



TOWN OF LOXAHATCHEE GROVES

TOWN COUNCIL MEETING AGENDA

TUESDAY, JANUARY 14, 2014 @ 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, January 14, 2014 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 Janet K. Whipple  
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
  - Request by Town Manager Kutney to amend the Agenda and combine:
    - 1.) **6 b** – Resolution No. 2014-02 – Terminating for Convenience the Agreement with Sirdar Trucking, Inc.

2.) **8 a** – Retain Sirdar Trucking for mowing and hedging only in Loxahatchee Groves (Vice-Mayor Jarriel).

3.) **8 b** - All costs incurred with the Sirdar Trucking investigation and termination (example: legal fees, Engineer studies, all investigations by Town Staff & Public Works Director). (Vice-Mayor Jarriel) (Costs will be provided at meeting).

## 2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: **December 3, 2013**
- c. **RESOLUTION NO. 2014-01: Budget Amendment Fiscal Year 2013/2014.**  
**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A BUDGET AMENDMENT FOR THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2014; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

## 3. PUBLIC COMMENT

## 4. PRESENTATIONS

- a. John Carter, Vice-President of Minto Communities and Don Hearing, Co-Owner of Coutler Hearing-Landscape Architects, will provide a power-point presentation on Minto West (Callery Judge) Development.
- b. Joe Doucette, Chief of Operations, from the Inspector General's Office to provide a PowerPoint presentation to the Town Council concerning contract piggybacking.

## 5. COMMITTEE REPORTS – *NONE*

**6. RESOLUTIONS**

**a. RESOLUTION NO. 2014-02: Acceptance/General Release for Sirdar Trucking:**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, TERMINATING FOR CONVENIENCE THE AGREEMENT FOR MOWING AND VEGETATIVE REMOVAL SERVICES BETWEEN THE TOWN OF LOXAHATCHEE GROVES AND SIRDAR TRUCKING, INC.; PROVIDING FOR DELIVERY OF THIS RESOLUTION; PROVIDING FOR SEVERABILITY, CONFLICT, AND AN EFFECTIVE DATE.**

**7. ORDINANCES**

**a. ORDINANCE NO. 2013-11 / FIRST READING / PUBLIC HEARING:  
(Historical Legacy):**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO HISTORICAL LEGACY USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 75-035, ENTITLED “USES AS OF OCTOBER 1, 2006” TO ADD THE TERM HISTORICAL LEGACY TO THE SECTION TITLE; TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO REQUIRE THAT THE PROPERTY ON WHICH THE USE IS LOCATED SHALL HAVE BEEN OWNED AND SUBJECT TO A HOMESTEAD EXEMPTION IN THE NAME OF THE OPERATOR OR HIS OR HER DIRECT RELATIVE RELATED BY BLOOD OR MARRIAGE ; TO REQUIRE THAT THE USE DOES NOT PRESENT A THREAT TO PUBLIC HEALTH; TO REQUIRE THAT THE USE HAS NO HISTORY OF CODE VIOLATIONS OR THE USE HAS BEEN BROUGHT INTO CODE COMPLIANCE; TO REQUIRE THAT THE OWNER-OPERATOR SUBMIT AN AFFIDAVIT STIPULATING TO COMPLIANCE WITH CERTAIN CONDITIONS; AND TO REQUIRE REVIEW AND INSPECTION BY THE TOWN; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

**b. ORDINANCE NO. 2014-01 / FIRST READING / (Drysdale – Comprehensive Plan Amendment):**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING AN AMENDMENT TO THE TOWN OF LOXAHATCHEE GROVES ADOPTED COMPREHENSIVE PLAN, IN ACCORDANCE WITH CHAPTER 163, FLORIDA STATUTES, CONCERNING A SMALL-SCALE LAND USE PLAN AMENDMENT APPLICATION PROPOSED BY NANCY C. DRYSDALE THE APPLICANT AND PROPERTY OWNER TO CHANGE THE DESIGNATION OF THE SUBJECT USE OF LAND FROM RURAL RESIDENTIAL 5 (1 DU PER 5 ACRES) IN THE TOWN'S ADOPTED PLAN, TO COMMERCIAL LOW (CL) FOR FUTURE DEVELOPMENT OF PROPERTY ON 6.55 ACRES MORE OR LESS LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND LOXAHATCHEE AVENUE, LOXAHATCHEE GROVES, FLORIDA (AMENDMENT 2013-02), LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT "A" TO THIS ORDINANCE; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN TO REFLECT SUCH CHANGE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**c. ORDINANCE NO. 2014-02 / FIRST READING/: (Drysdale – Zoning Change):**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE REZONING OF LAND CONSISTING OF 6.55 ACRES, MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND LOXAHATCHEE AVENUE, LOXAHATCHEE GROVES, FLORIDA (REZ 2013-03), LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT "A" TO THIS ORDINANCE, FROM TOWN OF LOXAHATCHEE GROVES ZONING DESIGNATION AGRICULTURAL RESIDENTIAL (AR) TO THE TOWN'S ZONING DESIGNATION COMMERCIAL LOW (CL) IN ACCORDANCE WITH A SMALL-SCALE LAND USE PLAN AMENDMENT APPLICATION BY NANCY C. DRYSDAL , THE APPLICANT AND PROPERTY OWNER THROUGH ORDINANCE 2014-01; PROVIDING FOR THE APPROPRIATE REVISIONS OF THE ZONING DISTRICT MAP; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

- a. Representative Pafford Town Hall Meeting.
- b. December 26, 2014 letter from the Office of the Inspector General (OIG).

**9. OLD BUSINESS**

- a. Retain Sirdar Trucking for mowing and hedging only in Loxahatchee Groves. (Vice-Mayor Jarriel)
- b. All costs incurred with the Sirdar Trucking investigation and termination (example: legal fees, Engineer studies, all investigations by Town Staff & Public Works Director). (Vice-Mayor Jarriel) (Costs will be provided at meeting).
- c. Replacing Culvert on F Road and Compton Road. (Vice-Mayor Jarriel) Presentation by Town Engineers, Keshavarz & Associates, Inc. who will be reviewing culvert and roadway conditions on Compton Road.
- d. Consideration of Contracts with North Florida Emulsions concerning Compton Road, Bryan Road, and Marcella Boulevard. (Vice-Mayor Jarriel) (Documents will be provided by addendum, if time permits.)
- e. Contract with Vacant Registry Company. (Vice-Mayor Jarriel) (Documents will be provided by addendum, if time permits.)
- f. Discussion of Home Occupations / Home Business / Residential Enterprise - Billy Kline (Vice-Mayor Jarriel)
- g. Continued Discussion for Continuance of ULDC (Unified Land Development Code Review Committee).

**10. NEW BUSINESS**

- a. Discussion and direction to the Town Manager, Town Attorney, and Town Staff regarding future hearings related to Minto West.

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## 11. CLOSING COMMENTS

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

## 12. ADJOURNMENT

The next regular Town Council Meeting is tentatively scheduled for February 4, 2014.

**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.



**Item 2 a**

**Invoice From Goren, Cherof, Deedy & Ezrol, P.A.**

GOREN, CHEROF, DOODY & EZROL, P.A.  
Attorneys at Law  
3099 East Commercial Boulevard  
Suite 200  
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TOWN OF LOXAHATCHEE GROVES  
14579 Southern Boulevard  
Suite 2  
Loxahatchee Groves FL 33470

ACCOUNT NO: 1574-1107570R  
STATEMENT NO: 10

Page: 1  
01/03/2014

Attn: Mark Kutney, Town Manager

adv. McLendon, Todd

			HOURS
12/17/2013	MDC	Telephone call with Judicial Assistant on scheduling hearing; begin coordinating the hearing.	0.30
12/20/2013	MDC	Telephone call with J. Lelonik; telephone call with B. Seymour re: hearing.	0.30
12/30/2013	MDC	Begin reviewing documentation for hearing, telephone conference with Boca Raton counsel on status of appeal.	0.60
12/31/2013	MDC	Review materials, prepare package and forward to court per judge's rules; review case law; miscellaneous preparation for January 8, 2014 hearing.	2.30
FOR CURRENT SERVICES RENDERED			3.50
			647.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	3.50	\$185.00	\$647.50

COPYING COST	166.60
TOTAL EXPENSES THRU 12/31/2013	166.60
TOTAL CURRENT WORK	814.10
BALANCE DUE	\$814.10

(BDC)

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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ACCOUNT NO:  
 STATEMENT NO:

Page: 1  
 01/03/2014  
 1574-0702400R  
 88

Attn: Mark Kutney, Town Manager

General Matters

			HOURS
11/26/2013	MDC	Phone conference with MK re: agenda items; review and revise materials for 12/03 meeting.	0.50
	BAM	Telephone call with Mark Kutney, Town Manager, re: Waste Pro contract; draft short correspondence to MDC re: same.	0.50
11/27/2013	MDC	Review correspondence on roadway matters; review status of agenda materials, telephone conference with MK.	0.60
12/02/2013	MDC	Review agenda materials for 12/03/13 meeting, review correspondence on pending matters.	0.90
12/03/2013	MDC	Review materials, miscellaneous telephone conference with Council members, MK; prepare for and attend Town Council meeting.	6.90
12/04/2013	MDC	Follow up on items from 12/03/13 meeting; telephone conference with JF on historical legacy.	0.80
12/05/2013	MDC	Review status of items from 12/03 meeting; telephone conference with MK, BG on miscellaneous road issues; telephone conference with MK on tasks; revise golf cart ordinance per Council approval.	1.50
12/06/2013	MDC	Review correspondence on follow up from 12/03/13 meeting.	0.30
12/10/2013	MDC	Phone conference with MK on pending items.	0.30
12/13/2013	MDC	Review correspondence, review election package.	1.00
12/16/2013	MDC	Phone conference with MK on pending items.	0.50
12/17/2013	MDC	Telephone call with MK on pending items; telephone call with JF on notice issues; meet with DJD on Raymond Road issues.	0.90
	DJD	Telephone conference with planning consultant; review correspondence.	0.40
12/18/2013	MDC	Review materials; meet with MK on road issues; miscellaneous telephone calls with Council members on pending items.	2.20

*MDC*

General Matters

			HOURS		
12/26/2013	MDC	Review correspondence, prepare resolution to terminate Sirdar; telephone calls with MK on pending matters, OIG letter.	1.20		
12/27/2013	MDC	Phone conference with JF re: P&Z Board issues; review revised Historical Legacy ordinance; review OIG correspondence and materials on piggybacking contracts; telephone conference with MK on agenda matters.	1.40		
12/30/2013	MDC	Review agenda items, materials for Historical Legacy; telephone conference with JF; review election reporting materials, update JW on new reporting obligations.	1.20		
FOR CURRENT SERVICES RENDERED			<u>21.10</u>	<u>3,903.50</u>	

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
D.J. DOODY	0.40	\$185.00	\$74.00
MICHAEL D. CIRULLO	20.20	185.00	3,737.00
BRAM A. MARAVENT	0.50	185.00	92.50

COPYING COST	106.05
TOTAL EXPENSES THRU 12/31/2013	<u>106.05</u>
TOTAL CURRENT WORK	4,009.55
BALANCE DUE	<u>\$4,009.55</u>

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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Page: 1  
 01/03/2014  
 ACCOUNT NO: 1574-1107564R  
 STATEMENT NO: 12

Attn: Mark Kutney, Town Manager

Wellington Edge Code Matter

		HOURS	
11/26/2013	MDC Review materials, prepare Answer Brief.	1.50	
11/27/2013	MDC Continue researching and reviewing case law; continue preparing Answer Brief.	3.40	
12/02/2013	MDC Continue preparing Answer Brief.	1.50	
12/03/2013	MDC Revise and finalize Answer Brief; prepare Motion for Attorney Fees.	1.00	
12/27/2013	MDC Review Reply Brief, Supplemental Appendix; review status of appeal.	0.40	
	FOR CURRENT SERVICES RENDERED	7.80	<u>1,443.00</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	7.80	\$185.00	\$1,443.00

COPYING COST 48.30  
 TOTAL EXPENSES THRU 12/31/2013 48.30

Federal Express - Invoice 2-506-78534 13.32  
 TOTAL ADVANCES THRU 12/31/2013 13.32

TOTAL CURRENT WORK 1,504.62

BALANCE DUE \$1,504.62

*MDC*

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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Page: 1  
01/03/2014  
ACCOUNT NO: 1574-1107573R  
STATEMENT NO: 4

Attn: Mark Kutney, Town Manager

Sirdar Trucking

			HOURS		
12/06/2013	MDC	Phone conference with Sirdar's counsel; review documents to resolve matter, update MK.	0.30		
	BAM	Draft general release for Town and Sirdar trucking; conference with MDC re: fees issues involving agreement; review agreement and applicable language re: same; report findings to MDC.	1.60		
12/16/2013	BAM	Review OIG report re: fee dispute.	0.50		
12/23/2013	MDC	Phone conference with RJ (Sirdar counsel) on status of case, potential resolution.	0.30		
12/26/2013	MDC	Phone conference with Bob Jones, finalize release, coordinate payment to Sirdar.	0.30		
FOR CURRENT SERVICES RENDERED			3.00	555.00	

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	0.90	\$185.00	\$166.50
BRAM A. MARAVENT	2.10	185.00	388.50

COPYING COST	0.70
TOTAL EXPENSES THRU 12/31/2013	0.70
TOTAL CURRENT WORK	555.70
BALANCE DUE	<u>\$555.70</u>

*MDC*

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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Page: 1  
 01/03/2014

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 14579 Southern Boulevard  
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ACCOUNT NO: 1574-1107575R  
 STATEMENT NO: 3

Attn: Mark Kutney, Town Manager

2014 Special Act (LGWCD)

			HOURS		
11/26/2013	MDC	Phone conference with MV, DR, MK re: filing of special acts.	0.50		
12/16/2013	MDC	Review materials for 12/28 meeting.	0.20		
12/17/2013	MDC	Telephone call with MV; telephone call with DR; review materials for Delegation Public Hearing.	0.70		
12/18/2013	MDC	Review materials; meet with MK; meet with DR, MK, others to prepare for Delegation meeting; attend Delegation meeting/public hearings on proposed Special Acts.	2.60		
12/20/2013	MDC	Review correspondence on status of Bill.	0.30		
FOR CURRENT SERVICES RENDERED			4.30	795.50	

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	4.30	\$185.00	\$795.50

TOTAL CURRENT WORK 795.50

BALANCE DUE \$795.50

*MDC*

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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Page: 1  
 01/03/2014

TOWN OF LOXAHATCHEE GROVES  
 14579 Southern Boulevard  
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ACCOUNT NO: 1574-1107576R  
 STATEMENT NO: 3

Attn: Mark Kutney, Town Manager

Minto West PUD

			HOURS	
11/26/2013	MDC	Continue preparing AGO request.	0.20	
12/04/2013	MDC	Revise request for AGO, prepare transmittal letter; telephone conference with PB county attorney; update Council.	0.80	
12/30/2013	MDC	Review correspondence from AGO, update Council.	0.30	
FOR CURRENT SERVICES RENDERED			1.30	240.50

RECAPITULATION

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

TOTAL CURRENT WORK 240.50

BALANCE DUE \$240.50

*MDC*

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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Page: 1  
 01/03/2014

TOWN OF LOXAHATCHEE GROVES  
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ACCOUNT NO: 1574-1107577R  
 STATEMENT NO: 2

Attn: Mark Kutney, Town Manager

Bryan Road Project

			HOURS	
12/02/2013	MDC	Review materials, prepare and revise dedication/easement documents for property owners along Bryan Road; prepare transmittal letter to property owners.	2.20	
12/05/2013	MDC	Continue preparing documents, telephone conference with MK, BG on issues with documentation; prepare transmittal letter.	1.40	
12/06/2013	MDC	Phone conference with BG on issues with Bryan Road properties; review status of documents with CB.	0.60	
12/10/2013	MDC	Revise forms for dedications.	0.30	
12/11/2013	MDC	Continue preparing documents for execution by residents.	0.40	
12/20/2013	MDC	Revise and finalize additional road documents.	0.30	
12/24/2013	MDC	Review status of documentation; prepare additional dedication documents.	0.80	
FOR CURRENT SERVICES RENDERED			6.00	1,110.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	6.00	\$185.00	\$1,110.00

TOTAL CURRENT WORK 1,110.00

BALANCE DUE \$1,110.00

*MDC*

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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Page: 1  
 01/03/2014  
 ACCOUNT NO: 1574-1107578R  
 STATEMENT NO: 1

Attn: Mark Kutney, Town Manager

2014 Election Matters

			HOURS	
12/04/2013	MDC	Phone conference with Town Clerk on schedule, publication matter.	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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Page: 1  
 01/03/2014  
 ACCOUNT NO: 1574-1107579R  
 STATEMENT NO: 1

Attn: Mark Kutney, Town Manager

adv. McLendon, Todd (USDC Case)

			HOURS	
12/18/2013	MDC	Review complaint; miscellaneous telephone calls with Council members; telephone call with M. Burke; forward materials to Council.	1.50	
12/19/2013	MDC	Review materials; correspondence to FLOC.	0.30	
12/23/2013	MDC	Review complaint, files and materials; meet with defense counsel Mike Burke, review complaint, status of lawsuit.	2.00	
12/30/2013	MDC	Review correspondence on coverage.	0.20	
FOR CURRENT SERVICES RENDERED			4.00	<u>740.00</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	4.00	\$185.00	\$740.00

TOTAL CURRENT WORK 740.00

BALANCE DUE \$740.00

*MDC*

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE



**Item 2 b**

**Town Council Minutes for Approval**

**December 3, 2013**



**Town of Loxahatchee Groves**  
**Town Council Meeting**  
**Tuesday, December 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 Janet K. Whipple  
Town Attorney Michael D. Cirullo, Jr.

**MINUTES**

**1. OPENING**

a. Call to Order & Roll Call

Mayor David Browning called the meeting to order at 7:00 p.m. Present were Mayor Browning, Vice Mayor Ronald D. Jarriel, Councilman Tom Goltzené, Councilman Ryan Liang, Councilman Jim Rockett, Town Manager Mark Kutney, Planning Technician Braeden Garrett, Town Planning Consultant Jim Fleischmann, Town Clerk Janet K. Whipple, Town Attorney Michael D. Cirullo, Jr.

b. Pledge of Allegiance & Invocation – Mayor Browning

c. Approval of Agenda

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

## 2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: **November 5, 2013** and **November 19, 2013**

**Motion: A motion was made by Vice-Mayor Jarriel to approve the Consent Agenda. The motion was seconded by Councilman Goltzené. Upon vote, the motion passed 5/0.**

## 3. PUBLIC COMMENTS

## 4. PRESENTATIONS

- a. Proclamations presented to Farmer's Daughter Garden Center and to Everglades Farm Equipment for their community participation; helping the Town of Loxahatchee Groves and the Literacy Coalition of Palm Beach County "*Read for the Record*" - OTIS by Loren Long

Mayor Browning presented a proclamation honoring The Farmer's Daughter Garden Center for their participation in the Literacy Coalition of Palm Beach County *Read for the Record* to Julie Campbell; who was present to accept the proclamation. Mayor Browning explained the program, and noted that the representative from Everglade Farm Equipment was unable to attend.

Town Manager Kutney read and presented two plaques from the Literacy Coalition of Palm Beach County, to the Town of Loxahatchee Groves for the Town's participation in *Read for the Record*.

- b. Presentation by F. Martin Perry of Perry & Taylor, PA concerning "B" Road improvements.

Mr. Perry was not present at this time; however, the presentation was given at 8:50 p.m. upon his arrival.

## 5. COMMITTEE REPORTS

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

Virginia Standish, Board Member for the Finance Advisory & Audit Committee, provided a report on the October 2013 Financials, and noted that upon receiving revised financial report comments they will be put in writing.

**Motion: Councilman Rockett made a motion to accept the Financial Report of October 2013. The motion was seconded by Councilman Liang. The motion passed 5/0.**

Mr. Keith Harris had a comment concerning the Town Council Minutes of November 5, 2013, referencing his concerns on the lighting on D Road.

Vice-Mayor Jarriel suggested staff conduct a study, and wanted to know if Palm Beach County would help.

Mayor Browning asked staff to work on this.

## **6. RESOLUTIONS**

- a. **RESOLUTION 2013-17: (2014 Municipal Election including attachment of Agreement with Supervisor of Elections)**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, DESIGNATING THE DATE, TIME AND PLACE TO QUALIFY AND FILE FOR THE OFFICE OF TOWN COUNCIL MEMBER FOR SEAT 5 PRIOR TO THE MUNICIPAL GENERAL ELECTION TO BE HELD ON TUESDAY, MARCH 11, 2014, PURSUANT TO THE TOWN CHARTER AND CHAPTERS 97 – 106, FLORIDA STATUTES; THE ELECTION FILING PERIOD OPENS PROMPTLY AT 12:00 NOON ON JANUARY 28, 2014 AND CLOSES PROMPTLY AT 12:00 NOON ON FEBRUARY 4, 2014; SETTING FILING FEES; AUTHORIZING THE TOWN CLERK TO APPOINT ELECTION BOARDS FOR ELECTION PRECINCT 6094; AUTHORIZING THE SUPERVISOR OF ELECTIONS TO CONDUCT THE TOWN ELECTION AND APPROVING THE AGREEMENT BETWEEN THE TOWN AND THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS FOR ELECTION SERVICES; AUTHORIZING THE TOWN CLERK OR DESIGNEE TO HANDLE CERTAIN ELECTION MATTERS; OPTING OUT OF EARLY VOTING; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.**

Town Attorney Cirullo read the title for Resolution No. 2013-07. He also noted that commencing with the upcoming election in March of 2014; a mandatory assessment fee will be required to be paid by each candidate.

**Motion: Councilman Liang made a motion to approve Resolution 2013-17 (which included the yearly Agreement with the Supervisor of Elections for 2014). The motion was seconded by Councilman Goltzené. Upon vote, the motion passed 5/0.**

**b. RESOLUTION 2013-18: Dedication of Right-of-Way Easement**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, SUPPORTING THE LEGISLATION REQUESTED BY THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT TO PROVIDE FOR THE DEDICATION OF RIGHT-OF-WAY EASEMENTS TO THE PUBLIC; PROVIDING THAT COPIES OF THIS RESOLUTION BE FORWARDED TO THE PALM BEACH COUNTY LEGISLATIVE DELEGATION, THE PRESIDENT OF THE FLORIDA SENATE, AND THE SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo explained the resolution, and read the title for Resolution No. 2013-18.

**Motion: Councilman Rockett made a motion to approve Resolution 2013-18. The motion was seconded by Councilman Liang. Upon vote, the motion passed 5/0.**

**c. RESOLUTION 2013-19: Dedication of Canal Maintenance Easements**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, SUPPORTING THE LEGISLATION REQUESTED BY THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT TO PROVIDE FOR THE DEDICATION OF CANAL MAINTENANCE EASEMENTS TO THE DISTRICT AND THE USE OF SUCH FOR RECREATIONAL TRAIL PURPOSES; PROVIDING THAT COPIES OF THIS RESOLUTION BE FORWARDED TO THE PALM BEACH COUNTY LEGISLATIVE DELEGATION, THE PRESIDENT OF THE FLORIDA SENATE, AND THE SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo explained the special acts of each of the following resolutions, and then proceeded read the title of Resolution No. 2013-19.

**Motion: Councilman Rockett made a motion to approve Resolution No. 2013-19. The motion was seconded by Councilman Liang. Upon vote, the motion was approved 5/0.**

Town Attorney Cirullo noted the meeting for the Legislative Delegation would be on Wednesday, December 18, 2013, at 2:00 p.m.

## **7. PUBLIC HEARINGS**

### **a. ORDINANCE NO. 2013-11 – 1<sup>ST</sup> READING: Historical Legacy**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO HISTORICAL LEGACY USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 75-035, ENTITLED “USES AS OF OCTOBER 1, 2006” TO ADD THE TERM HISTORICAL LEGACY TO THE SECTION TITLE; TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO REQUIRE THAT THE PROPERTY ON WHICH THE USE IS LOCATED SHALL HAVE BEEN OWNED AND SUBJECT TO A HOMESTEAD EXEMPTION IN THE NAME OF THE OPERATOR OR HIS OR HER DIRECT RELATIVE RELATED BY BLOOD OR MARRIAGE ; TO REQUIRE THAT THE USE DOES NOT PRESENT A THREAT TO PUBLIC HEALTH; TO REQUIRE THAT THE USE HAS NO HISTORY OF CODE VIOLATIONS OR THE USE HAS BEEN BROUGHT INTO CODE COMPLIANCE; TO REQUIRE THAT THE OWNER-OPERATOR SUBMIT AN AFFIDAVIT STIPULATING TO COMPLIANCE WITH CERTAIN CONDITIONS; AND TO REQUIRE REVIEW AND INSPECTION BY THE TOWN; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

Town Manager Kutney noted that the first reading of Ordinance No. 2013-11 would be this evening, and then it would be sent to the Planning and Zoning Meeting in December, then back to Town Council for 2<sup>nd</sup> reading in January, 2014, along with staff recommendations.

Ken Johnson, 15409 Collecting Canal, had questions concerning his road and wanted to know who would be responsible for the cost of maintenance.

Town Attorney Cirullo stated he was not sure who would bear the cost.

Town Attorney Cirullo read the title of Resolution No. 2013-11.

Councilman Goltzené expressed his concern with the ordinance going to Council first then to Planning and Zoning, in that by Council passing the ordinance at first reading it might influence the Planning & Zoning Board's recommendations.

Town Manager Kutney noted that the Planning and Zoning Board will only be reviewing the Ordinance, before it comes back to Council for second reading. Council will still have final say.

Howard Voren, 1538 E Road, felt the language was confusing and that code compliance was a concern.

Councilman Liang questioned whether the references for the amendments were for all businesses or just non-conforming.

Jim Fleischmann, Town Planning Consultant, stated all businesses would be grandfathered in who had not received approval from Palm Beach County.

Council discussed with Mr. Fleishmann types of businesses and criteria which would apply for historical legacy.

**Motion: Councilman Goltzené made a motion to send Ordinance No. 203-11 to the Planning and Zoning Board for review, and then bring it back to Council for first reading. The motion was seconded by Councilman Liang.**

Howard Voren, 1538 E Road, mentioned, he felt some issues fell under public health and safety.

**Upon vote, the motion to approve Ordinance No. 2013-11, was approved 4/1 with Councilman Rockett casting a dissenting vote.**

Martin Perry of Perry & Taylor, PA, arrived at 8:50 for his presentation. He stated that a surety bond would be posted on only the OGEM portion of B Road; however, an estimated construction cost would be needed.

Mayor Browning requested that Town Manager Kutney work on an agreement that will be agreeable to the Loxahatchee Groves Water Control District and to allow for added expenses/contingencies.

**Motion: Councilman Rockett made a motion for the Town to bring back an agreement that will be acceptable with the Loxahatchee Groves Water Control District. The motion was seconded by Councilman Liang.**

John Ryan, 3508 A Road, provided further background.

**Upon vote, the motion to bring back an acceptable agreement passed 5/0.**

**b. ORDINANCE NO. 2013-06 – 2<sup>ND</sup> READING: Amending Town Code Special Exceptions**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO SPECIAL EXCEPTION USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 10-015, ENTITLED “DEFINITIONS” TO DEFINE “TEMPORARY EVENT,”; TO AMEND SECTION 20-015, ENTITLED “PERMITTED USES” (AGRICULTURAL RESIDENTIAL DISTRICT), TO REMOVE THE SPECIAL EXCEPTION REQUIREMENT FOR COMMERCIAL EQUESTRIAN OPERATIONS, ADD RODEO EVENTS AS A PRINCIPAL USE WITH SPECIAL EXCEPTION AND TEMPORARY EVENTS AS AN ACCESSORY USE WITH SPECIAL EXCEPTION APPROVAL, AND TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO AMEND SECTION 25-015, ENTITLED “PERMITTED USES” (COMMERCIAL LOW AND COMMERCIAL LOW OFFICE DISTRICTS), TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN PRINCIPAL USES; TO AMEND SECTION 30-015, ENTITLED “PERMITTED USES” (INSTITUTIONAL AND PUBLIC FACILITIES DISTRICT) TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO AMEND SECTION 115-01, ENTITLED “TABLE OF PUBLIC NOTICE REQUIREMENTS” TO PROVIDE NOTICE REQUIREMENTS FOR THE DIFFERENT CATEGORIES OF SPECIAL EXCEPTIONS; TO AMEND ARTICLE 170, ENTITLED “SPECIAL EXCEPTION**

**USES” TO DEFINE THE CATEGORIES FOR SPECIAL EXCEPTION REVIEW, AND TO PROVIDE FOR THE APPLICATION REQUIREMENTS, REVIEW PROCEDURES AND RELATED MATTERS FOR THE CATEGORIES OF SPECIAL EXCEPTION REVIEW; TO AMEND ARTICLE 120, ENTITLED “QUASI-JUDICIAL HEARINGS,” SECTION 120-015, ENTITLED “QUASI-JUDICIAL MATTERS” TO SPECIFY THE SPECIAL EXCEPTIONS THAT ARE CONSIDERED QUASI-JUDICIAL MATTERS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo read the title of Ordinance No. 2013-06.

Jim Fleischmann, Town Planning Consultant, provided background of the changes that will try to create a more user friendly ordinance.

**Motion: Councilman Goltzené made a motion to adopt Ordinance No. 2013-06. The motion was seconded by Councilman Liang with questions whether special events would be easier or more complicated.**

Town Manager Kutney stated it would be easier because the Town is vendor based.

Discussion between Council and Mr. Fleischmann concerning notification of neighboring property owners and various others changes in the Special Exceptions of the Town Code.

Ken Johnson, 15409 Collecting Canal, wanted to know what the notification process would be for adjoining neighbors and wanted to know how many miles that entailed, and if there was anything in the Code concerning decibel levels.

Mr. Fleischmann stated only next door neighbors would be notified, and he explained the differences in Categories A, B and C.

Mayor Browning explained to Mr. Johnson that decibel levels would be addressed in the Noise Code.

**Upon roll call vote, the motion to adopt Ordinance No. 2013-06 on 2<sup>nd</sup> reading passed 5/0.**

**Mayor Browning called for a break: 8:15 – 8:22 p.m.**

c. **ORDINANCE NO. 2013-07 – 2<sup>ND</sup> READING: Operating Golf Carts**

**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 CERTAIN PORTIONS OF FOLSOM ROAD, OKEECHOBEE BOULEVARD AND SOUTHERN BOULEVARD THAT LIE WITHIN THE TOWN; PROHIBITING THE OPERATION OF GOLF CARTS BY UNLICENSED DRIVERS; LIMITING THE NUMBER OF RIDERS ON GOLF CARTS; PROVIDING FOR IMPLEMENTATION OF THIS ORDINANCE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo read the title of Ordinance No. 2013-07 and noted the changes requested by Council had been made.

**Motion: Councilman Goltzené made a motion to adopt Ordinance No. 2013-07. The motion was seconded by Councilman Liang.**

Council discussed the completeness of the road listing exhibit attached to the Ordinance.

Councilman Goltzené stated he will amend his motion to include all town roads.

Town Attorney Cirullo stated the Exhibit “A” to the ordinance would be removed, and for Council to include that in the motion.

Discussion ensued concerning mediation of responsibility, and not exposing the Town to another form of liability. Signage was suggested along roadways. It was also suggested to delay the adoption of the Ordinance until January 1, 2014. Heavy dust stirred up by traffic was a problem, as golf carts could not be seen; and it should be mandatory that golf carts must stop especially at F Road and B Road. Safety equipment and not allowing golf carts to run at night were also issues. It was discussed whether the Town needed to conduct more research and get a legal opinion. It was also noted that this is a residential area and other vehicle forms such as tractors etc. also travel the roads, so golf carts should be considered. Speed bumps were suggested.

Howard Voren, 1538 E Road, agreed with the speed bump suggestion. He noted that, historically, usage of golf carts have been used for utilitarian purposes.

Mayor Browning closed the Public hearing.

**Upon roll call vote, the motion passed, 3/2, with Vice-Mayor Jarriel and Councilman Rockett casting dissenting votes.**

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

a. State Road 7

Town Manager Kutney reported on the State Road 7 Project. He will be attending a meeting on Wednesday December 11, 2013 in Wellington.

b. Okeechobee Boulevard/D Road Traffic Signal

Town Manager Kutney advised Council that he had put the November 19, 2013 report in their Council boxes.

c. Fox Trail

Town Manager Kutney read comments by Fire Rescue, Palm Beach County Sheriff's Office (PBSO) and Waste Pro, indicating that Fox Trail was sufficient for their access. No road modifications were necessary.

d. Budget Amendment Update

Town Manager Kutney advised Council that monies from the CIP (Capital Improvements Program) Fund could be moved to the General Fund with the new Fiscal Year 2013/2014 Budget. This will be an agenda item.

Town Manager Kutney mentioned to Council that residents were coming to Town Hall picking up multiple Public Comment Cards to send to the Council meeting with individual concerns. He suggested the cards be restricted to being presented the evening of the Town Council Meeting. This matter would be discussed at a future date.

Town Manager Kutney reported on the Budget Amendments, and suggested Council review any funds they have concerns with.

**Motion: Councilman Rockett made a motion to move \$400,000 from the Capital Funds to the unrestricted General Funds. Leave monies that are earmarked for projects where they are. The motion was seconded by Councilman Liang.**

Councilman Goltzene understands that Councilman Rockett wants to take monies out now instead of working toward a 5-Year Plan. He is not comfortable moving \$400,000 without specific topics.

Councilman Rockett stated that the Town does not need the monies this year and wants to move it to unencumbered funds.

Town Attorney Cirullo clarified the motion that noted that whenever we change the budget, a budget amendment resolution, or ordinance, has to be on the agenda.

**Change of Motion: Councilman Rockett amended his motion to bring the budget changes he mentioned back as an agenda item. The corrected motion was seconded by Councilman Liang. Upon vote, the motion passed 3/2, with Councilman Goltzené and Mayor Browning dissenting.**

## **9. OLD BUSINESS**

- a. Minto West Land Use Amendment and Rezoning (Discussion will be in conjunction with Attorney General Opinion (AGO) during Town Attorney Comments).
- b. Vacant Registry (Brochure will be provided either in the Council boxes or on the dais)

**Councilman Liang declared a voting conflict with 9.a and would be unable to vote on this item.**

Scott Blasie, Executive Liaison for Vacant Registry provided a brief presentation.

Town Attorney explained “piggybacking” on contracts.

Mayor Browning asked Town Manager Kutney whether piggybacking would create more work for staff.

Mr. Blaise reported that his company would make staff’s job easier. Staff can research Vacant Registry’ website for a listing of bank owned vacant property. He proactively goes after vacant property, and remits a check monthly to whomever he is working for.

Mayor Browning asked if the Town had to go out for bid.

Town Attorney Cirullo stated that the Town could hire Vacant Registry, provided it was cost effective. He mentioned that the Town could make a motion to negotiate, and he explained how the funding worked.

Vice-Mayor Jarriel reported that if the Town finds vacant property there would be no cost; however, if Vacant Registry finds to property they will receive fifty percent (50%). He mentioned the ramifications of an issue with a squatter on a certain parcel, and then he explained that other municipalities had a much easier time by using this service that Vacant Registry provides. He spoke about the C Road foreclosure.

**Motion: Vice-Mayor Jarriel made a motion to bring Vacant Registry on board to work for the Town. The motion was seconded by Councilman Rockett.**

Councilman Goltzené stated that it will probably not be looked upon well by the OIG (Office of Inspector General) to do a piggyback. He will oppose this project.

Vice-Mayor Jarriel spent two hours with the OIG and presented his piggybacking requests with them.

Town Manager Kutney stated that Palm Beach County had expressed their concerns about this project.

Vice-Mayor Jarriel suggested that Town Manager Kutney may need to go the OIG for clarification; he felt the Town Manger was lying.

Virginia Standish, 15410 North Road, reported an incident in the Town of Cloud Lake and she is concerned as to what influence a private company can have.

Mayor Browning expressed concern that some residents could be forced out of their homes.

Mr. Blaise noted that this project is for vacant property only.

Councilman Goltzené did not agree with a single selection.

Mr. Blaise stated his company was a “sole source” entity.

Frank Schiola, 13434 Marcella Boulevard, questioned whether, if there is high grass or junk, what would this contractor do and who would be responsible to be taken care of. He expressed his concern if a property was not taken care of.

Council further discussed the facts that the Town did not have a Building Official to condemn a property, and a private company could not solve the problems that arise; and there are too many issues involved.

Councilman Rockett noted we did not have the tools to take care of previous problems.

Town Manager Kutney indicated for any action to be taken, it has to be code issues direct from Council, or by an independent complaint.

**Upon vote, the motion passed 3/2 with Councilman Goltzene and Mayor Browning dissenting.**

- c. Resurfacing with North Florida Emulsions re Bryan, Compton, and Marcella Roads along with related procurement issues (Backup provided)

Town Manager Kutney proposed to Council that there are three issues to consider through the CIP (Capital Improvement Program); to review the whole program, dedication of funds, and then procurement. Council may want to consider working on all three (3) roads at the same time.

**Motion: Councilman Goltzené made a motion to direct staff to work on all three roads and do an invitation to bid; knowing the resident on these three roads have been waiting quite a while for the work to be done. The motion was seconded by Councilman Liang.**

Town Attorney Cirullo mentioned that the official letters concerning the paving of Bryan Road will be going out soon.

Vice-Mayor Jarriel introduced Jeff King, owner of North Florida Emulsions, Inc., who provided an explanation of the OGEM (Open Graded Emulsion Mix) process.

The cost for the micro-resurfacing would be approximately \$2.78 per yard. Start time could be two (2) weeks upon authorization.

Councilman Goltzené prefers the Town to go out for bid rather than piggybacking on another contract.

Town Attorney Cirullo stated that the contract for resurfacing Bryan Road would be brought to the January Town Council Meeting, and will have to have the agreements returned prior to work. Work would only start after the contract is signed. There is a threshold for automatic bidding.

Virginia Standish, 15410 North Road, speaking to procurement issues not to these roads specifically; she thinks that Town should consider RFP's (Request for Proposals), or maybe grants.

Compton Road was also an issue and in need of paving.

Robert Brunk, 13164 Compton Road, provided a handout and a slide show concerning the condition of Compton Road, and how the OGEM surface has been breaking down since it was resurfaced approximately seven (7) years ago. He asked for help.

Councilman Goltzene wants to remove rock islands.

Dale Howell, 13026 Compton Road, reported on potholes in front of his driveway where water lays in the low areas.

Owen Whidden, 13289 Compton Road, also reported that Compton Road is bad.

Joe Hosford, 13244 Compton Road, Compton Road could, at one time, be maintained when it was still a dirt road, right now with the surface it has now, rocks fly and tear up vehicles. He requested paving not be held up in lieu of drainage issues. The culvert at the west end of the road has not been repaired or cleaned out, and requested the Town fix it.

Councilman Goltzené reported that the ditch along Compton Road is not draining properly, and water stops at certain areas. The Town will have work on all the drainage issues at one time.

Jeanine Gendron, 13288 Compton Road, wanted her comment read into the record, concerning her request that Compton Road be re-paved and raised. Water builds up and the road deterioration is extensive.

George Baaklini, 13288 Compton Road, also discussed his issues with the condition of Compton Road.

John Ryan, 3508 A Road, repairing drainage issues now would be beneficial to the affected property owners.

Harold Murphy, 13245 Compton Road, stated that if the Town fixes the culvert at F Road, he will fix the drainage on the rest; we need to fix this road. The Town has been put on notice.

Randy Werteprey, Engineer from Keshavarz, noted that it is a problem addressing the roads without addressing the drainage.

Mayor Browning expressed his concerns with the OGEM process. He noted most of the complaints were directed on the three (3) OGEM roads, and not wanting to spend good money after bad, he suggested returning the roads back to dirt.

Don Borovy, 14270 Tripp Road, stated that D Road North had about eighteen (18) holes on each side of the road, and there is a considerable amount of truck traffic. He also would like to have proper work done.

**Motion: Councilman Liang made a motion to accept the petition of signatures to resurface Compton Road to be recorded in the minutes. The motion was seconded by Councilman Rockett. Upon vote the motion passed 5/0.**

**Motion: Councilman Goltzené made a motion to put the road work out for bid on all three (3) roads (Bryan Road, Compton Road, and Marcella Boulevard), and proceed as soon as a bid is chosen; and to hold off on Bryan Road until all the signed agreements come in for that road resurfacing. The motion was seconded by Councilman Liang. Upon vote, the motion failed 3/2, with Vice-Mayor Jarriel, Councilman Liang, and Councilman Rockett casting dissenting votes.**

**Motion: Vice-Mayor Jarriel made a motion to bring North Florida Emulsions in and piggyback off the contract; and incorporated all three roads as soon as possible. The motion was seconded by Councilman Rockett. Upon vote, the motion passed 3/2, with Councilman Goltzené and Mayor Browning casting dissenting votes.**

Town Manager Kutney felt that the Town will need engineering assistance.

Vice-Mayor Jarriel asked Mr. King, when he worked on the roads in Jupiter Farms were they using engineers.

Jeff King replied, the drainage and/or culverts have to be repaired, otherwise no engineer is required.

Councilman Goltzene requested that the engineer check previous work done by North Florida Emulsions, to see if the job was well done. He noted that at this point the current proposal is way out of procedure.

**Mayor Browning called for a break: 10:28 – 10:35 p.m.:**

- d. ULDC (Unified Land Development Code Review Committee) (Agenda Report provided)

Councilman Rockett requested that Town Manager Kutney develop an outline of the work that still needs to be accomplished.

Town Manager Kutney will provide an outline of work.

Town Attorney Cirullo stated the Town will have to do a resolution to amend the resolution extending the time frame for the ULDC.

**It was the consensus of Council to forgo the December ULDC meeting, and commence again in January to then make a decision. At that time, Council will decide whether an extension is needed.**

- e. Replacement of culvert at Compton Road and F Road (No back-up, Vice Mayor Jarriel)

**Motion: Councilman Goltzené made a motion to replace the culvert at Compton Road and F Road. The motion was seconded by Councilman Liang. Upon vote, the motion passed 5/0.**

Vice-Mayor Jarriel suggested that Council give the Town Manager direction. He stated George Perez is doing the culverts for the Loxahatchee Water Control District, under procurement, and the Town does not need to go out for bid. The Town can go out for additional prices but he encouraged that they speak with George Perez as well.

**It was the consensus of Council to get quotes for the job even though George Perez is the least expensive.**

Town Attorney Cirullo noted that Town Manager Kutney can execute contracts if the bids are under \$25,000 consistent with the Town's Procurement Code, if Council so directs.

## **10. NEW BUSINESS**

- a. Amendment to General Engineering Services Contract

Town Manager Kutney explained the proposed amendment to the current contract with the Town Engineer, Keshavarz and Associates, Inc. (K&A), and explained the procurement project. Town Manager Kutney has been pleased with their performance, and recommends approval of the amendment.

**Motion: Councilman Goltzené made motion to approve the Amendment to the General Engineering Services Contract. The motion was seconded by Councilman Liang.**

Councilman Rockett wanted to know if the contract we have now, or the one we are modifying, would allow the Town to have them review the speed bumps.

Town Manager Kutney stated that was not the Town Engineer who would conduct that investigation; it would be the traffic consultant.

**Upon vote, the motion passed 5/0.**

- b. Sirdar Trucking Company Contract Invoices – Settlement of \$31,103.60

Town Attorney Cirullo stated that Sirdar Trucking, Inc. will accept a settlement payment of \$31,103.60, and suggested Council adopt a motion terminating their contract.

**Motion: Councilman Goltzené made a motion to draft a resolution to accept the Town Attorney's recommendation to terminate the contract with Sirdar Trucking, Inc. The motion was seconded by Councilman Liang.**

Discussion followed with concerns of when work could commence again, and a possibility that even though Sirdar did not want to touch any vegetation, could Management work with Sirdar to do just hedging.

**Motion: Councilman Rockett made a motion to settle the contract with Sirdar Trucking, Inc. and cancel the contract. The motion was seconded by Councilman Liang. Upon vote, the motion passed 5/0.**

Mayor Browning stated there was no way to end a contract with someone then have them do additional work.

## **11. CLOSING COMMENTS**

- a. Public

Frank Schiola, 13434 Marcella Boulevard, commented on the difficulty he had removing roots from a culvert on F Road.

- b. Town Attorney

- Attorney General Opinion (AGO) regarding definition of surrounding property

Town Attorney Cirullo advised Council that he prepared a proposed request to the Attorney General's Office for a definition of surrounding property.

Councilman Goltzené expressed his thoughts that the Town should talk with the County Attorney to find out where the County stands; use the Attorney General Opinion as a backup, and then bring the issue back during the January Council Meeting.

Councilman Rockett noted that in the 2<sup>nd</sup> paragraph of the *background* section, it needs to be clear that this is referring to a new parcel.

Councilman Rockett and Town Attorney Cirullo discussed sending a letter to the Attorney General's office.

Mayor Browning noted that in the application prepared by Minto, the reference was referring to parcels within a five (5) mile radius. There is nothing in the Ag Enclave Bill stating "what is surrounding" must be within a five (5) mile radius. Minto is considering a five (5) mile radius by selecting a small neighborhood in Royal Palm Beach, with zero lot lines, ignoring the natural area and the five (5) acre parcels as their reference. He would like for a letter to go forward to the Attorney General's Office (AGO) for their opinion.

**Motion: Councilman Goltzené made a motion to send a letter to the Attorney General's Office requesting an opinion on the definition of surrounding parcels. Mayor Browning passed the gavel to Vice-Mayor Jarriel and seconded the motion.**

Discussion ensued concerning pros and cons of sending the letter and whether it would be helpful or not. The concern was that if the Town did not move ahead, the development would mean Okeechobee Boulevard could be lost, and school districts would change.

Todd McLendon, 3481 D Road, suggested that Council not reference a specific case when asking the AGO to define *surrounding property*.

Mayor Browning agreed.

John Ryan 3508 A Road, had a question concerning the interpretation in the Town Charter regarding the Loxahatchee Groves Water Control District assessment of three (3) mills. He also feels like staff has a winning argument by going to the legislative staff – He further explained the enclave bill and staff report which he thinks the Town Attorney could follow through and get the report.

Discussion concerning the designation of surrounding areas beyond the acreage parcels, using zero (0) lot lines as a criteria is ludicrous. The fact that the Town needs assistance with this issue is imperative.

**Upon vote the motion passed, 3/1 with Councilman Goltzené casting a dissenting vote. Councilman Liang had declared a conflict of interest, and did not vote on this issue.**

Town Attorney Cirullo wished everyone a Merry Christmas, Happy New Year, and safe travels.

Town Manger Kutney stated the Legislative Delegation would meet on December 18, 2013 at the Solid Waste Authority Auditorium between 2:00 and 5:00 p.m. at 7501 North Jog Road.

c. Town Council Members

Councilman Goltzené wished everyone a Merry Christmas.

Vice-Mayor Jarriel wanted everyone to be careful going home, Merry Christmas and Happy New Year.

Councilman Ryan, thanked everyone for coming and wished all a Happy New Year, and Merry Christmas, and stated he was happy to be back.

Councilman Rockett, wished everyone a Merry Christmas and Happy New Year to all.

Mayor Browning, also thanked everyone for coming, thanked Council for their last vote and gave a motion to adjourn.

## 12. ADJOURNMENT

There being no further business, the Town Council Meeting of December 3, 2013, was adjourned at 11:27 p.m.

**The next regular Town Council Meeting is scheduled for January 14, 2014**

**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.



**Item 2 c**

**Consent Agenda  
Resolution No. 2014-01**

**Budget Amendment**

**TOWN OF LOXAHATCHEE GROVES**

**RESOLUTION NO. 2014-01**

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

**WHEREAS**, pursuant to Section 166.241(4), Florida Statutes, the Town may amend its adopted budget for the Fiscal Year beginning October 1, 2013 and ending September 30, 2014, at any time within a fiscal year, and

**WHEREAS**, the Town Management has concluded a review of the budget and expenditures during the Fiscal Year beginning October 1, 2013 and ending September 30, 2014, and is recommending amendments to the Town's budget as set forth in Exhibit A" hereto.

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

**Section 1.** Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.

**Section 2.** The Town's adopted budget for the Fiscal Year beginning October 1, 2013, and ending September 30, 2014, is hereby amended as set forth in Exhibit "A", attached hereto and expressly made a part hereof.

**Section 3.** If any clause, section, or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and shall in no way affect the validity of the remaining portions of this Resolution.

**Section 4.** All resolutions or parts of resolutions in conflict herewith are hereby repealed

to the extent of such conflict.

**Section 5.** This Resolution shall become effective immediately upon its passage and adoption.

**PASSED AND ADOPTED BY THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THIS \_\_\_\_\_ DAY OF JANUARY, 2014.**

ATTEST:

TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

\_\_\_\_\_  
TOWN CLERK

\_\_\_\_\_  
Mayor David Browning

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Vice Mayor Ron Jarriel

\_\_\_\_\_  
Office of the Town Attorney

\_\_\_\_\_  
Council Member Tom Goltzene

\_\_\_\_\_  
Council Member Ryan Liang

\_\_\_\_\_  
Council Member Jim Rockett

**EXHIBIT "A"**

**(BUDGET AMENDMENTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013  
AND ENDING ON SEPTEMBER 30, 2014)**

Account Number		FY13-14 ADOPTED BUDGET	FY13-14 CHANGE	FY13-14 AMENDED BUDGET
<b>ESTIMATED REVENUES</b>				
<b>TAXES</b>				
001-311-100-000	AD VALOREM TAXES @ 1.2000	197,297		197,297
	<b>TAXES SUBTOTAL</b>	<b>197,297</b>	<b>0</b>	<b>197,297</b>
001-314-100-000	ELECTRIC UTILITY TAX	203,000		203,000
001-314-510-000	COMMUNICATION SERVICES TAX	125,446		125,446
001-316-200-000	COUNTY OCCUPATIONAL LICENSES	5,000	0	5,000
	<b>TAXES SUBTOTAL</b>	<b>333,446</b>	<b>0</b>	<b>333,446</b>
001-323-100-000	FPL FRANCHISE FEE	200,000		200,000
001-323-125-000	HAULER LICENSING FEE	2,000		2,000
001-323-300-000	PBC WATER UTILITY FRANCHISE FEE	5,050	0	5,050
001-329-100-000	PLANNING & ZONING PERMIT	100	0	100
	<b>PERMITS, FRANCHISE FEES &amp; SPECIAL SUBTOTAL</b>	<b>207,150</b>	<b>0</b>	<b>207,150</b>
001-335-120-000	STATE REVENUE SHARING	85,446	0	85,446
001-335-180-000	HALF CENT SALES TAX	224,014	0	224,014
	<b>INTERGOVERNMENTAL REVENUE SUBTOTAL</b>	<b>309,460</b>	<b>0</b>	<b>309,460</b>
001-341-000-000	GENERAL GOVERNMENT CHARGES	7,000	0	7,000
001-343-349-000	COST RECOVERY FEES	25,000		25,000
	<b>CHARGES FOR SERVICES</b>	<b>32,000</b>	<b>0</b>	<b>32,000</b>
001-351-100-000	COURT FINES	2,500	0	2,500
001-354-100-000	CODE ENFORCEMENT FINES	5,000	0	5,000
	<b>JUDGEMENTS, FINES &amp; FORFEITS SUBTOTAL</b>	<b>7,500</b>	<b>0</b>	<b>7,500</b>
<b>MISCELLANEOUS</b>				
001-361-100-000	INTEREST	5,000	0	5,000
001-369-000-000	OTHER MISC INCOME	5,000	0	5,000
	<b>OTHER MISC. REVENUE SUBTOTAL</b>	<b>10,000</b>	<b>0</b>	<b>10,000</b>
001-381-305-000	INTER-FUND TRANSFER IN CIP	-	400,000	400,000
001-385-100-000	TRANSFER FROM SANITATION FUND	-		-
001-399-000-000	TRANSFER FROM FUND BALANCE		0	-
	<b>OTHER NON-OPERATING SOURCES TOTAL</b>	<b>-</b>	<b>400,000</b>	<b>400,000</b>
	<b>GRAND TOTAL REVENUE</b>	<b>1,096,853</b>	<b>400,000</b>	<b>1,496,853</b>

Account Number		FY13-14 ADOPTED BUDGET	FY13-14 CHANGE	FY13-14 AMENDED BUDGET
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**APPROPRIATIONS**

**LEGISLATIVE**

001-511-310-000	PROFESSIONAL SERVICES	60,000	-	60,000
001-511-400-000	TRAVEL	3,000	-	3,000
001-511-490-000	POSTAGE & FREIGHT - (Was legal advertising)	-	-	-
001-511-492-000	OTHER OPERATING EXPENSES	1,500	-	1,500
001-511-499-000	OTHER CURRENT CHARGES - New Town Counsel Compensaton	30,000	-	30,000
001-511-500-000	EDUCATION AND TRAINING	1,000	-	1,000
001-511-510-000	OFFICE SUPPLIES	300	-	300
001-511-520-000	OPERATING SUPPLIES	300	-	300
001-511-540-000	BOOKS, PUBLICATIONS AND DUES	2,435	-	2,435
001-511-820-000	SPECIAL EVENTS/CONTRIBUTIONS	5,350	-	5,350
<b>LEGISLATIVE TOTAL</b>		<b>103,885</b>	<b>-</b>	<b>103,885</b>

**EXECUTIVE**

001-512-340-000	OTHER SERVICES	264,106	-	264,106
001-512-400-000	TRAVEL	1,000	-	1,000
001-512-410-000	COMMUNICATION SERVICES - (Moved to Gen Govt)	-	-	-
001-512-420-000	POSTAGE & FREIGHT	1,000	-	1,000
001-512-490-000	LEGAL ADVERTISING - (New)	1,000	-	1,000
001-512-492-000	OTHER OPERATING EXPENSES	944	-	944
001-512-493-000	ELECTION EXPENSE	8,010	-	8,010
001-512-510-000	OFFICE SUPPLIES	8,600	-	8,600
001-512-521-000	LOXAHATCHEE GROVES C.E.R.T. - (Moved to Gen Govt)	-	-	-
001-512-540-000	BOOKS, PUBLICATIONS AND DUES	570	-	570
<b>EXECUTIVE TOTAL</b>		<b>285,230</b>	<b>-</b>	<b>285,230</b>

**FINANICAL AND ADMINSTRATIVE**

001-513-320-000	ACCOUNTING AND AUDITING	18,000	-	18,000
001-513-470-000	PRINTING AND BINDING	4,750	-	4,750
001-513-490-000	LEGAL ADVERTISING	1,500	-	1,500
001-513-493-000	ELECTION EXPENSE - (Moved to Executive)	-	-	-
<b>FINANICAL AND ADMINSTRATIVE TOTAL</b>		<b>24,250</b>	<b>-</b>	<b>24,250</b>

**LEGAL COUNSEL**

001-514-310-000	PROFESSIONAL SERVICES	90,000	-	90,000
001-514-312-000	LEGAL -COMP PLAN	-	-	-
<b>LEGAL SERVICES TOTAL</b>		<b>90,000</b>	<b>-</b>	<b>90,000</b>

**PLANNING & ZONING**

001-515-310-000	PROFESSIONAL SERVICES	40,000	-	40,000
001-515-340-000	OTHER SERVICES	79,042	-	79,042
001-515-343-000	PLANNING & ZONING CONTRACT	20,000	-	20,000
001-515-347-000	COMPREHENSIVE PLAN	-	-	-
001-515-349-000	COST RECOVERY EXPENDITURES	25,000	-	25,000
001-515-490-000	LEGAL ADVERTISING - (New)	6,000	-	6,000
<b>COMPREHENSIVE PLANNING AND ZONING TOTAL</b>		<b>170,042</b>	<b>-</b>	<b>170,042</b>

Account Number		FY13-14 ADOPTED BUDGET	FY13-14 CHANGE	FY13-14 AMENDED BUDGET
<b>OTHER GENERAL GOVERNMENT</b>				
001-519-315-000	SPECIAL MAGISTRATE	16,000	-	16,000
001-519-354-000	CODE COMPLIANCE	41,000	-	41,000
001-519-410-000	COMMUNICATION SERVICES	5,700	-	5,700
001-519-440-000	RENTALS AND LEASES	20,000	-	20,000
001-519-450-000	INSURANCE	18,000	-	18,000
001-519-460-000	R & M BUILDINGS	2,450	-	2,450
001-519-470-000	PRINTING AND BINDING	-	-	-
001-519-480-000	PROMOTIONAL ACTIVITIES	-	-	-
001-519-490-000	COMPUTER EQUIP SOFTWARE & HARDWARE REPAIR	2,500	-	2,500
001-519-491-000	COMPUTER SERVICES	3,631	-	3,631
001-519-494-000	INSPECTOR GENERAL OFFICE FEE	5,280	-	5,280
001-519-820-000	LOXAHATCHEE GROVES CERT	2,000	-	2,000
001-519-900-000	TRANSFER TO TRANSPORTATION FUND	-	-	-
001-519-910-000	TRANSFER TO SANITATION FUND	-	-	-
001-519-920-000	TRANSFER TO CAPITAL PROJECTS FUND	-	-	-
001-519-990-000	CONTINGENCY	12,104	-	12,104
001-519-999-000	TRANSFER TO GENERAL FUND-FUND BALANCE	-	400,000	400,000
	<b>OTHER GENERAL GOVERNMENT SERVICES TOTAL</b>	<b>128,665</b>	<b>400,000</b>	<b>528,665</b>
<b>LAW ENFORCEMENT</b>				
001-521-341-000	PROFESSIONAL SERVICES-PBSO	280,281		280,281
001-521-342-000	CONTRACTUAL-ADDL PBSO	500		500
	<b>LAW ENFORCEMENT TOTAL</b>	<b>280,781</b>	<b>-</b>	<b>280,781</b>
<b>PUBLIC WORKS</b>				
001-539-340-000	OTHER SERVICES	14,000	-	14,000
001-539-310-000	PROFESSIONAL SERVICES	-	-	-
	<b>PUBLIC WORKS TOTAL</b>	<b>14,000</b>	<b>0</b>	<b>14,000</b>
	<b>GRAND TOTAL EXPENDITURES</b>	<b>1,096,853</b>	<b>400,000</b>	<b>1,496,853</b>

Account Number		FY13-14 ADOPTED BUDGET	FY13-14 CHANGE	FY13-14 AMENDED BUDGET
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<b>ESTIMATED REVENUES</b>				
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305-363-990-000	CONTRIBUTION FROM GENERAL FUND	-	-	-
305-363-991-000	CONTRIBUTION FROM TRANSPORTATION FUND	973,517		973,517
305-399-000-000	TRANSFER FROM FUND BALANCE	829,047	400,000	1,229,047
<b>Total Revenue</b>		<b>1,802,564</b>	<b>400,000</b>	<b>2,202,564</b>

<b>APPROPRIATIONS</b>				
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305-519-600-000	DEVELOP TOWN HALL ALTERNATIVES	-	-	-
305-541-610-000	SURVEYING TOWN ROADS	100,000		100,000
305-541-620-000	OGEM Collecting Canal Road	943,630	-	943,630
305-541-630-000	Okeechobee and D Road Traffic Light	250,000	-	250,000
305-541-640-000	Town Roads OGEM Projects	100,000	-	100,000
305-541-650-000	Trails	80,000		80,000
305-541-652-000	D Road to Southern Boulevard	300,000		300,000
305-541-654-000	Purchase Roads from LGWCD	28,934		28,934
305-581-001-000	Inter-fund Transfer Out Gen. Fund	-	400,000	400,000
<b>Total Expenditure</b>		<b>1,802,564</b>	<b>400,000</b>	<b>2,202,564</b>

Fund #		FY13-14 ADOPTED BUDGET	FY13-14 CHANGE	FY13-14 AMENDED BUDGET
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ESTIMATED REVENUES				
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001	GENERAL FUND	1,096,853	400,000	1,496,853
101	TRANSPORTATION FUND	1,222,762	-	1,222,762
305	CAPITAL IMPROVEMENT FUND	1,802,564	400,000	2,202,564
405	SOLID WASTE FUND	428,770	-	428,770
<b>Total Estimated Revenue</b>		<b>4,550,949</b>	<b>800,000</b>	<b>5,350,949</b>

APPROPRIATIONS				
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001	GENERAL FUND	1,096,853	400,000	1,496,853
101	TRANSPORTATION FUND	1,222,762	-	1,222,762
305	CAPITAL IMPROVEMENT FUND	1,802,564	400,000	2,202,564
405	SOLID WASTE FUND	428,770	-	428,770
<b>Total Appropriations</b>		<b>4,550,949</b>	<b>800,000</b>	<b>5,350,949</b>

Town of Loxahatchee Groves, Florida  
Unaudited

**Statement of Estimated Changes in Fund Balances**

**General Fund**

CAFR UNASSIGNED FUND BALANCE

9/30/12 Fund Balance	\$1,311,888
FY2013 Fiscal Policy Reserve @ 25%	\$0
FY 2013 Transfer to CIP	(\$400,000)
Reimburse Transportation Fund for Capital Expenditure (North Road OGEM)	(\$141,844)
FY 2013 July Transfer to Solid Waste Fund	(\$137,309)
<b>FY 2013 Est. Total Fund Balance</b>	<b>\$632,735</b>
FY 2014 Transfer from CIP	\$400,000
<b>FY 2014 Est. Prelim. Total Fund Balance</b>	<b>\$1,032,735</b>
<b>FY 2013-14 Appropriation</b>	<b>\$2,202,564</b>
FY2014 Fiscal Policy Reserve @ 25%	(\$550,641)
<b>FY 2014 Est. Total Fund Balance</b>	<b>\$482,094</b>

**Transportation Fund**

CAFR UNASSIGNED FUND BALANCE

<u>5 cent Fund Balance</u>		<u>6 cent Fund Balance</u>	
9/30/12 Fund Balance	\$320,012	9/30/12 Fund Balance	\$322,347
FY 2013 Estimated Change	\$117,326	FY 2013 Reimbursement North Road OGEM	\$141,844
<b>FY 2013 Est. Total Fund Balance</b>	<b>\$437,338</b>	<b>FY 2013 Est. Total Fund Balance</b>	<b>\$464,191</b>
<b>FY 2014 Appropriated (Budgeted ) Fund Balance</b>	<b>(\$437,000)</b>	<b>FY 2014 Appropriated (Budgeted ) Fund Balance</b>	<b>(\$419,191)</b>
<b>FY 2014 Est. Total ASSIGNED Fund Balance</b>	<b>\$338</b>	<b>FY 2014 Est. Total ASSIGNED Fund Balance</b>	<b>\$45,000</b>

**Solid Waste Fund**

CAFR UNASSIGNED FUND BALANCE

9/30/12 Fund Balance	\$31,689
Fiscal Policy Reserve @ 10%	\$0
FY 2013 Estimated Change	5,000
<b>Est. Total Fund Balance 9/30/12</b>	<b>\$36,689</b>
<b>FY 2014 Est. Prelim. Total Fund Balance</b>	<b>\$36,689</b>
<b>FY 2013-14 Appropriation</b>	<b>\$428,770</b>
FY2014 Fiscal Policy Reserve @ 25%	(\$42,877)
<b>FY 2014 Est. Total Fund Balance</b>	<b>(\$6,188)</b>

**Capital Improvement Program**

CAFR ASSIGNED FUND BALANCE

9/30/12 ASSIGNED Fund Balance	\$1,000,000
FY 2013 Estimated Change	\$400,000
<b>FY 2013 Est. Total ASSIGNED Fund Balance</b>	<b>\$1,400,000</b>
<b>FY 2014 Appropriated (Budgeted ) Fund Balance</b>	<b>(\$973,517)</b>
<b>FY 2014 Transfer to General Fund</b>	<b>(\$400,000)</b>
<b>FY 2014 Est. Total ASSIGNED Fund Balance</b>	<b>\$26,483</b>



**Item 4 a**

**Presentations**

**PowerPoint Presentation – Minto West**



**Item 4 b**

**Presentations**

**OIG PowerPoint Concerning Contract Piggybacking**



Piggyback Contracting  
Office of Inspector General  
Palm Beach County, Florida



## Fundamental Elements of Sound Procurement Practice

1. Economic
  - Best value through competition
  - Best value for the dollars spent (public funds)
  
2. Equitable
  - Fair and equitable contracting opportunities for vendors
  - Qualified vendors have access to the municipal market
  
3. Transparent
  - Public confidence
  - More information disclosed – the better
  - Improved ethical conduct
  - Maximum disclosure benefits the public



## Types of Procurement

1. Open Competitive Solicitation
2. Sole Source
3. Emergency Purchase
4. Cooperative
5. Piggyback



## What is Piggyback Contracting?

National Institute of Government Purchasing (NIGP):

- “a form of intergovernmental cooperative purchasing in which an entity will be **extend the pricing and terms of a contract** entered into by a larger entity. Generally a larger entity will **competitively award a contract that will include language allowing for other entities to utilize the contract** which may be to their **advantage in terms of pricing**, thereby **gaining economies of scale** that they normally would not receive if they competed on their own.”



## What is Piggyback Contracting?

Palm Beach County Purchasing Code:

- “the **purchase of goods or services** under contract with a federal, state, or municipal government ....providing that the originating entity **utilized a competitive process** similar to the county’s ....; and providing that the **county accepts the terms and conditions** specified within the originating contract; and providing that the **contractor extends the terms and conditions of the contract** to the county.”



## Theory Behind Piggyback Contracting

According to the National Association of State Procurement Officials (NASPO):

1. The primary purpose of public procurement is to obtain quality goods and services to support **effective and efficient government**, ensuring the prudent use of government funds.
2. As contracting workloads increase, purchasing requirements become more complex and as budgets and resources decline, procurement staff continually seek new and innovative tools to deliver goods and services through an **effective and efficient procurement process**.



## State Policy Encourages Open and Competitive Procurements

Section 287.001, F.S. – The Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically.



## Policy Reasons for Competitive Procurements

1. Tends to provide best value for the public
2. Provides local businesses the opportunity to compete
3. Are open and transparent



## State Law and Local Policies

1. Florida courts understand the policy benefits of competitive procurements and will enforce such requirements when they exist.

*Marriott Corp. v. Metro. Dade County*, 383 So. 2d 662 (Fla. 3<sup>rd</sup> DCA 1980)

2. Most state laws which require competitive procurements apply only to state agencies. Where state laws don't apply, local governments are free to develop their own policies.



## State Law and Local Policies

1. Where local governments have adopted policies requiring competitive procurements, those policies generally impose informal competitive procedures at lower price points and require a more formal competitive procedure for more expensive purchases.
2. In some cases, local policies don't address "cooperative purchases" or "piggyback purchases."



## State Law and Local Policies

- “Cooperative purchases” are purchases made through a cooperative of which you are a member. Because you are a member the purchases are made in your name with your consent.
- “Piggyback purchases” are made from contracts negotiated by another entity which has no relationship with you. You probably were not even aware that the original entity was negotiating for or entering into the contract.



## Benefits of Piggyback Contracts

1. Saves Time and Resources
  2. Leverage Spending / Economies of Scale
-



## Dangers of Piggyback Contracts

1. You may violate your own local policies. For an example of a Florida court voiding a piggyback contract because it violated the county's policies, see *Accela, Inc. v. Sarasota County*, 993 So. 2d 1035:

“the County was **not** permitted to use another entity's contracts merely as a “basis to begin negotiations”

2. You may not achieve the goals of allowing local businesses to compete for government business and being open and transparent.

Even if you have a municipal policy which specifically permits you to use piggyback contracts, you should be careful in how you proceed.



## Why is Piggybacking sometimes desirable for local governments?

### 1. Saves Time

- Developing solicitation document
- Preparing to advertise the solicitation
- Accepting responses
- Performing a responsiveness review
- Evaluation/scoring, etc.

### 2. Saves Resources

- Advertising costs
- Allows employees to focus on other job assignments



## Why is Piggybacking sometimes desirable for local governments?

### 3. Leverage Spending / Economies of Scale

- Economies of scale are situations where the average cost of a product (service) decreases when a business production (service) increases. This results in businesses having the ability to share operating costs over a larger number of units, or services.



## Provisions that may be advisable in Policies when using Piggyback Contracts

City of Lake Wales

- “Piggybacking Policies & Procedures” Memorandum (April 23, 2009)

[http://www.cityoflakewales.com/city/agenda\\_cc/090428/090428\\_08.pdf](http://www.cityoflakewales.com/city/agenda_cc/090428/090428_08.pdf)



## Provisions that may be advisable in Policies when using Piggyback Contracts

1. Obtain Informal Quotes
  - Entity specific but 3 appears to be a good number
  - If any of the informal quotes results in a lower cost than the contract contemplated for piggybacking, then the goods or services should be competitively procured.
  
2. Piggyback off contracts competitively procured within last 12 months
  
3. Limit Piggybacks to identical items
  - Do not use someone else's contract as a starting point for negotiations
  - Consider obtaining the following documents:
    - Copy of the solicitation document
    - Scoring sheets / Bid Tabulation
    - Evidence of Contract Award
    - Executed Contract



## Provisions that may be advisable in Policies when using Piggyback Contracts

4. Ensure the contract permits piggybacking

### Palm Beach County Language:

“Palm Beach County encourages and agrees to the successful bidder extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities at the discretion of the successful bidder.”

5. Ensure the contract has not expired
6. Using a Check List



## Pitfalls to Piggybacking

1. Local Preference Policies
  - How do you reconcile piggyback policy with local preference ordinance?
  
2. Economic and industry fluctuations
  - Volatility of Commodities
    - Gas
    - Petroleum Based Products
  - Market Trends
  - Transportation/Delivery Costs



## Examples of Piggyback Situations

### **Positive:**

- Local town purchases police and fire vehicles off statewide contract for significant cost savings
- Local entities purchase computers off multi-state contract for significant cost savings
- Local entity purchases commodities off other local entity's contract for cost savings and efficient process to acquire.



## Examples of Piggyback Situations

### Not so Positive:

- Article from the Sarasota Herald (2011)
  - Only 10 of Sarasota County's 94 (10.6%) piggyback contracts were with firms based in Sarasota, Manatee, Charlotte or DeSoto counties.
  - Local companies feel they are "being squeezed out" of work "they desperately need."
  - A roofing contractor states they lost a chance to compete a roofing job because the county used a piggyback contract that sent work to a Michigan company. The roofing contractor said they would have installed a better system and with rebates it would have cost \$50,000.00 less.



Questions or Comments .....

Thank you.

Office of Inspector General  
(561)233-2350



**Item 6 a.**

**Resolution No. 2014-02**

**Acceptance/General Release of Sirdar Trucking**

**TOWN OF LOXAHATCHEE GROVES**

**RESOLUTION NO. 2014-02**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, TERMINATING FOR CONVENIENCE THE AGREEMENT FOR MOWING AND VEGETATIVE REMOVAL SERVICES BETWEEN THE TOWN OF LOXAHATCHEE GROVES AND SIRDAR TRUCKING, INC.; PROVIDING FOR DELIVERY OF THIS RESOLUTION; PROVIDING FOR SEVERABILITY, CONFLICT, AND AN EFFECTIVE DATE.**

**WHEREAS**, on July 1, 2013, the Town of Loxahatchee Groves and Sirdar Trucking, Inc., entered into an Agreement for Mowing and Vegetative Removal Services (the “Agreement”); and,

**WHEREAS**, paragraph 4.5 of the Agreement provides that the Town may terminate the Agreement for convenience by the adoption of a Resolution by the Town Council; and,

**WHEREAS**, the Town Council finds that it is in the best interest of the Town to exercise the Town’s right to terminate the Agreement for convenience through the adoption of this Resolution.

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

**Section 2.** The Town Council, pursuant to Section 4.5 of the Agreement, hereby terminates the July 1, 2013, Agreement for Mowing and Vegetative Removal Services with Sirdar Trucking, for convenience.

**Section 3.** The Town Clerk is directed to forward a certified copy of the executed

Resolution to Sirdar Trucking, Inc., pursuant to “Article 6 – Notices” of the Agreement.

**Section 4.** Severability. If any clause, section, or other part or application of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated, and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

**Section 5.** Conflicts. All Resolutions or parts of Resolutions in conflict herewith are to the extent of such conflicts hereby repealed.

**Section 4.** Effective Date. This Resolution shall be effective immediately upon adoption.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA THIS 14th DAY OF JANUARY, 2014.**

ATTEST:

TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

\_\_\_\_\_  
Janet K. Whipple, Town Clerk

\_\_\_\_\_  
Mayor David Browning

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Vice Mayor Ron Jarriel

\_\_\_\_\_  
Michael D. Cirullo, Jr., Town Attorney

\_\_\_\_\_  
Council Member Tom Goltzené

\_\_\_\_\_  
Council Member Ryan Liang

\_\_\_\_\_  
Council Member Jim Rockett



**Item 7 a.**

**Ordinance No. 2013-11 1st Reading**

**Historical Legacy**

**TO:** Town Council

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

**RE:** Ordinance 2013- 011: Town Initiated Amendment to the Loxahatchee Groves Unified Land Development Code (ULDC) to Addition of Section 75-035 – *Uses as of October 1, 2006 (i.e. Historical Legacy Uses)*.

**DATE:** November 22, 2013; Rev: December 13, 2013.

**CC:** William F. Underwood, Managing Partner

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### **I. BACKGROUND INFORMATION**

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 vote of four or more Council members.

The issue of “historical legacy” uses has undergone a lengthy Town review process and morphed from the previously proposed addition to the ULDC of Section 80-60. *Residential Agricultural Sales and Services* to the current proposed revision of ULDC Section 75-035. *Uses as of October 1, 2006*.

The following represents a brief chronology of events leading to the current proposed revisions to ULDC Section 75-030:

- A code enforcement complaint was initially filed against several entities alleging the improper retail sales of hay without appropriate approvals. The complaint was investigated by the Town’s Code Enforcement Staff and it was determined that the three entities were operating in the Agricultural Residential (AR) zoning district without the proper authority and approval.
- At the June 5, 2012 Town Council Meeting, the respondents appeared and requested consideration for their current operations. Town Council deliberated on the matter and directed Town Management Staff and the Town Attorney to review the matter and propose possible remedies that would address the issue.
- At the June 20, 2012 meeting, Town Management Staff presented a strategy including the following elements: Limiting the operation to property residents; restricting the operation to resident owners rather than vesting with the land; requiring a business tax receipt; and other requirements consistent with the intent of the ULDC.

- At the November 8, 2012 meeting, the Planning and Zoning Board (PZB) heard a presentation of proposed ULDC Section 80-60. *Residential Agricultural Sales and Services*. PZB recommended approval of Section 80-60 by a 3-0 vote subject to clarifying that uses be limited to the following: straw, flakes, shaving, pellet shavings, hay, feed and grain. This change was incorporated within the draft by Staff.
- At the November 20, 2012 Town Council meeting, Resolution 2012-19 was passed by the Council creating the Unified Land Development Code Review Committee (ULDC Review Committee) for the purpose of advising the Council on code related matters.
- At the Town Council meeting of December 4, 2012, proposed Ordinance 2012-012 (Hay Sales Ordinance) was heard by the Town Council which voted to continue the item to the January 15, 2013 meeting by a 4-1 vote to allow more time for review.
- At the Town Council meeting of January 15, 2013, Council voted to approve Ordinance 2012-012 on first reading by a 3-2 vote subject to the following changes to the Staff proposal:
  - Strike the requirement for special exception approval for semi-truck deliveries.
  - Strike the provision regarding limiting the number of employees to two persons.
  - Change hours of operation to: 8:00 a.m. – 8:00 p.m. five days a week, and on Saturday; Sunday hours – 12:00 p.m. to 5:00 p.m.

Public discussion centered around the need to adopt an ordinance that encompassed all “mom and pop” organizations that existed prior to incorporation rather than focusing on hay sales.

- At the February 5, 2013 meeting, Ordinance 2012-012 was continued to the March 5, 2013 meeting, as language revisions approved by the Council at its January 5, 2013 meeting was not included in the current draft.

The Council also directed staff to have Ordinance 2012-012 reviewed by the ULDC Review Committee at its February 21, 2013 meeting. The Town Manager noted that if the title of the ordinance was changed as a result of ULDC Committee review, it would have to come back to Council for a new first reading.

- Ordinance 2012-012 was reviewed at the February 21, 2013 ULDC Review Committee. There was considerable discussion as to whether or not the ordinance should be limited to hay sales or expanded to include all “historical legacy” businesses. A motion was made and passed, by a 5-0 vote, to incorporate the pre-existing business intent of proposed Ordinance 2012-012, expanded to include the concept of businesses classified as “historical legacies”, within Section 75-035. *Uses as of October 1, 2006* of the ULDC.

- At the March 5, 2013 Town Council meeting, Ordinance 2012-012 was considered on second reading. A motion to table Ordinance 2012-012 and suspend code enforcement on any use that would fall under the concept of historical legacy, as presented to the ULDC Committee was made and passed by a 5-0 vote.

A second motion was made and passed, by a 5-0 vote, directing Staff to process an ordinance addressing the “historical legacy” issue.

- ULDC Article 75, including Section 75-035. *Uses as of October 1, 2006*, was included on the ULDC Committee agendas of March 21, 2013, April 18, 2013, May 16, 2013, September 19, 2013 and October 3, 2013. The item was continued at each meeting due to the length of discussions on prior agenda items.
- ULDC Article 75. *Nonconforming Uses, Structures and Plots*, including Section 75-035. *Uses as of October 1, 2006*, was discussed by the ULDC Review Committee at its meeting on October 17, 2013. The Committee recommended approval, by a 5-0 vote, of Staff proposed Article 75 revisions, subject to several conditions. Recommended conditions of approval for Section 75-035 include the following:
  - The “historical legacy” use will not be allowed to continue in the event of a sale of the business or the property on which it is located.
  - A “historical legacy” business may continue if previous code violations have been brought into compliance with the ULDC.
  - A “historical legacy” business may not be diversified (i.e. add a new business operation).
  - The owner-operator must undergo an inspection and review by the Town to determine compliance with Sections 75-035 (A) – (F).

Each of the above recommendations have been incorporated within the current Staff recommendation.

## **II. GENERAL INFORMATION**

**A. APPLICANT:** Town of Loxahatchee Groves.

**B. PURPOSE:** Incorporate revisions to the Unified Land Development Code (ULDC) revising Section 75-035. *Uses as of October 1, 2006* to:

1. Expand the title to read: Section 75-035. *Historical Legacy Uses as of October 1, 2006*.
2. Require an applicant to apply for a Category B Special Exception.
3. Require that the applicant comply with a list of stated conditions.

4. Require that the applicant undergo a review and inspection by the Town to determine compliance with the list of stated conditions.

5.

### **III. REQUESTED ULDC AMENDMENTS**

The final proposed amendment to ULDC Section 75-035 is included as Exhibit A of proposed Ordinance 2013-11. Exhibit A of the Ordinance differs somewhat from Attachment A of this staff report, as some of the ULDC Review Committee revisions were further revised by the Local Planning Agency (LPA). The LPA recommendation represents the final staff recommendation, per Exhibit A of Ordinance 2013-11. Revisions proposed by the ULDC Review Committee as further revised by the LPA can be tracked in Attachment A of this staff report.

### **IV. STAFF ANALYSIS**

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

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

The basic purpose of the proposed amendment is to implement Town Council direction to process an ordinance addressing the “historical legacy” land use issue.

#### **B. REASON THE PRESENT TEXT IS INVALID OR INAPPROPRIATE:**

The current text of the ULDC is not necessarily invalid or inappropriate; however, current Code language does not permit a use existing as of October 1, 2006 to continue to exist if the applicant had not filed an application for Special Exception approval within eight months of the effective date of the ULDC (i.e. November 2010). In effect, existing ULDC language prohibits any use in the AR District that was in existence on October 1, 2006, but not listed as a “permitted use” in Section 20-015 of the ULDC, from continuing to exist. The proposed ULDC text amendment will provide an opportunity for qualified longstanding non-conforming land uses (i.e. Historical Legacy uses) to gain permitted use status, provided that specified conditions are met and verified by the Town.

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

The proposed ULDC revisions, which allow and regulate uses in the AR zoning district that were in existence at the time of incorporation of the Town, are consistent with the following general Future Land Use Element Comprehensive Plan directives:

1. Policy 1.1.4(h): Create codes allowing diverse low impact home-based businesses.
2. Policy 1.1.6: The Town shall encourage the use of innovative land development regulations that enhance the rural atmosphere, reduce energy usage, and reduce greenhouse gas emissions.
3. Policy 1.1.8.5: Maintain specific regulations to restrict the types of non-residential and

nonagricultural uses allowed and promote the rural character and design..

4. Policy 1.1.8.6: Allow home occupation uses that will not degrade the rural character of the area.
5. Policy 1.1.8.7: Include provisions for legal non-conforming agricultural uses consistent with this Plan, while not violating the Right-to-Farm Act.
6. Policy 1.11.2: The Town shall adopt and maintain land development regulations which protect the rights of property owners to continue non-conforming uses, but which, at a minimum, provide for the termination of such rights upon the abandonment of a non-conforming use for an extended period of time.
7. Policy 1.12.4: The Town will continue to allow home based businesses to the extent that impacts are compatible with an agricultural/residential community.

**D. IS THERE AN ERROR OR AMBIGUITY TO BE CORECTED:** There are no identified errors or ambiguities identified in the Town's current ULDC regarding the issue. Rather, the proposed amendments provide an opportunity to allow longstanding non-conforming uses the opportunity to legally continue consistent with the direction of the Town's Comprehensive Plan.

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

**VI. STAFF RECOMMENDATION:** Staff recommends approval of the proposed ULDC revisions to ULDC Section 75-035 as presented in Exhibit A of proposed Ordinance 2013-11. Revisions recommended by both the ULDC Review Committee and the Local Planning Agency are presented in Attachment A of this staff report. Revisions proposed by the LPA, including a majority if those revisions proposed by the ULDC Review committee, constitute the staff recommendation.

**VII. ULDC COMMITTEE ACTION:** The Committee recommended approval, by a 5-0 vote, of Staff proposed Section 75-035 include the following:

- The "historical legacy" use will not be allowed to continue in the event of a sale of the business or the property on which it is located.
- A "historical legacy" business may continue if previous code violations have been brought into compliance with the ULDC.
- A "historical legacy" business may not be diversified (i.e. add a new business operation).
- The owner-operator must undergo an inspection and review by the Town to determine compliance with Sections 75-035 (A) – (F).

Each of the above recommendations have been incorporated within the Staff recommendation presented in Attachment A of Ordinance 2013-11.

**VIII. LOCAL PLANNING AGENCY (LPA) ACTION:** The LPA, at its meeting of December 12, 2013, recommended that the Council approve proposed Ordinance 2013-11, by a 3 – 0 vote, subject to the revisions highlighted in Attachment A:

**IX. TOWN COUNCIL ACTION:** The item appeared on the Town Council agenda of March 5, 2013 in its previous form (i.e. Ordinance 2012-012 - “Hay Sales Ordinance”). At the meeting, a motion was made and passed, by a 5-0 vote, directing Staff to process an ordinance addressing the more general issue of “historical legacy”, as opposed to focusing solely upon hay sales.

Staff’s response to Council direction, including a detailed review by the ULDC Review Committee and the Town’s Local Planning Agency, is incorporated within the proposed ULDC revisions presented in Exhibit A of Ordinance 2013-11.

# ATTACHMENT A – Ordinance 2013-011

## Historical Legacy Amendments

(Ref: Following Page)

### Amendments to the following ULDC Section:

1. Section 75-035. *Uses as of October 1, 2006*

**NOTE:** Underlined text is an addition to Section 75-035 and ~~struck through text~~ is a deletion to Section 75-035 as proposed by Staff, including input from the ULDC Review Committee. Underlined text is an addition to Section 75-035 and ~~struck through text~~ is a deletion to Section 75-035 as proposed by the Town's Local Planning Agency (LPA).

### **Section 75-035. - Historical Legacy Uses as of October 1, 2006.**

Certain uses that were in existence ~~and not previously permitted by Palm Beach County~~ as of October 1, 2006 are not contained in the table of permitted uses for the Agricultural Residential (AR) zoning district. Such uses, referred to as "Historical Legacy Uses", but may be allowed to continue to exist, subject to following:

- (A) The applicant shall have the burden of proof to demonstrate that the use was in existence on the property as of October 1, 2006; and
- (B) The applicant shall apply for a Category B Special Exception pursuant to Section 170-010(B) of this Code; and
- (C) ~~The application for the Special Exception shall be filed within eight months of the effective date of these regulations.~~ The property on which the use is located shall have been continuously: (1) owned in the name of the use operator or his or her direct relative related by blood or marriage since October 1, 2006; and (2) subject to a homestead exemption in the name of the use operator or his or her direct relative related by blood or marriage, since October 1, 2006.
- (D) The use does not present a threat to public health or safety..
- (E) The use property upon which the use is located has no history of Town Code violations, or the use property has been brought into compliance with the Town Code.
- (F) The owner-operator has submitted an affidavit: (1) certifying compliance with Sections (A) –(E) above (2) limiting the continued operation of the use to both the exact physical address Parcel Control Number (PCN) and operator or his or her direct relative related by blood or marriage; (3) agreeing not to diversify the existing business; (4) agreeing that no signs visible from the road which advertise or promote the use will be erected on the property; (5) agreeing to maintain, and provide a copy to the Town, an active annual local business tax receipt; and (6) acknowledging that, in the event of the transfer of the property to a new owner other than to a direct relative related by blood or marriage, the right to operate the use shall cease. ; and (7) agreeing to conditions imposed by Town Staff including, but not limited to, access, parking, hours of operation, noise generation, location of the business activities upon the property, number of on-site employees, clients or customers allowed, deliveries, waste disposal, proof of insurance, etc.
- (G) The owner-operator has undergone a review and inspection by the Town to determine compliance with Sections (A) – (F) above.
- (H) The following uses are not eligible for approval under this section:
- (1) Adult entertainment establishment.
  - (2) Recreational vehicle or mobile home park.
  - (3) Junk or scrap yard.

(4) Additional uses determined by Town staff to be non-compliant with Articles 45: *Property Maintenance* and Article 50: *Public Nuisances*.

**TOWN OF LOXAHATACHEE GROVES**

**ORDINANCE NO. 2013-11**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO HISTORICAL LEGACY USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 75-035, ENTITLED “USES AS OF OCTOBER 1, 2006” TO ADD THE TERM HISTORICAL LEGACY TO THE SECTION TITLE; TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO REQUIRE THAT THE PROPERTY ON WHICH THE USE IS LOCATED SHALL HAVE BEEN OWNED AND SUBJECT TO A HOMESTEAD EXEMPTION IN THE NAME OF THE OPERATOR; TO REQUIRE THAT THE USE DOES NOT PRESENT A THREAT TO PUBLIC HEALTH; TO REQUIRE THAT THE USE HAS NO HISTORY OF CODE VIOLATIONS OR THE USE HAS BEEN BROUGHT INTO CODE COMPLIANCE; TO REQUIRE THAT THE OWNER-OPERATOR SUBMIT AN AFFIDAVIT STIPULATING TO COMPLIANCE WITH CERTAIN CONDITIONS; TO REQUIRE REVIEW AND INSPECTION BY THE TOWN; PROVIDING THAT CERTAIN USES ARE NOT ELIGIBLE FOR APPROVAL UNDER THIS SECTION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council has directed staff and the Unified Land Development Code (ULDC) Review Committee to prepare corrective amendments to Section 75-035 that will result in a process to permit “historical legacy” uses in the Agricultural Residential (AR) zoning district.

**WHEREAS**, In response to the Council directive the Town’s staff has prepared proposed amendments to the Town’s Unified Land Development Code (ULDC) and,

**WHEREAS**, the Town’s ULDC Review Committee considered the proposed ULDC amendments at its October 17, 2013, meeting and recommended that the Town Council approve the amendments to the ULDC proposed by staff subject to revisions which have been incorporated in Exhibit A hereto; and,

**WHEREAS**, the Town’s Planning and Zoning Board considered the proposed ULDC amendments at its December 12, 2013, meeting and pursuant to Chapter 163, Part

II, Florida Statutes, recommended that the Town Council approve the amendments to the ULDC as worded in Exhibit A hereto; and,

**WHEREAS**, the Town Council of Town of Loxahatchee Groves finds that the adoption of this ordinance, to revise Section 75-035, entitled “Uses as of October 1, 2006”, is consistent with the Town’s Comprehensive Plan, and in the best health and welfare interests of the Town, its property owners and residents.

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

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

**Section 2:** That the Town Council of the Town of Loxahatchee Groves, hereby amends the Town’s Unified Land Development Code (ULDC) by amending Section 75-035, entitled “Uses as of October 1, 2006” , as fully set forth in **EXHIBIT “A”**, and incorporated herein by reference.

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

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

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

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

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 14th DAY OF JANUARY, 2014.**

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

**TOWN OF LOXAHATCHEE GROVES,  
FLORIDA**

ATTEST:

\_\_\_\_\_  
Mayor David Browning

\_\_\_\_\_  
Janet K. Whipple, MMC  
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

**EXHIBIT A – Ordinance 2013-011**

**Historical Legacy Amendments**

**(Ref: Following Page)**

**Amendments to the following ULDC Section:**

1. Section 75-035. *Uses as of October 1, 2006*

**NOTE:** Underlined text is an addition to Section 75-035 and ~~struck through text~~ is a deletion to Section 75-035.

**Section 75-035. - Historical Legacy Uses as of October 1, 2006.**

Certain uses that were in existence as of October 1, 2006 are not contained in the table of permitted uses for the Agricultural Residential (AR) zoning district. Such uses, referred to as “Historical Legacy Uses”, but may be allowed to continue to exist, subject to following:

- (A) The applicant shall have the burden of proof to demonstrate that the use was in existence on the property as of October 1, 2006; and
- (B) The applicant shall apply for a Category B Special Exception pursuant to Section 170-010(B) of this Code; and
- (C) ~~The application for the Special Exception shall be filed within eight months of the effective date of these regulations.~~ The property on which the use is located shall have been continuously: (1) owned in the name of the use operator since October 1, 2006; and (2) subject to a homestead exemption in the name of the use operator since October 1, 2006.
- (D) The use does not present a threat to public health or safety..
- (E) The property upon which the use is located has no history of Town Code violations, or the property has been brought into compliance with the Town Code.
- (F) The owner-operator has submitted an affidavit: (1) certifying compliance with Sections (A) –(E) above (2) limiting the continued operation of the use to both the Parcel Control Number (PCN) and operator; (3) agreeing not to diversify the existing business; (4) agreeing that no signs visible from the road which advertise or promote the use will be erected on the property; (5) agreeing to maintain, and provide a copy to the Town, an active annual local business tax receipt; (6) acknowledging that, in the event of the transfer of the property to a new owner the right to operate the use shall cease; ; and (7) agreeing to conditions imposed by Town Staff including, but not limited to, access, parking, hours of operation, noise generation, location of the business activities upon the property, number of on-site employees, clients or customers allowed, deliveries, waste disposal, proof of insurance, etc.
- (G) The owner-operator has undergone a review and inspection by the Town to determine compliance with Sections (A) – (F) above.

(H) The following uses are not eligible for approval under this section:

(1) Adult entertainment establishment.

(2) Recreational vehicle or mobile home park.

(3) Junk or scrap yard.

(4) Additional uses determined by Town staff to be non-compliant with Articles 45:  
*Property Maintenance* and Article 50: *Public Nuisances*.



**Item 7 b.**

**Ordinance No. 2014-01 1st Reading**

**Drysdale Comprehensive Plan Amendment**

**TOWN OF LOXAHATCHEE GROVES  
TOWN COUNCIL MEETING  
January 14, 2013**

**AGENDA ITEM STAFF SUMMARY:**

- 1. Small-Scale Comprehensive Plan Amendment (CPA)2013-2(SS); and**
- 2. Rezoning (REZ) 2013-3.**

**Project Name:** Drysdale Property.

**Agent:** Nancy Drysdale.

**Applicant:** Nancy Drysdale.

**Owner:** Nancy C. Drysdale, as trustee, under the Nancy C. Drysdale Revocable Trust Agreement dated September 19, 2005.

**Parcel Control Numbers (PCN):** 41-41-43-32-01-000-2080 (0.67 acres);  
41-41-43-32-01-000-2090 (0.67 acres); 41-41-43-32-01-000-2100 (5.21 acres).

**Project Location:** Northwest Corner of Valencia Drive (Southern Blvd.) and Loxahatchee Avenue.

**Size of Property:** 6.55 acres.

**Current FLU Map Designation:** Rural Residential 5 (RR5).

**Current Zoning Map Designation:** Agricultural Residential (AR).

**Existing Use:** Single-family, in part; 1,751 sq. ft. residence; and vacant, in part.

**Proposed Land Use Designation:** Commercial Low (CL).

**Proposed Zoning Designation:** Commercial Low (CL).

**Maximum Development Potential Proposed Land Use:** 28,532 sq. ft. of CL space (6.55 acres x 43,560 sq. ft. per acre x 0.1 FAR)

**Application Summary**

The application has requested a joint change in the Future Land Use Map (FLUM) designation from Rural Residential 5 and the Zoning District designation of Agricultural Residential<sup>1</sup> (AR) to FLUM and Zoning District Map designations of Commercial Low.

## **Staff Finding and Recommendation**

Following a review of the joint applications, Town Planning staff finds Amendments CPA 2013-02 and REZ 2013-03 to be generally consistent with the intent and direction of the Comprehensive Plan and the rezoning criteria, as depicted in Section 160-020(A) (1) – (6) of the ULDC, and recommends approval of the following:

1. FLUM Amendment Application CPA 2013-2(SS); and
2. Rezoning Application REZ 2013-03.

However to insure consistency with the Town's planning documents and compatibility with surrounding land uses, Staff recommends approval of the proposed future land use amendment subject to the following conditions:

1. Development of the property shall be limited to a maximum of 28,532 sq. ft. of commercial space. A County Traffic Performance Standards (TPS) review, including a concurrency determination, shall be completed at the time of site plan review, when a specific plan of development is proposed, in order to establish traffic-based building potential and the timing thereof.
2. Direct ingress and egress to a future commercial development from Tangerine Drive shall be prohibited.
3. The Rural Vista Guidelines, as directed by the Town Council, shall be incorporated within the development design.
4. PalmTran shall be contacted during the site plan approval process to determine if a bus shelter is needed and feasible.
5. A vegetative survey, including a native plant and habitat inventory, shall be completed at the time of site plan approval, including identification of an appropriate mitigation and/or preservation program, as necessary.
6. Prior to submitting a site plan, the Roadway Equestrian Trails and Greenways (RETAG) Advisory Committee shall be consulted regarding the incorporation of an equestrian trail within the development program.

## **Local Planning Agency (LPA) Recommendation**

The LPA, at its meeting of December 12, 2013, recommended that the Council approve CPA Amendment 2013-02(SS) and REZ Amendment 2013-03, each by a 2 – 1 vote.

Proposed FLUM and Zoning Map amendments are presented in Attachments A1 and A2.

## Staff Report Summary

### A. Adjacent Land Uses

Direction	Existing Uses	FLU and Zoning Designations
North	Tangerine Drive. Beyond Tangerine Drive are 6 0.35 acre lots (Five with a single family residence and one vacant). To the west is a 2.06 acre parcel owned by the School District	Rural Residential 5 FLU and Agricultural Residential AR zoning
South	Valencia Drive and Southern Boulevard rights-of-way.	NA – Road rights-of-way
East	Loxahatchee Avenue. Beyond Loxahatchee Avenue is a vacant 9.23 acre property with the following development approval: Southern Crossings MUPD: 29,856 sq. ft. of medical office space and 7,552 sq. ft. of bank space.	Commercial Low Office (CL-O) FLU and Multiple Use Planned Development (MUPD) zoning (County zoning designation).
West	Orange Avenue. Beyond Orange Avenue are two 0.54 acre lots (One with a single-family residence and one vacant)	Rural Residential 5 FLU and Agricultural Residential AR zoning.

### B. Infrastructure Impacts

Infrastructure Service	Summary
Water/wastewater	Property can be served by County central water/wastewater along Southern Boulevard. Letter from County provided (Attachment Q of the FLUM Amendment Application).
Surface Water Management	Drainage statement provided (Attachment H of the FLUM Amendment Application). Property currently drained by sheet flow to adjacent public rights-of-way. The property is within the SFWMD C-51 Basin. A drainage system will be designed to meet the requirements of SFWMD, LGWCD and Palm Beach County in order to incorporate all measures necessary to assure that there will be no adverse effects on the on-site collection system, neighboring properties, or a receiving body. A portion of the property is the #1 ranked priority site for a pond in Drainage Basin 7 for the State Road 80 widening project.
Solid Waste Disposal	Solid Waste Authority letter confirms disposal capacity available. Applicant must execute contract with private hauler for collection.
Transportation	Traffic impact statement provided by Town Traffic Engineer (Attachment D of the FLUM Amendment Application) which determines no significant impact on Southern Boulevard. Applicant must comply with the County's Traffic Performance Standards Ordinance when a site plan including a specific plan of development is proposed.
Parks and Recreation	Not Applicable – Commercial land use and zoning
Public Schools	Not Applicable – Commercial land use and zoning
FIRE/EMS	Letter from Palm Beach County Fire/Rescue (Attachment P of the FLUM Amendment Application) indicating an estimated response time less than the average for the nearest station.

### C. Environment

Item	Summary
Natural Resources	The applicant states that the property has no wetlands or surface waters and has been previously cleared and filled and periodically mowed (Attachment M of the FLUM Amendment Application). Existing vegetation is primarily upland grasses, with limited areas of Cabbage Palm, Slash Pine, and exotics, including Brazilian Pepper.
Historical Resources	Letter from the County Archaeologist provided(Attachment O of the FLUM Amendment Application) stating that there are no known archaeological sites on or within 500 feet of the property
Flood Zone	Zone X-500, per Map # FLU 1.5 of the Comprehensive Plan (Attachment K of the FLUM Amendment Application). Zone X-500 is the area lying between the limits of the 100-year and 500-year flood; or certain areas subject to the 100-year flood with average depths of less than 1 foot or where the contributing drainage area is less than 1 square mile; or areas protected by levees from the 100-year flood.

### D. Comprehensive Plan Consistency

Proposed amendment CPA 2013-2(SS) and rezoning REZ 2013-03 are generally consistent with the following Comprehensive Plan directives:

- FLU Objective 1.2 The Town shall support development of rural style commercial center along the Southern Boulevard Corridor.
- FLU Policy 1.2.1 The Town shall limit new commercial development to areas south of East Citrus Road border to border.
- FLU Policy 1.12.3 The Town shall encourage development of a rural-style commercial center along the Southern Boulevard Corridor to provide a center of accessible shopping, recreation, and employment opportunities for Loxahatchee Groves' residents.

### E. Zoning Requirements: CL Zoning District

Regulation	Standard	Property Complies?
Minimum lot size	1 acre	Yes
Frontage and Access	Paved Collector or Arterial	Yes
Minimum frontage/width	150 feet	Yes
Minimum depth	150 feet	Yes
Maximum Floor-Area-Ratio	0.10	Yes
Maximum building and roofed structures lot coverage	25%	Yes
Front setback	50 feet	Yes
Side setback	25 feet	Yes
Side street setback	25 feet	Yes
Rear setback	50 feet	Yes
Minimum pervious area	30%	Yes
Maximum building height	35 feet	Yes

## F. ULDC Section 160-020 Rezoning Criteria

A rezoning petition is reviewed in accordance with the following criteria:

1. Must comply with both of the following:

Criterion	Can Property Comply?
Consistency with the Comprehensive Plan	Yes – See Item D Above
Approval would not give privileges not generally extended to similarly situated property in the area, or result in an isolated district unrelated to adjacent or nearby districts.	Yes – Other properties along Southern Boulevard either have commercial zoning or can meet the criteria to apply for rezoning. Adjacent property to the east has a commercial zoning approval

2. Must comply with one or more of the following:

Criterion	Can Property Comply?
An error or ambiguity must be corrected	Not Applicable
There exists changed or changing conditions which make the approval of the request appropriate.	Yes – Southern Boulevard is currently a 4-lane divided major arterial roadway and programmed to be expanded to 6-lanes in FY 2017/18
Substantial reasons exist why the property cannot be used in accordance with the existing zoning.	Yes - The Loxahatchee Homes Plat 1 was originally filed in 1949. At that time Southern Blvd. was a 2-lane road. It is now 4-lane and soon to be expanded to 6-lanes. Southern Boulevard corridor frontage has seen virtually no residential development activity in the past 50 years.
The rezoning is appropriate for the orderly development of the Town and is compatible with existing and conforming adjacent land uses, and planned adjacent land uses.	Yes – The rezoning is consistent with Comprehensive Plan directives for future development along Southern Boulevard and compatible with the approved Southern Crossings MUPD property to the east. The low floor-area-ratio provides opportunities for buffering of residential properties to the north and west.

**G. ULDC Section 110-025(B). Minimum required information.**

Requirement	Response
Vehicular and pedestrian access	Property is bordered by four roads: Southern Boulevard (Valencia Drive); Tangerine Drive; Loxahatchee Avenue; and Orange Avenue. Potential access available from each of these roads. No proposed site plan at this time.
On-site circulation	To be determined at the time of site plan approval.
Parking	To be determined at the time of site plan approval.
Proposed roadway or easement vacations or road closures	Potential easement vacation of Valencia Drive
Off-site roadway improvements and traffic impacts in adjacent neighborhoods.	To be determined at the time of site plan approval, including Traffic Performance Standards (TPS) review and Concurrency determination.

**H. Compatibility**

An inventory of land uses adjacent to the subject property is presented in Section A. All adjacent properties lie beyond street rights-of way. Properties to the west and north are currently assigned Future Land Use designations of Rural Residential 5 (density of one dwelling unit per five acres) and Zoning designations of Agricultural Residential (AR). Actual densities are considerably higher, however, as all properties are considerably smaller than 5 acres (i.e. 0.35 to 0.54 acres each).

The adjacent property to the east, beyond Loxahatchee Avenue, is a vacant 9.23 acre property (i.e. Southern Crossings MUPD) with the following development approval: 29,856 sq. ft. of medical office space and 7,552 sq. ft. of bank space.

Compatible land uses are defined as those which are consistent with each other in that they do not create or foster undesirable health, safety, or aesthetic effects arising from direct association of dissimilar activities, including the impacts of intensity of use, traffic, hours of operation, aesthetics, noise vibration, smoke, hazardous odors, radiation, and other land use conditions.

To be compatible, it is not necessary that two uses have the exact same function (e.g. residential, commercial, institutional, etc.). Rather, compatibility is attained when uses do not adversely affect each other. Further, two uses whose functions are different can compliment and support each other. For example, a residential use can help support a commercial use and, conversely, the

commercial use can provide essential goods and services to residents of surrounding neighborhoods.

Separation of potentially incompatible uses can act to fully or partially mitigate potential incompatibilities. To the west and north the subject property is separated from adjacent residential properties by fifty foot rights-of-way (i.e. Orange Avenue and Tangerine Drive).

In addition to separation of uses, access management, buffering, screening, setback, height, landscaping, and architectural requirements can further enhance compatibility, and reduce the potential negative effects of functionally different land uses.

A review of the subject site vicinity leads to the conclusion that the area is comprised of a mixture of existing and planned land uses along Southern Boulevard, including commercial (retail and office), institutional (government) and recreation with moderate intensity (i.e. 2 to 3 units per acre) residential and agricultural uses behind the frontage.

The CL Future Land Use and Zoning designations (maximum intensity of 0.10 F.A.R.) provides the Town with an opportunity to establish rural-style commercial uses along Southern Boulevard. Comprehensive Plan directives (Ref: Section VII. B for further discussion) regarding compatibility with neighboring properties and implementation of Rural Vista Guidelines directives (Ref: Section D), along with implementation of buffering and screening techniques during site plan review, can be used as the basis to insure compatibility.

**ATTACHMENT A1  
FUTURE LAND USE MAP AMENDMENT: CPA 2013-02(SS):  
DRYSDALE PROPERTY**

**ATTACHMENT A2  
ZONING MAP AMENDMENT REZ 2013-03:  
DRYSDALE PROPERTY**

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-01**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING AN AMENDMENT TO THE TOWN OF LOXAHATCHEE GROVES ADOPTED COMPREHENSIVE PLAN, IN ACCORDANCE WITH CHAPTER 163, FLORIDA STATUTES, CONCERNING A SMALL-SCALE LAND USE PLAN AMENDMENT APPLICATION PROPOSED BY NANCY C. DRYSDALE THE APPLICANT AND PROPERTY OWNER TO CHANGE THE DESIGNATION OF THE SUBJECT USE OF LAND FROM RURAL RESIDENTIAL 5 (1 DU PER 5 ACRES) IN THE TOWN'S ADOPTED PLAN, TO COMMERCIAL LOW (CL) FOR FUTURE DEVELOPMENT OF PROPERTY ON 6.55 ACRES MORE OR LESS LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND LOXAHATCHEE AVENUE, LOXAHATCHEE GROVES, FLORIDA (AMENDMENT 2013-02), LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT "A" TO THIS ORDINANCE; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN TO REFLECT SUCH CHANGE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, provisions of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985 require adoption of a comprehensive plan; and;

WHEREAS, the Town of Loxahatchee Groves, Florida, pursuant to the Local Government Comprehensive Planning Act, and in accordance with all of its terms and provisions, adopted a Comprehensive Plan which has been found to be "in compliance" by, the State Department of Community Affairs (DCA); and,

WHEREAS, the Town's Planning Consultant recommends approval of the Land Use Amendment Application on Applicant's Property from the Rural Residential 5 Land Use Category to the Commercial Low Land Use Category, as set forth in a report to the Town Council, setting forth recommendations and conditions, which report is incorporated herein; and,

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-01**

Department of Community Affairs (DCA); and,

**WHEREAS**, Nancy C. Drysdale has applied to amend the property that she owns, 6.55 acres located at the northwest corner of Southern Boulevard and Loxahatchee Avenue, within the Town of Loxahatchee Groves, from the Rural Residential 5 Land Use Category to the Commercial Low Land Use Category (the “Application”); and,

**WHEREAS**, the application meets all conditions as a small-scale land use amendment pursuant to Section 163.3187, Florida Statutes; and,

**WHEREAS**, the Town of Loxahatchee Groves Local Planning Agency, at its meeting on December 12, 2013, conducted the required public hearing on this Amendment to the Town of Loxahatchee Groves adopted Comprehensive Plan and recommended approval; and,

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves has conducted the required public hearing on this Amendment to the Town of Loxahatchee Groves adopted Comprehensive Plan; and,

**WHEREAS**, the reports, records, and materials from the public hearings to adopt Ordinance 2014-01 are incorporated herein and relied upon by the Town Council to the extent not inconsistent with this Ordinance; and,

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves has deemed it to be in the best interest of the citizens and residents of the Town of Loxahatchee Groves to adopt an Amendment to the Town’s Adopted Comprehensive Plan in accordance with Chapter 163, Florida Statutes, concerning a Small-Scale Land Use Plan Amendment proposed by Nancy C.

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-01**

Drysdale, LLC, the Applicant and property owner, to change the designation of the subject use of land from Rural Residential 5 (1 du/ 5 ac) in the Town's adopted Comprehensive Plan to the Commercial Low (CL) category, as recommended by the Town's Planning Consultant and Local Planning Agency, to accommodate the future development on 6.55 acres more or less of land, for the property located at the northwest corner of Southern Boulevard and Loxahatchee Avenue, Loxahatchee Groves, Florida, as legally described in Exhibit A hereto.

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

**SECTION 1:** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of the Ordinance upon adoption hereof; all exhibits attached hereto or referenced herein are incorporated herein and made a specific part of this Ordinance.

**SECTION 2:** The Town Council has reviewed the application and finds the following:

1. The Amendment, as approved herein, is consistent with the goals, objectives and policies of the Town of Loxahatchee Groves Adopted Comprehensive Plan;
2. The characteristics of the surrounding area and the characteristics included in the proposed land use are compatible;
3. The Town of Loxahatchee Groves has the ability or will have the ability to

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-01**

provide necessary services for the additional demand for public facilities.

**SECTION 3:** The Town Council approves and adopts the recommendations of the Town's Planning Consultant and Local Planning Agency, which are incorporated herein.

**SECTION 4:** The Small-Scale Land Use Plan Amendment to the adopted Comprehensive Plan of the Town of Loxahatchee Groves (Amendment No. 2013-02) approved by the Town Council, changing the land use from Rural Residential 5 (1 du/ 5 ac) in the Town's adopted Comprehensive Plan to Commercial Low (CL), as shown in Exhibit A hereto, is hereby adopted, subject to the conditions of the Planning Consultant's Report, which is adopted and approved.

**SECTION 5:** The Town's Planning Consultant is further authorized and directed to make the necessary changes to the Future Land Use Map in the plan, in order to reflect the above-stated change.

**SECTION 6:** All Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 7:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given affect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-01**

**SECTION 8:** This Ordinance shall become effective as provided in Section 163.3187(5)(c), Florida Statutes..

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 14th DAY OF JANUARY, 2014.**

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS \_\_\_ DAY OF \_\_\_\_\_, 2014.**

**TOWN OF LOXAHATCHEE GROVES,  
FLORIDA**

ATTEST:

\_\_\_\_\_  
Mayor David Browning

\_\_\_\_\_  
Janet K. Whipple, Town Clerk

\_\_\_\_\_  
Vice-Mayor Ron Jarriel

\_\_\_\_\_  
Council Member Tom Goltzené

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Council Member Ryan Liang

\_\_\_\_\_  
Michael D. Cirullo, Jr.  
Town Attorney

\_\_\_\_\_  
Council Member Jim Rockett

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-01**

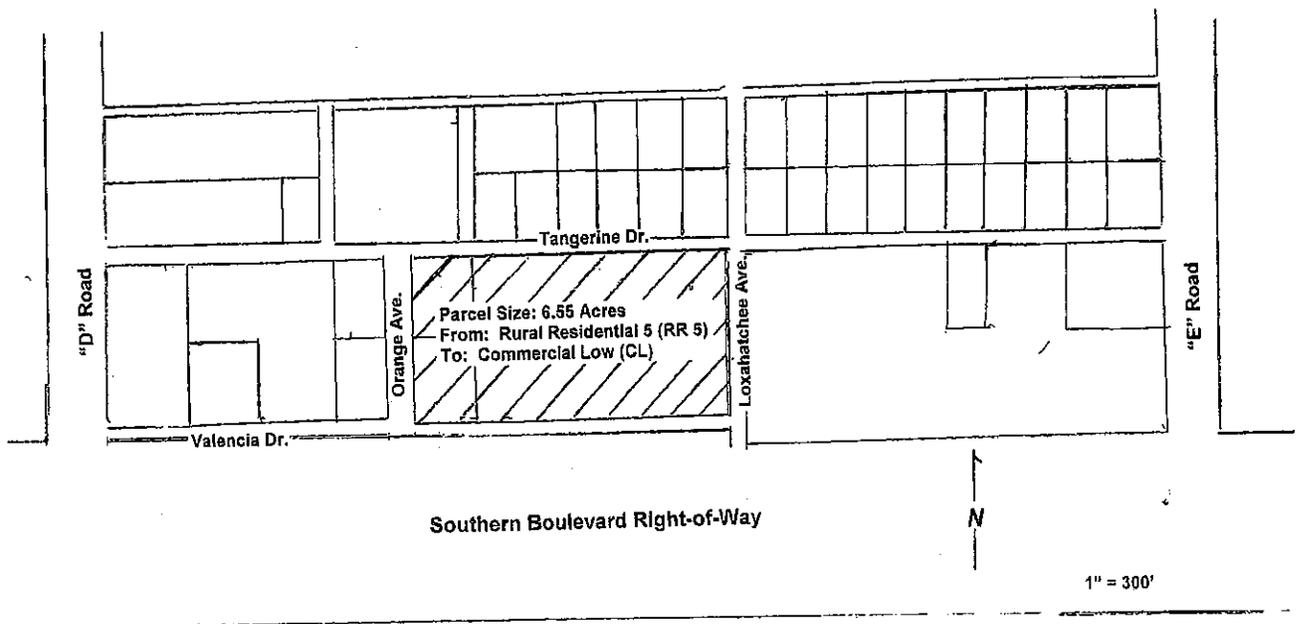
**EXHIBIT A – AMENDMENT 2013-02**

- 1. Legal Description**
- 2. Future Land Use Map Amendment**

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-01**

**2. FUTURE LAND USE MAP AMENDMENT CPA 2013-02**





**Item 7 c.**

**Ordinance No. 2014-02 1st Reading**

**Drysdale Land Use Change**

**(See Staff Report preceding Ordinance 2014-01)**

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-02**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE REZONING OF LAND CONSISTING OF 6.55 ACRES, MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND LOXAHATCHEE AVENUE, LOXAHATCHEE GROVES, FLORIDA (REZ 2013-03), LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT "A" TO THIS ORDINANCE, FROM TOWN OF LOXAHATCHEE GROVES ZONING DESIGNATION AGRICULTURAL RESIDENTIAL (AR) TO THE TOWN'S ZONING DESIGNATION COMMERCIAL LOW (CL) IN ACCORDANCE WITH A SMALL-SCALE LAND USE PLAN AMENDMENT APPLICATION BY NANCY C. DRYSDAL , THE APPLICANT AND PROPERTY OWNER THROUGH ORDINANCE 2014-01; PROVIDING FOR THE APPROPRIATE REVISIONS OF THE ZONING DISTRICT MAP; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on November 16, 2010, the Town adopted Ordinance 2010-009, which adopted the Town's Unified Land Development Code (ULDC), including the designation of zoning districts in the Town, consistent with the Town's Comprehensive Plan; and,

**WHEREAS**, the Property Owner, Nancy C. Drysdale (Applicant), owner of the property, has petitioned the Town to approve a Small-Scale Land Use Amendment and a the proposed rezoning of certain property located at the Northwest corner of Southern Boulevard and Loxahatchee Avenue, Loxahatchee Groves, Florida, totaling approximately 6.55 acres, more or less, legally described and as designated on the map in Exhibit "A", attached hereto (the "Property"), to change the Town of Loxahatchee Groves zoning designation on the property from Agricultural Residential (AR) to the Town's zoning designation of Commercial Low (CL), as the property is being proposed for commercial development; and,

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-02**

**WHEREAS**, the Town’s Planning Consultant recommends approval of the Rezoning Application on Applicant’s Property from the Agricultural Residential (AR) Zoning Category to the Commercial Low (CL) Zoning Category, subject to Ordinance 2014-01 being approved and becoming effective, as further set forth in a report to the Town Council, setting forth recommendations and conditions, which report is incorporated herein; and,

**WHEREAS**, at its meeting of December 12, 2013, the Town’s Local Planning Agency, considered the request to rezone the Property, and recommended approval to the Town Council; and

**WHEREAS**, the notice and hearing requirements for adoption of rezoning ordinances contained in the Florida Statutes and the Town’s Code of Ordinances have been satisfied; and

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves has conducted a quasi-judicial hearing and considered the petition for rezoning, the recommendation of the Town’s Planning Consultant and Local Planning Agency, and the comments from the public.

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

**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.

**Section 2.** The rezoning of the property located at the Northwest corner of southern Boulevard and Loxahatchee Avenue, Loxahatchee Groves, Florida (REZ 2013-03, totaling approximately 6.55 acres, more or less legally described, and as designated on the map, in Exhibit “A”, attached hereto, from Town of Loxahatchee Groves zoning designation Agricultural Residential (AR) to the Town’s zoning designation of Commercial Low (CL) is hereby Approved, subject to Ordinance 2014-01 being approved and becoming effective, as further set

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-02**

forth in a report to the Town Council, setting forth recommendations and conditions, which report is incorporated herein..

**Section 3.** The Town Administration is hereby authorized and directed to make appropriate changes on the zoning map of the Town, to effectuate the purpose of this ordinance.

**Section 4.** If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered eliminated and so not affecting the validity of the remaining portion or applications remaining in full force and effect.

**Section 5.** All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are to the extent of such conflicts hereby repealed.

**Section 6.** This Ordinance shall take effect upon Ordinance 2014-01 becoming effective.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 14th DAY OF JANUARY, 2014.**

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

**TOWN OF LOXAHATCHEE GROVES,  
FLORIDA**

ATTEST:

\_\_\_\_\_  
Mayor David Browning

\_\_\_\_\_  
Janet K. Whipple  
Town Clerk

\_\_\_\_\_  
Vice-Mayor Ron Jarriel

\_\_\_\_\_  
Council Member Tom Goltzené

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-02**

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Council Member Ryan Liang

\_\_\_\_\_  
Michael D. Cirullo Jr.  
Town Attorney

\_\_\_\_\_  
Council Member Jim Rockett

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-02**

**EXHIBIT A – REZONING 2013-03**

- 1. Legal Description**
- 2. ZONING MAP Amendment**

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-02**

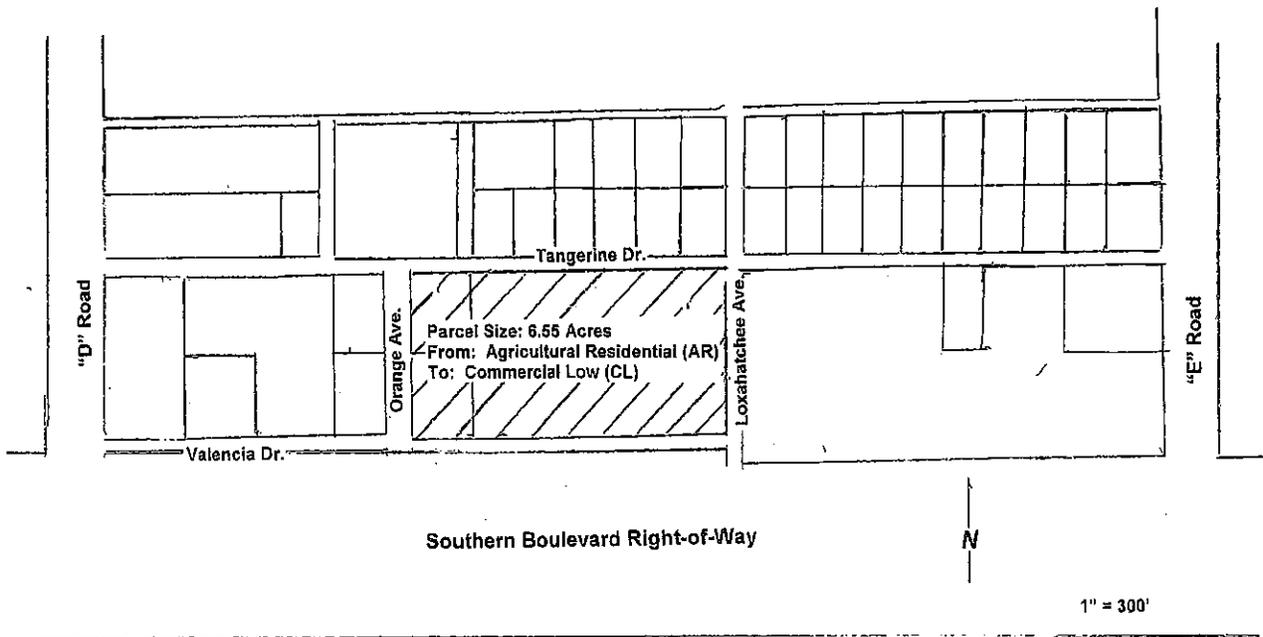
**1. LEGAL DESCRIPTION**

**LOT 208, LOT 209, LOTS 210 - 215, INCLUSIVE, PLAT ONELOXAHATCHEE HOMES, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 22, PAGE 55, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.**

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-02**

**2. ZONING MAP AMENDMENT REZ 2013-03**





**Item 8 a - b**

**Administrative Update**



**Item 9 a - b**

**Old Business**

**Sirdar Trucking**



Sheryl G. Steckler  
Inspector General

## OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY



Inspector General  
Accredited

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*“Enhancing Public Trust in Government”*

# Investigative Report 2014-0001

## December 11, 2013

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*“Provide leadership in the promotion of accountability and integrity of Government in Palm Beach County”*



Sheryl G. Steckler  
Inspector General

## OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

### REPORT OF INVESTIGATION CASE NUMBER: 2014-0001



Inspector General  
Accredited

*"Enhancing Public Trust in Government"*

#### EXECUTIVE SUMMARY

On July 1, 2013, the Town of Loxahatchee Groves (Town) entered into an *Agreement for Maintenance of Mowing and Vegetative Removal Services Within the Town of Loxahatchee Groves*, hereinafter referred to as "the Agreement," with Sirdar Trucking, Inc. (Sirdar). The Agreement was for a two year period ending June 30, 2015. According to the compensation provisions of the Agreement, Sirdar would be paid for mowing services (per hour), as well as vegetative debris removal and disposal (per cubic yard) services.

On September 26, 2013, The Office of Inspector General (OIG) received a complaint from Town Manager Mark Kutney alleging that Sirdar and/or its employees were submitting inflated invoices for work performed, specifically related to the volume of vegetative debris that had been removed, as well as its disposal through a third party, The One Stop Garden Shop<sup>1</sup> (One Stop).

Based on that information, the OIG initiated an investigation.

The allegation that Sirdar Trucking, Inc. and/or its employees submitted inflated invoices to the Town of Loxahatchee Groves for work performed pursuant to the Agreement between the Town and Sirdar is *not supported*. That finding is based on the following:

- The Town disputed the volume of debris removed and/or disposed of by Sirdar and initiated its own "surveillance"<sup>2</sup> to determine whether or not Sirdar was inflating its invoices. However, because the Town's "surveillance" only lasted approximately one hour and did not detail an entire work day/shift, no reasonable conclusion could be formed.
- An analysis was conducted by a private engineering firm, Keshavarz and Associates, Inc. (K&A).<sup>3</sup> The analysis, based on FEMA guidelines and compaction ratios, determined that the maximum volumetric capacity of Sirdar's trailer was 10.84cy<sup>4</sup>; however, it was Sirdar's contention that his trailer (with modifications) was 16.9cy (affirmed by K&A's analysis of the trailer, which was

<sup>1</sup> One Stop does not have any contractual relationship with the Town.

<sup>2</sup> The term "surveillance" was used by Town Public Works Director Frank Schiola to describe his actions.

<sup>3</sup> The Town entered into an agreement with K&A to conduct a volumetric capacity analysis.

<sup>4</sup> It is noted that the analysis also used three other scenarios: hand loaded with top rail (7.62cy), hand loaded as measured (6.60cy), and mechanically loaded as measured (9.82cy); however, the OIG used the maximum capacity (mechanically loaded with top rail) for this Investigation.

measured at 12' L x 7.25' W x 5.25' H) and therefore, he based his trailer load size on the trailer's capacity.

- K&A's analysis differs greatly from that of Sirdar's, wherein Sirdar based his invoices to the Town on the maximum 16.9 cubic yards that his trailer was modified to carry and K&A utilized FEMA guidelines and compaction ratios to determine the maximum volumetric capacity. While it is difficult to conclude that Sirdar actually compacted vegetative debris to 16cy (as invoiced), the Agreement itself lacked any level of specificity as to compaction methods and/or measurement guidelines and only makes provisions related to the method of payment per cubic yard.

## ALLEGATIONS AND FINDINGS

### Allegation (1):

***Sirdar Trucking, Inc. and/or its employees submitted inflated invoices to the Town of Loxahatchee Groves for work performed pursuant to the Agreement between the Town and Sirdar. If supported, the allegation would constitute a violation of Sections 3.2, 3.4, 3.5, and 3.6 of Article 3 of the Agreement; and a potential violation of § 812.014(2)(b)(1), F.S.***

### Finding:

The information obtained *does not support* the allegation based on the following:

- The Town disputed the volume of debris removed and/or disposed of by Sirdar and initiated its own "surveillance" to determine whether or not Sirdar was inflating its invoices. However, because the Town's "surveillance" only lasted approximately one hour and did not detail an entire work day/shift, no reasonable conclusion could be formed.
- An analysis was conducted by a private engineering firm, Keshavarz and Associates, Inc. (K&A). The analysis, based on FEMA guidelines and compaction ratios, determined that the maximum volumetric capacity of Sirdar's trailer was 10.84cy; however, it was Sirdar's contention that his trailer (with modifications) was 16.9cy (affirmed by K&A's analysis of the trailer, which was measured at 12' L x 7.25' W x 5.25' H) and therefore, he based his trailer load size on the trailer's capacity.
- K&A's analysis differs greatly from that of Sirdar's, wherein Sirdar based his invoices to the Town on the maximum 16.9 cubic yards that his trailer was modified to carry and K&A utilized FEMA guidelines and compaction ratios to determine the maximum volumetric capacity. While it is difficult to conclude that Sirdar actually compacted vegetative debris to 16cy (as invoiced), the Agreement itself lacked any level of specificity as to compaction methods and/or measurement guidelines and only makes provisions related to the method of payment per cubic yard.

- Between July 1, 2013 and August 6, 2013, Sirdar submitted a total of five invoices, containing 70 One Stop debris disposal receipts, to the Town. A review of those invoices by the OIG disclosed the following:

Invoice Number (Invoice Date)	Billing Period	Total Hours Mowing (\$45.00 per hour)	VR <sup>5</sup> Cubic Yards (\$16.00 per cubic yard)	VRDF <sup>6</sup> Cubic Yards (\$18.00 per cubic yard)	Total Invoice
10088 (July 29, 2013)	July 5 – 16, 2013	80	336	336	\$ 15,024.00
10089 (July 29, 2013)	July 17 – 23, 2013	50	192	192	\$ 8,778.00
10090 (August 2, 2013)	July 24 – 31, 2013	60	288	288	\$ 12,492.00
10091 (August 2, 2013)	August 1 – 2, 2013	20	128	128	\$ 5,252.00
10097 (September 2, 2013)	August 5 – 6, 2013	20	176	176	\$ 6,884.00
<b>Total of All Invoices Billed to the Town</b>					<b>\$ 48,430.00</b>

**Statement of Mark Kutney, Town of Loxahatchee Groves Manager**

Mr. Kutney was advised by Perla Underwood, Underwood Management Services Group, LLC (UMSG<sup>7</sup>) Co-Owner, that on or about August 5, 2013, she received Sirdar's first set of invoices under the Agreement for their services (#s 10088, 10089, and 10090) totaling \$36,294.00. Those invoices included handwritten receipts from a third party, The One Stop Garden Shop (One Stop), where Sirdar disposed of the vegetative debris. According to Mr. Kutney, Ms. Underwood appeared suspicious of the invoices based purely on the high volume of vegetative debris allegedly removed and disposed of by Sirdar at One Stop. Mr. Kutney explained that Ms. Underwood conducted a comparison of those three invoices, which included receipts from One Stop, against One Stop's own records. Mr. Kutney advised that Ms. Underwood's review disclosed discrepancies between the amount of One Stop disposal receipts submitted by Sirdar with their invoices and the amount of disposal receipts maintained by One Stop. While Ms. Underwood was conducting her document review, Town Public Works Director Frank Schiola was also assigned to conduct physical surveillance on Sirdar employees for a day, after which Mr. Schiola provided a report (August 6, 2013) indicating that there was reason to believe that Sirdar's vegetative debris removal and disposal loads were not 16 cubic yards as invoiced. Mr. Kutney acknowledged that Mr. Schiola's report was based on a "monitoring" that lasted approximately one hour, not an entire shift.

Due to the discrepancies, on August 6, 2013, Mr. Kutney issued a cease and desist order until the issue could be resolved. It is noted that Sirdar submitted a second set of

<sup>5</sup> Reference Vegetation Removal.

<sup>6</sup> Reference Vegetation Removal Dumping Fees.

<sup>7</sup> UMSG "provides management services to the Town of Loxahatchee Groves, and as such, we provide the all-administrative functions for the Town to include Financial Services."

invoices (#s 10091 and 10097) on September 5, 2013 for services performed during the first week of August 2013 (prior to the cease and desist order), totaling \$12,136.00.

Mr. Kutney advised that on August 14, 2013, he and Ms. Underwood<sup>8</sup> met with Sirdar's owners, Chris and Samantha Sirdar, as well as their billing employee, Penny Riccio, to discuss the billing issues. Mr. Kutney indicated that there was no solution to the billing issues at this meeting; however, both parties agreed that the Town would hire an engineering firm, Keshavarz and Associates, Inc. (K&A<sup>9</sup>), to conduct a volumetric capacity analysis on the trailer used by Sirdar for their debris disposal. On August 26, 2013, K&A provided their findings to the Town, which essentially found that Sirdar's trailer could not have held 16 cubic yards of debris, as invoiced. K&A's findings, using FEMA Guidelines for a hand-packed trailer, indicated that the most Sirdar's trailer could have held was 6.60 cubic yards without a top rail and 7.62 cubic yards with a top rail.<sup>10</sup> Mr. Kutney stated that based on K&A's findings, the Town paid Sirdar \$26,546.58 of the total billed (\$48,430.00), which included \$10,350.00 for mowing fees that could not be confirmed as to whether or not the work was actually completed. The remaining fees that were paid, \$7,621.92 for vegetation removal and \$8,574.66 for disposal fees, were based on the analysis conducted by K&A.<sup>11</sup> Mr. Kutney advised that to date, the remainder (\$21,883.42) has not been paid.

**The OIG reviewed the following pertinent documents:**

- **The Agreement contained the following:**

Article 3 – Payment

3.1 As set forth in its Response, SIRDAR shall provide the following services at the following prices that include the cost for use of equipment, labor costs, fuel, equipment maintenance, equipment delivery charges, fuel surcharges, and any other charges:

(a) Mowing	Hourly	\$45.00
(b) Vegetative Removal	Cubic Yard	\$16.00
(c) Vegetative Removal Dumping Fees	Cubic Yard	\$18.00

*It is noted that the OIG's review of the Agreement did not disclose any provisions for measurement standards and/or compaction methods that were to be used by Sirdar.*

- **K&A's Volumetric Capacity Analysis report disclosed the following:**

- The Town paid K&A \$3,660.00 for their analysis.

<sup>8</sup> Ms. Underwood was present via telephone.

<sup>9</sup> Through a contractual agreement, K&A serves as the Town's Engineer.

<sup>10</sup> It is noted that there was not a top rail at the time of measurement on the Sirdar's trailer.

<sup>11</sup> According to Mr. Kutney, the average of the two cubic yard measurements (with and without a top rail) were used to calculate the payment method for the total cubic yards disposed of by Sirdar.

- K&A's measurements of the trailer were recorded as 12' x 7.25' x 5.25', which would equate to 16.91cy.
- Based on K&A's measurements of Sirdar's trailer, as well as Sirdar's own statement as to how the trailer was loaded (hand-packed), K&A used FEMA Guidelines to determine the Sirdar's trailer Volumetric Capacity. The analysis yielded the following results:
  - Hand loaded with top rail: bottom capacity was 7.62cy
  - Hand loaded as measured: bottom capacity was 6.60cy
  - Mechanically loaded with top rail-bottom capacity was 10.84cy
  - Mechanically loaded as measured: bottom capacity was 9.82cy

*It should be noted that although K&A's analysis was based on FEMA Guidelines and compaction ratios, the Agreement does not specify the use of FEMA Guidelines as measurement standards, nor does the Agreement specify compaction methods.*

**Statement of Perla Underwood, Underwood Management Services Group, LLC Co-Owner**

Ms. Underwood confirmed Mr. Kutney's account regarding her review of the Sirdar's documentation, as well as the subsequent meeting with Sirdar. Ms. Underwood added that she found some discrepancies that led her to believe that Sirdar had submitted inflated invoices. Ms. Underwood noted the following discrepancies:

- The amount of vegetative debris removal and disposal appeared to be excessive.
- One Stop's records contained 67 receipts related to vegetative debris disposal by Sirdar; however, Sirdar submitted a total of 70 receipts in its five invoices to the Town.
- All 70 of the receipts included in the five invoices submitted to the Town by Sirdar were for the same amount (16 cubic yards each).
- Of the 70 receipts included in the five invoices submitted to the Town by Sirdar, 66 were signed by Sirdar employees even though the receipts were issued by One Stop. The remaining 4 were not signed at all.
- **The OIG's review of One Stop's records and interview of a One Stop employee disclosed the following:**
  - One Stop's records contained 67 debris disposal receipts that had been provided to Sirdar. Those debris disposal receipts matched 67 of the 70 debris disposal receipts submitted by Sirdar to the Town in their five invoices.
  - The three remaining receipts were not accounted for in One Stop's records; however, One Stop advised the OIG that Sirdar's first three transactions were not recorded by One Stop because an account had not yet been created.

- Richard Adams, co-owner of One Stop, explained that they cannot calculate the capacity of debris that is brought for disposal because they do not have a scale to measure any trailer's capacity.
- Mr. Adams explained that their employees only visually inspect a vendor's trailer for debris prior to disposal, taking into account the vendor's statement as to the capacity of their trailer.
- Mr. Adams further explained that the vendor is responsible for paying the designated disposal fee (\$25.00 for a 2-axle trailer) to One Stop, at which time the vendor, not One Stop, provides a signature for their (One Stop's) receipt.

#### **Statement of Frank Schiola, Town Director of Public Works**

Mr. Schiola advised there was an initial concern that Sirdar was over-billing the Town for debris removal. Mr. Schiola advised that on August 6, 2013, he was instructed to follow and video tape the work activities of Sirdar's employees. According to Mr. Schiola, Sirdar had only one truck/trailer and two employees and were only responsible for working on pre-scheduled roadways. Mr. Schiola advised that he began his surveillance on that same day at approximately 10:30 a.m. while the workers were hedging on Casey Road. Mr. Schiola acknowledged that he had already missed the workers hedging and making one vegetative debris disposal from the work completed earlier at 22 Place North. Mr. Schiola advised that during his surveillance, he observed two employees hedging and hand loading the trailer; however, he was only able to observe the workers hedging and filling the trailer this one particular time because his video camera failed after approximately one hour. Mr. Schiola further stated that after his video camera failed, he only followed Sirdar to One Stop where they disposed of what he estimated to be "four or five branches." Mr. Schiola opined that it was approximately five cubic yards, whereas Sirdar's receipt from One Stop indicated 16 cubic yards. Mr. Schiola again acknowledged that he did not conduct surveillance for the entire day (10 hour shift) and that it only consisted of approximately one hour of surveillance.

#### **Statement of Samantha Sirdar, Sirdar Owner**

Ms. Sirdar advised they entered into the Agreement with the Town and subsequently initiated services in July 2013. Ms. Sirdar stated that she was never advised by any Town employee of a specific budget or billing limit on the amount of work Sirdar was suppose to perform each month or year. Ms. Sirdar further stated that the Agreement did not specify as to how or where Sirdar could dispose of debris, nor did it specify how such debris would be or could be measured.

Ms. Sirdar denied inflating its invoices to the Town and explained that they purchased a 16 cubic yard trailer<sup>12</sup> and customized the sides with plywood so that it could hold the maximum cubic yards at 16.9. According to Ms. Sirdar, they initially hand filled the

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<sup>12</sup> It is noted that the OIG later clarified this information for accuracy. The Sirdar's trailer was purchased from All American Trailer, Inc. and the model was a Big Tex Dump Trailer (10,000 lbs.) with a 6.1 cubic yard capacity. The Sirdar's trailer was then customized to 16.9 cubic yard capacity.

trailer; however, they subsequently used a mower boom to compact the vegetation to fill the trailer to its capacity. Ms. Sirdar indicated that she would consider a filled trailer to be 16 cubic yards, but acknowledged that they never used a scale or measuring device to actually calculate the cubic yardage and only used the trailer manufacturer's measurement specifications, plus their modifications. Ms. Sirdar explained that after filling the trailer, the vegetative debris was transported to One Stop for disposal, where they (Sirdar) paid One Stop a \$25 disposal fee. According to Ms. Sirdar, One Stop employees only visually inspected the trailer's contents, without measuring the volume of the vegetative debris. Ms. Sirdar stated that One Stop only took into account that their trailer was 16 cubic yards and that the trailer appeared to be full. Ms. Sirdar further explained that once the vegetative debris was disposed of, Sirdar was required to pay a \$25.00 disposal fee to One Stop, at which time One Stop would provide a receipt for their (Sirdar's) signature.

**Statement of Chris Sirdar, Sirdar Owner:**

Mr. Sirdar reiterated Ms. Sirdar's statement and clarified that the trailer they initially purchased held approximately 6.7 cubic yards and then it was customized to hold 16.9 cubic yards. Mr. Sirdar denied inflating its invoices to the Town and confirmed that he simply used the trailer's measurements, with modifications, to determine that their loads were 16 cubic yards. Mr. Sirdar further added that the Agreement never specified how or where Sirdar could dispose of debris, nor did it specify how such debris would be or could be measured. Mr. Sirdar also confirmed that his first three transactions with One Stop were not recorded because an account had not yet been created.

**Statement of Mark Kutney, Town Manager (2<sup>nd</sup> Interview):**

Mr. Kutney stated that he did not believe that Sirdar was ever advised that the Town's budget for their services for the entire year was only \$37,320.00 and in hindsight, the Agreement with Sirdar was not written specific enough to outline that fact. Mr. Kutney advised that it was their belief that Sirdar and/or its employees would be fair in calculating the amount of vegetative debris removed and/or disposed of; however, Mr. Kutney acknowledged that the Agreement did not contain any specifics as to how Sirdar or the Town should measure the volume of vegetative debris being removed and/or disposed of and that the Agreement only specified the hourly rates for each service. Mr. Kutney advised that the Town was currently reviewing the Agreement to determine their next course of action.

## RECOMMENDED CORRECTIVE ACTIONS

Although the allegation that Sirdar Trucking, Inc. and/or its employees submitted inflated invoices to the Town of Loxahatchee Groves for work performed pursuant to the Agreement between the Town and Sirdar was *not supported*, the OIG recommends the following corrective actions to the Town:

1. Consider amending the Agreement with Sirdar, to include specific monitoring requirements, to include compaction methods and measurement standards.

2. Determine whether or not the remaining outstanding invoices should be paid.

*Mr. Kutney advised that the Town is currently negotiating a settlement agreement.*

3. Review the standard language in all services agreements and determine whether or not additional strengthening is needed.

*Mr. Kutney advised that "the town is aware that any future agreement with a vendor will need to contain specific provisions related to measurement and debris removal."*

#### IDENTIFIED, QUESTIONED, AND AVOIDABLE COSTS

<b>Identified Costs:</b>	\$30,206.58 <sup>13</sup>
<b>Questioned Costs:</b>	\$21,883.42 <sup>14</sup>
<b>Avoidable Costs:</b>	\$1,092,019.80 <sup>15</sup>

#### ARTICLE XII, SECTION 2-427

Pursuant to Article XII, Section 2-427 of the Palm Beach County Code, on November 18, 2013, Mr. and Ms. Sirdar were provided the opportunity to submit a written explanation or rebuttal to the findings as stated in this investigative report within ten (10) calendar days. On December 3, 2013, Mr. Sirdar and Ms. Sirdar submitted a response, via their attorney, indicating that "no written response is necessary."

On December 3, 2013, the Town was provided the opportunity to submit a written explanation or rebuttal to the findings as stated in this investigative report within ten (10) calendar days. On December 9, 2013, the Town submitted the following pertinent responses (*responses in their entirety are attached*):

- *The Town indicated that they are in the process of finalizing the payment arrangement with Sirdar.*

**OIG Response:** The Corrective Action section will be updated to reflect this information.

- *The Town indicated that photographs taken by K&A at the time of their analysis, as well as a photograph submitted by Sirdar, do not support "the necessary modification to achieve the (12'L x 7.25' W x 5.25' H) measurement."*

<sup>13</sup> Represents the \$26,546.58 paid to date to Sirdar and the \$3,660.00 paid to K&A for their analysis.

<sup>14</sup> Represents the outstanding invoices currently being disputed.

<sup>15</sup> Represents the potential costs of the Agreement, based on a two year period, with the daily average being \$1,562.26 (\$48,430.00 [Bill to Date] / 31 Days [Total Billing Days]).

**OIG Response:** K&A's analysis stated that "it should be noted that at the time of the measurements [with photographs], the top slat/rail was not in place for a total height of 4.5'." Because it is no longer possible to verify which modifications were in place at the time the debris was removed and/or disposed of, for purposes of this report, the maximum measurements possible (as documented in K&A's analysis and provided by Sirdar) were utilized in the OIG's calculations to determine the total capacity of debris that *could have* been removed and/or disposed of by Sirdar.

*This investigation has been conducted in accordance with the ASSOCIATION OF INSPECTORS GENERAL Principles & Quality Standards for Investigations.*

**FUCHS AND JONES, P.A.**  
ATTORNEYS AT LAW

Telephone (561) 793-0600  
Telecopier (561) 793-7079

LAWRENCE M. FUCHS  
ROBERT D. JONES

12794 W. FOREST HILL BLVD., SUITE 32  
WELLINGTON FL 33414-4758

PERSONAL & CONFIDENTIAL

November 25, 2013

Donald J. Balberchak, Director  
Office of Inspector General  
Investigations Section  
P. O. Box 16568  
West Palm Beach, FL 33416

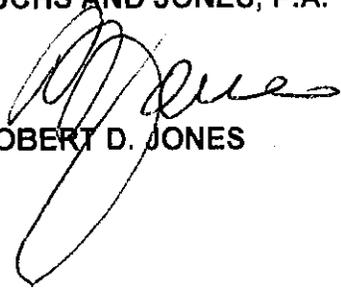
RE: OIG Case Number 2014-0001

Dear Mr. Balberchak:

This law firm represents Chris and Samantha Sirdar and Sirdar Trucking, Inc. After review of the draft findings, my clients believe that no written response is necessary.

Sincerely yours,

**FUCHS AND JONES, P.A.**

  
**ROBERT D. JONES**

RDJ:p



OFFICE OF INSPECTOR GENERAL  
PALM BEACH COUNTY



Sheryl G. Steckler  
Inspector General

Inspector General  
Accredited

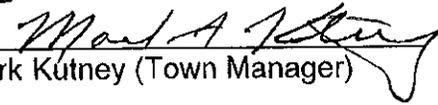
December 6, 2013

From: Mark Kutney  
Town of Loxahatchee Groves Manager

Re: Response Letter (2014-0001)

GENERAL AGREEMENT WITH REPORT, SOME  
MINOR VARIATIONS ADDRESSED TO INVESTIGATION.  
THE TOWN HAS TAKEN CORRECTIVE ACTIONS  
RE: SETTLEMENT, MUTUAL <sup>AGREEMENT</sup> AND CONTRACT,  
AND FUTURE CHANGES TO FOLLOWING CONTRACT  
COVERING SPECIFICITY.

- ① CORRECTION OF PEALA UNORAWOOD AS <sup>CO-</sup>OWNER  
OF UMSE UNORAWOOD MANAGING SERVICES  
GROUP.
- ② AGREEMENT CALLS FOR SETTLEMENT WITH  
SIADAR AT \$31,000 +
- ③ SURVEILLANCE WAS AKAALLY SPOT CHECK
- ④ CORRECTIVE ACTIONS WILL BE TAKEN RE FUTURE  
CONTRACT

  
Mark Kutney (Town Manager)

"Enhancing Public Trust in Government"

PO Box 16568, West Palm Beach, FL 33416-6568  
Email: [inspector@pbcgov.org](mailto:inspector@pbcgov.org) Website: <http://www.pbcgov.com/oig/>  
Office: (561) 233-2350 Hotline: (877) 283-7068 Fax: (561) 233-2370

## Flora Butler

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**From:** Mark Kutney [mkutney@loxahatcheegrovesfl.gov]  
**Sent:** Friday, December 06, 2013 4:07 PM  
**To:** Flora Butler  
**Subject:** RE: OIG Case #2014-0001

Dear Flora/Rob:

Pursuant to my review of the case report and the meeting held this morning between Rob and I, please allow this email to serve as a supplement to the hand written comment sheet that I signed for Rob this morning. Hopefully, these comments will clarify and augment the hand written comments.

I basically wrote that the Town is in general agreement with the report although there are some minor disagreements with the report which I will discuss below. Also, please beware that the Town has taken corrective actions relative to a settlement with Sirdar Trucking. Specifically these include: 1) payment of \$31, 103.60 to settle all outstanding invoices; and 2) adoption of a resolution for termination for Convenience of the Sirdar Trucking agreement at the January 14, 2014 Town Council Meeting. The Loxahatchee Groves Town Council approved taking the aforementioned actions at their December 3, 2013 Meeting.

Relative to the report, I raised the need to reflect the proper title of Ms. Underwood; the fact that I did not consider the monitoring of by Frank Schiola to be surveillance but rather a spot check of activity at that time including the check of vegetative debris at One Stop; clarification of the Keshavarz report which reflects the 16.91 cubic yards; the Town relationship with Keshavarz as Town Engineer and the reliance of Town Vendors to enforce compliance since the Town is a contract/vendor municipality; budget issues ; and FEMA Standards relative to debris monitoring.

The Town is aware that any future agreement with a vendor will need to contain specific provisions related to measurement and debris removal. It was always the Town's intent to deal with this matter in a scientific/mathematical manner rather than a "battle of statements."

Perla Underwood has also requested the ability to comment and will be calling or emailing Rob Flechaus with her comments.

Thank you for the ability to comment and your efforts in this matter.

Best regards,  
Mark

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



**TOWN OF LOXAHATCHEE GROVES**  
14579 Southern Blvd, Suite 2  
Loxahatchee Groves, FL 33470  
(561) 793-2418: Phone  
(561) 793-2420: Fax  
[www.loxahatcheegroves.org](http://www.loxahatcheegroves.org)

**Note:** Please direct all future correspondence to [mkutney@loxahatcheegrovesfl.gov](mailto:mkutney@loxahatcheegrovesfl.gov)

**From:** Flora Butler [<mailto:FButler@pbcgov.org>]

**Sent:** Tuesday, December 03, 2013 9:51 AM

**To:** [mkutney@loxahatcheegroves.org](mailto:mkutney@loxahatcheegroves.org)

**Cc:** Robert Flechaus F.

**Subject:** OIG Case #2014-0001

Mr. Kutney,

Per your conversation with Investigator Flechaus, I am providing you with a copy of our DRAFT findings for our meeting this Friday. Please keep in mind that although the title of this document is Subject Response, neither the Town, or its employees, were the subjects of this investigation. However, because the corrective actions that will be included in the Final Report are directed to the Town, we are providing you the opportunity to review the DRAFT findings section of our report and provide a response. We look forward to meeting with you on Friday.

Thank you

Flora Butler  
Office of Inspector General  
Palm Beach County  
P.O. Box 16568  
West Palm Beach, FL 33416  
Office: 561-233-2350  
Hotline: 877-283-7068  
Fax: 561-233-2375

***"Enhancing Public Trust in Government"***

To report waste, fraud or abuse, please send to: [inspector@pbcgov.org](mailto:inspector@pbcgov.org)

Please visit our website at: <http://www.pbcgov.com/OIG>

We value your opinion. Please take a few minutes to share your comments on the service(s) you received from our office by sending e-mail to [IGcomments@pbcgov.org](mailto:IGcomments@pbcgov.org).

**NOTICE:** Florida has a broad public records law. Most written communications to or from local government officials or employees that involve official business are public records that will be disclosed to the public and the media upon request. E-mail communications may be subject to public disclosure.

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

## Robert Flechaus F.

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**From:** Mark Kutney [mkutney@loxahatcheegrovesfl.gov]  
**Sent:** Monday, December 09, 2013 2:22 PM  
**To:** Robert Flechaus F.  
**Cc:** Flora Butler; umsg@att.net  
**Subject:** RE: Comments from Perla Underwood  
**Attachments:** OIG Case 2014-0001 Response (3).docx

Sorry for missing the attachment. Here it is.

Mark

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



### TOWN OF LOXAHATCHEE GROVES

14579 Southern Blvd, Suite 2  
Loxahatchee Groves, FL 33470  
(561) 793-2418: Phone  
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[www.loxahatcheegroves.org](http://www.loxahatcheegroves.org)

**Note:** Please direct all future correspondence to [mkutney@loxahatcheegrovesfl.gov](mailto:mkutney@loxahatcheegrovesfl.gov)

**From:** Robert Flechaus F. [<mailto:RFlechaus@pbcgov.org>]  
**Sent:** Monday, December 09, 2013 2:20 PM  
**To:** Mark Kutney  
**Subject:** RE: Comments from Perla Underwood

Mr. Kutney,

We received your email however there was no attachment attached to it. Please resend . Thank you.

**Robert Flechaus**  
Office of Inspector General  
Palm Beach County  
P.O. Box 16568  
West Palm Beach, FL 33416  
Office: 561-233-2350  
Hotline: 877-283-7068  
Fax: 561-233-2386

*"Enhancing Public Trust in Government"*

To report waste, fraud or abuse, please send to: [inspector@pbcgov.org](mailto:inspector@pbcgov.org)  
Please visit our website at: <http://www.pbcgov.com/OIG>

We value your opinion. Please take a few minutes to share your comments on the service(s) you received from our office by sending an email to: [IGcomments@pbcgov.org](mailto:IGcomments@pbcgov.org).

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**From:** Mark Kutney [<mailto:mkutney@loxahatcheegrovesfl.gov>]  
**Sent:** Monday, December 09, 2013 12:31 PM  
**To:** Robert Flechaus F.  
**Cc:** Flora Butler; [umsg@att.net](mailto:umsg@att.net)  
**Subject:** Comments from Perla Underwood

Dear Rob:

Attached please find the letter from Perla Underwood containing her comments regarding your draft report. Also, please note that I received a call from my Attorney advising that Sirdar's Attorney called him regarding Attorney's fees and this may place the resolution that I indicated to you on hold until the matter is resolved. I wanted you to be aware of this since it was mentioned that these actions may be included in your final report.

Best regards,  
Mark Kutney

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



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# Underwood Management Services Group, LLC

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

Perla D. Underwood  
Partner  
Email: umsg@att.net

December 9, 2013

Office of Inspector General  
PO Box 16568  
West Palm Beach, FL 33416

Attn: Flora Butler, Investigations Supervisor  
Robert F. Flechaus, Investigator

Dear Ms. Butler and Mr. Flechaus:

Re: OIG Case #2014-0001

Thank you for providing me with the ability to respond to three separate items included in the Investigative Finding on the above reference Case 2014-0001 as follows:

- **I was identified in the Report as the Town Accountant**

Please be advised that I am not the Town's Accountant. I represent Underwood Management Services Group. UMSG provides management services to the Town of Loxahatchee Groves, and as such, we provide the all-administrative functions for the Town to include Financial Services.

- **Allegation (1) Finding (page 3 of 9) – Paragraph 2**

It appears to me that paragraph 2 of the Findings concludes that Sirdar's trailer is 16.9 cubic yards as the report state "Sirdar's contention that his trailer (with modifications) was 16.9cy (affirmed by K&A's Analysis of the trailer, which was measured at (12' L x 7.25' W x 5.25' H).

1. Page 1 of K&A's Analysis specifically states that the "height of the trailer has variable conditions," and "that at the time of the measurements, the top slat/rail was not in place." Further, K&A Report includes a photo of the Sirdar Trailer at the time of measurement that does not have the optional slats in place to allow for the (12'L x 7.25' W x 5.25' H) measurement.

K&A Report does state

1. "The trailer was measured to have a width of 7.25' and a length of 12.0," and
2. "The height of the trailer has variable conditions. The first 2' of height is enclosed on all four sides, fixed metal siding on three sides and a locking tailgate. There are optional slats along the two 12' sides of the trailer for an additional 3.25' of height, for a total height of 5.25'."

With respect to Sirdar's contention that their trailer was modified to achieve the 16.9 cubic yards and (12'L x 7.25' W x 5.25' H) measurement is not supported by photographs provided by the Sirdar Trucking, and Town's Engineers, K&A.

- Photographs provided by Sirdar Trucking with their July invoicing do not reflect the necessary modification to achieve the (12'L x 7.25' W x 5.25' H) measurement.
- The Town Engineer's photograph of Sirdar's Trailer included in their report does not reflect the necessary modification to achieve the (12'L x 7.25' W x 5.25' H) measurement.
  
- **Allegation (1) Finding (page 3 of 9) – Paragraph 3**

While it is true that the Town's Agreement with SIRDAR Trucking "lacks any level of specificity as to compaction methods and/or measurement guidelines and only makes provisions related to the method of payment per cubic yard," please be advised that the Town does have other similarly-worded contracts currently in place, specifically for road work maintenance, and waste removal services.

In addition, the Town has not experienced similar problems in those other contracts. In fact, those contractors provide sufficient documentation from their third party vendors that reflect the necessary verification needed so that the Town can quantify materials and services rendered by the contractor to the Town.

Thank you for the ability to comment and your efforts in this matter.

Sincerely,



Perla D. Underwood





**Item 9 c**

**Old Business**

**Culverts and Roadway Conditions - Compton Road**

**Keshavarz Report**

**Subject:** Items to be placed on agenda for next Town Council Meeting, January 7, 2014  
**From:** Ronald Jarriel (jarrielr@bellsouth.net)  
**To:** mkutney@loxahatcheegrovesfl.gov;  
**Cc:** jwhipple@loxahatcheegrovesfl.gov;  
**Date:** Friday, December 27, 2013 1:03 PM

Mark,

Please put these items on the agenda for the next Town Council Meeting, January 7, 2014.

1) Sirdar Trucking:

a) Retaining Sirdar Trucking for mowing & hedging only, for the Town of Loxahatchee Groves.

b) All costs incurred with the Sirdar Trucking investigation and termination (ex. legal fees, Engineer studies, all investigations by Town Staff & Public Works Director).

Back up material: OIG's final report

2) Replacing culvert at F Rd. & Compton Rd.

3) Contract with N.F.I. concerning Compton, Bryan Roads & Marcella Blvd.

4) Contract with the Vacant Registry Co.

Thank you,

A handwritten signature in blue ink that reads "Ron Jarriel". The signature is written in a cursive, flowing style.

Ron Jarriel, Vice Mayor  
Town of Loxahatchee Groves



**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:** January 8, 2014  
**SUBJECT:** Engineering Report – Site Assessment Compton Road Culvert

**I. BACKGROUND/HISTORY**

On December 23, 2013, the Town Manager, Public Works Vendor, and the Town Engineers met at the Compton Road site, as well as, visits to Bryan Road and Marcella Boulevard. (Councilman Goltzené drove by and joined the meeting for a short duration of time).

**II. DISCUSSION**

Upon conclusion of the meeting, it was determined that the Town Engineers (Keshavarz & Associates) would provide a site assessment report for presentation to Town Council at the January 14, 2014, Meeting.

**III. FISCAL IMPACT**

To be determined after final action by Town Council

**IV. ATTACHMENTS**

January 7, 2014 Site Assessment Report

**V. REQUESTED ACTION**

Follow the recommendations contained in the report



**KESHAVARZ & ASSOCIATES**  
Civil Engineers – Land Surveyors

January 7<sup>th</sup>, 2014  
K&A Project No. 13-1020

## **Loxahatchee Groves Site Assessment**

A site visit was conducted on the afternoon of Monday December 23, 2013 to observe culvert crossing just north of the intersection of Compton Road and F Road. The Town is planning on replacing the culvert and has instructed our firm to assess the impacts to the surrounding areas and provide recommendation for replacement as well as an approximate cost for replacement.

In attendance were the following:

Mark Kutney	Loxahatchee Groves Town Manager
Frank Schiola	Loxahatchee Groves Public Works
Tom Goltzene (Partial Attendance)	Loxahatchee Groves Town Councilman
Randy Wertepny, P.E.	Keshavarz & Associates, Inc.
Maziar Keshavarz, P.E.	Keshavarz & Associates, Inc.

Weather: Partly Cloudy / dry conditions / 84 degrees.

### **Compton Road Culvert**

#### **Site Conditions:**

The subject culvert appeared to be a 15” corrugated aluminum pipe buried at an approximate depth of 3 feet with a length of approximately 35 feet. This type / material pipe is commonly used in rural settings in Palm Beach County to accommodate drainage from minor tributaries as is the case here. Frank Schiola stated that the culvert was originally installed within the 1980's. The outfall within the F Road canal was exposed and showed signs of damage. An excessive amount of sediment was observed within the canal at this location. The outfall within the ditch located north of Compton Road did not protrude from the edge of the road and was severely damaged and deformed. No light was visible through the culvert.



Frank Schiola reported that the outfall within the Compton Road ditch may have been damaged during Tropical Storm Isaac while attempting to remove objects from the ditch restricting the flow. Our observation yields that the damage could have come from a maintenance attempt.

With the exception of the damaged outfall, the culvert is in decent condition, especially considering its age. Damage to outfalls is fairly common during routine maintenance activities of ditches and canals.



### **Recommendation:**

The existing culvert should be replaced with a like size corrugated aluminum pipe or high-density polyethylene pipe (18" in diameter minimum) with an endwall at the outfall within the F Road canal and a mitered end section within the Compton Road ditch outfall. The endwall will protect the culvert from future damages caused by canal maintenance activities. The culvert replacement will require a trench and pavement restoration for F Road (an OGEM surfaced roadway). The culvert replacement will also require F Road to be closed for a period of at least 1-3 days, which will require the need for a Maintenance of Traffic plan to detour residents around the site.

The culvert replacement will require a permit with the LGWCD. The LGWCD has a standard detail for the installation of drainage culverts into the canals. The standard detail should be used as a template with supplemental information as needed for this task. For instance the detail does not consider the pavement restoration for the OGEM surface or the mitered end section within the ditch.

Engineering plans, details and specifications should be prepared outlining the related activities described above which would be used in the permitting process with the LGWCD and will provide a clear set of instructions for a potential bid process if the Town is mandated or desired to do so.



## **OGEM ROADWAYS**

While present at the site Mark Kutney, the Town Manager, asked us to look at the conditions of the three existing roadways with the OGEM surface that the Town is planning to re-surface in the near future. The following is a summary of our findings:

### **Compton Road:**

The OGEM surface was reportedly installed on this roadway 5 years ago. The condition of the OGEM surface varied significantly along this roadway. Some portions of the OGEM surface were in good condition compared to the expected life span of 7-8 years. However on some portions of the roadway the OGEM surface was nearly non-existent with significant signs of wear and several cold patches. A drainage ditch was observed along the north side of the roadway and no swales were observed along the south side. The road R/W outside the limits of the OGEM surface was generally overgrown with vegetation, especially within the drainage ditch. A better maintained ditch will promote better drainage at this and other locations.

The worn out and potholed OGEM surfaces were most commonly found in areas of inadequate grading/drainage. The roadway surface was not graded to displace surface water from the road to the drainage ditch located along north side of the roadway. In some places the OGEM surface was graded away from the ditch towards the south side of the roadway. There were no drainage swales observed along the south side of the roadway. In some places, the areas adjacent to the OGEM surface were observed at a higher elevation, which would force ponding on the OGEM surface, which has and will lead to further deterioration of the road's wearing surface.

In this case the inadequate grading of the OGEM surface and surrounding areas are causing surface water to inundate the underlying base material of the roadway for extensive periods of time. This effects the structural integrity of the roadway surface and causes premature failures of the wearing surface.

### **Bryan Road:**

The OGEM surface was reportedly installed on this roadway 5 years ago. The overall condition of the OGEM surface on most of this roadway was good. The western portion of this roadway showed signs of wear, especially along the edge of pavement.

Compared to Compton Road, the R/W of Bryan Road was fairly clear of debris and could be easily maintained in its current condition. For the most part, the western portion of the roadway

had a swale along the north side. However, a consistent swale along the south side was not observed. The roadway within the western section was predominately crowned allowing surface water to move off of the roadway. The eastern portion of the roadway had more consistent swales on both sides of the roadway with a clear crowned roadway section.



The OGEM was in good condition along this roadway where proper grading and drainage was observed. The OGEM surface was in the worst condition along the western portion of this roadway in areas where surface water ponded on the OGEM surface due to grading issues.

### **Marcella Boulevard:**

The OGEM surface was reportedly installed on this roadway 5 years ago. The overall condition of the OGEM surface on this roadway was generally good. There were a few portions along this roadway that were in poor conditions due to grading issues.

The R/W was fairly clear of debris with the exception of various portions of the swale. There is a swale located along the north side of the roadway. The OGEM was crowned for the majority of the roadway directing surface water to both sides. The properties along the south side of the road were generally at a lower elevation than the road, leading us to conclude that road surface runoff ponds in these areas. This condition should also be addressed.

### **Recommendations:**

We feel that it would be in the Town's best interest to further explore the conditions of the roadways and to provide solutions to fix the issues that are the cause of localized OGEM surface failures. The grading of various portions of these roadways need to be fixed to protect the OGEM surface for the years to come. In as much as no engineering plans or record drawings exist for the OGEM surface treatment, there is no way of knowing the quality of the roadway's cross sectional characteristics such as OGEM thickness or mix, base or subgrade thickness and physical characteristics at the time of installation. Additional information should therefore be obtained, such as soil boring (at least 2 per roadway) to identify the condition and characteristics of the road sub-base and OGEM surface which will enable us to determine if the existing OGEM surface is salvageable and if a micro-surface treatment can be applied. This will also help us determine the most appropriate micro-resurfacing treatment to apply. It is not advisable to retreat the wearing surface of these three roadways before evaluating what is actually there and also before the grading issues are resolved leading to positive drainage of surfaces.



**Item 9 d**

**Old Business**

**North Florida Emulsion**



**Item 9 e**

**Old Business**

**Vacant Registry Company**



**Item 9 f**

**Old Business**

**Home Occupations – Billy Kline**



**HANDOUT for Planning & Zoning Board meeting 10-10-13, and for  
ULDC Review Committee meeting on 10-17-13\***

PROVIDED BY VICE MAYOR JARRIEL AT THE 10-01-13 TOWN COUNCIL MEETING, WITH THE REQUEST THAT IT BE FURNISHED TO THE PLANNING AND ZONING BOARD AND THE UNIFIED LAND DEVELOPMENT CODE REVIEW COMMITTEE.

- City of Port St. Lucie Code of Ordinance 158.217(F) re: home occupations
- Highlands County code Section 12.08.109 re: home occupations

**\* PURSUANT TO THE DIRECTION OF TOWN MANAGER KUTNEY THIS  
CAN BE DISCUSSED AT A FUTURE MEETING OF PLANNING & ZONING  
BOARD AND ULDC REVIEW COMMITTEE.**

## City of Port St Lucie Business Tax Requirements

### Frequently asked questions when starting a business inside the City limits of Port St. Lucie:

#### Who needs a Tax Certificate and Why?

Any person or business having a location within the city limits of Port St Lucie that engages in any business activity must pay a business tax and obtain a Business Tax Receipt.

Business Tax Receipts expire September 30 and may be renewed on or after July 1 of each year. On October 1, they are delinquent and subject to penalties each month thereafter. New tax receipts are issued at any time during the year and are prorated April 1.

A Business Tax Receipt (formerly called occupational license) is issued by the City of Port St Lucie Business Tax Division for the privilege of engaging in any business, occupation or profession. Anyone providing merchandise or services to the public, even through a one-person company or home-based occupation, must obtain a Business Tax Receipt. A City of Port St Lucie Business Tax Receipt does not replace or eliminate any other city or state requirements for taxes or licenses. Businesses that open for business prior to obtaining a Business Tax Receipt are subject to a 25% penalty on the assessed business tax. This penalty and the penalties for late renewal of the Business Tax Receipt are pursuant to the Florida State Statute 205.053, which states:

1. All business tax receipts shall be renewed by the appropriate taxing agency beginning July 1 of each year, are due and payable on or before September 30 of each year, and expire on September 30 of the succeeding year. If September 30 falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30. Provisions for partial business tax receipts may be made in the resolution or ordinance authorizing such tax receipts. Business Tax Receipts that are not renewed when due and payable are delinquent and subject to a delinquency penalty of 10 percent for the month of October, plus an additional 5 percent penalty for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed 25 percent of the business tax receipt for the delinquent establishment.
2. Any person who engages in any business, occupation, or profession covered by this chapter, who does not pay the required business tax receipt within 150 days after the initial notice of tax due, and who does not obtain the required business tax receipt is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to \$250.

#### CODE COMPLIANCE

The Code Compliance Department would like to welcome your business to Port St Lucie. We wish you success in your endeavors, and would like you to be aware of a few regulations that would be of interest to your business.

- All vehicles in parking lot need to be operable and have a current tag displayed.
- Parking on grass/landscaped areas is prohibited.
- Working outside of bay not permitted.
- Open storage of materials/items outside not permitted.
- No signage shall be placed at business without approved permit.
- Blocking ingress/egress not permitted.
- Building owner shall maintain all approved elements of an approved site plan including landscape, appearance and other site development procedures.

We thank you in advance for complying with the Port St Lucie Code of Ordinances. It takes all of us working together to preserve the beauty of our community and ensure the health, safety and welfare of our residents. If we can assist you in the future, please call our office at (772) 871-5010.

#### City of Port St. Lucie Code of Ordinance 168.217 (F). Business tax certificate required

- (F) Home Occupation. A home occupation as defined herein shall be permitted within an area zoned residential, subject to the following provisions:
- (1) The holder of the home occupation may have employees engaged in the business provided that not more than one (1) of said employees, except those who reside in the home, report to or work at the site of the home occupation.
  - (2) The home occupation shall use no more than two hundred (200) square feet of total floor area.
  - (3) The use of the dwelling for the home occupation shall be clearly incidental and secondary to its use for dwelling purposes. The occupation shall not change the character of the dwelling or reveal from the exterior that the dwelling is being utilized for use other than dwelling purposes. There shall be no display of stock for sale or trade located upon the premises, and no article shall be sold or offered for sale except such as may be produced on the premises or is utilized in conjunction with the home occupation. The manufacturing of a product for resale shall not be produced with mechanical or electrical equipment which is not normally found in a dwelling and considered as purely a domestic implement.
  - (4) Any use of a dwelling contrary to these provisions or which creates or may create objectionable noises, fumes, odors, dust, electrical interference, or greater than normal residential traffic shall be expressly prohibited.
  - (5) Any individual who promotes or solicits a home occupation by displaying, advertising, or using in any fashion his home address or telephone; who provides or conducts a home occupation as defined herein; or who proffers home occupation services as defined herein shall be required to obtain a business tax receipt therefore. The offering of articles for sale in isolated situations shall not be considered as a home occupation or require permit and tax receipt.
  - (6) Application for a home business tax receipt shall be made to the city, setting forth the address of the subject premises, the type of home occupation desired, and the area of the dwelling to be utilized for same. The City may inspect the subject premises to verify full compliance of the proposed home occupation usage with the provisions of the ordinance. Upon approval of the application, the City shall issue a tax receipt for the home occupation.
  - (7) Real estate brokers licensed pursuant to Chapter 476, Florida Statutes, may conduct their business as a home occupation and place their broker's license at their place of residence. In addition to a single employee, a real estate broker is permitted to have two (2) real estate sales associates licensed pursuant to Chapter 476, Florida Statutes. The associates may place their license with a real estate broker conducting business as a home occupation provided the real estate broker home occupation shall be conducted in accordance with and conform to all of the above conditions and restrictions as otherwise established for home occupations.

#### Separate business tax for each location and business activity

A tax receipt shall be obtained for each location including branches of the business within the city as if the branch or location were a separate business, unless prohibited by F.S. CH. 205. A tax receipt shall also be obtained for each unique and different type of business activity. Whenever any business, occupation or profession shall fall into more than one of the classifications contained in the schedule set forth in this article, such occupation, business, or profession shall be required to comply with the tax requirements and to pay the business tax imposed under or pertaining to each classification or privilege. All business activities shall be assigned to at least one of the approved classifications.

#### How do I apply for a Tax Certificate?

The Application for a City of Port St. Lucie Business Tax Certificate can be obtained by calling (772) 344-4356 or visiting the office located at the Municipal Complex 121 SW Port St Lucie Blvd, Building B

Highlands Co. Home Occupation

Pg. 1

LINDA CONRAD - ZONING SUPERVISOR

501 SOUTH COMMERCE AVE, SEBRING, FL. 33870

Sec. 12.08.109 Home Occupations:

Ph. # 1-863-402-6638

- A. **Applicability:** Allowed in all zoning districts.
- B. **Additional Standards for Approval:** In any zoning district wherein a home occupation is permitted as an accessory use to the primary residential dwelling such accessory uses shall be subject to the following Regulations:
1. No person other than members of the family residing on the premises may be engaged in such occupations. No other persons may park, pick up, leave, report to and/or from the premises in a vehicle engaged in such occupation.
  2. The use of the dwelling unit or mobile home for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than 100 square feet or 25 percent of the gross floor area in excess of the minimum floor area required in that zoning district, whichever is greater, shall be used in the conduct of the home occupation.
  3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation. A nameplate, not exceeding one square foot in area, nonilluminated and mounted flat against the wall of the principal building, or one sign two square feet in size in the front yard, no more than three feet above ground level may be permitted to identify the home occupation.
  4. No home occupation shall be conducted in any garage, carport, yard or accessory building.
  5. Only sales incidental to the home occupation will be permitted.
  6. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be met off the street and in other than a required front yard.
  7. No equipment, process or use shall be conducted in such home occupation which creates noise, vibration, glare, fumes, odor or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the residential unit, if conducted in other than single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers or electronic equipment off the premises or causes fluctuations in line voltage off the premises.
  8. Garage or yard sales of tangible personal property shall not exceed

Highlands Co. Home Occupation Ph. # 1-863-402-6638 Pg. 2  
Linda Conrad - Zoning Superv.  
501 South Commerce Ave. Sebring, FL 33870

two in number during any calendar year in residential zoning districts, provided that:

- a. Such tangible personal property shall be sold only on the premises of a residential dwelling unit by the owner or lessee of such dwelling unit.
- b. Such owner or lessee must be the legal owner or acting in concert with another owner or owners of such tangible personal property at the time of the sale.
- c. No new merchandise (i.e., merchandise acquired for the purpose of resale) shall be sold at such sale.
- d. Such sale shall be confined to the garage, patio, driveway, yard or residence on the premises.
- e. The duration of each such sale shall not exceed three consecutive calendar days.
- f. Such sales conducted by private nonprofit organizations shall be exempt from the provisions of this section.
- g. No such garage or yard sale shall be held without the owner or occupant of the premises having first obtained a permit therefor. Such permit shall be obtained by applying to the Highlands County zoning department, who shall issue such permit upon payment of the fee established from time to time by resolution of the BCC, Such permit shall specify the address and date of such garage or yard sale. (Res. of 8-18-79, § 7(17); Ord. No. 89-9; Ord. No. 89-14; Ord. No. 89-25; Ord. No. 93-15, § 56; Ord. No. 00-01-17)(Ord. 03-04-1) (Old Sec. 12-122)



**Item 9 g**

**Old Business**

**Agenda Report**

**ULDC**



TOWN OF LOXAHATCHEE GROVES  
OFFICE OF THE TOWN MANAGER  
AGENDA REPORT

Revised November 26, 2013

**“Blue” Indicated Revisions January 8, 2014, for January 14<sup>th</sup>  
Town Council Meeting**

**TO:** Mayor and Town Council  
**FROM:** Mark A. Kutney, Town Manager, AICP, ICMA-CM  
**DATE:** October 31, 2013  
**SUBJECT:** Town Management Company Work Authorizations

**I. BACKGROUND/HISTORY**

The Town Council has approved four (4) work authorizations with the Town Management Company. An amendment to address hay sales was approved on June 26, 2012; an amendment to the CIE Element and related elements to the Comprehensive Plan was approved on July 31, 2012; an amendment to the Comprehensive Plan regarding policies and treatment for development along Okeechobee and Southern Boulevards was approved on August 21, 2012, and Staff support to the newly created Unified Land Development **Code Review** Committee was approved on November 20, 2012. The CIE Element Amendment **has been transmitted** to the State of Florida, **Department of Economic Opportunity (and we are awaiting its comments)**, and the historical legacy amendment, the subsequent and evolving amendment relative to hay sales, will be returning to Town Council at the **January, 2014**, meeting. ULDC activities will be concluded after the Committee sunsets and the final report is issued to Town Council. The Comprehensive Plan amendments relative to Okeechobee/Southern will be coming to Town Council in early 2014.

At the November 5, 2013, Town Council Meeting, Councilman Liang amended an original motion to authorize \$1,000 for the CIE and \$8,000 for the completion of moratorium amendments on Okeechobee/Southern Boulevards. The motion passed 4/0. Relative to the ULDC portion of the agenda, Town Council elected to bring this matter back for further discussion on the December 3, 2013 Meeting.

**At the December 3, 2013 Town Council Meeting, Town Council directed Staff to bring back a list of topics that still need to be addressed by the ULDC Committee, and a revised cost estimate for three months as opposed to four months.**

## **II. DISCUSSION**

At this point in time, and due to changes of direction in all of the work authorizations, some fiscal adjustments must be made to these efforts. No financial adjustments are necessary to Work Authorization 12-01, Hay Sales, in spite of the fact that late in the project, the amendment was modified to change course and prepare as a historical legacy amendment. Work Authorization 12 -02 CIE will need an additional \$1,000 dollars to complete the transmittal/adoption phase of the ordinance. The additional funds are necessary due to the P&Z Board (sitting as LPA) holding an extra meeting and Town Management Staff had to take the amendment to the Roadway Equestrian Trials and Greenways Committee (RETGAC) which requested the ability to review the document necessitating an extra meeting and staff time.

Work Authorization 12-03 Okeechobee/Southern Moratorium Amendments to the Comprehensive Plan needs an infusion of \$8,000 to finish the amendments. This will cover the necessary processing and modifications as a result of the additional workshop and change of directions related to Southern Boulevard and also to assess the effects and impacts that Minto West may have on planning efforts along Okeechobee. Finally, \$5,370 is needed to complete the ULDC Committee activities which include three meetings, agenda and minutes', preparation, and the final report to Town Council of the Committee's recommendations. The reason for additional funds is due to incorporating the Special Exceptions work item (\$2,700 in charges) under this work task (previously unplanned for and set for Town Council review on November 5, 2013) and numerous discussions related to Agriculture that have consumed the Committee's time and expanded a number of meetings. The requested funds are based upon hourly projections of the time needed to finish the tasks.

**Council discussion indicated possibly extending the existence of the ULDC for 90 days to March 14, 2013, and the thought was expressed that Town Council should discuss the final issues that they would want the Committee to address. If Council desires to extend the life of the committee three additional months, Town Management estimates the additional costs to be \$4,585 for Staff to provide support to the Committee. This increases the total request for this work authorization to \$9,955 (\$5370 + \$4585).**

**Based upon a review of agendas and minutes, the ULDC Committee has three remaining items to address. These include ULDC Article 75 – Non Conforming Uses; ULDC Article 87 – Native Tree Preservation, Soil Stabilization and Invasive Exotic Removal and ULDC Article 90 – ULDC Sign Provisions. No member of Town Council identified any other ULDC Provisions for further study as discussed on December 3, 2013.**

### **III. FISCAL IMPACT**

The total additional funding needed to finish the **ULDC Portion is \$9,955. Alternatively, the total additional funding needed to complete the project for a three month period is \$8,990.**

### **IV. ATTACHMENTS**

Work Authorizations 12-01- 12-04

### **V. REQUESTED ACTION**

Town Management recommends Town Council approval of the additional \$14,370 to complete the work authorizations. **(Initially, Town Council authorized \$9,000 for prior work).**

**Should the Town Council decide to extend the ULDC Committee for 3 additional months plus the month of December, the total cost is \$9,955. If this option is selected, Town Management would recommend keeping the ULDC Committee on hiatus until January, and extend the Committee until April, due to the holidays and inability to hold two meetings in December. If the Council chooses to extend the Committee for one additional month the expense is \$ 5,370 as previously indicated above.**

**Should Town Council desire to extend the ULDC Committee for a three month period rather than a four month period as indicated in this report, the total costs would be \$8, 990 as contrasted to \$9,955 for the four month period.**



**Item 10 a**

**New Business**

**Requesting Direction on Minto West Issues**



## Proposed Minto West Formerly Callery Judge Groves "Agricultural Enclave"

### Upcoming Meetings:

- PLC Text Initiation - Friday, February 14, 2014, 9:00 a.m., Planning, Zoning and Building Department, 1st Floor, Room 1W-47, 2300 North Jog Road, West Palm Beach, FL
- BCC Text Initiation - Thursday, March 27, 2014, 9:30 a.m., 6th Floor Chambers, 301 North Olive Avenue, West Palm Beach, FL

### Previous Meetings:

- BCC Meeting October 28, 2013

### Overview

Minto Communities has recently purchased the property formerly known as Callery Judge Groves Agricultural Enclave, a 3,800 acre site located in the central western communities. Minto Communities is proposing a mixed use community to include up to 6,500 residential units, 1.4 million square feet of non-residential uses, a 150 room hotel, a 3,000-student college campus, and a baseball stadium. Minto representatives have submitted a request to the County for a Comprehensive Plan additional Amendment Round and Text Amendment. The intent is to revise the Ag Enclave language in the Plan and revise the Future Land Use Atlas (FLUA) concurrently to reflect their anticipated development proposal, and ultimately include ULDC text changes and a rezoning application. The proposed amendments are being submitted for review as an Agricultural Enclave pursuant to the [Agricultural Lands and Practices Act, Section 163.3162](#).

### Current Status

October 28, 2013, as permitted by the Comprehensive Plan, the BCC authorized an additional large scale amendment round for the processing of the proposed Minto West project. Subsequently, on November 4, 2013, the Minto West representatives submitted a proposed FLUA Amendment application and draft text amendments (see below).

### Applications

#### Planning Division

#### Comprehensive Plan Text Amendment Initiation Application

- [Additional Round Request](#)
- [Text Application](#)
- [Proposed Text Amendment - Nov. 4, 2013 Draft](#)

#### Future Land Use Amendment Application

- [Application through Attachment F](#)
- [Attachment D - Notification Radius](#)

- [Attachment G - Consistency](#)
  - [Attachment G - Residential Density Analysis](#)
  - [Attachment G - Non- Residential Density Analysis](#)
- [Attachment H - Traffic](#)
- [Attachments I through O](#)
- [Attachment P - Survey](#)
- [Attachment Q - Conceptual Plan](#)

**Zoning Division** - No Applications at this time

### Next Steps

Under the provisions of the Agricultural Lands and Practices Act, Section 163.3162, Section 163.3162(4)(a), the County is required to enter into a negotiation process within 30 days of a complete application. The application is considered 'complete' as of December 16, 2013. The statute states:

- a) The local government and the owner of a parcel of land that is the subject of an application for an amendment shall have 180 days following the date that the local government receives a complete application to negotiate in good faith to reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. Within 30 days after the local government's receipt of such an application, the local government and owner must agree in writing to a schedule for information submittal, public hearings, negotiations, and final action on the amendment, which schedule may thereafter be altered only with the written consent of the local government and the owner.

### Tentative Schedule

The Planning Division will present the proposed text amendment to the Planning Commission on February 14, 2014 for a recommendation, and to the Board of County Commissioners for initiation on March 27, 2014. Initiation does not imply that these amendments will be approved. Rather, the initiation would direct staff to proceed with the preparation of a complete analysis and staff report following the intake of the associated FLUA amendment and return with a recommendation at public hearings. The following is the tentative schedule anticipated for the proposed amendment round. All dates are subject to change - check this page for updates.

Activity	14-2 (Minto West)
<b>FLUA Intake</b>	<b>November 4, 2014</b>
<b>LPA Text Initiation</b>	February 14, 2014
<b>BCC Text Initiation</b>	March 27, 2014
<b>LPA Public Hearing</b>	TBD
<b>BCC Transmittal Hearing</b>	TBD
<b>BCC Adoption Hearing</b>	TBD

### Additional Resources

This area of the County, known as the Central Western Communities, has undergone a series of planning efforts over the past 40 years. Some of these efforts were adopted, some adopted and later repealed, and others were not adopted. The status of each item is provided below. The following items are of interest in this area. Additional items will be added throughout the Minto West review process.

Resource	Status
<a href="#">2005 Adopted Sector Plan</a>	Repealed in 2007
<a href="#">2007 Proposed Remedial Amendment</a>	Never Adopted
<a href="#">The Acreage Neighborhood Plan</a>	Formally accepted in 1996
<a href="#">2007 Callery Judge Groves DRI</a>	Denied
<a href="#">2008 Callery Judge Groves Agricultural Enclave</a>	Adopted

For more information from the applicant,  
Minto Communities has established the  
following website: <http://www.mintoinfo.com/>

For more information from the Planning Division,  
please contact the project manager  
Bryan Davis at 561-233-5308

For more information from the Zoning Division,  
please contact the project manager  
Carrie Rechenmacher at 561-233-5209

<< Back to PZB Home



OFFICE OF THE ATTORNEY GENERAL  
Opinions Division

STATE OF FLORIDA

PAM BONDI  
ATTORNEY GENERAL

PL 01 The Capitol  
Tallahassee, Florida 32399-1050  
Telephone (850) 245-0158  
Fax (850) 922-3969

December 26, 2013

Mr. Michael D. Cirullo, Jr.  
Goren, Cheroff, Doody & Ezrol, P.A.  
3099 East Commercial Boulevard  
Suite 200  
Fort Lauderdale, Florida 33308

Dear Mr. Cirullo:

Thank you for contacting the Florida Attorney General's Office regarding an interpretation of language in section 163.3162(4), Florida Statutes. Attorney General Bondi has asked me to respond to your letter.

After reviewing the information you have submitted, it does not appear that this is a matter upon which this office may comment. The Attorney General is statutorily limited to providing legal advice and opinions to governmental agencies and officers on questions relating to their own duties and responsibilities. Regarding the issue you have raised, section 163.3162(4), Florida Statutes, provides a procedure for the owner of a parcel of land and local governmental entity to "negotiate in good faith to reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel[.]" It appears that the local government involved in the scenario you have presented is Palm Beach County. A response to your letter would necessarily involve comment on the on-going process involving Palm Beach County and an applicant for an amendment to Palm Beach County's comprehensive plan. In the absence of a request from Palm Beach County regarding the construction of the provisions of section 163.3162(4), Florida Statutes, it would be inappropriate for this office to comment.

Thank you for considering this office as a source for assistance. I trust that you will understand that the inability of this office to respond more directly to your concerns is the result of these limitations, not a lack of concern.

Sincerely,

Gerry Hammond  
Senior Assistant Attorney General

GH/tsh