east of the access drive from Southern Boulevard. Pursuant to ULDC Article 3.E.1.G., a model row is permitted for Planned Developments with 300 or more units; shall consist of a maximum of 16 units; shall be located within a Residential Pod; shall be limited to the sale of units within the project only; and shall be designated on the site plan at time of BCC approval. As proposed, the model row meets all ULDC requirements.

o Cul-de-sac and Dead-end Restrictions

Pursuant to the Planned Development District (PDD) Performance Standards of ULDC Article 3.E.1.C.2.a.5), and Ordinance 2008-037, no more than 40 percent of the local streets in a PDD shall terminate in a cul-de-sac or a dead-end unless waived by the BCC. This limitation is directly related to the purpose, intent, and design objectives of the various Planned Development Districts to promote sustainable living, encourage alternative modes of transportation, and create logical street and transportation networks. The applicant is not requesting that the BCC waive these criteria. The Code was modified from 25% to 40% since the time of the 2005 PUD original approval. The applicant has provided 22 cul-de-sacs or 39.3% in order to accommodate the conceptual site design and therefore is in compliance with this ULDC provision. To further the exemplary standards of a PUD staff recommends Landscape Condition 6 consistent with the Regulating Plan provided Figure 9, which requires a landscape focal point in any cul-de-sac, roundabout, T- intersection, or terminus of any dead end street.

o Alternative Landscape Plan (ALP) – Perimeter Buffer

Condition 6 of the FLU ORD 2004-066 amending the FLU from the RR-10 to LR-2 requires the proposed PUD to comply with the ULDC Rural Tier landscape requirements. The Rural Tier ULDC landscape buffer requirements do not allow berms without an ALP approval. The proposed perimeter buffer will incorporate existing berms which vary from 30 to 40 feet from an average finished grade of 13 to 22 feet. The berms are existing due to 'fill' received from the adjacent Comprehensive Everglades Restoration Plan (CERP) Project. The proposed perimeter buffer width varies from 188 to 200 feet (Figure 8) and entirely surrounds the 1,209.96-acre site with the exception of the 39.88-acre Civic Pods located on the southwest portion of the site. The Preliminary Master and Regulating plans provide a 20-foot wide right-of-way landscape buffer along the Southern Boulevard frontage of the proposed public civic sites. Staff recommends a condition for the required right-of-way buffer to be a minimum of 25 feet in width with no easement overlap, a 1 to 3 foot berm and to be landscaped in accordance with standard ULDC regulations and with an additional pine or palm tree every 30 linear feet.

Along the north and west perimeter buffers, a 50-foot wide path will be designated and platted as a continuous public access easement intended to serve as a pedestrian walkway and public recreational corridor. Other pedestrian features including a 12-foot stabilized path, shade structures, and benches are proposed (Landscape Condition 12.) within the 50-foot wide meandering trail corridor.

Staff is recommending that the ALP be submitted at time of Final DRO approval (Landscape Condition 1) to ensure consistency between the landscape plan, master/site/regulating plans, and the recommended conditions of approval. The applicant met with the staff Landscape Inspectors to coordinate the components and future submission of the ALP. Review and approval by the Landscape Section shall accommodate flexibility in the final landscape design and ensure an appropriate quantity of landscape materials and appearance that respects existing vegetation and character in the vicinity of the site.

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The design and site layout of the proposed PUD minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands. Subject to the Conditions of Approval and use limitations, any potential impact that may generate from the proposed use will be mitigated.

3. Compatibility with Surrounding Uses - *The proposed amendment is compatible, and generally consistent with existing uses and surrounding zoning districts, and is the appropriate zoning district for the parcel of land. In making this finding, the BCC may apply an alternative zoning district.*

To the north of the site are single-family residences within the Deer Run and White Fences subdivisions. The adjacent property to the east is undeveloped. At one time this area was anticipated to potentially accommodate a future employment center consisting of office and industrial uses as part of the area that at one time was classified as the Central Western Communities Sector Plan. This parcel is currently utilized as a sod farm bordering, further to the east, large lot residential subdivisions and Lion Country Safari. To the south, across Southern Boulevard/SR 80 (220-foot wide right-of-way), is conservation land within the Village of Wellington that is owned by South Florida Water Management District and utilized for regional water management purposes. To the west, across the L-8 Canal (500-foot wide right-of-way) and a 400-foot wide wildlife corridor, is the Palm Beach Aggregates excavation site, future FPL electric power plant, and South Florida Water Management District reservoirs.

The 400 foot wide wildlife corridor was created at the time of the original excavation approval to provide a critical connection between publicly owned Conservation areas to the north and south as well as to provide a buffer between the excavation activities and the established residential communities that are located north of the site on the east side of the L-8.

4. Effect on the Natural Environment – *The proposed amendment will not result in significantly adverse impacts on the natural environment, including but not limited to water, air, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.*

The site has been utilized for agricultural purposes (sod farming, and currently tree farm) and excavation (existing lake area) for a number of years. No significant environmental resources have been located on the site.

Additionally the lake system will provide littoral planting areas that will provide sanctuary for wildlife habitat. It should be noted that the development site is not located in a well field protection zone. A minimum 10 foot wide landscaped median will be included as part of the central access driveway. Drought tolerant and Florida Friendly landscape principles will be considered when designing the planting throughout the community. Where appropriate the Property Owner will provide native species in an effort to reduce the reliance on heavy watering and which will maintain a high quality appearance throughout the year.

An Alternative Landscape Plan addressing any deviations from code requirements based on the proposed plantings on the perimeter buffers will be provided to the County for review at the time of site plan review.

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

WELLFIELD PROTECTION ZONE: The property is not located with a Wellfield Protection Zone.

IRRIGATION CONSERVATION CONCERNS AND SURFACE WATER: All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.

ENVIRONMENTAL IMPACTS: There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements

5. Development Patterns – *The proposed amendment will result in a logical, orderly, and timely development pattern.*

The site is strategically located at the juncture of two significant geographic features (i.e. Southern Boulevard and the L-8 Canal), and the proposed development establishes a logical transition from existing, approved and/or anticipated uses in the vicinity of the site and on the north side of Southern Boulevard/SR 80. The proposed development also establishes both a logical terminus and density for future development and continued westward expansion.

The trail originally linked to the planned Central Western Corridor Sector Plan integrated trail network, consistent with Condition 6 of Ordinance 2004-066, which approved the current land use designation for the site. With the Central Western Corridor Sector Plan no longer in existence, the trail network will now link to the Northeast Everglades Natural Area (NENA).

The flow way system, as proposed, extends to the north side of the site at 2 locations. It is intended that pipe connections will be included at these locations connecting to the future Okeechobee Boulevard right-of-way. The surface water management system for this project will be designed to include the expected run off from the Okeechobee Boulevard right-of-way as required by the County. Inasmuch, the requests have no adverse impacts on a logical, timely and orderly development pattern.

7. Adequate Public Facilities – *The proposed amendment complies with Art. 2. F, Concurrency.*

ENGINEERING COMMENTS:

The Property Owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code.

The Property Owner shall obtain a R/W Permit from the Palm Beach County Engineering Department, Permit Section, for any work within the R/W of the future east west road along the project's north property line; and, the Property Owner shall obtain a permit from FDOT for any work within the R/W of Southern Boulevard.

PALM BEACH COUNTY HEALTH DEPARTMENT:
No Staff Review Analysis

PARKS AND RECREATION:
Based on the proposed 2,000 dwelling units 12.00 acres of on site recreation is required. The plan submitted indicates there will be 13.61 acres of recreation provided, therefore, the Parks and Recreation Department standards have been addressed.

The Parks and Recreation Department requests the park civic site dedication be increased from 24.22 acres to 25 acre so the property will qualify for use of impact fees for development. The proposed park may be designed to serve as a future trailhead, therefore the Parks and Recreation Department prefers the land on the western portion of the site.

FIRE PROTECTION: No staff Review Analysis

SCHOOL IMPACTS:
In accordance with adopted school concurrency, a Concurrency Determination for 2,000 residential units (1,880 single family, 120 multi-family) had been approved on April 4, 2013 (Concurrency Case #13040401C). The subject property is located within Concurrency Service Area 10 (SAC 420F).

This project is estimated to generate approximately five hundred sixty-seven (567) public school students. The schools currently serving this project area are: Binks Forest Elementary School, Wellington Landings Middle School, and Wellington Community High School.

The revised Preliminary Site Plans dated 5/24/13 show several 10 foot by 15 foot school bus shelter locations. A school bus shelter Condition of Approval has been applied to this request.

CONCURRENCY: Concurrency has been approved for a 2,000 unit PUD (120 Townhouse Units and 628 Zero Lot Line Units, 1,252 Single Family Units, 50,000 square feet of Government Services Office Use, and 50,000 Square Feet of Commercial/Retail Use) and a 970 student Public Elementary School in a Planned Unit Development.

8. Changed Conditions or Circumstances – *There are demonstrated changed conditions or circumstances that necessitate the amendment.*

The subject 1209.9-acre site was a portion of a Type III B Excavation approved by the BCC on September 11, 1990 for the Palm Beach Aggregates (PBA) Mining approval. The BCC has approved further Development Order Amendments over the years to modify/delete various conditions of approval, add a Class A Conditional use to allow an electrical power facility and add access points.

On December 13, 2004 the BCC adopted FLU Amendment LGA 2004-047 ORD 2004-066 for PBA to change the FLU designation of the subject site from Rural Residential, 1 unit per 10 acres (RR10) to Low Residential, 2 units per acre (LR-2). At the same time the BCC adopted a new Overlay Area designation called the Glades Area Protection Overlay (GAPO) which includes this property as well as 1844 acres to the west. The GAPO total acreage is approximately 3,063 acres. The overlay is intended to protect the adjacent Everglades Agricultural Area (EAA) to the west from encroachment of urban/suburban uses, densities and intensities. Included in the amended GAPO language is the re-designation of the area east of the SFWMD L-8 Canal as a Limited Urban Service Area (LUSA) removing the property from the Rural Tier.

The FLU Ordinance Conditions; however, required the landscape buffer treatment to utilize the Rural Tier landscape requirements. Therefore an Alternative Landscape Plan will be required to allow the 30 to 40 foot high berms to remain from the average finished grade which varies from 13 to 22 feet in height.

On January 5, 2006, the BCC approved the deletion of the 1209.96 acres land area, to approve a rezoning from the SA Zoning District to the PUD District, and the Requested Use for a secondary or elementary school.

The applicant states that as the market hit an economic downturn and the developer was not able to meet the condition to pay for the surety bond to Land Development for roadway improvements. The applicant filed an application and received approval in 2008 to rezone the property from PUD to RT and a Class A Conditional Use to allow Bona Fide Agricultural in the RT Zoning District, through Resolution R 2008-1146. The proposed application includes a request to abandon the resolution for this use.

The applicant further states that there is very little vacant property now available in the eastern half of Palm Beach County although this is the area showing the greatest growth. The recent establishment of the Scripps project and other biomedical facilities with a significant estimation of new employment opportunities will create additional needs for housing, not all of which will be able to be provided within the immediate area of these facilities. Additionally, the applicant's intent is to provide new residential opportunities to residents working in the west central communities and lake regions.

CONCLUSION

Staff has evaluated the standards listed under Article 2.B.1.B 1-7 and determined that there is a balance between the need for change and the potential impacts generated by this change. Staff has also determined that any of the potential impact and incompatibility issues will be adequately addressed subject to the recommended conditions of approval as indicated in Exhibit C.

CONDITIONS OF APPROVAL

EXHIBIT C

PDD- Residential Planned Development District

ALL PETITIONS

1. The approved Preliminary Master Plan is dated May 24, 2013. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after December 31, 2021. 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. (DATE: MONITORING - ENG)

2. 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 more than 276 single family dwelling units (or development generating an equivalent number of external PM peak hour inbound trips) shall be issued until the Property Owner makes a proportionate share payment in the amount of \$3,073,307 to widen Southern Boulevard from Big Blue Trace to Palms West Parkway from a 4-lane divided highway to a 6-lane divided highway, including a sidewalk on at least the north side or as otherwise required by the Florida Department of Transportation and County Engineer. (BLDG PERMIT: MONITORING - Eng)

B. No building permits for more than 596 single family dwelling units and 120 multi family dwelling units (or development generating an equivalent number of external PM peak hour inbound trips) shall be issued until the Property Owner makes a proportionate share payment in the amount of \$1,150,294 to widen Southern Boulevard from Forest Hill Boulevard / Crestwood Boulevard to Cypress Head Avenue from a 6-lane divided highway to an 8-lane divided highway. (BLDG PERMIT: MONITORING -Eng)

C. No building permits for more than 636 single family dwelling units and 120 multi family dwelling units (or development generating an equivalent number of external PM peak hour inbound trips) shall be issued until the Property Owner makes a proportionate share payment in the amount of \$688,981 to widen Southern Boulevard from Cypress Head Avenue to Royal Palm Beach Boulevard from a 6-lane divided highway to an 8-lane divided highway. (BLDG PERMIT: MONITORING- Eng)

D. No building permits for more than 752 single family dwelling units and 120 multi family dwelling units (or development generating an equivalent number of external PM peak hour inbound trips) shall be issued until the Property Owner makes a proportionate share payment in the amount of \$4,713,470 to widen Southern Boulevard from Binks Forest Drive to Big Blue Trace from a 4-lane divided highway to a 6-lane divided highway, including a sidewalk on at least the north side or as otherwise required by the Florida Department of Transportation and County Engineer.. (BLDG PERMIT: MONITORING- Eng)

E. No building permits for more than 910 single family dwelling units and 120 multi family dwelling units (or development generating an equivalent number of external AM peak hour outbound trips) shall be issued until the Property Owner makes a proportionate share payment in the amount of \$143,954 to add a third left turn lane, east approach on Southern Boulevard at Forest Hill Boulevard / Crestwood Boulevard. (BLDG PERMIT: MONITORING- Eng)

F. No building permits for more than 1,665 single family dwelling units and 120 multi family dwelling units (or development generating an equivalent number of external PM peak hour inbound trips) shall be issued until the Property Owner makes a proportionate share payment in the amount of \$37,415 to widen Southern Boulevard from Palms West Parkway to Forest Hill Boulevard / Crestwood Boulevard from a 6-lane divided highway to a 8-lane divided highway. (BLDG PERMIT: MONITORING-Eng)

G. No building permits for more than 1,815 single family dwelling units, 120 multi-family dwelling units, a 970 student elementary school and 50,000 SF of specialty retail (or development generating an equivalent number of external AM peak hour outbound trips) shall be issued until the Property Owner makes a proportionate share payment in the amount of \$18,947 to add a third left turn lane, north approach on Royal Palm Beach Boulevard at Southern Boulevard. (BLDG PERMIT: MONITORING-Eng)

3. The Property Owner shall construct:

- i. one turn lane, west approach on Southern Boulevard at the project's east entrance;
- ii. one right turn lane, east approach on Southern Boulevard at the project's east entrance;
- iii. two left turn lanes and one right turn lane, north approach on the project's east entrance at Southern Boulevard; and
- iv. right turn lane, east approach on Southern Boulevard at the project's west entrance.

All construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

A. Prior to the issuance of the first building permit, permits required by the Florida Department of Transportation for construction in i , ii, iii, and iv shall be obtained . (BLDG PERMIT: MONITORING - Eng)

B. Prior to the issuance of the first Certificate of Occupancy, construction for the improvements in i, ii, iii, and iv shall be completed. (CO: MONITORING- Eng)

4. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at:

- i. Project's east entrance and Southern Boulevard; and
- ii. Project's entrance and the future east west road along the project's north property line.

Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation.

A. Building Permits for more than 276 dwelling units shall not be issued until the Property Owner provides acceptable surety for i above to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDG PERMIT: MONITORING-Eng)

B. Building Permits for more than 910 dwelling units shall not be issued until the Property Owner provides acceptable surety for ii above to the Traffic Division in an amount as determined by the Director of the Traffic Division. The number of building permits allowed prior to the posting of surety may be raised at the discretion of the County Engineer. (BLDG PERMIT: MONITORING-Eng)

C. In order to request release of the surety for the traffic signal at the above intersections, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersections. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. In the event that the property is sold, the surety may be returned once the Traffic Division receives written documentation of the sale and a replacement surety has been provided to the Traffic Division by the new Property Owner. (ONGOING: ENGINEERING-Eng)

5. Concurrent with recording of the first plat, the Property Owner shall convey a roadway construction easement to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this Property Owner's road right of way for:

- i. the future east west road along the project's north property line;
- ii. east project entrance on Southern Boulevard, and;
- iii. west project entrance on Southern Boulevard.

Construction within these easements shall conform to Palm Beach County Standards. (PLAT:ENGINEERING-Eng)

6. Prior to issuance of the first building permit, the Property Owner shall convey a temporary roadway construction easement along the future east west road along the project's north property line and for Southern Boulevard to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING - Eng)

7. Prior to the issuance of the first building permit, the Property Owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Southern Boulevard and the future east west road along project's north property. Limits shall be along the property frontage; and up to a maximum of an additional 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and, when necessary, compensating storage capacity within this project's system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the Property Owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT: MONITORING-Eng)

8. Prior to issuance of the first building permit, or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the Property Owner shall provide to Palm Beach County Land Development Division a road right of way warranty deed and all associated documents as required by the County Engineer for the future east west road along the project's north property, 200 feet in width. Right of way conveyance shall be along the entire frontage and shall be free and clear

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of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT/ONGOING: MONITORING-Eng)

9. The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Southern Boulevard, 220 feet north of the south R/W line on an alignment approved by the FDOT or County Engineer. All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from tax collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDG PERMIT: MONITORING-Eng)

10. Prior to issuance of a building permit, the Property Owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane, west approach on the future east west road along the project's north property at the project's entrance road. This right of way shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet, or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include "corner clips" where appropriate as determined by the County Engineer. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDG PERMIT/ONGOING: MONITORING-Eng)

11. Prior to the issuance of the first building permit, the Property Owner shall provide to Florida Department of Transportation (FDOT) by deed:

- i. additional right of way for the construction of a right turn lane, east approach on Southern Boulevard at the project's east entrance; and
- ii. additional right of way for the construction of a right turn lane, east approach on Southern Boulevard at the project's west entrance.

This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by FDOT. The right of way should be continued across the project entrance and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, which may include at minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from tax collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and corner clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDG PERMIT: MONITORING-Eng)

12. On or before December 31, 2018, the Property Owner place clean acceptable fill within the right of way for the future east west road along the project's north property line sufficient to raise the elevation of this future road to within 6 inches of the 25 year, 3 day storm event in the manner and location as required by the County Engineer. The limits of this additional fill shall be along the project frontage of this road. (DATE: MONITORING - Eng)

13. LANDSCAPE WITHIN THE MEDIAN OF SOUTHERN BOULEVARD

The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Southern Boulevard. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners' approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph C and D below.

A. Prior to the issuance of the first building permit, the necessary permit(s) for this landscaping and irrigation shall be applied for. (BLDG PERMIT: MONITORING- Eng)

B. Prior to the issuance of the first certificate of occupancy, all installation of the landscaping and irrigation shall be completed. (CO: MONITORING -Eng)

C. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are

first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING-Eng)

D. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Southern Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDG PERMIT: MONITORING -Eng)

14. Prior to issuance of the 1,001st Certificate of Occupancy, the Property Owner shall receive approval for and complete construction of a sidewalk along the project's frontage on the north side of Southern Boulevard. (CO: MONITORING - Eng)

LANDSCAPE - GENERAL

1. At time of submittal for final master plan approval by the Development Review Officer (DRO), the property owner shall submit an Alternative Landscape Plan to the Landscape Section for all perimeter landscape buffers. The Plan(s) shall be generally consistent with the Preliminary Regulating Plan dated May 24, 2013. (DRO: LANDSCAPE - Zoning)

2. A minimum of seventy-five (75%) percent of the canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

- a. tree height: fourteen (14) feet; and,
- b. credit may be given for existing or relocated trees provided they meet the Unified Land Development Code requirements. (BLDG PERMIT: LANDSCAPE - Zoning)

3. All palms required to be planted on the property, except on individual residential lots, shall meet the following minimum standards at installation:

- a. palm heights: twelve (12) feet clear trunk;
- b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. credit may be given for existing or relocated palms provided they meet current Unified Land Development Code requirements. (DRO: LANDSCAPE - Zoning)

4. Field adjustment of plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (DRO: LANDSCAPE - Zoning)

5. Prior to Final Approval by the Development Review Officer, all landscape focal points shall be shown on the Regulating Plan(s), and shall be subject to review and approval by the Landscape Section. (DRO: LANDSCAPE - Zoning)

6. Prior to final approval by the Development Review Officer (DRO), all site/subdivision plans shall indicate a landscape focal point:

- a. within a central island of any cul-de-sac or roundabout;
- b. within any eyebrow island or similar median;
- c. in the vicinity of the road frontage of any T-intersection open space; and,
- d. at the terminus of any dead-end street. (DRO: LANDSCAPE - Zoning)

7. Prior to final approval by the Development Review Officer (DRO), the site/subdivision plans shall indicate additional decorative paving treatment (pre-cast concrete paver blocks or stamped concrete) as follows:

- a. a minimum eight (8) foot wide continuous band surrounding a central island within all cul-de-sacs;
- b. a minimum eight (8) foot wide continuous band along the perimeter of all semi cul-de-sacs, medians and/or eyebrows, to be located between adjacent residential lots only;
- c. at the intersections of the internal 80-foot wide right-of-way and all access points to each pod; and,

d. the final design and location for all decorative paving treatment shall be subject to review and approval by the Zoning Division. (DRO: LANDSCAPE- Zoning)

LANDSCAPE - INTERIOR

8. Prior to final approval by the Development Review Officer (DRO), the master plan and site/subdivision plans shall indicate a minimum of two (2) fountains as focal features within the 96.51-acre lake management tract. The location of each fountain shall be subject to review and approval by the Zoning Division. (DRO: LANDSCAPE - Zoning)

9. Prior to final approval by the Development Review Officer (DRO), the subdivision and regulating plans shall indicate upgraded recreation amenities within the required neighborhood park of each Residential Pod. These additional amenities shall:

- a. be accessible from a minimum five (5) foot wide pathway composed of stamped concrete, paver blocks, or other improved surface. This pathway shall have a direct connection to the primary sidewalk system within each Residential Pod;
- b. include a minimum of four (4) pedestrian benches;
- c. include a minimum of one (1) trash receptacle adjacent to each pedestrian bench;
- d. include a shade structure (eg. trellis, gazebo, pergola, loggia), tot lot, fitness station, rest station, or similar recreation amenity. (DRO: LANDSCAPE- Parks)

10. Prior to final approval by the Development Review Officer (DRO), the Preliminary Subdivision and Regulating Plan shall indicate the following amenities adjacent to the 8-foot wide asphalt path:

- a. a minimum of one (1) pedestrian bench for each six hundred and sixty (660) feet linear feet of the path with a maximum spacing of eight hundred (800) feet between each bench;
- b. a minimum of one (1) trash receptacle adjacent to each alternating pedestrian bench;
- c. a minimum of one (1) canopy tree spaced a maximum distance of fifty (50) feet on center, to be planted alternating on both sides of the path; and,
- d. a minimum of one (1) freestanding light fixture with a maximum height of twelve (12) feet and a maximum spacing of fifty (50) feet on center, alternating on each side of the sidewalk. Alternatively, lighted bollards spaced a maximum distance of twenty (20) feet on center and located on alternating sides of the path shall be provided. Lighting shall be located adjacent to the sidewalk. (DRO: ZONING- Landscape)

11. Prior to final approval by the Development Review Officer (DRO), the master plan and site/subdivision plans shall indicate a flow way overlook area (i.e. Focal Point FP-1) within the open space area located at the southeast corner of Pod D and north of FP3. This overlook area shall have a direct connection to the primary sidewalk system on the property. (DRO: ZONING - Landscape)

12. Prior to final approval by the Development Review Officer (DRO), the master, site/subdivision, regulating and landscape plans shall indicate the following amenities within the meandering 50-foot wide trail corridor (17.71-acre public civic site):

- a. a minimum twelve (12) foot wide meandering, stabilized pathway for the entire duration of the trail corridor;
- b. a minimum of one (1) lighted shade structure (pavilion) in the vicinity of each intersection with a pathway providing access to the trail corridor, and at a maximum spacing of 1,320 feet on center for the entire duration of the trail corridor. Each structure shall have minimum dimensions of ten (10) feet in width, eight (8) feet in depth, and nine (9) feet of unobstructed clearance;
- c. a minimum of two (2) pedestrian benches and one (1) trash receptacle adjacent to each shade structure;
- d. one (1) lighted bollard spaced a maximum distance of twenty (20) feet on center and located on alternating sides of the path for the entire duration of the trail corridor; and,
- e. the final design for this trail corridor shall be subject to review and approval by the Architectural Review and Landscape Sections. (DRO: ZONING - Landscape)

PARKS-PARKS AND RECREATION EASEMENT

1. Upon request by the Parks and Recreation Department, the property owner or property owners' association shall provide a temporary construction easement as well as a permanent 150 foot wide access easement in the general vicinity of the southwest corner of the site in a location and elevation acceptable to the Parks and Recreation Department. This easement is required in order to accommodate a future pedestrian and/or wildlife land bridge across Southern Boulevard to connect to a future wildlife corridor and/or trail system located south of Southern Boulevard as identified in the future.

2. Upon request by the Parks and Recreation Department, the Property Owner or Property Owners' Association shall provide a temporary construction easement as well as a permanent 150 foot wide access easement in the general vicinity of the southeast, southwest, and western side corner of the site in a location and elevation acceptable to the Parks and Recreation Department. This easement is required in order to accommodate a future pedestrian and/or wildlife land bridge across Southern Boulevard to connect to a future wildlife corridor and/or trail system located south of Southern Boulevard as identified in the future. (ONGOING: PARKS - Parks)

PLANNED DEVELOPMENT-PUD POA DOCUMENTS

1. Prior to the recordation of the first plat, all property included in the legal description of the application shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:

- a. Formation of a single "master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas;
- b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents, and,
- c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: CO ATTY - Zoning)

2. The Property Owner shall include in Homeowners' documents as well as written sales brochures, sales contracts and related plans a disclosure statement identifying and notifying of the existence of commercial excavation, a future electric power generation facility, regional water management reservoirs and facilities, and active agricultural uses in the vicinity of the development. The Property Owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building Department beginning on October 1, 2015 and shall continue on an annual basis until all units within the development have been sold or the Property Owner relinquishes control to the Homeowners Association. (DATE: MONITORING - Zoning)

PLANNING

1. Per LGA-2004-047; ORD2004-066, the subject site shall be limited to a maximum of 2000 dwelling units and a minimum of 30,000 square feet and a maximum of 50,000 square feet of PUD-Commercial. (ONGOING:PLANNING-Planning)

2. Per LGA-2004-047; ORD2004-066, the applicant shall provide and indicate on the master plan a 50 foot wide open space trail corridor for the entire northern and western boundaries of the property that can link to the planned CWC Sector Plan integrated trail network. In addition, a PUD buffer shall be required to utilize the Rural Tier ULDC landscape buffer requirements for compatibility purposes. (ONGOING:PLANNING-Planning) [Complete: see PMP-1]

PROPERTY & REAL ESTATE MANAGEMENT

1. The Property Owner shall provide Palm Beach County Board of County Commissioners with a Statutory Warranty Deed on a net 24.2 acre public civic site, in a location and form acceptable to Facilities, Development & Operations Department (FD&O) by April 22, 2015. Property Owner to plat and dedicate the civic site to Palm Beach County prior to conveying the deed, and shall have satisfied each of the following conditions prior to deed conveyance.

a) Title

Property Owner to provide a title policy insuring marketable title to Palm Beach County for the civic site and any easements that service the civic site as required by the County Attorney's office. All title exception documentation to be provided to County. Policy is subject to Property & Real Estate Management Department's (PREM) and County Attorney's approval. The title policy to be insured to Palm Beach County for a dollar value based on current market appraisal of the proposed civic site or the Contract purchase price on a per acre basis if the contract purchase was concluded within the previous 24 month period. If an appraisal is required it shall be obtained by the Property Owner. The Property Owner shall release the County from all Declarations of Covenants and Conditions of the P.U.D. or other restrictive covenants as they may apply to the civic site.

b) Concurrency

Property Owner to assign sufficient traffic trip capacity such that the traffic volume associated with a County facility shall be attached to the civic site and recorded on the concurrency reservation for the entire PUD. The Property Owner shall be provided with input as to the size of a structure (and proposed use) which the civic site would support and the corresponding amount of trips. If no County use is applied to the civic site, Property Owner shall assign sufficient traffic trip capacity equivalent to the number of units the civic would support if it were a Residential Pod.

c) Taxes

All ad valorem real estate taxes and assessments for the year of acceptance shall be pro-rated to include the day of acceptance.

d) Site condition

Civic site to be free and clear of all trash and debris at the time of acceptance of the Statutory Warranty Deed.

e) Retention and Drainage

Property Owner shall provide all retention, detention, and drainage required for any future development of the proposed civic site by the County. Property Owner shall specifically address the following issues:

1) The discharge of surface water from the proposed civic site into the Property Owner's water retention basins.

2) As easement across Property Owner's property from the proposed civic site to the retention basins, if required.

f) On-Site Inspections

By acceptance of these conditions Property Owner agrees to allow the County to perform any on site inspections and testing deemed appropriate to support the acquisition of the civic site.

g) Vegetation Permit

Property Owner to perform a tree survey and obtain a vegetation clearing permit. If it is determined by PREM that clearing is not required at time of conveyance, the cost of such clearing shall be paid to the County.

h) Buildable Grade

Prepare civic site to buildable grade under the direction of the Facilities Development & Operations Department. Site shall be stabilized with 1) sod and watered or, 2) seeded, mulched and watered (until seed has established itself) to the satisfaction of Facilities Development and Operations.

i) Water & Sewer

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Property Owner to provide water and sewer stubbed out to the property line and other required utilities as determined by PREM. (DATE:MONITORING-PREM)

2. The Property Owner shall provide the County with a survey certified to Palm Beach County of the proposed civic site by February 23, 2015. Survey shall reflect the boundary and topographical areas of the site and the surveyor shall use the following criteria:

- a) The survey shall meet Minimum Technical Standards for a Boundary Survey as prescribed by F.A.C. 21HH.6.
- b) If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided.
- c) The survey should include a location of any proposed water retention area that will border the civic site.

Survey is also subject to the County's approval of any proposed or existing easements within the proposed civic site and all title exceptions are to be shown on the survey. (DATE:MONITORING-PREM)

3. The Property Owner shall provide PREM with an Environmental Assessment certified to Palm Beach County of the proposed civic site by February 23, 2015. The minimum assessment which is required is commonly called a "Phase I Audit". The audit shall describe the environmental conditions of the property and identify the past and current land use.

The assessment will include but not be limited to the following:

- a) Review of property abstracts for all historical ownership data for evidence of current and past land use of the proposed civic site.
- b) Review of local, state, and federal regulatory agency's enforcement and permitting records for indication of prior groundwater or soil contamination. Also, a review of the neighboring property that borders the proposed civic site will be required. The review shall include, but not be limited to, Palm Beach County Environmental Resources Management Department Records, and Florida Department of Regulation Records.

The assessment shall reflect whether the civic site or any bordering property is on the following lists:

- 1) EPA's National Priorities list (NPL)
- 2) Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA)
- 3) Hazardous Waste Data Management System List (HWDMS).
- c) Review of current and historical aerial photographs of the proposed civic site. Provide a recent aerial showing site and surrounding properties.
- d) The results of an on-site survey to describe site conditions and to identify potential area of contamination.
- e) Review of Wellfield Protection Zone maps to determine if property is located in a Wellfield Zone.

If the Phase I audit indicates that a Phase II is necessary, then the property owner shall be required to provide that audit as well. (DATE:MONITORING-PREM)

4. The Property Owner may request to exchange the required on-site dedication of land for cash of equal value or off-site land equal in acreage, however, this option shall be used only upon County approval when the County has established that the cash or offsite land enhances or supports a County property, facility or function in the general vicinity of the PUD. In addition, should the off-site land option be chosen, each PREM condition listed in numbers 1, 2 & 3 above will also apply. If the land off-site is of less cash value than the on-site dedication the Property Owner shall contribute cash equal to the difference in values. Valuation of the on-site and off-site land shall be subject to the County appraisal process and be at the cost of the Property Owner. If off-site land or cash contribution is accepted by Palm Beach County, the Property Owner shall be deemed to have satisfied the intent of ULDC. (ONGOING: PREM-PREM)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD) (Previous Condition School Board 1 of Resolution R-2006-0028, Control #2005-394)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10 feet by 15 feet school bus shelters shall be constructed by the property owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the school bus shelters shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelters shall be the responsibility of the residential property owner. (CO: MONITORING - School Board.)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant 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 Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

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

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code 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 of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

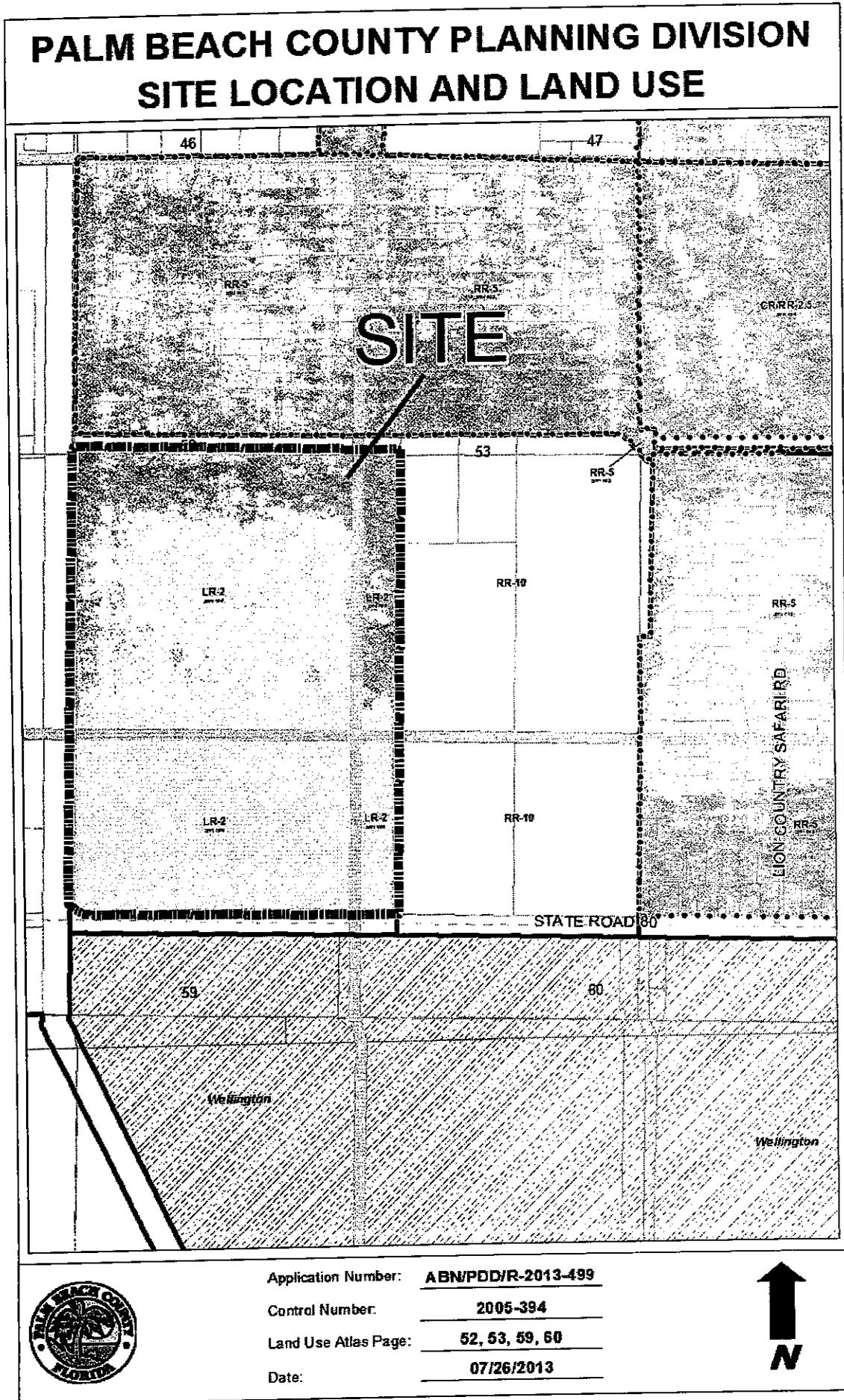
Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

The site was last approved by the Board of County Commissioners (BCC) on June 30, 2008 to rezone the site from the PUD Zoning District to the RT Zoning District and a Class A Conditional Use to allow Bona Fide Agricultural in the RT Zoning District via Resolution R-2008-1146, which will be abandoned with this proposal.

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

Figure 1 Land Use Map



BCC
 Application No. ABN/PDD/R-2013-00499
 Control No. 2005-00394
 Project No. 05168-000

September 26, 2013
 BCC District 6

Page 73

Figure 2 Zoning Map

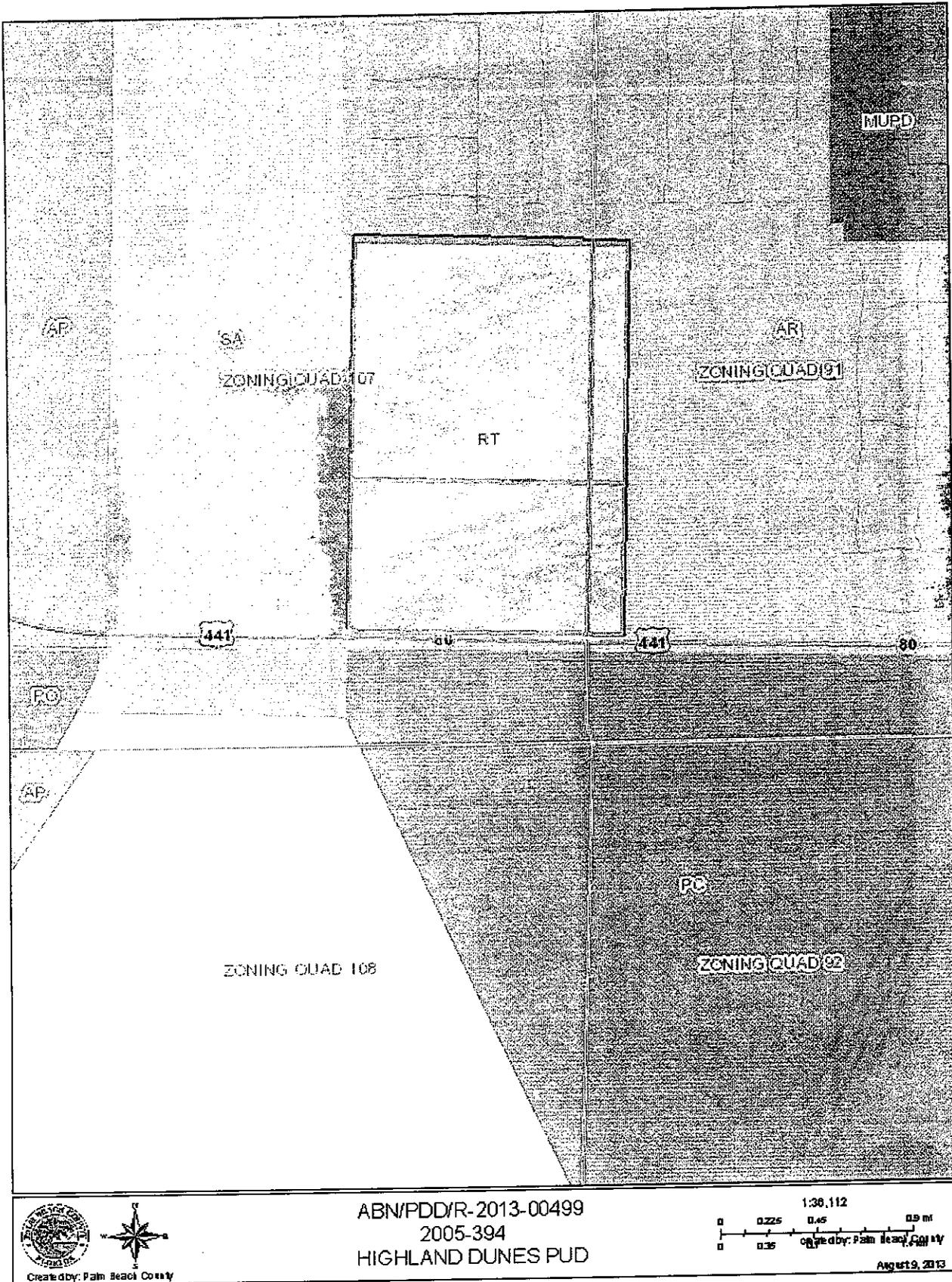




Figure 3 Aerial

Figure 7 Preliminary Regulating Plan dated May 24, 2013

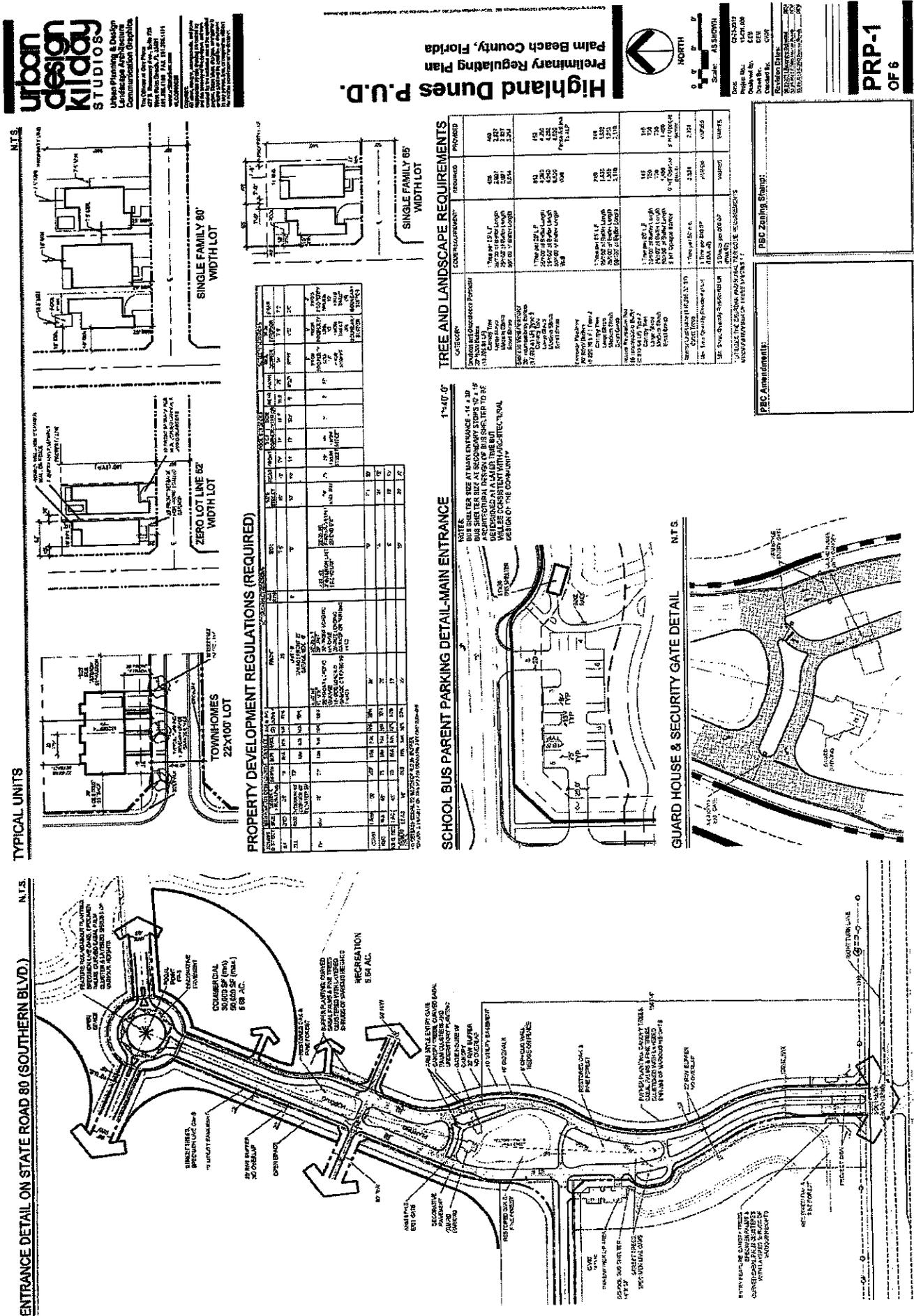


Figure 8 Preliminary Regulating Plan dated May 24, 2013

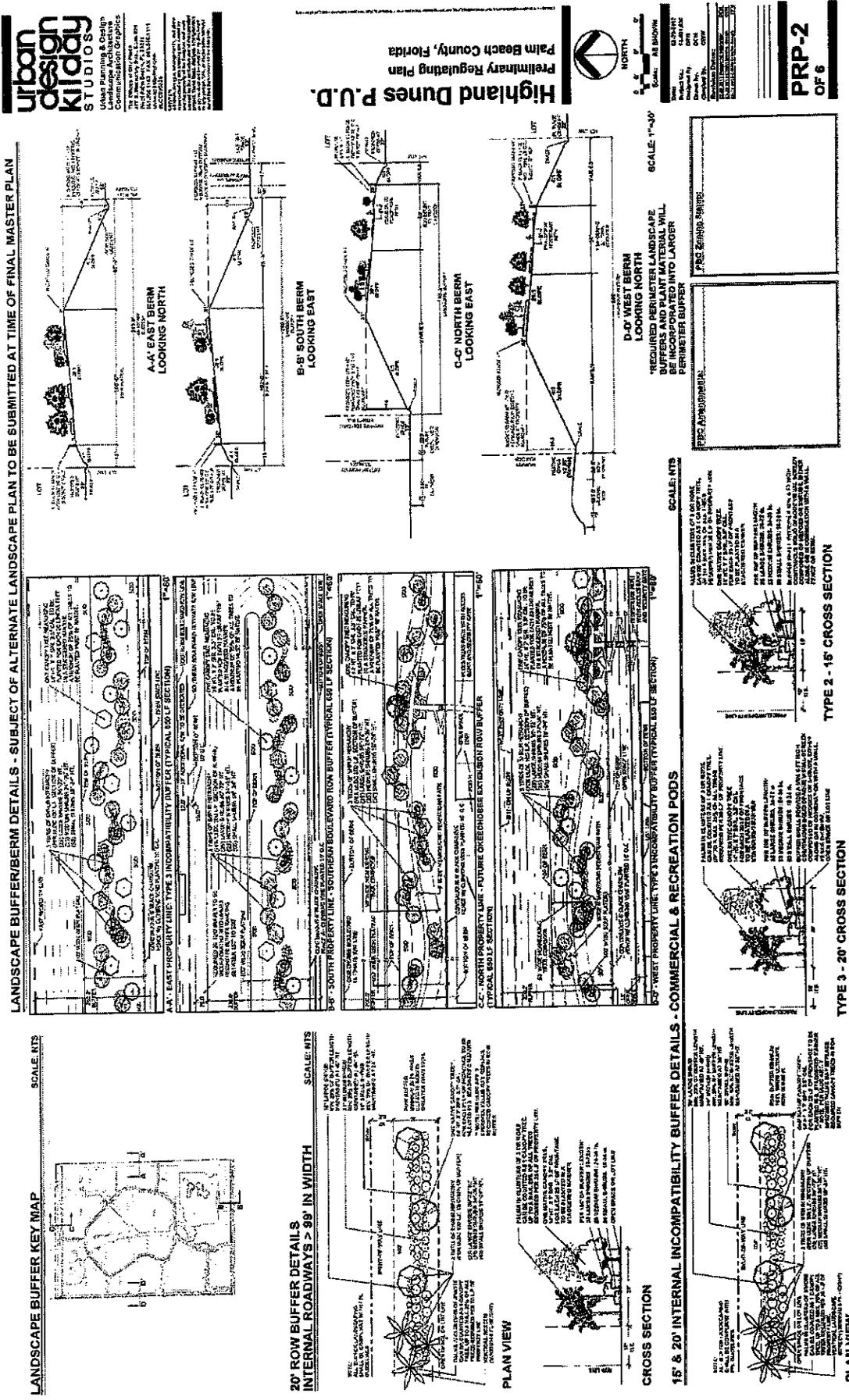


Figure 9 Preliminary Regulating Plan dated May 24, 2013

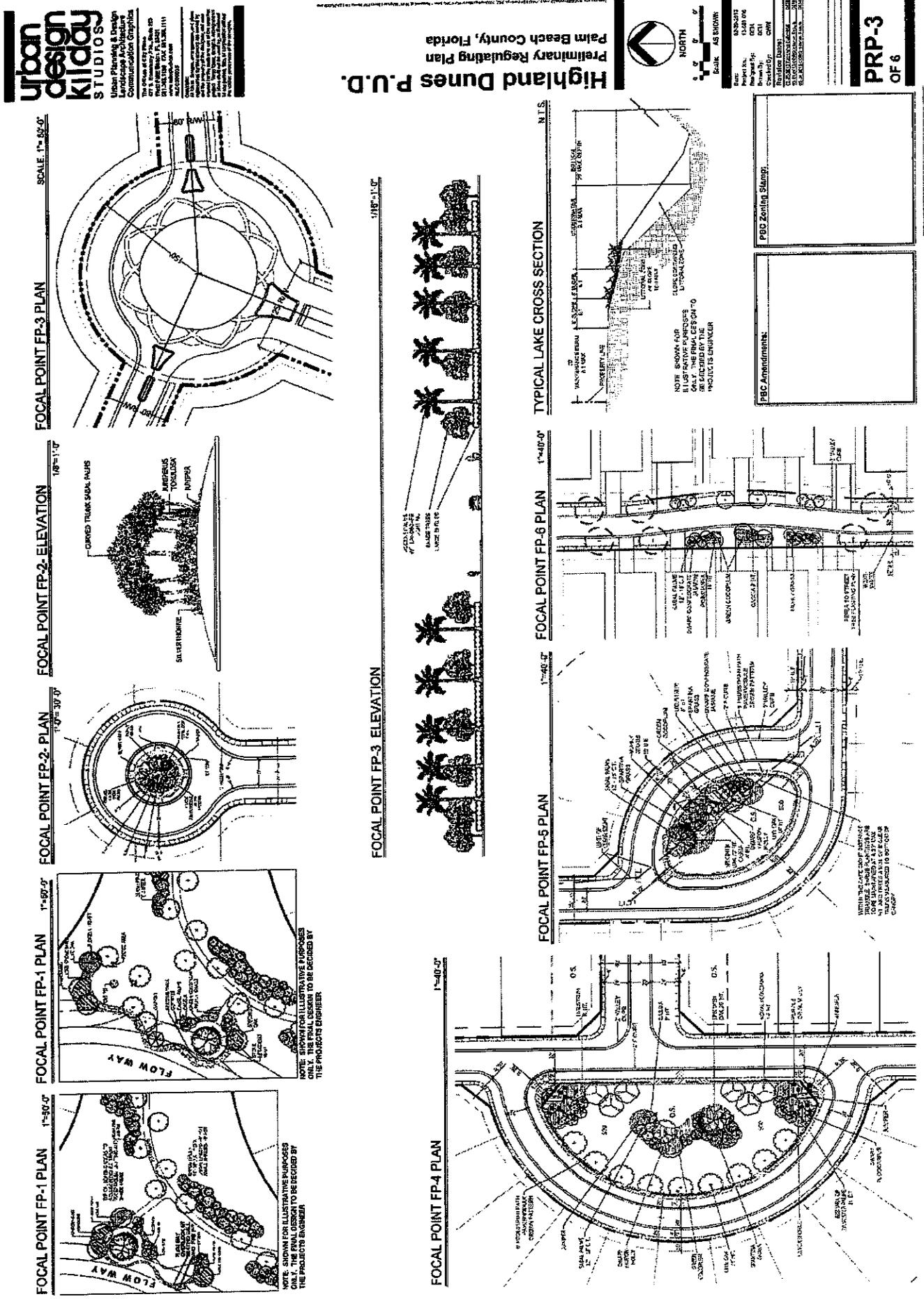


Figure 13 Preliminary Master Sign Plan dated May 24, 2013



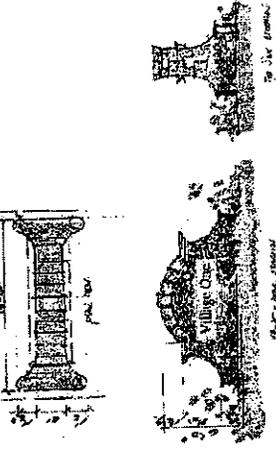
Highland Dunes P.U.D.
Preliminary Master Signage Plan
Palm Beach County, Florida



Project No. 13-0133
City/County: PBM
Project Name: BCC
Scale: AS SHOWN
Date: 05/24/13
Prepared By: Urtisa Planning & Design
Reviewed By: Urtisa Planning & Design
Approved By: Urtisa Planning & Design

PMSP-1
OF 1

POD ENTRY SIGNAGE - SIGN B 1"=50'-0"



*Apply Entry Signage
for individual communities*

STANDARD POD ENTRY WALL
MAX. SIGN FACE HGT. = 8'-0"

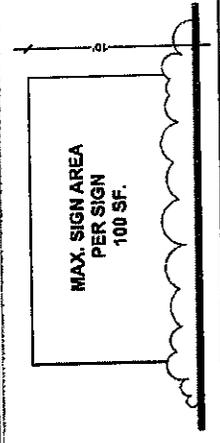
NOTE:
This Master Signage Plan addresses the major entry signage for the community and pods. Additional signs as shown in the LDC Article 8 for a large sign remainder are to be permitted, including but not limited to, directional signs and on-site signs. These signs will be identified on the specific Site Plan/Subscription Plan at time of final approval.

MAIN ENTRY SIGNAGE - SIGN A 1"=100'-0"



STANDARD ENTRY WALL
MAX. SIGN FACE HGT. = 8'-0"

HIGHLAND DUNES BLVD
COMMERCIAL POD SIGNAGE - SIGN C-1 1"=40'-0"



MONUMENT STYLE ONLY
MAX. SIGN FACE HGT. = 10'-0"
MAXIMUM NUMBER OF SIGNS - 1 PER FRONTAGE
MINIMUM SPACING REQUIRED - 15'

NOTE:
SIGN CALCULATIONS ARE BASED OFF A 120' ROW

HIGHLAND DUNES DRIVE
COMMERCIAL POD SIGNAGE - SIGN C-2 1"=40'-0"



MONUMENT STYLE ONLY
MAX. SIGN FACE AREA = 100 SF
MAXIMUM NUMBER OF SIGNS - 1 PER FRONTAGE
MINIMUM SPACING REQUIRED - 15'

NOTE:
SIGN CALCULATIONS ARE BASED OFF A 80' ROW

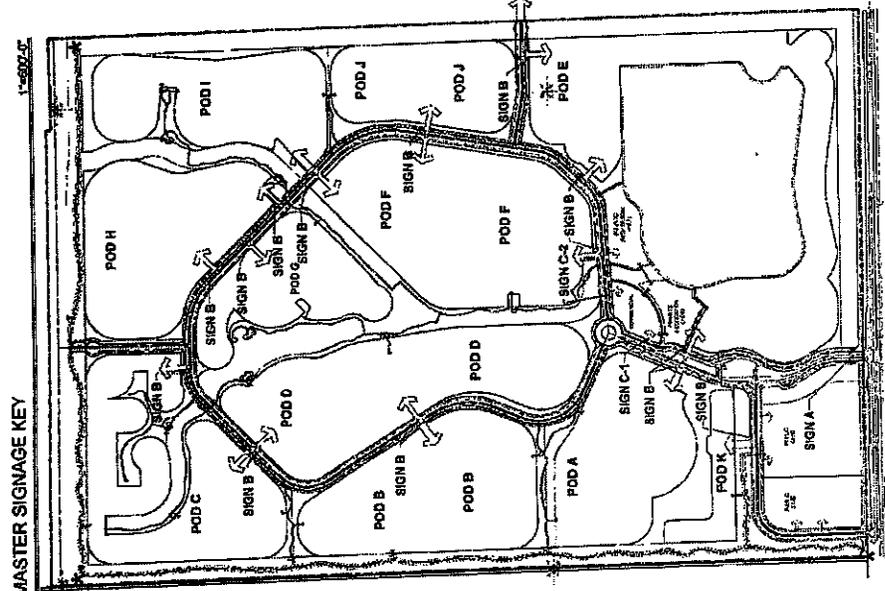


Figure 15 Preliminary Subdivision Plan dated May 24, 2013



Urban Planning & Design
 Architecture
 Communication Graphics
 177 S. Broadway Ave., Suite 225
 West Palm Beach, FL 33411
 www.urbandesignkilday.com
 561-833-8827

Highland Dunes P.U.D.
 Preliminary Site Plan
 Palm Beach County, Florida



Scale: 1" = 400' 0"

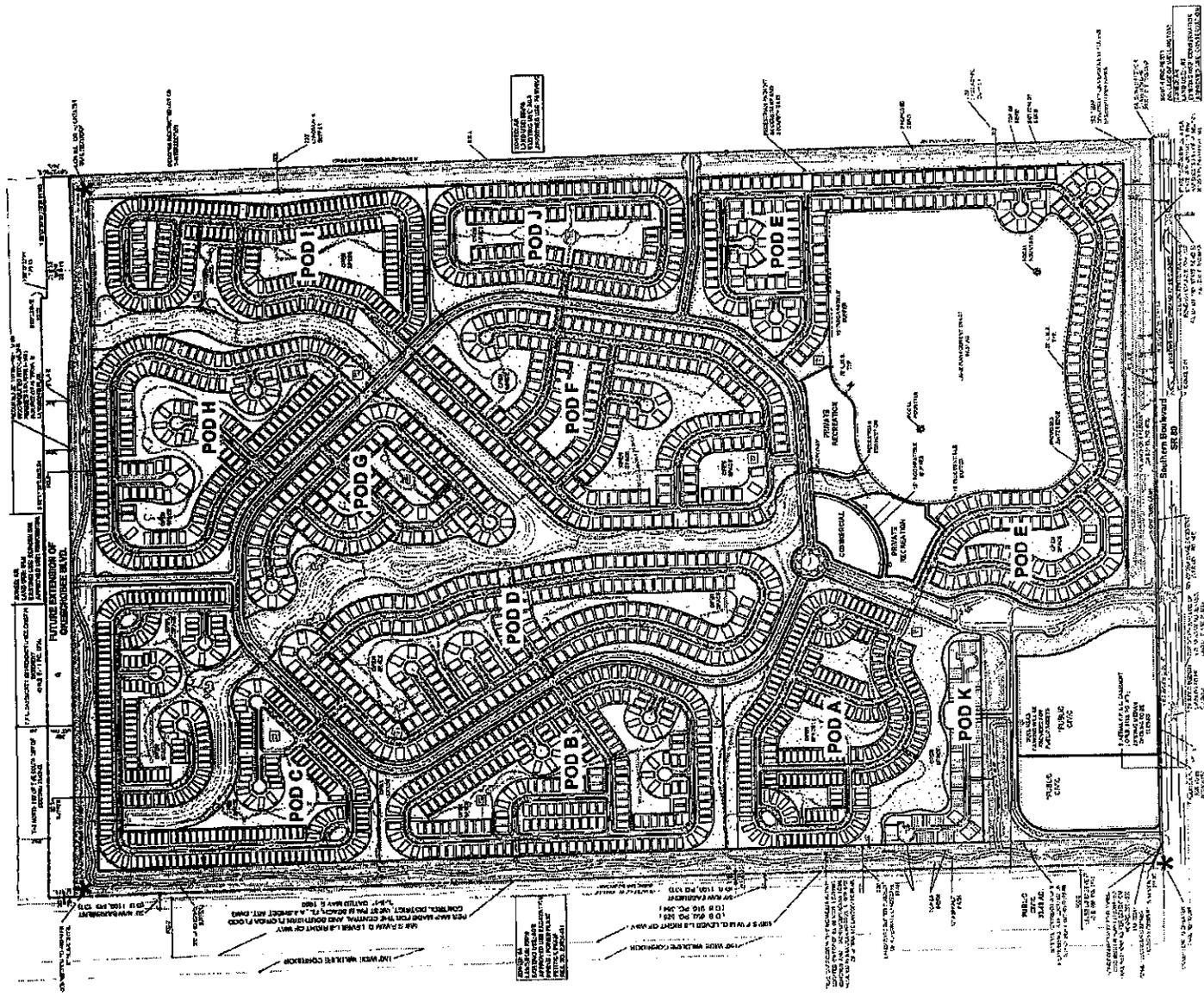
Case: 13-000001
 Project No: 13-000001
 Drawing No: 01A
 Drawn By: EBN
 Checked By: GWT
 Date: 05/24/13

PSP-1
 OF 1

SITE AREA BREAKDOWN	ACREAGE	PERCENT
RESIDENTIAL PODS	682.38 AC.	56.40%
COMMERCIAL	5.88 AC.	.47%
RECREATION	13.81 AC.	1.12%
CWIC	24.22 AC.	2.00%
CWIC-SCHOOL	16.66 AC.	1.29%
CWIC-PUBLIC TRAIL	17.74 AC.	1.46%
LAKE MANAGEMENT TRACT	96.81 AC.	7.98%
ROAD RIGHT OF WAYS	78.49 AC.	6.49%
BUFFERS, FLOW WAY AND OPEN SPACES	275.73 AC.	22.79%
TOTAL ACREAGE	1209.96 AC.	100.00%

Residential:	754 Lots	38%
80' x 140' Lots	498 Lots	25%
65' x 140' Lots	628 Lots	31%
22' x 100' Lots	120 Lots	6%
Total DU's:	2000 Lots	100%

NOTE:
 LOTS LOCATED ON T-INTERSECTION WILL
 BE RESTRICTED TO SIDE ENTRANCE
 GARAGES



BCC
 Application No. ABN/PDD/R-2013-00499
 Control No. 2005-00394
 Project No. 05168-000

September 26, 2013
 BCC District 6

Exhibit D: Disclosures

PALM BEACH COUNTY - ZONING DIVISION

FORM # 99

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

(TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER)

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

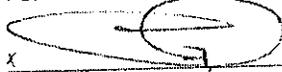
STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Enrique Tomeu, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the individual or President [position - e.g., president, partner, trustee] of PBA Holdings, Inc. [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: PO Box 700
Loxahatchee, FL 33470 0700
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

X 
Enrique Tomeu, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 7th day of February 2013, by Enrique Tomeu, [x] who is personally known to me or [] who has produced as identification and who did take an oath.


Notary Public

Simone M Milazzo
(Print Notary Name)
NOTARY PUBLIC
State of Florida at Large
My Commission Expires: June 02, 2013

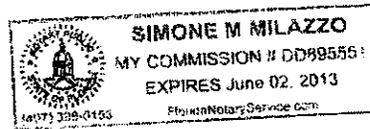


EXHIBIT "A"
PROPERTY

LEGAL DESCRIPTION

PARCEL 2: THAT PART OF THE SOUTH 360 FEET OF SECTION 21, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA; LESS THE NORTH 240 FEET OF THE SOUTH 360 FEET OF SAID SECTION 21; ALSO THE NORTH 50 FEET OF THE SOUTH 120 FEET OF THE EAST 220 FEET OF SAID SECTION 21.

TOGETHER WITH:
PARCEL 3

THAT PART OF THE SOUTH 360 FEET OF THE WEST 780 FEET OF SECTION 22, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA; LESS THE NORTH 290 FEET OF THE SOUTH 360 FEET OF THE WEST 780 FEET OF SAID SECTION 22.

TOGETHER WITH:
PARCEL 4

THAT PART OF THE WEST 780 FEET OF SECTION 27, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:
PARCEL 5

ALL OF SECTION 28, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:
PARCEL 8

ALL OF SECTION 33, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA, LYING NORTH OF STATE ROAD 80 RIGHT-OF-WAY.

TOGETHER WITH:
PARCEL 9

THAT PART OF THE WEST 780 FEET OF SECTION 34, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA, LYING NORTH OF STATE ROAD 80 RIGHT-OF-WAY.

LESS AND EXCEPTING FROM PARCELS 2, 5 AND 8, THAT PORTION WHICH LIES WITHIN THAT STRIP OF LAND WHICH LIES 46.00 FEET EAST OF, AS MEASURED AT RIGHT ANGLES TO, THE EASTERLY RIGHT OF WAY LINE OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT L-8 CANAL AS PER THE RIGHT OF WAY MAP FOR SAID L-8 CANAL, DWG "L-8-1", AND DATED MAY 8, 1950 AND PROVIDED TO THIS OFFICE BY THE SOUTH FLORIDA WATER MANAGEMENT DEPARTMENT OF SURVEY.

TOTAL SITE ACREAGE = 1209.96 ACRES, MORE OR LESS

