



TOWN OF LOXAHATCHEE GROVES

TOWN COUNCIL AGENDA

TUESDAY, October 18, 2016

7:00 p.m.



**Town of Loxahatchee Groves
Town Council Meeting
Thursday, October 18, 2016 - 7:00 p.m. to 10:30 p.m.**

(Times established by Resolution No. 2014-08... commencing at 7:00 p.m., and ending no later than 10:30 p.m., which can be extended by motion of the Council.)

Town Hall, 155 F Road
Loxahatchee Groves, Florida 33470

Mayor David Browning (Seat 4)	Town Manager William F. Underwood, II
Vice Mayor Tom Goltzené (Seat 5)	Town Attorney Michael D. Cirullo, Jr.
Councilman Ronald D. Jarriel (Seat 1)	Town Clerk Virginia M. Walton
Councilman Ryan Liang (Seat 3)	
Councilman Todd McLendon (Seat 2)	

PUBLIC NOTICE/AGENDA

1. OPENING

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

MOTION	SECOND	VOTE
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2. PUBLIC COMMENTS

3. CONSENT AGENDA

- (Public Comment will be permitted on consent agenda items prior to Council vote)
- a. Minutes: September 20, 2016 Town Council Meeting
 - b. Approval of September 2016 Goren Cherof Doody & Ezrol Invoices
 - c. Adoption of Resolution No. 2016-72 (Schedule of Town Council Meeting Dates)

**A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES,
FLORIDA, APPROVING A SCHEDULE FOR REGULAR TOWN
COUNCIL MEETING DATES FOR FISCAL YEAR 2016-2017;
PROVIDING FOR AN EFFECTIVE DATE.**

4. **PRESENTATIONS**

5. **OLD BUSINESS**

MOTION	SECOND	VOTE
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Quasi-Judicial Hearings

- a. RESOLUTION NO. 2016-59 (COMMONS OUTPARCEL F MEDICAL OFFICE)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE LOXAHATCHEE GROVES COMMONS OUTPARCEL “F” MEDICAL OFFICE SITE PLAN AMENDMENT, FOR LAND OWNED BY ATLANTIC LAND INVESTMENTS LLC, CONSISTING OF 21.73 ACRES MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND “B” ROAD LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT “A” TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION	SECOND	VOTE
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This item will be continued to the October 18, 2016 Agenda as a Quasi-Judicial Hearing

- b. RESOLUTION NO. 2016-61 (DUNKIN DONUTS SIGN VARIANCE)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE LOXAHATCHEE GROVES COMMONS OUTPARCEL “F” SIGN VARIANCE, FOR LAND OWNED BY ATLANTIC LAND INVESTMENTS, CONSISTING OF 21.73 ACRES MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND “B” ROAD LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT “A” TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION	SECOND	VOTE
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- c. Approval of Loxahatchee Groves Water Control District Perpetual Use Permit No. 2016-001

MOTION	SECOND	VOTE
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6. NEW BUSINESS

Quasi-Judicial Hearings

- a. ORDINANCE NO. 2016-08 (Annexation of 556 Folsom Road Parcel)
AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ANNEXING A 4.27 ACRE MORE OR LESS PARCEL OF LAND LOCATED AT 556 FOLSOM ROAD LOXAHATCHEE, FLORIDA 33470 BEING MORE FULLY DESCRIBED IN EXHIBIT “A” HERETO; AND CONCURRENTLY AMENDING THE FUTURE LAND USE MAP TO “RURAL RESIDENTIAL 5”/SPECIAL POLICY 1.15.6 AND ADDING SPECIAL POLICY 1.15.6 TO THE TEXT OF THE FUTURE LAND USE ELEMENT OF THE TOWN OF LOXAHATCHEE GROVES COMPREHENSIVE PLAN PURSUANT TO THE “SMALL-SCALE” COMPREHENSIVE PLAN AMENDMENT LAWS OF THE STATE OF FLORIDA, SAID LAND TO BE CONCURRENTLY ASSIGNED AN “AGRICULTURAL RESIDENTIAL” ZONING DISTRICT DESIGNATION ON THE TOWN OF LOXAHATCHEE GROVES ZONING MAP; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION	SECOND	VOTE
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- b. ORDINANCE NO. 2016-09 (COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT TEXT CHANGE FOR FUTURE NON-RESIDENTIAL DEVELOPMENT)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA COMPREHENSIVE PLAN, IN ACCORDANCE WITH SECTION 163.3184(3) FLORIDA STATUTES TO ADD SPECIAL POLICY 1.15.7 TO THE TEXT OF THE FUTURE LAND USE ELEMENT RELATING TO FUTURE LAND USE WITHIN THE AREA DEFINED BY THE FOLLOWING FEATURES: COLLECTING CANAL (NORTH); SOUTHERN BOULEVARD (SOUTH); “C” ROAD (EAST); AND “B” ROAD (WEST); PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION	SECOND	VOTE
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- c. Discussion and Responses to OIG Audit Report 2016-A-0004 - Town of Loxahatchee Groves Audit of Contracts, Vendors and Fixed Assets

MOTION	SECOND	VOTE
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- d. Approval of Change Order to B Road Pavement Resurfacing Contract - Harddrives, Inc.
– Re: Relocation of hog wire fencing

MOTION	SECOND	VOTE
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- e. 8th Place North Access Restriction

MOTION	SECOND	VOTE
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- f. Hiring of outside Counsel and Code Investigator – Re: McLendon Code Enforcement Case

MOTION	SECOND	VOTE
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7. COMMITTEE REPORTS – none scheduled

8. MANAGER’S REPORT – Town Manager Underwood

- a. Request by Loxahatchee Groves Water Control District to hold a Joint Meeting - November 14, 2016 at 6:30 PM.

b.

MOTION	SECOND	VOTE
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- c. Revised Preliminary EAP – FEMA

MOTION	SECOND	VOTE
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- d. Agenda Item Report – Updates on various activities and issues concerning the Town

MOTION	SECOND	VOTE
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9. COUNCIL REPORTS

- a. Councilman Ron Jarriel

- 1. Interlocal Agreement with Loxahatchee Groves Water Control District for grading, hedging, mowing and emergency call in services.

MOTION	SECOND	VOTE
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- b. Councilman Todd McLendon

- 1. Model Zoning Code Ordinance – Re: Reducing pollution

MOTION	SECOND	VOTE
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10. CLOSING COMMENTS

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

11. ADJOURNMENT

*The next Meeting is a Joint Town Council/Water Control District Meeting
scheduled for November 1, 2016 @ 7:00 p.m. at Town Hall*

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



Town of Loxahatchee Groves

Regular Town Council Meeting

Tuesday, September 20, 2016 at 7:00 p.m.

MINUTES

1. **OPENING**

- a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 pm. Present were Present were Mayor David Browning, Vice Mayor Tom Goltzené and Council Members Todd McLendon and Ronald Jarriel. Council Member Ryan Liang was absent. Also present was Town Manager Bill Underwood, Town Attorney Michael D. Cirullo, Jr. and Town Clerk Virginia Walton.

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

Motion: a motion to approve the agenda, with Addendum #1 and #2, was made by Council Member Jarriel and seconded by Council Member McLendon. Motion passed 4 – 0.

2. **PUBLIC COMMENTS**

Ken Johnson announced the next meeting of the LGLA, and thanked George Perez and the children that had helped clean up trash along the roads in Loxahatchee Groves this past weekend.

Brenda Amorson, B Road, commented on the Dunkin Donuts variance denial.

3. **BUDGET HEARINGS**

- a. RESOLUTION NO. 2016-69 (Final Millage Rate)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING AND ADOPTING THE FINAL MILLAGE RATE FOR THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PURSUANT TO THE BUDGET SUMMARY FOR THE FISCAL YEAR 2016-2017, IN ACCORDANCE WITH CHAPTER 200, FLORIDA STATUTES, AS AMENDED; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read the resolution by title, and stated the final millage rate was set at 1.4718, which was 14.79% above the rollback rate of 1.2822. There were no comment from the Council or from the public.

Motion: a motion to approve the resolution and final millage rate was made by Council Member McLendon and seconded by Council Member Jarriel. A roll call vote was in favor of adoption 4 – 0.

b. RESOLUTION NO. 2016-70 (Final Public Hearing-Budget)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A FINAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016 AND ENDING SEPTEMBER 30, 2017; ADOPTING FISCAL POLICIES; AND PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Council Member Jarriel made a motion to rescind the reduction of the Water Control District amount from \$77,764 to \$70,073, which was vote on at the last meeting. The motion failed for lack of a second.

Council Member McLendon stated a new spreadsheet had been provided tonight to correct the lane miles discrepancy on the total miles. Manager Underwood responded that the absolute correct amount was 26%, which calculated to \$70831. The miles from the state were 56.64 miles.

John Ryan, A Road, commended Perla Underwood and Steve Yohe work working together to correct the numbers.

Mayor Browning added that he had always sad the numbers had to correspond with the lane miles.

Motion: a motion to change the final total lane miles and amount to \$70,831 was made by Council Member McLendon and seconded by Vice Mayor Goltzene. A roll call vote was in favor of adoption 3 – 1, with Council Member Jarriel dissenting.

4. CONSENT AGENDA

(Public Comment will be permitted on consent agenda items prior to Council vote)

a. Minutes: September 8, 2016 Town Council Meeting

Motion: a motion to approve the Consent Agenda was made by Council Member McLendon and seconded by Vice Mayor Goltzené. Motion passed 4 – 0.

5. PRESENTATIONS

a. Responses to Letter of Interest – Special Magistrate Code Hearing Services

1. Gary M. Brandenburg, Brandenburg & Associates, P.A. – Mr. Brandenburg was unable to attend.

2. Paul J. Nicoletti, Attorney at Law

Mr. Nicoletti gave a brief presentation of his background on his legal career and spoke on his many years serving Martin County, as well as several municipalities, as a Special Magistrate. Mr. Nicoletti then answered questions from the Council about different possible code case situations and his knowledge of the Freedom to Farm Act and Agriculture Residential properties.

3. Keith W. Davis/Jennifer Ashton, Corbett, White, Davis and Ashton, P.A.

Mr. Davis gave a brief presentation of his background on his legal career and spoke on his many years serving as Special Magistrate for several municipalities. Mr. Davis then answered questions from the Council about possible conflicts, different code case situations and his knowledge of the Freedom to Farm Act and Agriculture Residential properties.

After the presentations and discussions, the Council ranked the three applicants. There was a tie of votes for Mr. Nicoletti and Mr. Davis. Council then discussed having a primary and then a secondary Special Magistrate, or equally rotating the two Magistrates.

Motion: a motion to direct the Town Manager to contact both Mr. Nicoletti and Mr. Davis to discuss and negotiate an agreement for Special Magistrate Services on a rotating basis was made by Council Member McLendon and seconded by Vice Mayor Goltzené. Motion passed 4 – 0.

6. OLD BUSINESS

a. Direction on Okeechobee/Folsom Speed Signs for FY 2016/2017

Manager Underwood stated that additional funds may be necessary based on the letters and emails from the County Administrator and County Engineer, George Webb. The new traffic signs had been ordered and the Town was awaiting delivery information. Council discussion was not in agreement with items stated in the County Engineer's emails as to duties that would be transferred to the Town, or the loss of the traffic light at Folsom and D Road. Council directed the Manager to go forward with the sign installation and a meeting between the Mayor and the County representatives should be set up to discuss the other items.

b. Direction on CODE RED Notification Software System

Council was not sure if the residents were interested in providing their landline or cell phone numbers to participate in this notification system. Council consensus was to ask for resident input during the 10th Anniversary Celebration and see what the response was before committing to these funds, which would be approximately \$2500.00 to \$5200.00, depending on what level of software was chosen.

c. Council Meeting Schedule for Oct. to Dec. 2016 and Jan. to Sept. 2017

Suggestion was made to change the April, May and June 2017 meetings to the second meeting date of the month instead of the first.

Motion: a motion to have staff bring back a resolution confirming the dates, including the changes noted above, was made by Council Member Jarriel and seconded by Council Member McLendon. Motion passed 4 – 0.

This item will be continued to the October 18, 2016 Agenda as a Quasi-Judicial Hearing

d. RESOLUTION NO. 2016-61 (DUNKIN DONUTS SIGN VARIANCE)

Motion: a motion to continue item #6d until the October 28, 2016 agenda was made by Council Member McLendon and seconded by Council Member Jarriel. Motion passed 4 – 0.

7. NEW BUSINESS

QUASI-JUDICIAL HEARING

a. “A Cut Above” Appeal to Historical Legacy Special Exception Denial

Damien Rockett, Ken Johnson, Dennis Lipp, Keith Davis and William Underwood were sworn in to give testimony.

Damien Rockett, President of A Cut Above stated this issue had begun around February 2015 with a code case against him. He had met several times with Planning Consultant Fleischmann and several alternatives had been discussed, including this Appeal. He had been operating since 1998, but had moved his location around 2013 to a new address. He still retained both addresses, one as business and one as home. The business location was 10 acres, with 91/2 acres as Ag.

Council discussed the history of the two locations, the history of the causes of the code case, and what was and wasn't allowed. The Council agreed that the new location was closer to a County road and had less impact on the local roads, and was willing to work with Mr. Rockett to try to come up with a solution; but consensus was that an historical legacy could not be substantiated since the business was not on the original property

Mr. Rockett thanked the Council for their feedback and their willingness to work with him. He wanted to be a good neighbor. Possible solutions suggested was a land use amendment for the new location, or possibly a new zoning section in the code could be adopted.

Dennis Lipp and Keith Harris both voiced their opinions on this issue.

Motion: a motion to delay the enforcement of the current code case and give Mr. Rockett 45 days to make application for a zoning amendment was made by Vice Mayor Goltzené and seconded by Council Member Jarriel. If application is not made within the 45 days, the code case would continue to the Magistrate. Motion passed 4 – 0.

8. COMMITTEE REPORTS – none scheduled

9. MANAGER’S REPORT – Town Manager Underwood

- a. Agenda Item Report – Updates on various activities and issues concerning the Town

Manager Underwood stated activities were outlined in the written report. Folsom and Okeechobee had been filmed and surveyed and the speed signs were expected in about 2 – 3 weeks. Vice Mayor Goltzené asked for an update on the Plaza/A&G Market issue because the drinking outside was still going on. Manager Underwood responded that all parcels, including the A&G and Shell station had been put on notice and a meeting had taken place today with Mr. Yee.

- b. Palm Beach County Sheriff’s Office District 15 Monthly Report for August 2016
- c. Palm Beach County Fire-Rescue Monthly Report for August 2016

10. COUNCIL REPORTS

- a. Council Member Ron Jarriel
 1. Discussion and direction on Assessment of Roads by Bergeron

Council Member Jarriel stated he had ridden around the roads and there were still a lot of potholes not fixed yet. He felt the Town needed to authorize more road rock on the roads in order to maintain what had been accomplished so far. He wanted the Council to consider an ILA with the WCD for emergency fixes.

Manager Underwood responded that he had direction to stay within the budget that had been passed, and to date the Town had spent two years revenue in 9 months on the roads. Putting down more of the same product that just washes away makes no sense. In order to just fix the OGEM, it would be about \$450,000. If the Council wanted to give direction to spend more and get more work done, they he would await their decision. Manager Underwood added that he had a list of about 12 tentative roads with strong base that could be the first to get paved if Council wished. Issues were that the engineers would need to do density tests and the residents would have to buy into giving easements for the drainage issues that continue to erode the roads. Mayor Browning stated that the potholes were a separate issue and the Town needed to be responsive.

- b. Vice Mayor Tom Goltzené
 1. Discussion and direction on Charter Amendments
 - a) Canvassing Board
 - b) Manager Duties

On these two successful referendum questions, Vice Mayor Goltzené wanted to assure that Staff would carry out what was necessary to implement these charter amendments.

- c) Debt Financing

The Town needed to come up with an actual plan, with estimated costs and then bring that specific question back to the people for another vote. The plan would include the roads funds being paid through the gas tax money. Town Attorney Cirullo stated this would not require a charter amendment, but they would need to check with a Bond Counsel.

Motion: a motion to direct Staff to start working on this process was made by Vice Mayor Goltzené and seconded by Council Member Jarriel. Motion passed 4 – 0.

2. Discussion and direction on Open Container Ordinance

Motion: a motion to direct staff to bring forward an illegal open container ordinance was made by Vice Mayor Goltzené and seconded by Council Member McLendon. After discussion, motion passed 4 – 0.

Council consensus was to see if loitering could be added to the ordinance, and also “camping” since this was taking place behind A&G and would only get worse. Discussion then took place about limiting the hours of alcohol sales throughout the Town.

Motion: a motion to prohibit the sale of alcohol from 10pm to 10am was made by Vice Mayor Goltzené and seconded by Council Member Jarriel. Motion passed 3 – 1, with Council Member McLendon dissenting.

Ken Johnson, Collecting Canal Road, was happy about the limits on sale of alcohol.

d. Council Member Todd McLendon

1. Discussion and direction to invite County Administrator Verdenia Baker, and County Engineer George Webb to the October 18, 2016 regular meeting.

Council Member McLendon suggested a meeting with County Commissioner McKinlay, the Mayor and Town Manager. Commissioner McKinlay could choose to bring Staff if she wanted.

2. Discussion and direction on streamlining ULDC Committee

Council Member McLendon stated it was confusing that the ULDC would make recommendations, then they would have to go to the P&Z Board, and then finally to the Council. Council Member McLendon wanted to know if the ULDC could be established as another LPA Board, or have the Council function as the LPA. Council directed the Town Attorney to report on options to streamline the process.

3. Discussion and direction on Pill Mill Legislation

After discussion, Town Attorney Cirullo suggested he forward samples of other Town’s ordinances for Council’s review prior to drafting an ordinance for the Town. Council agreed.

4. Reconsideration of Retail – Loxahatchee Groves Commons Outparcel F “Medical Office”

Vice Mayor Goltzené stated he had a conflict and would not participate in the discussion or vote on this item. The Vice Mayor left the meeting for the evening.

Council Member McLendon stated he wanted to be fair as there were only three council members on the dais and quasi-judicial matters needed three positive votes to pass. He suggested the resolution request be brought back to the October 18, 2016 agenda for reconsideration and hopefully four council members would be present.

Motion: a motion to bring back Resolution No. 2016-59 for reconsideration was made by Council Member McLendon and seconded by Council Member Jarriel. Motion passed 3 – 0.

Motion: a motion to extend the meeting for 5 minutes was made by Council Member McLendon and seconded by Mayor Browning. Motion passed 3 – 0.

Manager Underwood asked for direction on the October 4, 2016 joint meeting with the Water Control District. The District has requested no staff present and no public comment. Mayor Browning stated it was a public meeting and if it was scheduled as a workshop, the public could have comments at the end of the meeting. Staff should be present.

11. CLOSING COMMENTS

a. Public

Ken Johnson, Collecting Canal Road, stated the contractors had done an excellent job on B Road. Lawrence Corning, commented on a Downtown Security Task Force instituted by Sheriff Rick Bradshaw that might be worth looking at. Also the ULDC this time was moving along better than before, but he did not feel going around the P&Z was a good idea.

- b. Town Attorney
- c. Town Council Members

Council Member McLendon thanked Mr. Perez and the children for the Town clean-up.

Council Member Jarriel complimented the Manger and the Landowner's Association on the plans and the calendar for the 10th Anniversary.

Mayor Browning thanked everyone for coming and asked everyone to get the word out about the Anniversary Festival and Pie Contest.

12. ADJOURNMENT

Hearing no further business, a motion to adjourn the meeting was made at 10:33PM.

Virginia Walton, Town Clerk

David Browning, Mayor

These minutes were approved by the Town Council on Tuesday, _____2016.

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

TOWN OF LOXAHATCHEE GROVES
155 F Road
Loxahatchee Groves FL 33470

ACCOUNT NO:
STATEMENT NO:

Page: 1
10/04/2016
1574-0702400
12209

Attn: William F. Underwood, II - Town Manager

General Matters

mxl

			HOURS
08/31/2016	MDC	Telephone conference with BU, JF Re: status of Quasi Judicial matters for 9/8 meeting; review annexation resolutions with BU, review outcome of charter amendments.	1.10
09/01/2016	MDC	Review LGWCD easement resolution, revised annexation maps; review emails, miscellaneous telephone conference Re: OIG draft report.	1.00
09/02/2016	MDC	Review draft OIG report; miscellaneous telephone conference with OIG; Telephone conference with BU on agenda, OIG; review emails from OIG; review agenda materials for 9/8 meeting.	1.60
09/06/2016	MDC	Miscellaneous telephone conference with BU; update council on OIG; review agenda and backup for 9/8 meeting.	1.80
09/07/2016	MDC	Continue reviewing items for 9/8 meeting; miscellaneous telephone conference with BU, council.	2.00
09/08/2016	MDC	Miscellaneous telephone conference with BU, Council; review materials, prepare for and attend council meeting.	5.70
09/09/2016	MDC	Miscellaneous telephone conference with BU on pending items; review correspondence on agenda for 9/20; review road maintenance issues.	0.50
09/12/2016	MDC	Review emails on roads, review items for 9/22 agenda	0.30
09/13/2016	MDC	Miscellaneous telephone conference with BU Re: LGWCD matters (easements, worksheet); miscellaneous telephone conference with council	0.70
09/14/2016	MDC	Miscellaneous telephone conference on pending items for 9/20 meeting; miscellaneous telephone conference Re: permit review procedures; review millage and budget resolutions; provide comments to PU; telephone conference with Scott Bryson Re: roads.	2.80
09/15/2016	MDC	Continue reviewing agenda materials for 9/20 meeting; telephone conference with BU, miscellaneous telephone conference with council members; miscellaneous research on code matters.	1.10
09/16/2016	MDC	Review emails, miscellaneous telephone conference with BU Re: 9/20	

General Matters

			HOURS	
		agenda, roads.	0.60	
09/19/2016	MDC	Review emails, materials, agenda backup for 9/20 meeting, miscellaneous telephone conference with Council, BU.	1.50	
09/20/2016	MDC	Miscellaneous telephone conference with BU; review materials, prepare for and attend council meeting.	5.40	
09/21/2016	MDC	Review items from 9/20 meeting, telephone conference with BU.	0.70	
09/23/2016	MDC	Review status of B Road easements, telephone conference with BU, SBryson on road easement issues; review public OIG report.	1.60	
09/27/2016	MDC	Review materials Re: Comcast, review correspondence on Town matters; continue reviewing OIG report.	1.30	
09/28/2016	MDC	Review Comcast information; review statutes Re: LPA review per Town Council; prepare A Cut Above order.	1.80	
09/29/2016	MDC	Continue researching ULDC review, revise memo; research loitering; review pain management ordinances per Council; review materials Re: 8th Place North; review issues with review of OIG report.	1.80	
09/30/2016	MDC	Review materials, attend conference call with BT. BU Re: code matters; telephone conference with PU Re: Comcast matters; miscellaneous review of pending items (Magistrate, PIII Mill ordinances) prepare memo to Council on PIII Mill laws, review issues with OIG report	3.60	
		FOR CURRENT SERVICES RENDERED	36.90	6,826.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	36.90	\$185.00	\$6,826.50

Color photocopies	5.95
Photocopies	261.10
TOTAL EXPENSES THRU 09/30/2016	267.05

08/29/2016	Federal Express - Invoice 5-559-02785	16.72
		16.72
	TOTAL ADVANCES THRU 09/30/2016	16.72
	TOTAL CURRENT WORK	7,110.27

General Matters

BALANCE DUE

\$7,110.27

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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

TOWN OF LOXAHATCHEE GROVES
155 F Road
Loxahatchee Groves FL 33470

Page: 1
10/04/2016
ACCOUNT NO: 1574-1107607
STATEMENT NO: 12210

Attn: William F. Underwood, II - Town Manager

adv. FDOT (Drysdale eminent domain)

			HOURS	
08/29/2016	KLE	Conference with Mike, review eminent domain petition.	0.40	
08/31/2016	MDC	Telephone conference with BU on Town's response to petition.	0.30	
09/29/2016	MDC	Prepare notice of disclaimer.	0.60	
FOR CURRENT SERVICES RENDERED			1.30	240.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
KERRY L. EZROL	0.40	\$185.00	\$74.00
MICHAEL D. CIRULLO	0.90	185.00	166.50

TOTAL CURRENT WORK 240.50

BALANCE DUE \$240.50

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AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2016 -72

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING A SCHEDULE FOR THE REMAINING REGULAR TOWN COUNCIL MEETING DATES FOR FISCAL YEAR 2016—2017; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, it is appropriate for the Town Council to provide reasonable notice of all Town Council meetings; and

WHEREAS, the Town Council finds it in the best interest of the Town to confirm a uniform meeting calendar for conduct of business and public participation at Town meetings, as identified by Town Council action on September 20, 2016.

WHEREAS, the Town Council identified and approved a Calendar Schedule for all regular Town Council Meetings for the period beginning October 1, 2016 through September 30, 2017, at its regular meeting of September 20, 2016, and

NOW, THEREFORE, BE IT RESOLVED 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 Resolution upon adoption hereof.

Section 2. The Town Council of the Town of Loxahatchee Groves hereby adopts and approves the Town Council Meeting Schedule for Fiscal Year 2017, beginning October 1, 2016, and ending September 30, 2017, as set forth in **Exhibit "A"** attached hereto.

Section 3. The Town Council may from time to time, by motion, add, modify, change, and delete meetings from the attached Meeting Schedule as necessary to conduct the

business of the Town of Loxahatchee Groves.

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

Section 5. If any clause, section, other part, or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 6. This Resolution shall become effective upon adoption.

Council Member _____ offered the foregoing resolution. Council Member _____ seconded the motion, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
_____, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THIS _____ DAY OF OCTOBER 2016.

ATTEST:

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

Virginia Walton, Town Clerk

Mayor David Browning

Vice-Mayor Tom Goltzené

Council Member Ron Jarriel

APPROVED AS TO LEGAL FORM:

Council Member Ryan Liang

Town Attorney

Council Member Todd McLendon

Exhibit "A"

COUNCIL MEETING SCHEDULE

SEPTEMBER 1, 2016 TO DECEMBER 31, 2016

September 2016						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Sept. 8th TC Meeting Prelim Tax Levy/Budget/Final
Solid Waste Assessment
Sept. 20th TC Meeting Final Tax Levy/Budget Hearing

October 2016						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Oct. 4th Joint Workshop w/WCD
Oct. 18th TC Meeting

November 2016						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

Nov. 1st TC Meeting
Nov. 15th TC Meeting (Skip)

December 2016						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Dec. 6th TC Meeting
Dec. 20th TC Meeting (Skip)

COUNCIL MEETING SCHEDULE

JANUARY 1, 2017 TO SEPTEMBER 30, 2017

January 2017						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February 2017						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March 2017						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Jan 3rd TC Meeting (Skip)
Jan 17th TC Meeting

Feb 7th TC Meeting
Feb 21st TC Meeting (Skip)

March 7th TC Meeting (Skip)
March 21st TC Meeting – Swearing In/Reorganization

April 2017						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

May 2017						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

June 2017						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

April 4th TC Meeting
April 18th TC Meeting (Skip)

May 2nd TC Meeting
May 16th TC Meeting (Skip)

June 6th TC Meeting
June 20th TC Meeting (Skip)

July 2017						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

August 2017						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

September 2017						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

July 4th TC Meeting (Skip – Holiday)
July 18th TC Meeting – set millage/solid waste

August 1st TC Meeting
August 15th TC Meeting (Skip)
Aug. 17th – 19th FLC Annual Conference

Sept. 5th TC Meeting Prelim. Tax Levy/Budget/Final Solid Waste Assessment
Sept. 19th TC Meeting Final Tax Levy/Budget Hearing

Town of Loxahatchee Groves, Florida
Town Council
Agenda Item Report Loxahatchee Groves Commons
Outparcel “F” Medical Office Application

PREPARED BY: Jim Fleischmann

October 18, 2016

SUBJECT: The following application for Loxahatchee Groves Commons

1. Site Plan Amendment Approvals: SP(A) 2016-04; Resolution 2016-59

1. BACKGROUND/HISTORY

History: The initial Loxahatchee Groves Commons Site Plan (94,655 sq. ft.) was approved by Town Council Resolution 2015-05. The approved Site Plan included the following three outparcels; Building “E”: Retail – 4,000 sq. ft. + Building “F”: Bank – 4,000 sq. ft. + Building “G”: Fast-food – 4,000 sq. ft.

The following Outparcel Site Plan revisions were approved by Town Resolution 2015-22:

- Revision to Outparcel Building “E” (reduction from 4,000 sq. ft. to 3,010 sq. ft. and change in use from retail to gas station/convenience store).
- Revision to Outparcel Building ”F” (increase from 4,000 sq. ft. to 5,200 sq. ft. and change in use from bank to retail/restaurant)
- Revision to Outparcel Building “G” (reduction from 4,000 sq. ft. 3,767 sq. ft. and change in use from retail to fast-food restaurant)

The Applicant has currently submitted an application for the following amendment to Outparcel Building “F”:

- SP(A) 2016-04 - Revision to Outparcel Building F: change in use from “Retail/Restaurant” to “Retail/Restaurant/Medical Office”.

Application SP(A) 2016-04 petitions approval of a change in use for Outparcel Building “F”. An approval will not increase the size (5,200 sq. ft.) of Building “F” or the approved floor-area-ratio of Loxahatchee Groves Commons. The Application will result in a reduction in daily traffic generated by Loxahatchee Groves Commons and not require additional parking spaces.

Problem Statement: The Town Council should hear testimony at a quasi-judicial public hearing and consider a motion regarding Site Plan SP(A) 2016-04.

Problem Solution: The Town Council should should approve, approve with conditions, or deny proposed Site Plan Amendment SP(A) 2016-04.

2. CURRENT ACTIVITY

The Applicant has prepared the Site Plan Amendment SP(A) 2016-04 application which staff has reviewed (Ref: Attached Agenda Item Staff Summary).

The Planning & Zoning Board, at its August 18, 2016 meeting, reviewed and recommended approval of SP(A) 2016-04 by a 4 – 0 vote.

The Town Council considered Resolution 2016-59 at its meeting on September 6, 2016. The vote was 2 -1 for approval; however, the motion failed, as 3 votes are required for approval. A motion was made and passed at the Town Council meeting on September 20, 2016 to reconsider the item at the October 18, 2016 Town Council meeting.

3. ATTACHMENTS

1. Agenda Item Staff Summary: Loxahatchee Groves Commons Outparcel Building F Site Plan Amendment SP(A) 2016-04
2. Clear Medicine, Inc. Zoning Confirmation Response
3. Proposed Resolution 2016-59

4. FINANCIAL IMPACT

Work on this project is funded by Applicant's Cost Recovery Account

5. RECOMMENDED ACTIONS:

1. That the Town Council approve Resolution 2016-59 (SP(A) 2016-04).

**TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL
OCTOBER 18, 2016**

**AGENDA ITEM STAFF SUMMARY:
Loxahatchee Groves Commons Outparcel Building F Site Plan
Amendment(SP(A) 2016-04**

A. Site and Applicant Information

Project Name	Loxahatchee Groves Commons Outparcel Building F Use Amendment
Project No.	SP(A) 2016-04
Agent	Jeff Zito, Atlantic Land Investments LLC
Applicant	Atlantic Land Investments, LLC
Owner	Atlantic Land Investments, LLC – Joseph D. Lelonek, Managing Partner
Parcel Control No.	41-41-43-31-09-000-0020
Location	Outparcel F of Loxahatchee Groves Commons located at the Northwest corner of Southern Boulevard and “B” Road
Size (Acreage)	0.82 acre Outparcel “F” of 21.73 acre Loxahatchee Groves Commons shopping center.
Zoning	Commercial Low Planned Unit Development (CL/PUD)
Future Land Use	Commercial Low
Existing Use	Vacant/under construction
Approved Use	Prior Site Plan Approval – Town Resolution 2015-22; 5,200 sq. ft. outparcel building consisting of retail and restaurant uses
Proposed Use	5,200 sq. ft. outparcel building consisting of retail, restaurant and medical office uses

B. Submitted Support Documents

ITEM	CONTENT
Revised Site Plan	Revision to Outparcel Building “F” indicating retail/restaurant/medical office uses.
Revised Statement of Use and Traffic Statement	Description of proposed use of Outparcel Building “F” and impacts upon current approval. Traffic generation reduced from previous approval. No additional parking spaces required.

C. Narrative Information

1. Property History

The following description summarizes the components of the Final Site Plan approved by Resolution 2015-22:

Building	Approved Site Plan Amendment	
	Use	Sq. Ft.
A	Grocery	46,031
B + D	In-Line Retail	17,550
C	Ag Indoor Sales	19,097
E	Gas/Convenienc	3,010
F	Retail/Restauran	5,200
G	Fast Food	3,767
Totals		94,655

2. Proposed Amendment SP(A) 2016-04

Revise the approved use of Outparcel Building "F" to "Retail/Restaurant/Medical Office". The approved size of Building "F" will not change. The anticipated medical office tenant is an urgent care facility to be licensed by the Florida Agency for Health Care Administration (AHCA). Details of the proposed operation are presented in the attached staff Zoning Confirmation Response dated July 27, 2016.

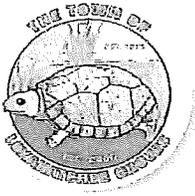
D. Planning & Zoning Board Recommendation

The Planning & Zoning Board, at its August 18, 2016 meeting, reviewed and recommended approval of SP(A) 2016-04 by a 4 – 0 vote.

E. Staff Finding and Recommendation

Outparcel "F" is located within the Loxahatchee Groves Commons commercial planned unit development. Although the proposed medical office use is determined to be a permitted use within the CL zoning district, the Loxahatchee Groves Commons site plan approval has assigned a Retail/Restaurant use to Outparcel Building "F". As a result, in order to gain approval of the proposed use, a site plan amendment must be approved by the Town.

Staff finds the proposed Site Plan Amendment SP(A) 2016-04 dated August 10, 2016 consistent with the Town's Comprehensive Plan and land development regulations and the Final Site Plan (Resolution 2015-22) and recommends approval.



Town of Loxahatchee Groves

155 "F" Road • Loxahatchee Groves, Florida 33470 • Telephone (561) 793-2418 • Fax (561) 793-2420

To: Bill Underwood
Town Manager

From: Jim Fleischmann
Town Planning Consultant

Re: Loxahatchee Groves Commons (Clear Medicine, Inc.) Zoning
Confirmation Response

Date: July 27, 2016

MEMO

This Response is based solely on, and in reliance of, the information provided by Requestor, and any independent review specifically discussed herein. Should any of the information provided by Requestor be incomplete, or inaccurate and such affects the analysis herein, this Response may be revoked by the Town.

I. Summary of Inquiry

Clear Medicine, Inc. (Requestor) has requested zoning confirmation on the 21.73 acre Loxahatchee Groves Commons property located at 15597 Southern Boulevard The zoning confirmation request is directed to "Building F" (Property), as identified on the Loxahatchee Groves Commons Site Plan.

According to Palm Beach County Property Appraiser data, the property is currently owned by Atlantic Land Investments, Inc. whose mailing address is 360 Columbia Drive, Suite 102, West Palm Beach, Florida 33409.

On January 20, 2015, the Town Council approved Ordinance 2013-09 assigning a Commercial Low/Planned Unit Development (CL/PUD) zoning designation to the 21.73 acre Loxahatchee Groves Commons property. On February 17, 2015, the Town Council approved (Resolution 2015-05) the Loxahatchee Groves Commons Site Plan.

Property is located on Outparcel F within the approved 94,655 sq. ft. Loxahatchee Groves Commons commercial center. Outparcel F is identified as a separate parcel on the Loxahatchee Groves Commons Replat of Lot 2, Simon Trust Boundary Plat dated March 16, 2016 (PB 121, Pages 95 – 98). Per the Site Plan, Outparcel F is approved for a 5,200 sq. ft. retail/restaurant use.

According to Palm Beach County Property Appraiser data, the 21.73 acre Loxahatchee Groves Commons parcel, including the 5,200 sq. ft. "Building F" outparcel, is currently vacant.

In relation to Property, Requestor has asked for verification of the following:

1. The zoning classification of Property;
2. Is an "Urgent Care" medical use allowed on Property; and
3. If an "Urgent Care" use is not allowed on Property, what is the zoning that will allow such use?

Based upon a request by Town Staff, Requestor has provided the following additional detail regarding the proposed "urgent care" use:

1. There will be no overnight patient stays;
2. The facility will be open 365 days per year according to the following schedule: Monday to Friday - 8:00 a.m. to 8:00 p.m.; and Saturday and Sunday – 8:00 a.m. to 5:00 p.m.
3. Only minimal surgery will be performed; suture of small lacerations, abscess drainage, or foreign body removal.

The following urgent care services will be provided: Non life-threatening illnesses (flu and respiratory infections, ear/eye infections, sore throat, urinary tract infections, gastrointestinal infections, dehydration, low/high blood glucose, minor burns, asthma, allergic reactions, STDs, back pain, etc.); and non life-threatening injuries (e.g. cuts, fractures and sports injuries). X-ray, EKG and laboratory equipment and facilities will be housed onsite to aid in diagnostic services.

The property is currently assigned a 1000 (Vacant Commercial) Use Code by the Palm Beach County Property Appraiser. The Use Code is valid for calendar year 2016.

II. Staff Analysis

The following Staff analysis is oriented to providing responses to the three request items:

1. The zoning classification of Property is Commercial Low/Planned Unit Development (CL/PUD);
2. "Urgent Care" is not specifically included in the list of permitted uses in the CL zoning district in Section 25-015 *Permitted uses* in the Town's Unified Land Development Code (ULDC). However, based upon Requestor's description, the proposed "Urgent Care" use can be included within the "Offices (e.g. business, professional, medical)" permitted use category in Section 25-015. On this basis, it is determined that the "Urgent Care" use is permitted within the CL zoning district.

Although "Urgent Care" is determined to be a permitted use in the CL zoning district, the Loxahatchee Groves Commons site plan currently indicates a Retail/Restaurant" use for "Building F". As a result, it is determined that an "Urgent Care" use is not currently permitted on Property.

3. An "Urgent Care" use may be requested on Property by means of a site plan amendment application.

III. Staff Conclusion

For the purposes of zoning confirmation, Property is located on Outparcel F within the Loxahatchee Groves Commons commercial planned unit development. Although "Urgent Care" is determined to be a permitted use within the CL zoning district, the Loxahatchee Groves Commons site plan approval has assigned a Retail/Restaurant use to Property. As a result, in order to gain approval of the "Urgent Care" use, a site plan amendment application must be submitted to the Town of Loxahatchee Groves.



Jim Fleischmann
Town Planning Consultant

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2016-59

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE LOXAHATCHEE GROVES COMMONS OUTPARCEL “F” MEDICAL OFFICE SITE PLAN AMENDMENT, FOR LAND OWNED BY ATLANTIC LAND INVESTMENTS LLC, CONSISTING OF 21.73 ACRES MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND “B” ROAD LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT “A” TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council, on February 17, 2015, adopted Ordinance 2013-09 approving the rezoning of the property from the Agricultural Residential (AR) zoning district to Commercial Low Planned Unit Development (CL/PUD), including the Final Conceptual Master Plan and Final Conditions of Approval ; and

WHEREAS, the Town Council, on February 17, 2015, adopted Resolution 2015-05 approving Final Site Plan 2014-02, including the Final Site Plan, Statement of Use and Final Conditions of Approval ; and

WHEREAS, the Town Council, on August 4, 2015, adopted Resolution 2015-22 approving Site Plan Amendment SP(A) 2015-22, including the expansion of the Loxahatchee Groves Commons Outparcel “F” building from 4,000 sq. ft. to 5,200 sq. ft. and amending the approved use from Bank to Retail/Restaurant; and

WHEREAS, the Town Council, as the governing body of the Town of Loxahatchee Groves, Florida (“Town”), pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider applications relating to site plans and amendments to site plans for development on property within the Town; and

WHEREAS, the notice and hearing requirements, as provided for in Article 115 (Public Hearing Notices) of the Town of Loxahatchee Groves Unified Land Development Code have been satisfied; and

WHEREAS, the Town Planning and Zoning Board (P&Z Board), at its meeting of August 18, 2016 recommended approval of the Loxahatchee Groves Commons Outparcel “F” Medical Office Site Plan Amendment Application SP(A) 2016-04; and

WHEREAS, the Loxahatchee Groves Commons Outparcel “F” Medical Office Site Plan Amendment Application SP(A) 2016-04, was presented to the Town Council at a quasi-judicial public hearing conducted on September 8, 2016; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the applicant and other interested parties and the recommendations of Town staff and Town P&Z Board; and

WHEREAS, this approval is subject to Section 155-030 (Effect of approval) of the Town of Loxahatchee Groves Unified Land Development Code (Town ULDC) and other provisions requiring that development commence in a timely manner.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Loxahatchee Groves as follows:

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

Section 2. The Town Council has considered the findings in the staff report dated August 26, 2016 and Town Planning and Zoning Board recommendation and makes the following findings of fact:

1. Site Plan SP(A) 2016-04 is consistent with the Final Conceptual Master Plan approved by the Town Council in Town Ordinance 2013-09.
2. Site Plan SP(A) 2016-04 is consistent with the purposes, goals, objectives and policies of the Town of Loxahatchee Groves Comprehensive Plan, including standards for building and structural intensities and intensities of use.
3. Site Plan SP(A) 2016-04 as presented in Exhibit B hereto, complies with relevant and appropriate portions of applicable Town of Loxahatchee Groves land development regulations. This Site Plan, complies with standards imposed on it by all other applicable provisions of the Town ULDC.
3. Site Plan SP(A) 2016-04, as presented in Exhibit B hereto, is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
4. The proposed design minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. Site Plan SP(A) 2016-04, as presented in Exhibit B hereto, minimizes environmental impacts, including but not limited to water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.
6. Site Plan SP(A) 2016-04, as presented in Exhibit B hereto, will result in logical, timely and orderly development patterns.

Section 3. The Town of Loxahatchee Groves Unified Land Development Code requires that the action of the Town Council of Loxahatchee Groves be adopted by resolution. Therefore, the Town Council of the Town of Loxahatchee Groves approves the Loxahatchee Groves Commons Site Plan Amendment SP(A) 2016-04 for the purpose of revising the use of Outparcel Building “F” from “Retail/Restaurant” to “Retail/Restaurant/Medical Office”, for the parcel of land legally described in Exhibit A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in Exhibit A, attached hereto and made a part hereof. A copy of the Amended Site Plan, is attached hereto as Exhibit B and made a part hereof.

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

Section 5. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 6. This Resolution shall become effective upon adoption.

RESOLVED AND ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 18th day of October, 2016.

ATTEST:

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

TOWN CLERK

Mayor David Browning

APPROVED AS TO LEGAL FORM:

Vice Mayor Tom Goltzene

Town Attorney

Council Member Ron Jerriel

Council Member Ryan Liang

Council Member Todd McLendon

EXHIBIT A

LEGAL DESCRIPTION AND LOCATION MAP

The following Legal Description is applicable to Resolution 2016-59:

Parcel Control Number: 41-41-43-31-09-000-0020

DESCRIPTION:

Outparcel F, of LOXAHATCHEE GROVES COMMONS, according to the plat thereof as recorded in Plat Book 121, Pages 95-98, Public Records of Palm Beach County, Florida

LOCATION MAP

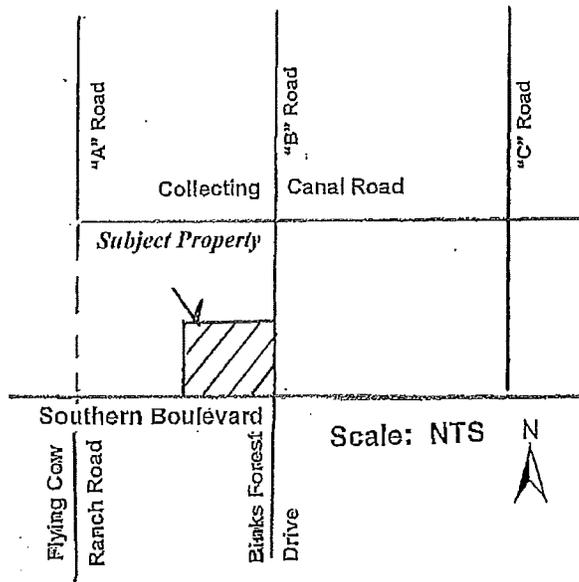
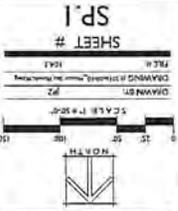
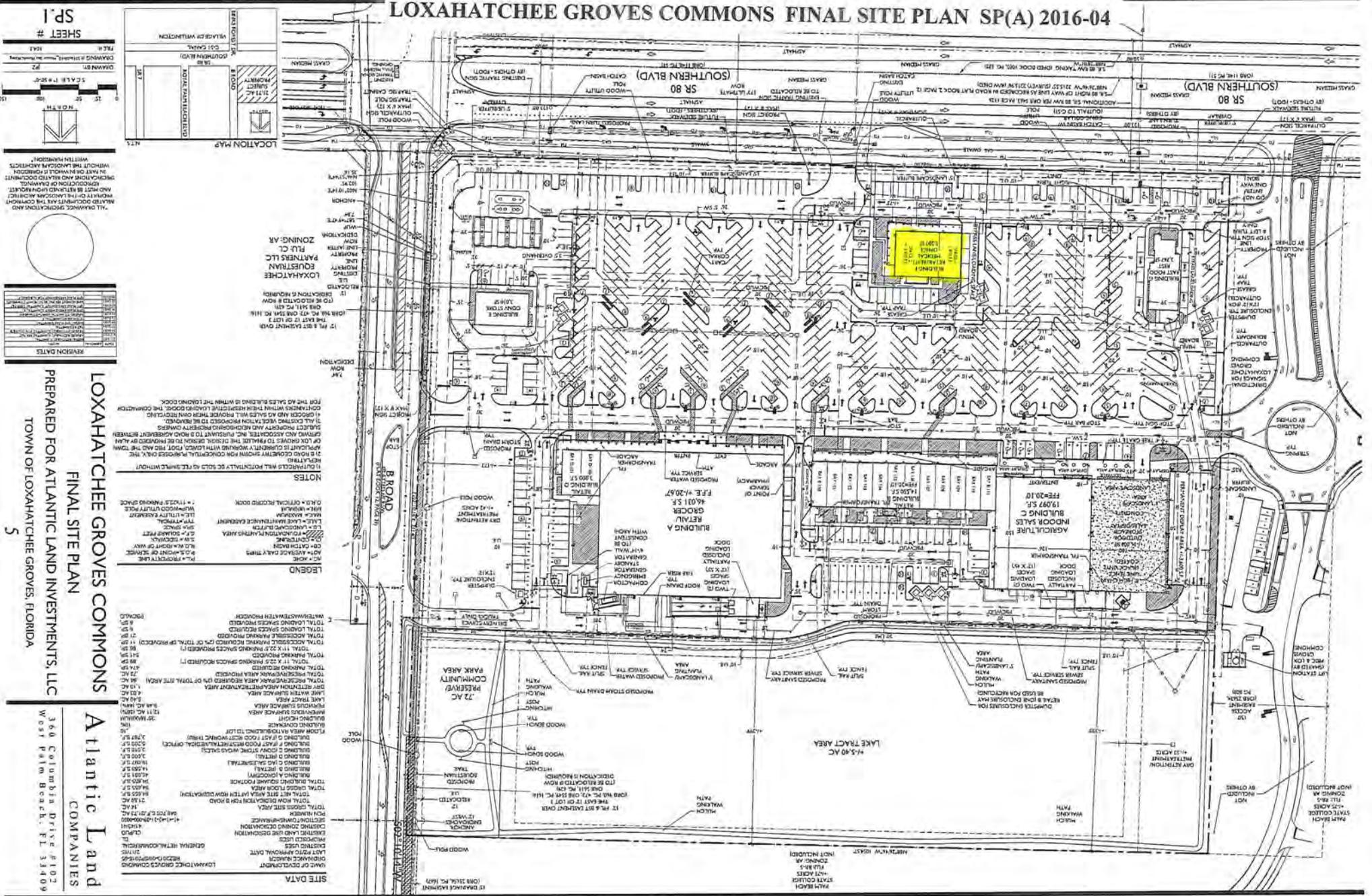


EXHIBIT B

LOXAHATCHEE GROVES COMMONS FINAL SITE PLAN SP(A) 2016-04



REVISION DATES

NO.	DATE	DESCRIPTION
1	04/15/16	ISSUED FOR PERMITTING
2	04/22/16	REVISED PER CITY COMMENTS
3	05/05/16	REVISED PER CITY COMMENTS
4	05/12/16	REVISED PER CITY COMMENTS
5	05/19/16	REVISED PER CITY COMMENTS
6	05/26/16	REVISED PER CITY COMMENTS
7	06/02/16	REVISED PER CITY COMMENTS
8	06/09/16	REVISED PER CITY COMMENTS
9	06/16/16	REVISED PER CITY COMMENTS
10	06/23/16	REVISED PER CITY COMMENTS
11	06/30/16	REVISED PER CITY COMMENTS
12	07/07/16	REVISED PER CITY COMMENTS
13	07/14/16	REVISED PER CITY COMMENTS
14	07/21/16	REVISED PER CITY COMMENTS
15	07/28/16	REVISED PER CITY COMMENTS
16	08/04/16	REVISED PER CITY COMMENTS
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36	12/22/16	REVISED PER CITY COMMENTS
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39	01/12/17	REVISED PER CITY COMMENTS
40	01/19/17	REVISED PER CITY COMMENTS
41	01/26/17	REVISED PER CITY COMMENTS
42	02/02/17	REVISED PER CITY COMMENTS
43	02/09/17	REVISED PER CITY COMMENTS
44	02/16/17	REVISED PER CITY COMMENTS
45	02/23/17	REVISED PER CITY COMMENTS
46	03/02/17	REVISED PER CITY COMMENTS
47	03/09/17	REVISED PER CITY COMMENTS
48	03/16/17	REVISED PER CITY COMMENTS
49	03/23/17	REVISED PER CITY COMMENTS
50	03/30/17	REVISED PER CITY COMMENTS
51	04/06/17	REVISED PER CITY COMMENTS
52	04/13/17	REVISED PER CITY COMMENTS
53	04/20/17	REVISED PER CITY COMMENTS
54	04/27/17	REVISED PER CITY COMMENTS
55	05/04/17	REVISED PER CITY COMMENTS
56	05/11/17	REVISED PER CITY COMMENTS
57	05/18/17	REVISED PER CITY COMMENTS
58	05/25/17	REVISED PER CITY COMMENTS
59	06/01/17	REVISED PER CITY COMMENTS
60	06/08/17	REVISED PER CITY COMMENTS
61	06/15/17	REVISED PER CITY COMMENTS
62	06/22/17	REVISED PER CITY COMMENTS
63	06/29/17	REVISED PER CITY COMMENTS
64	07/06/17	REVISED PER CITY COMMENTS
65	07/13/17	REVISED PER CITY COMMENTS
66	07/20/17	REVISED PER CITY COMMENTS
67	07/27/17	REVISED PER CITY COMMENTS
68	08/03/17	REVISED PER CITY COMMENTS
69	08/10/17	REVISED PER CITY COMMENTS
70	08/17/17	REVISED PER CITY COMMENTS
71	08/24/17	REVISED PER CITY COMMENTS
72	08/31/17	REVISED PER CITY COMMENTS
73	09/07/17	REVISED PER CITY COMMENTS
74	09/14/17	REVISED PER CITY COMMENTS
75	09/21/17	REVISED PER CITY COMMENTS
76	09/28/17	REVISED PER CITY COMMENTS
77	10/05/17	REVISED PER CITY COMMENTS
78	10/12/17	REVISED PER CITY COMMENTS
79	10/19/17	REVISED PER CITY COMMENTS
80	10/26/17	REVISED PER CITY COMMENTS
81	11/02/17	REVISED PER CITY COMMENTS
82	11/09/17	REVISED PER CITY COMMENTS
83	11/16/17	REVISED PER CITY COMMENTS
84	11/23/17	REVISED PER CITY COMMENTS
85	11/30/17	REVISED PER CITY COMMENTS
86	12/07/17	REVISED PER CITY COMMENTS
87	12/14/17	REVISED PER CITY COMMENTS
88	12/21/17	REVISED PER CITY COMMENTS
89	12/28/17	REVISED PER CITY COMMENTS
90	01/04/18	REVISED PER CITY COMMENTS
91	01/11/18	REVISED PER CITY COMMENTS
92	01/18/18	REVISED PER CITY COMMENTS
93	01/25/18	REVISED PER CITY COMMENTS
94	02/01/18	REVISED PER CITY COMMENTS
95	02/08/18	REVISED PER CITY COMMENTS
96	02/15/18	REVISED PER CITY COMMENTS
97	02/22/18	REVISED PER CITY COMMENTS
98	02/29/18	REVISED PER CITY COMMENTS
99	03/06/18	REVISED PER CITY COMMENTS
100	03/13/18	REVISED PER CITY COMMENTS

LOXAHATCHEE GROVES COMMONS
FINAL SITE PLAN
PREPARED FOR ATLANTIC LAND INVESTMENTS, LLC
TOWN OF LOXAHATCHEE GROVES, FLORIDA

Atlantic Land
COMPANIES
360 Columbia Drive #102
West Palm Beach, FL 33409

Resolution 2016-59

Town of Loxahatchee Groves, Florida

Town Council Agenda Item Report

Dunkin Donuts Sign Variance VA 2016-03

PREPARED BY: Jim Fleischmann

October 18, 2016

SUBJECT: Increase the size of the sign face of the Dunkin' Donuts outparcel secondary sign (menu board) above the maximum allowed by the Town Code.

1. BACKGROUND/HISTORY

History: The Loxahatchee Groves Commons Site Plan, including restaurant/retail uses on Outparcel F, was approved by Town Council Resolution 2015-22. An 1,800 sq. ft. Dunkin' Donuts is currently under construction within the 5,200 sq. ft. Outparcel F building. The Site Plan has an approved outparcel monument sign on Southern Boulevard, in front of Outparcel Building F, and a menu board on the northwest corner of the building in the drive-thru lane.

Problem Statement: The Town Council should consider the Applicant's variance request to increase the sign face of the menu board sign (secondary sign) to a size greater than the maximum the ULDC currently permits. ULDC Section 90-40 (B) (5) a *Secondary Signs* currently permits a maximum sign face on an outparcel secondary sign of 12 sq. ft., while the Applicant proposes to increase the sign face to 45 sq. ft.; a variance of 33 sq. ft.

Problem Solution: A variance will not be contrary to the public interest if the Applicant has demonstrated, by competent and substantial evidence, that each of five review criteria in ULDC Section 150-020 is met. In order to recommend approval of the proposed variance, the Town Council should find that the application meets each of the five criteria.

2. CURRENT ACTIVITY

The Applicant has prepared Variance Application VA 2016-03 which staff has reviewed (Ref: Attached Agenda Item Staff Summary) to make a recommendation as to whether or not the five ULDC Section 150-020 criteria have been met by the Applicant. Staff finds that the Applicant has not demonstrated, by competent and substantial evidence, that each of five review criteria in ULDC Section 150-020 has been met and therefore recommends denial of Variance Application VA 2016-03.

The Applicant presented VA 2016-03 to the Planning and Zoning Board (PZ&B) at its meeting on August 18, 2016. PZ&B recommended approval of a variance not to exceed a sign face maximum of 24 sq. ft. (i.e. 12 sq. ft. variance). A summary of the PZ&B justification is presented in the attached Agenda Item Staff Summary.

3. ATTACHMENTS

1. Agenda Item Staff Report: Variance Application 2016-03.
2. Resolution 2016-61

4. FINANCIAL IMPACT

Work on this project is funded by Applicant's Cost Recovery Account

5. RECOMMENDED ACTION

1. Denial of VA 2016-03; or
2. Approval of a maximum 12 sq. ft. menu board sign face variance not to exceed a total sign face of 24 sq. ft.

**TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL
OCTOBER 18, 2016**

**AGENDA ITEM STAFF SUMMARY:
Loxahatchee Groves Commons Outparcel Building F: Dunkin' Donuts
Sign Variance Application VA 2016-03**

A. Site and Applicant Information

Project Name	Dunkin' Donuts Secondary Sign Variance
Project No.	VA 2016-03
Agent	<i>Steven Rubiano</i> , Kemp Signs and Service, Inc.
Applicant	Dunkin' Donuts
Owner	Atlantic Land Investments, LLC – Joseph D. Lelonek, Managing Partner
Parcel Control No.	41-41-43-31-09-000-0020
Location	Outparcel G of Loxahatchee Groves Commons located at the Northwest corner of Southern Boulevard and "B" Road
Size (Acreage)	0.80 acre outparcel of 21.73 acre Loxahatchee Groves Commons shopping center.
Zoning	Commercial Low Planned Unit Development (CL/PUD)
Future Land Use	Commercial Low
Existing Use	Vacant/under construction
Approved Use	Site Plan Approval – Outparcel G: 3,767 sq. ft. fast-food restaurant One monument sign and one secondary sign (no dimensions indicated). Condition of Approval requires sign permits. Code allows a maximum secondary sign of 12 sq. ft.
Proposed Use	3,767 sq. ft. Dunkin' Donuts fast-food restaurant. Secondary sign (menu sign) of 45 sq. ft.

B. Submitted Support Documents

ITEM	CONTENT
Variance Application	Statement of Consistency with ULDC Sections 150-010(A) – (C) Variance Authority and Section 150-020 Consistency with Variance Considerations

C. Narrative Information

1. Property History

The following description summarizes the components of the Final Site Plan approved by Resolution 2015-22:

Building	Approved Site Plan Amendment	
	Use	Sq. Ft.
A	Grocery	46,031
B + D	In-Line Retail	17,550
C	Ag Indoor Sales	19,097
E	Gas/Convenienc	3,010
F	Retail/Restauran	5,200
G	Fast Food	3,767
Totals		94,655

One monument sign (southwest corner of Outparcel F on Southern Boulevard) and one secondary sign (menu board) located on the drive-thru lane at the northwest corner of Building F) are indicated on the Site Plan. A Condition of Approval requires that sign permits be procured. ULDC Section 90-040(5) allows one secondary sign (including a menu sign) of 12 sq. ft.

2. Variance VA 2016-03 Request

Permit a menu board sign (secondary sign) of 45 sq. ft. at the location indicated on the approved Site Plan; a variance of 33 sq. ft.

D. STAFF REVIEW

The requested variance is to allow a menu board sign (secondary sign) to exceed the sign-face maximum size. Per ULDC Section 90-040(5) a, the sign-face maximum is 12 sq. ft. The Applicant has proposed 45 sq. ft., as illustrated in Attachment A.

Variance procedures and requirements are contained in Article 150 *Variances* of the Town's ULDC. Per ULDC Section 150-010(B), the Town Council may grant a variance provided that such approval will not result in a use which is specifically or by inference prohibited in the zoning district.

Further, per ULDC Section 150-010(C), variance applications will not be considered with respect to the following:

1. Where plans have been submitted and approved and permits issued, and additional work not shown on the approved plans has been performed. Previous plans have not been submitted and approved, permits issued and additional work completed for signs on the property.

2. Where a property has been subdivided and as a result an existing structure is in violation of the provisions of the ULDC. The property has been subdivided since incorporation of the Town; however, no structure is in violation of ULDC provisions.

Brief descriptions of abutting properties are presented in the following table. Loxahatchee Groves Commons property borders the subject site on the north and east. Palm Beach State College borders the subject site on the west. Southern Boulevard, followed by the C-51 Canal right-of-way, borders to the south.

Inventory of Abutting Properties

Direction	Description
North	Under construction – Loxahatchee Groves Commons shopping center
South	Southern Boulevard followed by C-51 Canal
East	Under construction – Loxahatchee Groves Commons shopping center
West	Under Construction – Palm Beach State College

Per ULDC Section 150-020 of the ULDC, a variance will not be contrary to the public interest if the Applicant has demonstrated, by competent and substantial evidence, that each of five review criteria is met. The five criteria and the Applicant’s responses are presented below:

Criterion 1: That special conditions and circumstances exist which are unique to the property, or the intended use of the property, that do not generally apply to other properties in the same zoning district.

Applicant’s Response: The business will not prosper without the full use of a standard menu board congruent with marketing research done by Dunkin brands. The current size limitations will not allow enough products to be displayed and business will suffer by not allowing food diversification for all tastes and national marketing effort.

Criterion 2: That any alleged hardship is not self-created is not self-created by any person having an interest in the property and is not the result of mere disregard for, or ignorance of, the provisions of the Code, but is instead the result of one or more of the special condition(s) found above.

Applicant’s Response: The proposed sign is a national model and is not self-created by the franchisee.

Criterion 3: That literal interpretation of the Code would deprive the applicant of reasonable use of the property, in that the applicant would be deprived of rights commonly enjoyed by properties in the same zoning district, and would thereby cause an unnecessary and undue hardship.

Applicant’s Response: The Town only allows a 12 sq. ft. menu sign. All surrounding drive-thru locations allow larger signs and the Applicant proposes to be allowed to offer a level of food service on par with neighboring communities while bringing more tax money to the Town.

Criterion 4: The Variance proposed is the minimum variance that will make possible the reasonable use of the property and it will not confer on the applicant any special privilege that is denied to any other properties in the same zoning district.

Applicant's Response: The variance will not create any special privilege other than more square footage to maintain profitability.

Criterion 5: That the granting of the variance will be in harmony with the general intent and purpose of the Code and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant's Response: A larger menu board will not be injurious or detrimental to the public welfare.

E. STAFF FINDINGS

Based upon its review, Staff finds that Variance Application VA 2016-03 may be acted upon by the Town Council, as it meets the requirements of ULDC Sections 150-010(B) and ULDC Section 150-010(C).

Staff finds that proposed Variance VA 2016-02 is not contrary to the public interest; however, adequate justification, per the requirements of ULDC Section 150-020 "Consideration for variances", has not been provided by the Applicant. Specifically, the following Staff responses and staff replies are summarized:

1. Special conditions and circumstances do exist which are unique to the property, or the intended use of the property. The Town's ULDC specifically cites menu sign as included in the sign category of "Secondary Signs" and limits the sign face of this category of signs to 12 sq. ft. The unique circumstance cited is that the size limitation on the sign will not allow all of the products to be listed which will result in a loss of potential sales and not reflect national marketing efforts.

2. There are self-created hardships and those not self-created. ULDC. The proposed sign is based on a national model created by Dunkin' Donuts corporate, not the Applicant and is therefore not self-created. The ULDC allows a maximum 12 sq. ft. secondary sign on an outparcel. This requirement has been in the ULDC since 2010; prior to the approval of the Loxahatchee Groves Site Plan. Location on Outparcel F was a decision made by the Applicant after the ULDC requirement was effective.

3. Literal and appropriate interpretation of the Code will not deprive the applicant of reasonable use of the property. All surrounding drive-thru locations allow larger signs and the Applicant proposes to be allowed to offer a level of food service on par with neighboring communities. The Applicant has not provided any examples of what surrounding communities allow. Further, Loxahatchee Groves is a unique community that does not attempt to mirror surrounding communities. Town standards are oriented to preserving the unique character of Loxahatchee Groves.

4. It has not been determined that the Variance proposed is the minimum that will make possible the reasonable use of the property. The Applicant has requested that the sign face of menu sign be increased from a maximum of 12 square feet to 45 sq.

ft. The Applicant has not demonstrated that the request is the minimum necessary to insure reasonable use of the property.

5. It has not been demonstrated that granting of the variance will be in harmony with the general intent and purpose of the Code. Per Section 90-005(C) *Compatibility of the ULDC*, signs should be made compatible with the overall objectives of the Comprehensive Plan by ensuring compatibility with surrounding land uses. ULDC sign standards have been designed to insure compatibility with the character of the Town. The Applicant has not demonstrated how approval of the 45 sq. ft. sign will maintain compatibility insured by ULDC standards.

E. PLANNING & ZONING BOARD (PZ&B) FINDINGS

The PZ&B reviewed Variance Application VA 2016-03 at its meeting of August 18, 2016. At the meeting, PZ&B determined that a variance to allow a 45 sq. ft. menu board was not justified. However, PZ&B did determine that a menu board sign not to exceed 24 sq. ft. (maximum variance of 12 sq. ft.) is appropriate for the following reasons.

1. The menu board is located at the rear (north side) of Building F and is blocked from view from Southern Boulevard.
2. Due to the location of the sign and type (all commercial) and distance (a minimum of 500 feet) to neighboring buildings, the proposed sign is not incompatible with surrounding uses.
3. Due to the distances involved and view obstructions, the menu board does not interfere with the quiet enjoyment of any neighboring residential properties.
4. The menu board is a proprietary sign intended for the exclusive use of drive-thru customers of Dunkin' Donuts. A 24 sq. ft. sign will appropriately serve drive-thru customers.
5. The proposed variance to 24 sq. ft. will serve to expedite traffic flow through the drive-thru lane and prevent excessive queuing.

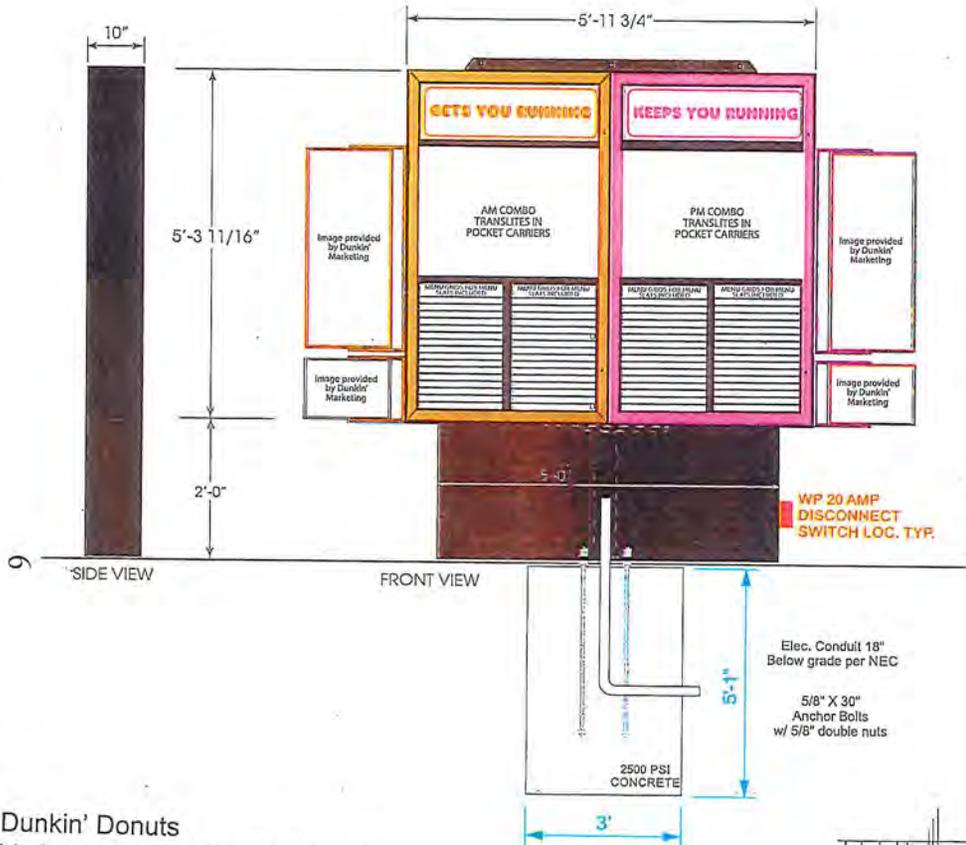
F. RECOMMENDATION

1. Staff Recommendation: It is concluded the Applicant has not demonstrated, by competent and substantial evidence, that each of five review criteria in ULDC Section 150-020 has been met. Based upon this conclusion, Staff recommends denial of Variance Application VA 2016-03.

2. PZ&B Recommendation: Based upon its findings, the PZ&B recommends approval of a maximum 12 sq. ft. sign face menu board variance, not to exceed a total menu board sign face of 24 sq. ft.

ATTACHMENT A PROPOSED SIGN ELEVATION

MB Menuboard 45 SqFt



ELECTRICAL SPECIFICATIONS

- Lighting:
 - (6) LED light bars
- Power Supplies:
 - (2) 12V 60Watt power supplies
- Line Load:
 - (1) 20 Amp circuit @ 120VAC

COLOR SPECIFICATIONS

- BM 2116-10 Nightshade Brown semi-gloss (cabinet & base cladding)
- PMS 165C Orange (door frame & extenders)
- PMS 219C Raspberry (door frame & extenders)

ANCHOR BOLTS

- (4) 3/4" x 30" L required

45.59 SQ. FT. TOTAL

SIGN SPECIFICATIONS

- Materials:
- 22 ga. galvaneal steel
 - Aluminum extrusion
- Access:
- Open front doors to access menu grids and POP images
 - Remove POP frames or menu grids to access LED lighting and power supplies
- Weight (approx.):
- 574 lbs.
- Base Pole:
 4"x4" x 3/8" Wall TS Pole

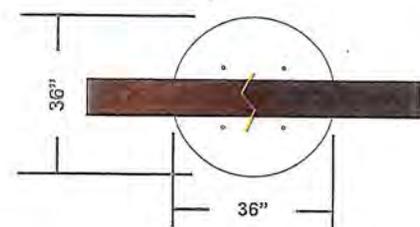
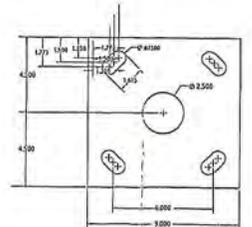
ELECTRICAL TO USE U.L. LISTED COMPONENTS AND SHALL MEET I.E.C. STANDARDS

Underwriters Laboratories Inc.
 ELECTRIC SIGN

SOIL STATEMENT

Visual inspection indicates 2,000 P.S.F. for which footings are designed. If a bearing capacity of less than 2,000 P.S.F. is encountered at site, the engineer should be notified before proceeding with work.

PRIMARY WIRE SIZE-#12 THWN
 DISCONNECT SWITCH - AT BASE OF SIGN, TIMECLOCK AT PANEL ROOM **ASTRONOMICAL TIME-CLOCK AT PANEL OR TIME-CLOCK AT PANEL AND EXTERIOR PHOTOCELL.**
 MAXIMUM LOAD - 16 AMPS 120 VOLTS PER CIRCUIT MAXIMUM CIRCUIT SIZE
 20 AMPS PER NEC 800-6A
 SOCKETS - KULKA 5843 OR EQUIV.
 CONDUIT - MINIMUM 1/2"
 ALL COMPONENTS SHALL BE U.L. APPROVED
 BALLSET SHALL HAVE INDEPENDENT U.L. APPROVAL (FUSED WHERE REQUIRED)
 ALL INSTALLATIONS SHALL BE IN COMPLIANCE WITH N.E.C. AND STATE COUNTY AND LOCAL CODES
 ALL SIGNS SHALL BE BONDED TO BUILDING EQUIPMENT BONDING CONDUCTOR PER N.E.C. 250



Dunkin' Donuts
 Variance Application VA 2016-03
 August 25, 2016

- Orange: 3M #3630-3132 PMS 165C
- Magenta: 3M #3630-1379 PMS 219
- Brown: 3M #3630-59 PMS 4625 C

MENU BOARD REQUIRES (2) CONDUIT RUNS TOTAL
 (1) FOR HIGH VOLTAGE (110V TO MENU BOARD)
 (1) FOR LOW VOLTAGE WIRING (SPEAKERS, ETC.)

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRIC CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.

Sales/Pmt. SK	Design/Rev.	Date	Revision	Municipality
		05/17/16	0.0.0	

15689 Southern Blvd.
 STE 100
 Loxahatchee, FL 33470

1767 Hill Ave.
 West Palm Beach, FL 33407
 561-840-6382 fax 561-840-6385

Easy Seals
 Christian Langford
 1200 N Federal Hwy #200
 Boca Raton, FL 33432
 1-888-371-3113
 Cert of Auth #31124

ASCE 7-10 • V=156 mph • Risk Category I Struct. • Wind Loads: • Exposure 'C' • ASD Load Coeff = 0.6
 WIND LOADS: • Sign Height = 15 ft max. • Self freestanding sign at grade: • C=1.15 (with ratio z/1z) ± 35.5 psf
 • Kzt=1.0, Kd=0.85, G=0.85 • U.L. listed components and shall meet I.E.C. standards

General Notes: • This sign is in accordance with the requirements of the Fla Bldg Code 5th Ed. (2114) for use within & outside the High Velocity Hurricane Zone (HVHZ). • Engineering certifies only the structural integrity of those systems, components, and/or other construction explicitly specified herein. • Electrical notes, details, & specifications are provided by and are the sole responsibility of the electrical contractor. No electrical review has been performed and no certification of such is intended. • Aluminum extrusions shall be 6063-T6 or stronger, unless noted otherwise.

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2016-61

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE LOXAHATCHEE GROVES COMMONS OUTPARCEL "F" SIGN VARIANCE, FOR LAND OWNED BY ATLANTIC LAND INVESTMENTS, CONSISTING OF 21.73 ACRES MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND "B" ROAD LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT "A" TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council, as the governing body of the Town of Loxahatchee Groves, Florida ("Town"), pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider applications relating to variances from land development regulations for development on property within the Town; and

WHEREAS, the Council, pursuant to Section 150-010 (Authority) of the Town of Loxahatchee Groves Unified Land Development Code (ULDC) is granted the authority to permit a variance to the provisions of the ULDC related to: (1) height; (2) yards; (3) parking and loading; (4) landscaping and buffers; (5) separation of uses; (6) plot coverage; and/or (7) such other provisions of the Code which do not specifically prohibit such requests; and

WHEREAS, the notice and hearing requirements, as provided for in Article 115 (Public Hearing Notices) of the Town of Loxahatchee Groves Unified Land Development Code have been satisfied; and

WHEREAS, the Dunkin' Donuts Variance Application VA 2016-03 was presented to the Town Planning and Zoning Board (P&Z Board), at its meeting of August 18, 2016. At that meeting, the P&Z Board recommended approval of a variance to allow a Dunkin' Donuts menu board sign face not to exceed 25 sq. ft.; and

WHEREAS, the Dunkin' Donuts. Application VA 2016-03, was presented to the Town Council at a quasi-judicial public hearing conducted on September 8, 2016; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the applicant and other interested parties and the recommendations of Town staff and Town P&Z Board; and

WHEREAS, this approval is subject to Section 150-030 (Time limits) of the Town of Loxahatchee Groves Unified Land Development Code (Town ULDC) and other provisions requiring that development commence in a timely manner.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Loxahatchee Groves as follows:

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

Section 2. The Town Council has considered the analysis and findings of the report entitled “Agenda Item Staff Summary Loxahatchee Groves Commons Outparcel Building F: Dunkin’ Donuts Sign Variance Application VA 2016-03”, dated August 25, 2016 and Town Planning and Zoning Board recommendation and makes the following findings of fact:

1. VA 2016-03 is a request to increase the maximum sign face of a menu board sign of 12 sq. ft. to a maximum sign face of 45 sq. ft., a variance of 33 sq. ft., for the Dunkin’ Donuts Outparcel Building F tenant of Loxahatchee Groves Commons shopping center.
2. VA 2016-03, complies with relevant and appropriate portions of applicable Town of Loxahatchee Groves land development regulations, including Sections 150-010(B) and 150-010(C).
3. The Applicant has demonstrated, based upon responses to the requirements of Section 150-020 (Considerations for variances) of the Town of Loxahatchee Groves land development regulations, that VA 2016-03 is not contrary to the public interest.

Section 3. The Town of Loxahatchee Groves Unified Land Development Code requires that the action of the Town Council of Loxahatchee Groves be adopted by resolution. Therefore, the Town Council of the Town of Loxahatchee Groves approves the Dunkin’ Donuts Variance Application VA 2016-03 for the parcel of land legally described in Exhibit A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in Exhibit A, attached hereto and made a part hereof.

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

Section 5. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 6. This Resolution shall become effective upon adoption.

RESOLVED AND ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 8th day of September 2016.

ATTEST:

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

TOWN CLERK

Mayor David Browning

APPROVED AS TO LEGAL FORM:

Vice Mayor Tom Goltzene

Town Attorney

Council Member Ron Jarriel

Council Member Ryan Liang

Council Member Todd McLendon

EXHIBIT A

LEGAL DESCRIPTION AND LOCATION MAP

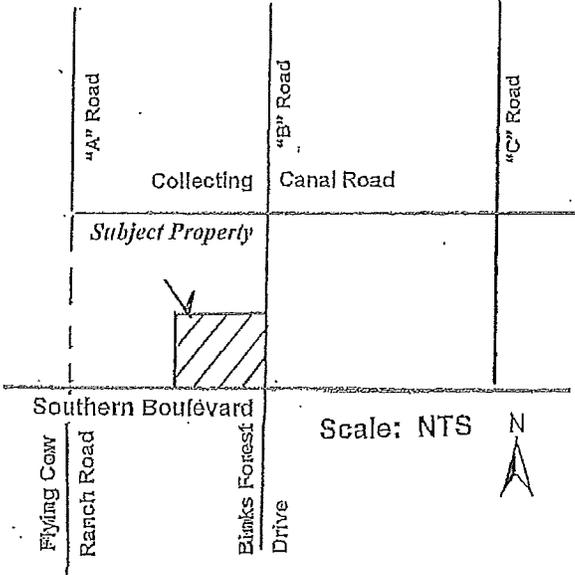
The following Legal Description is applicable to Resolution 2016-61:

Parcel Control Number: 41-41-43-31-09-000-0020

DESCRIPTION:

Outparcel F, of LOXAHATCHEE GROVES COMMONS, according to the plat thereof as recorded in Plat Book 121, Pages 95-98, Public Records of Palm Beach County, Florida

LOCATION MAP



Town of Loxahatchee Groves, Florida
Town Council
AGENDA ITEM REPORT
AGENDA ITEM NO. 5.c.

MEETING DATE: 10/18/2016

PREPARED BY: William F. Underwood, Town Manager

SUBJECT: Trails Perpetual Permit

1. BACKGROUND/HISTORY

Problem Statement: Issuance of a non-exclusive Perpetual Use Permit to the Town to use, construct, and maintain certain public recreational trails excluding the western boundary of the Palm Beach State College.

Problem Solution: Approve the Perpetual use Permit with the LGWCD that sets forth conditions, responsibilities, and trail construction coordination, schedule, and process.

Staff submitted a letter to the LGWCD requesting the removal of the PBSC parcel from the trails perpetual permit for the Supervisors of the LGWCD to take action in order to move the perpetual permit forward in the Town.

2. CURRENT ACTIVITY

The request to the LGWCD was submitted in a letter dated August 9, 2016, and submitted to the Board of Supervisors of the LGWCD at their September 12, 2016, meeting. The request from the Town was to remove the PBSC parcel from the perpetual trails permit. The Supervisors agreed to only remove the western boundary from the perpetual trails permit

Subsequent to this action, Duck Puddle South LP, has filed an objection to the LGWCD's easement acquisition. Further, Mr. Brian Seymour, representing PBSC, submitted a follow up email after the September 9, 2016, meeting of the LGWCD.

As the Town Council is aware, staff has proffered the position, the Town may not want to be included in any legal maneuvering over the easements for use as trails. Again, we would recommend the Town Council not enter into an agreement that involves controversy between the LGWCD and land owners.

3. ATTACHMENTS

Letter from Town Manager dated August 9, 2016, representing Town of Loxahatchee Groves Perpetual Use Permit

Letter from Jones Foster Johnston & Strubbs, P.A., representing Duck Puddle South, LP

Email from Gunster, Mr. Seymour, representing Palm Beach State College

4. FINANCIAL IMPACT

N/A

5. RECOMMENDED ACTION

Motion by the Town Council to deny perpetual trails permit.



Town of Loxahatchee Groves

155 F Road
Loxahatchee Groves, FL 33470

Phone (561) 793-2418
Fax (561) 793-2420
www.loxahatcheegrovesfl.gov

August 9, 2016

Mr. Stephen Yohe, P. E.
101 West D Road
Loxahatchee Groves, FL. 33470

Mr. Yohe,

RE: Palm Beach State College Property Removal from Perpetual Trail Permit

Pursuant to various discussions, both written and verbal, on the reference property, please accept this letter as the Town of Loxahatchee Groves' request to modify the perpetual trail permit vacating the Palm Beach State College property. I believe this request to be accomplished by modifying the ILA, or modifying the perpetual trail permit excluding the property.

I would appreciate it if you include this on your next Board agenda for their consideration and positive response to this request.

Sincerely,

William F. Underwood, II
Town Manager

Cc: Honorable Mayor and Town Council
Mike Cirullo, Town Attorney
Virginia Walton, Town Clerk

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT
PUBLIC MEETING REPORT**

Subject: District Administrator Report

- Summary**
1. The Town rescinded Code Violation against District for a gate installed on North "A" Canal maintenance berm. Gates were voluntarily removed.
 2. The District hand-delivered revised Recreational Trail Perpetual Use Permit to Town on September 21, 2016. Town to sign and return to District for recording.
 3. The District provided for information only the September 21, 2016 Intergovernmental Coordination Committee with a copy of the September 6, 2016 letter from H. Adams Weaver, Jones & Foster Attorney, regarding objection to District Canal Maintenance Maps on behalf of Duck Puddle South, LP (Guest Property). The District Attorney and Administrator have not yet conducted an analysis and drafted a proposed response for the District Board review. It is anticipated the analysis and draft response will be provided at the November 14, 2016 District Board meeting.
 4. The District provided for information only the September 21, 2016 Intergovernmental Coordination Committee with a copy of the September 13, 2016 e-mail from Brian Seymour, Gunster Attorney, regarding Palm Beach State College proposal to provide easements to the District on their west and north property sides. The District Attorney and Administrator have not yet conducted an analysis and drafted a proposed response for the District Board review. It is anticipated the analysis and draft response will be provided at the November 14, 2016 District Board meeting.

- Attachments:**
1. September 6, 2016 letter from H. Adams Weaver, Esquire, Jones & Foster
 2. September 13, 2016 e-mail from Brian Seymour, Esquire, Gunster Law Firm

Action Requested: None

Meeting Date: October 10, 2016
Agenda Item 3C

H. Adams Weaver
Attorney
561-650-0496
Fax: 561-650-5300
aweaver@jonesfoster.com

September 6, 2016

Via US Mail and Email (viator@caldwellpacetti.com)

Mary M. Viator
Caldwell Pacetti Edwards Schoech & Viator, LLC
One Clearlake Centre, Suite 600
250 South Australian Avenue
West Palm Beach, Florida 33401

**Re: Objection to Loxahatchee Groves Water Control District Maintenance Maps
Property Owner – Duck Puddle South, LP
Parcel Control Nos. 41-40-43-36-00-000-3010 and 41-40-43-25-000-000-1000**

Dear Ms. Viator:

This firm represents Duck Puddle South, LP (“Duck Puddle”), the owner of the above referenced real property. This letter is in regards to the attempt by the Loxahatchee Groves Water Control Management District (“Water Control District”) to obtain easement rights for both canal maintenance and equestrian trails owned in fee simple by Duck Puddle for the benefit of the Town of Loxahatchee Groves (“Town”) through the retroactive application of chapter 2014-247, Laws of Florida (hereinafter, “2014 Enabling Act”).

On September 16, 2015, the Water Control District filed a certified maintenance map with the Palm Beach County Clerk of the Court (“Maintenance Map”). This Maintenance Map identified portions of Duck Puddle’s property that the Water Control District claimed to have maintained for the last seven years, and certified that this land had been dedicated to the Water Control District in accordance with the 2014 Enabling Act.

By filing this maintenance map, the Water Control District has unilaterally declared possession of an easement over all portions of Duck Puddle’s property that the Water Control District *claims* to have maintained for the last seven years. However, the Water Control District’s attempt to confiscate Duck Puddle’s property rights under the guise of recording a maintenance map is improper and illegal for a number of reasons.

1. The 2014 Enabling Act Cannot be Applied Retroactively

The 2014 Enabling Act provides for the dedication of maintenance easements to the Water Control District for lands adjacent to canals maintained by the District for district-related purposes continuously and uninterruptedly for seven years, and authorizes the Water Control District to issue permits to the Town to construct and maintain equestrian trails established within the maintenance easements. The 2014 Enabling Act also allows for the filing of a map with the clerk of the court after proving seven years of continued demonstrable maintenance as prima facie evidence of the Water Control District's easement rights.

Here, the Water Control District is attempting to apply the 2014 Enabling act retroactively to obtain easement rights for both canal maintenance and equestrian trails owed in fee simple by Duck Puddle. However, the 2014 Enabling Act cannot be applied retroactively because the act itself does not evidence an intent to be applied retroactively.

In the absence of clear legislative intent to the contrary, a law is presumed to operate prospectively. *Old Port Cove Holdings, Inc. v. Old Port Cove Condominium Ass'n, Inc.*, 986 So. 2d 1279 (Fla. 2008). This is because the retroactive application of a statute runs contrary to one of the most basic functions of a statute: to give notice of the conduct the government seeks to regulate. *Fitchner v. Lifesouth Community Blood Centers, Inc.*, 88 So. 3d 269 (Fla. 1st DCA 2012). In determining whether a statute applies retroactively, the court considers two factors: (1) whether the statute itself expresses an intent that it apply retroactively and, if so, (2) whether retroactive application is constitutional. See *Raphael v. Shecter*, 18 So. 3d 1152 (Fla. 4th DCA 2009). To satisfy the first part of the test, the legislature must have expressed its intention to apply the law retroactively in language that is too clear and explicit to admit of reasonable doubt. See *Fitchner*, 88 So. 3d 269. If the plain language of the statute does not evince an intent that the statute apply retroactively, the court need not address the second prong. *Old Port Cove*, 968 So. 2d 1279.

Because the plain language of the 2014 Enabling Act does not evidence an intent that it be applied retroactively, the 2014 Enabling act is presumed to operate prospectively. As a result, the Water Control District must continuously and uninterruptedly use and maintain the canals for district-related purposes for at least 7 years after the 2014 Enabling Act became law (*i.e.*, until May 2021) before the Water Control District can obtain easement rights pursuant to the 2014 Enabling Act. Consequently, the earliest the Water Control District can file a maintenance map under the 2014 Enabling Act is May 2021.

Even assuming, *arguendo*, that the Florida legislature intended for the 2014 Enabling Act to be applied retroactively, such retroactive application would be unconstitutional because it would impair Duck Puddle's vested property rights. See *Menendez v. Progressive Exp. Ins. Co., Inc.*, 35 So. 3d 873 (Fla. 2010) (holding that even when the legislature has clearly expressed its intention that the statute be given a retroactive application, courts must refuse to do so if it impairs vested rights, creates new obligations, or imposes new penalties). A vested right is a fixed right that cannot be abrogated or taken away without a violation of the possessor's right to due process. *Campus Communications, Inc. v. Earnhardt*, 821 So. 2d 388 (Fla. 5th DCA 2002).

Here, the 2014 Enabling Act impairs Duck Puddle's vested property rights and does not provide Duck Puddle with an opportunity to challenge the Water Control District's authority to assume a right-of-way over Duck Puddle's property.¹ Accordingly, the retroactive application of the 2014 Enabling Act would result in the confiscation of Duck Puddle's vested property rights in violation of Duck Puddle's right to due process.

2. The 2014 Enabling Act is Inapplicable Because the Water Control District Has Not Continuously and Uninterruptedly Maintained Portions of Duck Puddle's Property for the Past Seven Years

The 2014 Enabling Act is also inapplicable because the Water Control District has not continuously and uninterruptedly maintained lands adjacent to the canals on Duck Puddle's property for the past seven consecutive years. On August 19, 2013, Duck Puddle and the Water Control District entered into a Temporary Construction Easement (see Exhibit A), whereby Duck Puddle granted the Water Control District a temporary construction easement over the easterly 20 feet of the Duck Puddle's property – representing a sizable portion of the area the Water Control District now claims to possess an easement over pursuant the 2014 Enabling Act. This Temporary Construction Easement expired on October 18, 2013.

¹ In this way, the 2014 Enabling Act differs from F.S. §95.261, which provides for the presumed dedication of roads maintained or repaired continuously and uninterruptedly for four years by the county, municipality or the Department of Transportation. In order to give persons that might have an interest in property affected by F.S. §95.261, the legislature provided for a one year period from the date the law went into effect or seven years after the initial date of maintenance or repair of the road, whichever is greater, to file a challenge against the governing authority assuming jurisdiction over the property. See F.S. §95.261(4). The 2014 Enabling Act does not contain a similar statute of repose.

The fact that the Water Control District needed to obtain a Temporary Construction Easement in order to access Duck Puddle's Property "to excavate the 'A' Road Canal" demonstrates that the Water Control District has not unilaterally and uninterruptedly maintained this area for the past seven years. Therefore, even if the 2014 Enabling Act could be applied retroactively, it would not apply to Duck Puddle's property.

3. The 2014 Enabling Act is Inapplicable Because It Unduly Increases the Burden to Duck Puddle's Property

Additionally, the Water Control District cannot apply the 2014 Enabling Act to obtain easement rights for canal maintenance *and equestrian trails* over land owned in fee simple by Duck Puddle because the land adjacent to the canals on Duck Puddle's property was never used for equestrian trails or any other recreational purpose. As a result, the Water Control District's attempt to obtain easement rights to land owned by Duck Puddle for both canal maintenance and equestrian trails would unduly burden Duck Puddle's property.

A cardinal rule regarding the scope of rights granted in an easement is that such rights are "limited and must be exercised in such reasonable manner as *not injuriously to increase the burden upon the servient tenement.*" *Crutchfield v. Sebring Realty Co.*, 69 So. 2d 328, 330 (Fla. 1954) (emphasis original). "[T]he burden created by an easement may not be increased beyond that reasonably contemplated by the parties at the time of its creation." *Easton v. Appler*, 548 So. 2d 691, 694 (Fla. 3d DCA 1989); see also *Crutchfield*, 69 So. 2d at 330 ("the burden of a right of way upon the servient estate must not be increased to any greater extent than reasonably necessary and contemplated at the time of initial acquisition"); *Walters v. McCall and Vienot*, 450 So. 2d 1139, 1142 (Fla. 1st DCA 1984) (an "easement holder cannot expand the easement beyond what was contemplated at the time it was granted").

Here, Duck Puddle has never permitted its property to be utilized for equestrian trails. Duck Puddle merely granted the Water Control District a temporary construction easement to access its property "to excavate the 'A' Road Canal," and that temporary construction easement expired in October 2013.

Because the 2014 Enabling Act authorizes the Water Control District to utilize the land adjacent to the canals on Duck Puddle's property for equestrian trails, the act would unduly increase the burden on Duck Puddle's property. This is especially true since manure from the horses would contaminate the canals relied upon by Duck Puddle's tenant for its farming operations. Since the 2014 Enabling Act unduly increases the burden on Duck Puddle's property, the 2014 Enabling Act cannot be applied to Duck Puddle's property.

4. The Water Control District Damaged Duck Puddle's Property

Finally, the Water Control District caused damage Duck Puddle's property by clearing area that was clearly outside the Temporary Construction Easement. In doing so, the Water Control district destroyed the trees and vegetation that provided windbreak along the eastern boundary of Duck Puddle's property.

5. Conclusion

Based on the foregoing, Duck Puddle demands that the Water Control District relinquish its *purported* easement rights pursuant to the 2014 Enabling Act for both canal maintenance and equestrian trails on all real property owned by Duck Puddle. Additionally, Duck Puddle demands that the Water Control District compensate Duck Puddle for the damage caused by the destruction of trees and vegetation that provided windbreak along the eastern boundary of Duck Puddle's property. If the Water Control District fails to comply with these demands, Duck Puddle will be forced to initiate litigation seeking compensation and damages for the taking of Duck Puddle's property without compensation.

JONES, FOSTER, JOHNSTON & STUBBS, P.A.



H. Adams Weaver

HAW:mtm

P:\DOCS\29075\00001\LTR\1Q5150002.DOCX

From: Seymour, Brian [mailto:BSeymour@gunster.com]
Sent: Tuesday, September 13, 2016 4:48 PM
To: Mary M Viator
cc: Becker, Richard A; 'Fernander, Kevin A'; Storms, James P; Bongard, Tyrone
Subject: Palm Beach State College/Loxahatchee Groves Water Control District - Follow up from 9/12/16 Meeting

Mary,

We wanted to follow up on the Water Control District Board's direction at last night's meeting that we meet to discuss the concerns of Palm Beach State College relative to the purported easements over the College property. First, we want to again thank the District for exempting the west side of the Palm College property from the horse trail permit. As I mentioned, this was the critical issue.

Following up on last night's meeting, we have spoken with the College and would like to set up a meeting with you and Mr. Yohe to discuss how best to proceed. We are happy to include Bill Underwood and Mike Cirullo. As they have been willing to meet together in the past, we cannot imagine they will change that position now.

As you know, the College believes that the filing of the maintenance maps and the application of the Public Law as against the College is improper and does not provide any easement rights to the District over the College property. As we have mentioned, however, the College is willing to give the District easements so that each party's rights and responsibilities are clear and that the issue of the Public Law and maintenance maps need not be a concern for either party. Given the confusion at the meeting last night, we think it is important to separately identify the two areas at issue and create two separate easement documents: (1) the A Canal Easement Area (the western portion of the College property) and (2) the Collecting Canal Easement Area (the northern portion of the College Property).

A Canal Easement Area

This would be a non-exclusive access easement for the District's use for purposes of maintaining the A Canal adjacent to the College property. The legal description would be identical to that contained on the Maintenance Map. As requested by the Town and decided by the District Board last night, this would not include any rights to convey future recreational trails over this area. The issues to be discussed are (1) maintenance of the easement area, (2) site security and access, (3) indemnification, and (4) notification of work provided to the College. We heard from one Board member that he would like the College to maintain this area. We think that is likely possible. Also, as I mentioned last night, we would need to specify

that the College could secure its property with the District would have access, but that the public would not have access. We would want some indemnification of the College for any claims that resulted from any actions of the District or its employees. Finally, we would want to work out some notification for the College so that we could advise people of any adjacent work that might impact the College students, faculty, or visitors (e.g. heavy equipment or spraying).

Collecting Canal Easement Area

This would be a non-exclusive access easement for the District's use for purposes of maintaining Collecting Canal adjacent to the College property and would specify that the easement area could be utilized by the Town for public recreational trails. The legal description would be identical to that contained on the Maintenance Map. The issues to be discussed are (1) maintenance of the easement area, (2) site security, and (3) indemnification. This area is distinct from the A Canal side due to the required buffer along the northern portion of the College property and the use for recreational trails. Therefore, we believe that it would be appropriate for the District to maintain this area. As one of the members of the public mentioned last night, a horse trail could be accommodated on the northern area along Collecting Canal if there was a fence along the south side of the easement area to secure the College property. This could be delineated in the easement and would allow for this area to be used for the recreational trails. We would need indemnification of the College for any claims resulting from the District or public use of the easement area.

We do not believe that any of this is significant or atypical for similar circumstances. We hope that you agree and that we can work together to create something that will provide the District with the easements it desires and the both parties with clarity on the use of those areas. Please let us know when we can set a meeting to discuss.

Thank you.

Brian



Brian M. Seymour | Attorney
Real Property Practice, Co-Chair
Business Litigation Practice
777 South Flagler Drive, Suite 500 East
West Palm Beach, FL 33401
P 561-650-0621 F 561-655-5677
gunster.com
Find me on : Twitter | LinkedIn
Email me: bseymour@gunster.com

PREPARED BY:

Mary M. Viator, Esquire
Caldwell Pacetti Edwards Schoech & Viator, LLP
One Clearlake Centre, Suite 600
250 South Australian Avenue
West Palm Beach, Florida 33401

RETURN TO:

Loxahatchee Groves Water Control District
Post Office Box 407
Loxahatchee, Florida 33470

[Space above this line for recording data.]

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT
PERPETUAL USE PERMIT NO. 2016-001**

THIS PERPETUAL USE PERMIT (the "Permit"), is granted this 12th day of September, 2016, by **LOXAHATCHEE GROVES WATER CONTROL DISTRICT** (hereafter referred to as "District"), whose mailing address is 101 West "D" Road, P. O. Box 407, Loxahatchee, Florida 33470-0407, to **TOWN OF LOXAHATCHEE GROVES, FLORIDA**, a Florida municipal corporation (hereafter referred to as "Permittee" or "Town"), whose mailing address is 155 F Road, Loxahatchee Groves, FL 33470, as a **NON-EXCLUSIVE PERMIT TO USE, CONSTRUCT AND MAINTAIN CERTAIN PUBLIC RECREATION TRAILS WITHIN THE DISTRICT EASEMENTS IDENTIFIED IN THE ATTACHED EXHIBIT "A"** (the "Easements"), subject to the following Conditions

CONDITIONS:

1 Permittee understands and agrees that the use of the Easements pursuant to this Permit is subordinate to the rights and interest of District as provided in District's Authorizing Legislation. Further, Permittee hereby stipulates that Permittee is not relying upon any representations by District whatsoever regarding District's Easements other than as stated in Ch. 2014-247, Laws of Florida. This Permit shall not be construed as a representation that District has sole authority with respect to the affected real property.

2 District expressly reserves the right to maintain its Works (as defined in the Interlocal Agreement described in Condition 9, below, and incorporated herein) located within the Easements; to make improvements thereto; add additional Works; maintain, construct or alter any Works, facilities, devices or improvements on the property which aid in, or are necessary to, District responsibilities and operations; and the right to enter upon the affected lands at all times for such purposes without unreasonably affecting Permittee's Trails, Permittee's Works therein, or public use thereof.

3. Permittee agrees that it will not use the Easements in any manner which materially or unreasonably interferes with their use by District or causes a hazardous condition to exist.

4. District assumes no responsibility for the ownership, operation and/or maintenance of the Town Works (as defined in the Interlocal Agreement described in Condition 9, below, and incorporated herein), other than to the extent incidental to regularly scheduled District maintenance of its rights-of-way.

5. Permittee's repair and maintenance responsibilities are as set forth in Section 4 of the Interlocal Agreement referenced in Condition 9, below, and incorporated herein.

6. The rights and obligations contained herein shall be binding upon Permittee, the District and their successors and assigns, provided, however, that the rights and obligations of the Permittee shall not be separated from, and shall run with, the property described in the attached **Exhibit "A"**. The parties agree that a copy of this Permit may be recorded in the Public Records of Palm Beach County, Florida.

7. Issuance of this Permit shall not constitute a waiver or approval of any permit from other governmental agencies or entities which may be required by law.

8. Trail Construction Coordination, Schedule & Process.

A.. Town shall provide District Engineer with copies of plans and specifications in detail and format sufficient to identify the location and nature of Works to be installed, including, but not limited to, base material(s) and composition, fencing, gates, signage, and other ancillary, incidental or accessory improvements. District Engineer shall have thirty (30) calendar days from receipt within which to review the plans (the "Comment Period"). If any concerns are identified, District Engineer shall so advise Town Staff in writing and the parties shall promptly meet to resolve them. If issues cannot be resolved within thirty (30) days after the conclusion of the Comment Period, District and Town Staffs will seek direction from their respective Governing Bodies. If Town receives no written concerns within the Comment Period, the plans and specifications will be deemed approved by District as submitted. Approvals shall not be unreasonably withheld.

B, Town may commence construction of Trails upon District approval of Town's plans and specifications; provided that construction may not commence before filing of Easement Maps. If Easement Maps are filed in phases, Town's construction of Works and public use of Trails shall correspond and be limited to the area identified therein.

C. Town's Works shall be constructed in accordance with the approved plans and specifications. Deviations from the approved plans shall be coordinated with and approved by the District Engineer. Significant deviations from approved plans, as determined by the District Engineer, may require submittal of revised plans in the manner provided in Section 8.A, above.

D. Notification shall be given to the District Administrator at least forty-eight (48) hours prior to commencement of construction. The District Engineer shall establish points of construction that require inspection, if any. When the construction activity is deemed completed, a final

inspection shall be held by the District Engineer in the presence of an authorized representative of Permittee.

E. Town may, in its discretion, submit plans for construction of Works for Trails to District in phases. No additional Permits will be required for phases, but each proposed design and plan phase shall be approved through the process outlined in this Section 8.

F. Upon Completion of each phase, a Final Release from the District Administrator and the District Engineer for the constructed Works will be delivered to Town.

G. The District Engineer is deemed the final authority as to the quality and quantity of work required to satisfy the terms and conditions of this Permit.

H. Upon issuance of a Final Release, Permittee shall deliver to the District office one (1) complete set of "record drawings" in electronic and/or other format required by the District Engineer and District Administrator.

9. The terms and conditions of that certain "Interlocal Agreement" by and between District and Town, executed on May 26, 2015 and recorded on May 28, 2015 in Official Record Book 27563, Page 824 as Document No. 20150196260, Public Records of Palm Beach County, Florida (hereafter, the "ILA") are hereby incorporated into this Permit by this reference. In case of a conflict between the express terms and conditions of the ILA and of this Permit, the terms of the ILA shall prevail.

10. PERMITTEE CONTACT INFORMATION

William F. Underwood, II, Town Manager (561) 793-2418
Name Business Phone

Town of Loxahatchee Groves
155 "F" Road
Loxahatchee, FL 33470
Address _____
Other

ATTORNEY

Michael D. Cirullo, Jr.
Goren, Cherof, Doody, & Ezrol, P.A. (954) 771-4500
Name Business Phone

3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, FL 33308
Address _____
Other

ENGINEER

Randy Wertepny, P.E.
Keshavarz & Associates, Inc. (561) 689-8600
Name Business Phone

711 North Dixie Highway, Suite 201
West Palm Beach, FL 33401
Address

Other

AGENT/OTHER REPRESENTATIVE

Name

Business Phone

Address

Other

11. Addenda, This Permit may be supplemented by Addenda reflecting phasing of filing of Easement Maps or construction of Works.

12. This Permit supersedes any previously issued Permit, which is revoked in its entirety.

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PERMIT ISSUED THIS 12th DAY OF September, 2016 BY ORDER OF THE BOARD OF SUPERVISORS OF LOXAHATCHEE GROVES WATER CONTROL DISTRICT

WITNESSES

DISTRICT:

LOXAHATCHEE GROVES WATER CONTROL DISTRICT,
an Independent Special District of the State of Florida

(1) [Signature]
Print Name: Stephen E. Yoho

By: [Signature]
FRANK SCHIOLA
Title: CHAIR

(2) [Signature]
Print Name: Lynette Ballard

[DISTRICT SEAL]

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged and subscribed before me this 21st day of September 2016, by FRANK SCHIOLA, as CHAIR of LOXAHATCHEE GROVES WATER CONTROL DISTRICT, an independent special district of the State of Florida, on behalf of said District. He is _____ personally known to me or has produced _____ [type of identification] as identification and did take an oath.

[Signature]

LYNNETTE R. BALLARD
Notary Public, State of Florida
My Commission Expires:



(NOTARY SEAL)

PERMITTEE ACKNOWLEDGEMENT AND ACCEPTANCE

ON BEHALF OF PERMITTEE, I ACKNOWLEDGE RECEIPT OF AND UNDERSTAND AND ACCEPT THE CONDITIONS OF THIS PERMIT:

WITNESSES:

PERMITTEE:

TOWN OF LOXAHATCHEE GROVES, FLORIDA, a Florida municipal corporation

(1) _____

By: _____

Print Name: _____

Name printed: _____
Its: Mayor

(2) _____

Print Name: _____

[TOWN SEAL]

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged and scribed before me this ____ day of _____, 2016, by _____, as Mayor of **TOWN OF LOXAHATCHEE GROVES, FLORIDA**, a Florida municipal corporation, on behalf of said Municipal Corporation. He/she is _____ personally known to me or has produced _____ [type of identification] as identification and did take an oath.

Print Name: _____
Notary Public, State of Florida
My Commission Expires:

(NOTARY SEAL)

EXHIBIT "A"

PUBLIC RECREATION TRAILS IN DISTRICT EASEMENTS

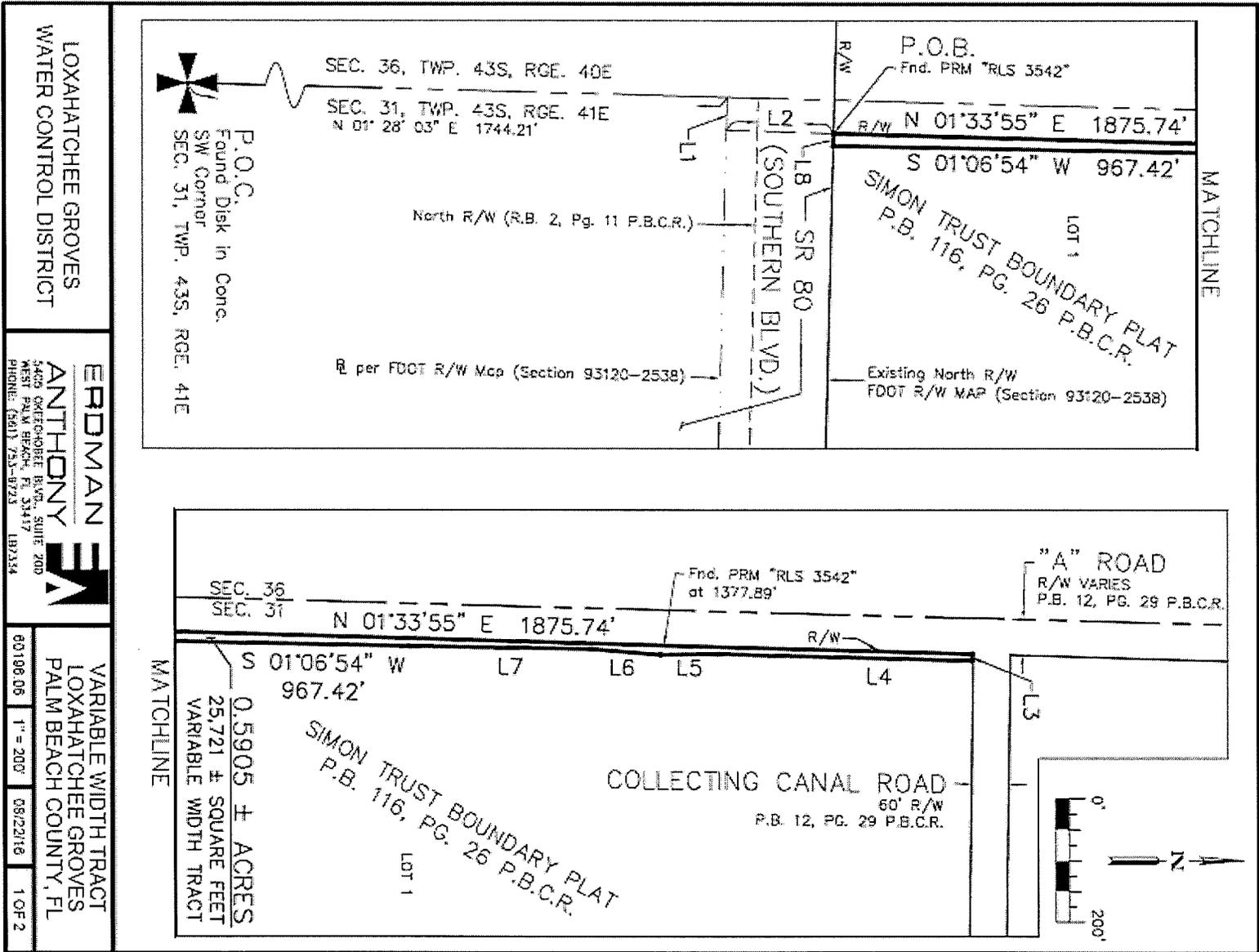
ORB Plat Book 1, Pages 146-153, recorded September 24, 2015

ORB Plat Book 1, Pages 154-157, recorded September 24, 2015

ORB Plat Book 2, Pages 1-68, recorded November 10, 2015

All Public Records of Palm Beach County, Florida

**LESS AND EXCEPT THE VARIABLE WIDTH TRACT
MORE PARTICULARLY IDENTIFIED IN THE
LEGAL DESCRIPTION AND SKETCH
ATTACHED HERETO, AS FOLLOWS:**



LEGAL DESCRIPTION:

LYING IN SECTION 31, TOWNSHIP 43 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 31; THENCE NORTH 01°28'03" EAST, 1744.21 FEET ALONG THE WEST LINE OF SAID SECTION 31 TO AN FOOT BASELINE FOR SR 80; THENCE SOUTH 88°26'46" EAST, 54.09 FEET ALONG SAID BASELINE; THENCE NORTH 01°33'55" EAST, 173.00 FEET CROSSING THE EXISTING R/W OF SAID SR 80 TO THE POINT OF BEGINNING, BEING THE EXISTING NORTH R/W LINE OF SAID SR 80 AND BEING THE SOUTHWEST CORNER OF LOT 1, SIMON TRUST BOUNDARY PLAT (P.B. 116, PG. 26 P.B.C.R.), THENCE NORTH 01°33'55" EAST, 1875.74 FEET ALONG THE WEST LINE OF SAID LOT 1; THENCE SOUTH 89°12'41" EAST, 10.67 FEET BEING 2.15 FEET SOUTH OF AND PARALLEL TO THE THE EXISTING SOUTH R/W LINE OF COLLECTING CANAL ROAD; THENCE SOUTH 01°31'29" WEST, 409.65 FEET CONTINUING OVER AND ACROSS SAID LOT 1; THENCE SOUTH 00°53'38" EAST, 93.59 FEET; THENCE SOUTH 04°41'15" WEST, 112.58 FEET; THENCE SOUTH 00°52'34" WEST, 292.95 FEET; THENCE SOUTH 01°06'54" WEST, 967.42 FEET TO THE EXISTING NORTH R/W LINE OF SAID SR 80; THENCE NORTH 88°26'46" WEST, 19.97 FEET ALONG THE EXISTING NORTH R/W LINE OF SAID SR 80 TO THE POINT OF BEGINNING AND CONTAINING 0.5905 OF AN ACRE (25,721 SQUARE FEET) MORE OR LESS.

SURVEYOR'S NOTES:

1. BEARINGS SHOWN HEREON ARE BASED UPON THE STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE, NORTH AMERICAN DATUM OF 1983 (1990 ADJUSTMENT) WITH INFORMATION SUPPLIED BY PALM BEACH COUNTY AND NATIONAL GEODETIC SURVEY (NGS) AND WAS ESTABLISHED BY GPS OBSERVATIONS AND ARE REFERENCED TO MONUMENTS FOUND ALONG THE SOUTH LINE COLLECTING CANAL ROAD BEING S 89°12'41" E. ALL OTHER BEARINGS ARE RELATIVE THERETO.
2. THIS SKETCH IS NOT A SURVEY.
3. NO TITLE COMMITMENT WAS PROVIDED AND THE SURVEYOR DID NOT ABSTRACT THE PROPERTY FOR RECORD INSTRUMENTS THAT AFFECT, RESTRICT, OR OTHERWISE ENCUMBER THE SUBJECT TRACT.
4. LINEAR UNITS ARE US SURVEY FEET.
5. SURVEY MAP AND REPORT OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
6. ADDITIONS OR DELETIONS TO THIS MAP AND REPORT BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
7. THIS MAP IS INTENDED TO BE DISPLAYED AT A SCALE OF 1"=200' OR SMALLER.
8. THIS REPORT IS NEITHER FULL NOR COMPLETE WITHOUT ALL SHEETS OF THIS SET.

ABBREVIATIONS:

- FL = BASELINE
- FDOT = FLORIDA DEPARTMENT OF TRANSPORTATION
- P.B.C.R. = PALM BEACH COUNTY RECORDS
- P.B. = PLAT BOOK
- P.O.B. = POINT OF BEGINNING
- P.O.C. = POINT OF COMMENCEMENT
- PG. = PAGE
- PRM = PERMANENT REFERENCE MAKER
- PSM = PROFESSIONAL SURVEYOR & MAPPER
- RGE. = RANGE
- R.B. = ROAD BOOK
- R/W = RIGHT OF WAY
- SEC. = SECTION
- SR = STATE ROUTE
- TWP. = TOWNSHIP

LINE DATA		
NUMBER	BEARING	DISTANCE
L1	S 88°26'46" E	54.09'
L2	N 01°33'55" E	173.00'
L3	S 89°12'41" E	10.67'
L4	S 01°31'29" W	409.65'
L5	S 00°53'38" E	93.59'
L6	S 04°41'15" W	112.58'
L7	S 00°52'34" W	292.95'
L8	N 88°26'46" W	19.97'

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY THAT THE SKETCH AND LEGAL DESCRIPTION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. ALSO, THIS SKETCH AND LEGAL COMPLIES WITH THE STANDARDS OF PRACTICE, AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO FLORIDA STATUTE 472.027, FLORIDA STATUTES.

JIM SULLIVAN, PSM
 LICENSE NUMBER LS6889
 LICENSE BUSINESS NUMBER LB7334

DATE

LOXAHATCHEE GROVES
 WATER CONTROL DISTRICT

ERDMAN ANTHONY
 5436 CHEECHOREE BLVD., SUITE 200
 WEST PALM BEACH, FL 33417
 PHONE: (561) 753-9723 LB7334



VARIABLE WIDTH TRACT
 LOXAHATCHEE GROVES
 PALM BEACH COUNTY, FL

60106.08 1" = 200' 08/23/16 2 OF 2

Town of Loxahatchee Groves, Florida Town Council Agenda Item Report Folsom Road Properties Applications

PREPARED BY: Jim Fleischmann

October 18, 2016

SUBJECT: The following Folsom Road Properties applications

1. Voluntary Annexation: ANNEX 2016-01 (Local Planning Agency consideration)
2. Future Land Use Map Amendment: CPA 2016-03 (SS) (Local Planning Agency consideration)
3. Rezoning: REZ 2016-02 (Planning and Zoning Board consideration)

1. BACKGROUND

History: The property is located on the west side of Folsom Road, immediately north of its intersection with Crestwood Boulevard, in the unincorporated area of Palm Beach County. Current Palm Beach County Future Land Use (FLU) and zoning designations are as follows: FLU – Rural Residential 5; and Zoning – Agricultural Residential.

Historically (i.e. Warranty Deed dated August 16, 1974), the property consisted of 4.96 acres. The property was reduced in size to 4.27 acres (Aerial attached) by the dedication of its easterly 50.02 feet for the Folsom Road right-of-way. Per the taking, lot depth from Folsom Road was reduced from 360 feet to 309.98 feet.

The current and historical use of the property is a veterinarian clinic (Palms West Veterinary Hospital) which offers services to both small and large animals. According to documentation (i.e. Board of Veterinary Medicine Premise Certificate #VE 0925 and Palm Beach County Occupational Licenses/Business Tax Receipts) provided by the Applicant, a veterinary business has been operating on the property since 1983.

The veterinary business was initially a permitted use pursuant to County Ordinance 73-2, which made no distinction as to the size or species of animal treated. Supplement 7 (March 14, 1986) of the Palm Beach County ULDC lists veterinary offices as a permitted use in the AR District. Again, no distinction was made as to the size or species of animal treated.

County Ordinance 95-8 (March 10, 1995) limited veterinary clinics in the AR District to the treatment of large animals. The Palm Beach County ULDC in effect at the time of incorporation of Loxahatchee Groves limited veterinary clinics in the AR District to the treatment of large animals on a minimum lot size of 5 acres. However, a Palm Beach County Planning Zoning and Building Code Enforcement Violation History Screen (August 9, 2002) states that the veterinary hospital use on the property is “grandfathered in”. No limitation on the size or species of animal was made in the History Screen. The term “grandfathered in” is interpreted to mean that the veterinary hospital, providing services to both large and small animals, without a species limitation, was determined by the County to be a legal and conforming use.

The Loxahatchee Groves Unified Land Development Code (ULDC), adopted on November 16, 2010, does not list veterinary clinic as a permitted use in the Agricultural Residential (AR) zoning district (Section 20-015: *Permitted uses*). Further, the minimum lot size is stated as 5 acres. However, ULDC Section 75-010: *Uses and structures existing as of October 1, 2006* states:

“ . . . all uses, structures and plots of land that were legal and conforming to the Palm Beach County Land Development Code as of October 1, 2006, shall be deemed to be legal and conforming to these regulations, as may be amended from time to time.”

In addition, ULDC Section 20-025 (C) (1) *Nonconforming plots of prior record* states:

“Plots which were of public record prior to, and became nonconforming as a result of the adoption of Town of Loxahatchee Groves Unified Land Development Regulations may be developed for residential use despite not meeting the minimum plot and dimensional requirements.”

In addition, ULDC Section 75-030 (A) states:

“A nonconforming plot of record may be used for any use permitted by the zoning district within which the plot is located, provided the plot complies with all development standards except for plot size and dimensions, and provided that specific uses required to have different plot area or dimensional requirements than generally required for other uses within the same zoning district, shall not be permitted on a nonconforming plot of record that does not comply with said plot size and dimensional requirements, unless the Town grants a variance for the size, setback, or dimensional requirement pursuant to the procedures and standards of Article 150, Variances ”

As a result of the research summarized above, it is concluded by Staff that the current veterinary business use, which serves animals without a limitation on size or species is legal and conforming to the Town’s Unified Land Development Code (ULDC) under the provisions of Section 75-010 *Uses and structures existing as of October 1, 2006* and Sections 20-025 (C) (1) *Nonconforming plots of prior record* and Section 75-030 (A).

Problem Statement: The Town Council should consider the proposed Annexation ANNEX 2016-01, FLU Map Amendment CPA 2016-03 (SS), and proposed Zoning Map Amendment REZ 2016-02.

Problem Solution: The Town Council should hear testimony and approve, approve with conditions, or deny Ordinance 2016-08 which pertains to proposed Annexation ANNEX 2016-01, FLU Map Amendment CPA 2016-03 (SS), and Zoning Map Amendment REZ 2016-02.

2. CURRENT ACTIVITY

The Applicant, Folsom Road Properties, LLC has submitted voluntary Annexation Application ANNEX 2016-01 to incorporate the subject property within the Town of Loxahatchee Groves.

Upon annexation, the Town Council is required to assign Future Land Use and Zoning designations to the property. Staff has prepared Ordinance 2016-08 which accomplishes all three actions within a single ordinance.

a. Annexation Application: The Applicant has submitted Annexation Application ANNEX 2016-01 for the subject 4.27 acre property. The property is located within the County's designated Unincorporated Protection Area (UPA), which generally lies outside of the County's Urban Service Area.

Voluntary annexations in the UPA require the consent of the Palm Beach County Board of County Commissioners by a super majority vote per County Ordinance 2007-018. County Staff will present the application for Board of County Commissioners consideration following First Reading of the Annexation Ordinance by the Loxahatchee Groves Town Council. According to County Staff, a five-week notice is required to place an item on a County Commission agenda.

Per County Ordinance 2007-018, Town staff filed a Preliminary Notification of Annexation with Palm Beach County in May 2016. In response, the proposed annexation was processed through the County's Annexation Review Process, including a review by County Staff and service delivery agencies. Based upon the review, County staff has not identified any inconsistencies with Chapter 171, Florida Statutes: *Municipal Annexation or Contraction*. County Staff found the property to be located within an existing unincorporated pocket and its annexation will reduce the size of the pocket and recommended that the annexed area include those portions of the Folsom Road and Canal rights-of-way that abut the subject property to its east.

The County Engineering Department provided the following comments: (1) The Town should protect the ultimate expanded right-of-way for the intersection of Folsom Road and Crestwood Avenue; and (2) the Town should assume maintenance responsibility and ownership of Folsom Road.

The Local Planning Agency, at its September 29, 2016 meeting, recommended approval of annexation application ANNEX 2016-01 by a 5-0 vote.

b. Future Land Use and Zoning Applications: It is the Town's responsibility to assign land use and zoning designations to all properties within its corporate limits. Therefore, upon annexation, the Town must assign Future Land Use and Zoning designations to the property. Upon a review of the Loxahatchee Groves Comprehensive Plan and Future Land Use Map, it is determined that a Rural Residential 5 (RR 5) Future Land Use Designation and an Agricultural Residential (AR) zoning designation are the most appropriate.

Although the veterinary clinic is determined to be legal and conforming to the Town's Unified Land Development Code (ULDC) under the provisions of Section 75-010, the use is not listed as a permitted use in the AR zoning district. Therefore, to clearly state the applicability of the ULDC to the subject property, a Special Policy Future Land Use Element text amendment is proposed to accompany the Future Land Use Map amendment.

Based upon its planning and zoning responsibilities, the Town is technically the Applicant for the following:

- **Future Land Use Map Amendment CPA 2016-03 (SS):** Revise the Town’s Future Land Use Map to include the subject property and assign a Rural Residential 5 (RR 5)/Special Policy 1.15.6 future land use designation and revise the text of the Future Land Use Element to include the following Special Policy to insure consistency with the AR zoning district:

“1.15.6 Special Policy:

The existing veterinary clinic use for the treatment of small and large animals on the property delineated as “Special Policy 1.15.6” on the Future Land Use Map, Map #FLU-1.10, is determined to be legal and conforming to the Loxahatchee Groves Unified Land Development Code (ULDC) and may expand subject to the land development regulations therein, provided that the on-site care and treatment of Class I and Class II wildlife, as defined in Florida Administrative Code Section 68A-6.002(1), is prohibited.”

The Local Planning Agency, at its September 29, 2016 meeting, recommended approval of Comprehensive Plan amendment CPA 2016-03 (SS) by a 5-0 vote.

- **Zoning Map Amendment REZ 2016-02:** Revise the Town’s Zoning Map to include the subject property and assign an Agricultural Residential (AR) zoning designation.

The Planning and Zoning Board, at its September 29, 2016 meeting, recommended approval of rezoning REZ 2016-02 by a 5-0 vote.

3. ATTACHMENTS

1. Ordinance 2016-08

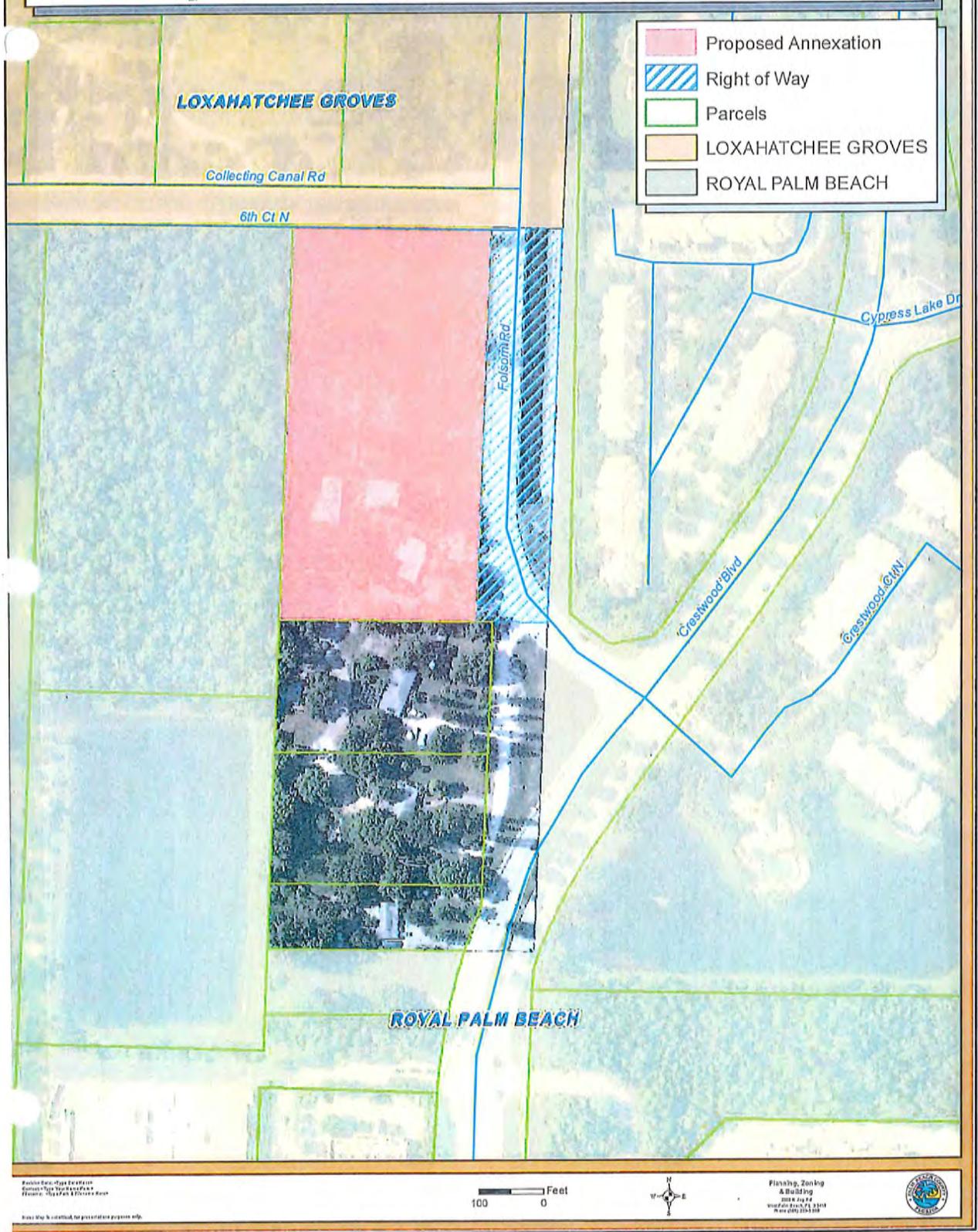
4. FINANCIAL IMPACT

Based upon Town Council direction, processing costs will be funded by the Town.

5. RECOMMENDED ACTIONS:

1. That the Town Council approve Ordinance 2016-08 on first reading.

Proposed Annexation



Perla D. Underwood

From: William (Bill) Underwood, II
Sent: Thursday, August 04, 2016 3:44 PM
To: Town Council; Virginia Walton
Cc: MCirullo@cityatty.com; Virginia Walton; Tina Bonyak; Irmijim@bellsouth.net
Subject: Vet Clinic - Folsom Road
Attachments: annexation-vet clinic.pdf

Honorable Mayor and Town Council,

Attached you will find a letter from Palm Beach County Department of Planning, Zoning, & Building regarding the proposed annexation of the Folsom Road Vet Clinic. PBC's Annexation Review Process staff and service delivery agencies have not identified any inconsistencies with Chapter 171, Florida Statutes.

County Engineering Department provided 2 comments.

1. The Town should protect the ultimate expanded ROW for the intersection of Folsom and Crestwood Blvd.
2. The Town should assume maintenance responsibility and ownership of Folsom Road.

Approval for the voluntary annexations require consent of the BCC by a super majority.

This item will be presented to the BCC for consent following the Town's first reading of the annexation.

William F. Underwood, II, Town Manager
Town of Loxahatchee Groves
155 F Road
Loxahatchee Groves, FL 33470
Tele: 561.793.2418
Email: wunderwood@loxahatcheegrovesfl.gov



RECEIVED
JUN 20 2016

BY: BK

**Department of Planning,
Zoning & Building**

2300 North Jog Road
West Palm Beach, FL 33411-2741
(561) 233-5000

Planning Division 233-5300
Zoning Division 233-5200
Building Division 233-5100
Code Enforcement 233-5500
Contractors Certification 233-5525
Administration Office 233-5005
Executive Office 233-5228
www.pbcgov.com/pzb



**Palm Beach County
Board of County
Commissioners**

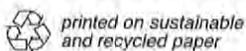
Mary Lou Berger, Mayor
Hal R. Valeche, Vice Mayor

Paulette Burdick
Shelley Vana
Steven L. Abrams
Melissa McKinlay
Priscilla A. Taylor

County Administrator

Verdenia C. Baker

"An Equal Opportunity
Affirmative Action Employer"



June 14, 2016

William F. Underwood
Town Manager
Town of Loxahatchee Groves
155 F Road
Loxahatchee Groves, FL 33470

Re: Proposed Annexation Folsom Rd Vet Clinic, 2016-41-001

Dear Mr. Underwood:

Thank you for providing the County advance notice and the opportunity to review the annexation summarized below.

Name	Description
Folsom Rd Vet Clinic 2016-41-001	Acres: 4.27 Location: Southwest corner of Folsom Rd and 6th Court North 1st Reading: N/A BCC Hearing: N/A 2nd Reading: N/A

The proposed annexation was processed through the County's Annexation Review Process. County staff and service delivery agencies reviewed the proposed annexation. After review, County staff has not identified any inconsistencies with Chapter 171, Florida Statutes. The property is located within an existing unincorporated pocket; its annexation will reduce the size of the pocket. The County's Engineering Department provided the following comments:

- The Town should protect the ultimate expanded right-of-way for the intersection of Folsom Road and Crestwood Blvd.
- The Town should assume maintenance responsibility and ownership of Folsom Road.

The property proposed to be annexed is located within a geographical area known as the Unincorporated Protection Area (UPA), generally located outside of the County's urban service area. Voluntary annexations in the UPA require the consent of the Board of County Commissioners (BCC) by a super majority vote. Consequently, planning staff will present the item to the BCC for consent following the Town's first reading of the annexation. Please let us know the reading dates for the item as soon as available.



Loxahatchee Groves Proposed Annexation
Folsom Rd Vet Clinic
June 14, 2016
Page 2

If you have any questions regarding the County Engineering's comment, please contact Tammy Lee at 684-4012. For any other questions or comments, contact Patricia Behn, Principal Planner, at 561-233-5332.

Sincerely,


Lorenzo Aghemo
Planning Director

c: The Honorable Melissa McKinlay, District 6 Commissioner Patricia Behn, PBC Principal Planner
Patrick Rutter, PZ&B Executive Director Tammy Lee, PBC Engineering Dept.
Bob Banks, AICP, PBC Chief Land Use County Attorney Jim Fleischmann, Town Planning Consultant

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ATTACHMENT 1
ORDINANCE 2016-08

ORDINANCE NO. 2016-08

ANNEXATION, FUTURE LAND USE AMENDMENT AND REZONING

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ANNEXING A 4.27 ACRE MORE OR LESS PARCEL OF LAND LOCATED AT 556 FOLSOM ROAD LOXAHATCHEE, FLORIDA 33470 BEING MORE FULLY DESCRIBED IN EXHIBIT "A" HERETO; AND CONCURRENTLY AMENDING THE FUTURE LAND USE MAP TO "RURAL RESIDENTIAL 5"/SPECIAL POLICY 1.15.6 AND ADDING SPECIAL POLICY 1.15.6 TO THE TEXT OF THE FUTURE LAND USE ELEMENT OF THE TOWN OF LOXAHATCHEE GROVES COMPREHENSIVE PLAN PURSUANT TO THE "SMALL-SCALE" COMPREHENSIVE PLAN AMENDMENT LAWS OF THE STATE OF FLORIDA, SAID LAND TO BE CONCURRENTLY ASSIGNED AN "AGRICULTURAL RESIDENTIAL" ZONING DISTRICT DESIGNATION ON THE TOWN OF LOXAHATCHEE GROVES ZONING MAP; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Petitioner, Folsom Road Properties LLC, constituting the fee simple title holder to the 4.27 acre, more or less, parcel of land located at 556 Folsom Road, Loxahatchee, Florida 33470, and more particularly described in Exhibit A, hereto and made a part hereof (Subject Property) has voluntarily requested the Town of Loxahatchee Groves, Florida to annex said Subject Property into the corporate limits of Loxahatchee Groves; and

WHEREAS, Concurrent with the annexation, the Town of Loxahatchee Groves is seeking to assign Town Future Land Use and Zoning designations to Subject Property; and

WHEREAS, the existing Future Land Use designation assigned to Subject Property is Palm Beach County Rural Residential 5 (RR 5) and the existing Zoning designation assigned to Subject Property is Palm Beach County Agricultural Residential (AR); and

WHEREAS, the Town of Loxahatchee Groves has adopted a Comprehensive Plan pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act (Act) and a Unified Land Development Code (ULDC); and

WHEREAS, the Florida Department of Economic Opportunity has determined that the Town's Comprehensive Plan is "in compliance" with the provisions of the Act; and

WHEREAS, the Loxahatchee Groves Local Planning Agency (LPA) conducted a public hearing on September 29, 2016, as required by Section 163.3174(4)(a), Florida Statutes to consider the request for Annexation and approval by the Town of a Small-Scale Amendment to add Special Policy 1.15.6 to the Future Land Use Element of the Comprehensive Plan and revise the Future Land Use Map designation of Subject Property from Palm Beach County RR 5 to Loxahatchee Groves Rural Residential 5/Special Policy 1.15.6. At the public hearing, the LPA recommended approval of said Annexation and Small-Scale Amendment; and

WHEREAS, the Loxahatchee Groves Planning and Zoning Board (PZB) conducted a public hearing on September 29, 2016, as required by Town Ordinance 2011-011, to consider approval by the Town of a revision of the Zoning designation of Subject Property from Palm Beach County AR to Loxahatchee Groves Agricultural Residential. At the public hearing, the PZB recommended approval of said Zoning designation revision; and

WHEREAS, the Town Council of the Town of Loxahatchee Groves has determined that granting the request for annexation, amending the text of the Future Land Use Element to add Special Policy 1.15.6 and assigning a Loxahatchee Groves Future Land Use designation of Rural Residential 5/Special Policy 1.15.6., and a Loxahatchee Groves Zoning designation of Agricultural Residential serves a valid public purpose.

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

Section 1. Findings. The Town Council finds the above statements are true and correct and serve as the basis for consideration of this Ordinance; that said Subject Property is contiguous and reasonably compact with the corporate limits of the Town of Loxahatchee Groves, creates no enclaves, pockets or finger areas in serpentine patterns and otherwise meets all of the requirements set forth in Section 171.043, Florida Statutes, for annexation. Further, the Town can effectively provide police, fire, and sanitary services to Subject Property, all in compliance with the terms and requirements of Chapter 171, Florida statutes, and the Town of Loxahatchee Groves Unified Land Development Code.

Section 2. Annexation. The Town Council has determined that development of Subject Property upon annexation shall be in accordance with the regulatory requirements of Palm Beach County, until such time as the Small-Scale amendment becomes effective. That Subject Property, more particularly described in Exhibit A, hereto, is annexed into and shall be within the corporate limits of the Town of Loxahatchee Groves, Florida, and that same shall henceforth be a part of said Town.

Section 3. Future Land Use. Concurrent with said annexation, the text of the Future Land Use Element of the Comprehensive Plan shall be amended to add Special Policy 1.15.6, as set forth in Exhibit B, hereto and made a part hereof, and the Future Land Use designation of Said Property, as described in Exhibit A, attached hereto, in the Town's Comprehensive Plan shall be established as Rural Residential 5/Special Policy 1.15.6, and the Town's Future Land Use Map shall be amended to reflect such. Until such time as the appeal period as provided by law, but not sooner than 31 days following the effective date of this Ordinance, all development of Subject Property shall be subject to the requirements of Chapter 171.062(2), Florida Statutes, the same stating that the Palm Beach County Land Use Plan, zoning and Subdivision regulations shall apply.

Section 4. Zoning. Concurrent with said annexation, the Zoning Map designation of Subject Property on the Town of Loxahatchee Groves Official Zoning Map shall be established as Agricultural Residential, subject to the approval and appeal period stated in Section 3, above.

Section 5. Directions to the Town Manager and Town Clerk. The Town Manager is hereby authorized and directed to forthwith cause the designation of the zoning of Subject Property, as described in Exhibit A, attached hereto, as set forth in Section 4 of this Ordinance, on the on the Town of Loxahatchee Groves Official Zoning Map. Section 166.031(3), Florida Statutes, permits municipal boundaries to be redefined to include lands previously annexed by ordinance without referendum. Once this ordinance becomes effective, the Town Manager shall cause the boundaries as set forth in the Town Charter to be redefined to include the Subject Property, and to file the redefinition filed with the Secretary of State. The Town Clerk shall submit such documentation as required by law to give effect to this Ordinance to the Clerk of the Circuit Court, Palm Beach County Board of County Commissioners, Palm Beach County Property Appraiser, Florida Department of State, and Florida Department of Economic Opportunity.

Section 6. Repeal of Conflicting Ordinances. All ordinances, resolutions or parts of ordinances and resolutions in conflict herewith are hereby repealed to the extent of their conflict herewith.

Section 7. Severability. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

Section 8. Effective Date. This Ordinance shall become effective as provided by law, without limitation, as provided in Section 163.3187(5)(c)(c), Florida Statutes.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS ____ DAY OF _____, 2016.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS ____ DAY OF _____, 2016

ATTEST:

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

TOWN CLERK

Mayor David Browning

APPROVED AS TO LEGAL FORM:

Vice Mayor Tom Goltzene

Town Attorney

Council Member Ron Jerriel

Council Member Ryan Liang

Council Member Todd McLendon

EXHIBIT A

LEGAL DESCRIPTION AND LOCATION MAP

The following Legal Description is applicable to Ordinance 2016-08:

Parcel Control Number: 00-41-43-17-01-901-0010

DESCRIPTION:

THE EAST 360 FEET OF THE NORTH 600 FEET OF LOT (1) OF BLOCK "K" OF LOXAHATCHEE GROVES SUBDIVISION OF A PART OF TOWNSHIP FORTY-THREE (43) SOUTH, RANGE FORTY-ONE (41) EAST, AS PER PLAT OF SAID SUBDIVISION MADE BY T.G. THORGESON, CIVIL-ENGINEER, UNDER THE DIRECTION OF THE PALM BEACH LOXAHATCHEE COMPANY, RECORDED IN PLATBOOK 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

**EXHIBIT B - FUTURE LAND USE ELEMENT
SMALL-SCALE TEXT AMENDMENT 2016-03(SS)
FOLSOM ROAD PROPERTIES**

1. Addition of Special Policy 1.15.6 to the Future Land Use Element to clarify the use status and future development potential of the Folsom Road annexation parcel.

Words underlined are additions to the current text of the Comprehensive Plan.

1.15.6 Special Policy:

The existing veterinary clinic use for the treatment of small and large animals on the property delineated as “Special Policy 1.15.6” on the Future Land Use Map, Map #FLU-1.10, is determined to be legal and conforming to the Loxahatchee Groves Unified Land Development Code (ULDC) and may expand subject to the land development regulations therein, provided that the on-site care and treatment of Class I and Class II wildlife, as defined in Florida Administrative Code Section 68A-6.002(1), is prohibited.

**Town of Loxahatchee Groves, Florida
Town Council Agenda Item Report
Future Land Use Element Text Amendment**

PREPARED BY: Jim Fleischmann

October 18, 2016

SUBJECT: The following Future Land Use Element Text Amendment application:

1. Addition of Special Policy 1.15.7 to the Text of the Future Land Use Element

1. BACKGROUND

History: Seth Brier, Agent for two properties on “B” Road (444 “B” Road and 556 “B” Road), south of Collecting Canal filed a Comprehensive Plan Amendment application (CPA 2016-04) to add the following two Special Policies to the Text of the Future Land Use Element and revise the Future Land Use designation of the two properties, summarized as follows:

A. Future Land Use Element Text Amendments

1.15.7: Special Policy:

Properties within the area defined by the following features, in combination, are defined as a “Mixed-Use Superblock” where a planned mixture of non-residential land use designations, including Commercial Low (CL), Commercial Low Office (CLO), Institutional and Public Facilities (INST) and Conservation (CON), currently predominates. In keeping with the planned character of the “Mixed-Use Superblock”, properties assigned an RR 5 future land use designation may apply for a change in land use to a CL, CLO, INST or CON Future Land Use designation: Collecting Canal (north); Southern Boulevard (south); “C” Road (east); and “B” Road (west).

1.15.8: Special Policy:

Existing residential and commercial equestrian uses on the property delineated as “Special Policy 1.15.6” on the Future Land Use Map, Map # FLU-1.10, may remain subject to Sections 75-020: Nonconforming uses and 75-025: Nonconforming Structures of the Loxahatchee Groves Unified Land Development Code (ULDC). The existing residential and commercial land uses shall not be included in the floor-area-ratio (F.A.R.) calculation for the property.

B. Future Land Use Map Amendment

The current future land Use category assigned to the subject properties is Rural Residential 5. The applicant requested the assignment of a Commercial Low (CL)/Special Policy 1.15.8 Future Land Use (FLU) Map designation for the subject property.

The Town Local Planning Agency (LPA) held a public hearing on proposed CPA 2016-04 at its meeting on September 29, 2016. At the meeting, LPA members had several questions regarding the history of the two properties that are the subject of Special Policy 1.15.8 and the FLU Map amendment. As a result of those questions, Special Policy a.15.8 and the FLU Map amendment were tabled to allow the Applicant to respond to LPA questions.

The LPA determined that Special Policy 1.15.7, which would allow the remaining three properties with an RR 5 FLU designation within the defined area to apply for a non-residential FLU designation, had some merit due to the changed nature of the surrounding area (i.e. Palm Beach State College, Loxahatchee Groves Commons, and the approved Groves Town Center). As a result, the LPA recommended approval of Special Policy 1.15.8, subject to the following revised wording:

1.15.5: Special Policy:

Properties within the area defined by the following features, where a planned mixture of non-residential land use designations currently predominates, may apply for a change in land use to a CL, CLO, INST or CON Future Land Use designation: Collecting Canal (north), Southern Boulevard (south), "C" Road (east), and "B" Road (west).

Problem Statement: The Town Council should consider proposed Ordinance 2016-010, which would approve CPA 2016-04, as revised by the Town's Local Planning Agency.

Problem Solution: The Town Council should hear testimony and approve, approve with conditions, or deny Ordinance 2016-010 which pertains to Comprehensive Plan Amendment CPA 2016-04.

2. CURRENT ACTIVITY

The Applicant of CPA 2016-04, Seth Brier, has reviewed the proposed revisions and consents to the further processing of the amended version of the original Comprehensive Plan Amendment application., as recommended by the Local Planning Agency (i.e. Special Policy 1.15.7 only).

3. ATTACHMENTS

1. Ordinance 2016-10

4. FINANCIAL IMPACT

Processing of the application is funded by the Applicant's Cost Recovery Account,

5. RECOMMENDED ACTIONS:

1. That the Town Council approve Ordinance 2016-10 on first reading.

**Town of Loxahatchee Groves, Florida
Town Council Agenda Item Report
Future Land Use Element Text Amendment**

PREPARED BY: Jim Fleischmann

October 18, 2016

SUBJECT: The following Future Land Use Element Text Amendment application:

1. Addition of Special Policy 1.15.7 to the Text of the Future Land Use Element

1. BACKGROUND

History: Seth Brier, Agent for two properties on “B” Road (444 “B” Road and 556 “B” Road), south of Collecting Canal filed a Comprehensive Plan Amendment application (CPA 2016-04) to add the following two Special Policies to the Text of the Future Land Use Element and revise the Future Land Use designation of the two properties, summarized as follows:

A. Future Land Use Element Text Amendments

1.15.7: Special Policy:

Properties within the area defined by the following features, in combination, are defined as a “Mixed-Use Superblock” where a planned mixture of non-residential land use designations, including Commercial Low (CL), Commercial Low Office (CLO), Institutional and Public Facilities (INST) and Conservation (CON), currently predominates. In keeping with the planned character of the “Mixed-Use Superblock”, properties assigned an RR 5 future land use designation may apply for a change in land use to a CL, CLO, INST or CON Future Land Use designation: Collecting Canal (north); Southern Boulevard (south); “C” Road (east); and “B” Road (west).

1.15.8: Special Policy:

Existing residential and commercial equestrian uses on the property delineated as “Special Policy 1.15.6” on the Future Land Use Map, Map # FLU-1.10, may remain subject to Sections 75-020: Nonconforming uses and 75-025: Nonconforming Structures of the Loxahatchee Groves Unified Land Development Code (ULDC). The existing residential and commercial land uses shall not be included in the floor-area-ratio (F.A.R.) calculation for the property.

B. Future Land Use Map Amendment

The current future land Use category assigned to the subject properties is Rural Residential 5. The applicant requested the assignment of a Commercial Low (CL)/Special Policy 1.15.8 Future Land Use (FLU) Map designation for the subject property.

The Town Local Planning Agency (LPA) held a public hearing on proposed CPA 2016-04 at its meeting on September 29, 2016. At the meeting, LPA members had several questions regarding the history of the two properties that are the subject of Special Policy 1.15.8 and the FLU Map amendment. As a result of those questions, Special Policy a.15.8 and the FLU Map amendment were tabled to allow the Applicant to respond to LPA questions.

The LPA determined that Special Policy 1.15.7, which would allow the remaining three properties with an RR 5 FLU designation within the defined area to apply for a non-residential FLU designation, had some merit due to the changed nature of the surrounding area (i.e. Palm Beach State College, Loxahatchee Groves Commons, and the approved Groves Town Center). As a result, the LPA recommended approval of Special Policy 1.15.8, subject to the following revised wording:

1.15.5: Special Policy:

Properties within the area defined by the following features, where a planned mixture of non-residential land use designations currently predominates, may apply for a change in land use to a CL, CLO, INST or CON Future Land Use designation: Collecting Canal (north), Southern Boulevard (south), "C" Road (east), and "B" Road (west).

Problem Statement: The Town Council should consider proposed Ordinance 2016-010, which would approve CPA 2016-04, as revised by the Town's Local Planning Agency.

Problem Solution: The Town Council should hear testimony and approve, approve with conditions, or deny Ordinance 2016-010 which pertains to Comprehensive Plan Amendment CPA 2016-04.

2. CURRENT ACTIVITY

The Applicant of CPA 2016-04, Seth Brier, has reviewed the proposed revisions and consents to the further processing of the amended version of the original Comprehensive Plan Amendment application., as recommended by the Local Planning Agency (i.e. Special Policy 1.15.7 only).

3. ATTACHMENTS

1. Ordinance 2016-10
2. Staff Report submitted to the Local Planning Agency (9/28/2016)

4. FINANCIAL IMPACT

Processing of the application is funded by the Applicant's Cost Recovery Account,

5. RECOMMENDED ACTIONS:

1. That the Town Council approve Ordinance 2016-10 on first reading.

ORDINANCE NO. 2016-09

TEXT AMENDMENT TO THE COMPREHENSIVE PLAN

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA COMPREHENSIVE PLAN, IN ACCORDANCE WITH SECTION 163.3184(3) FLORIDA STATUTES TO ADD SPECIAL POLICY 1.15.7 TO THE TEXT OF THE FUTURE LAND USE ELEMENT RELATING TO FUTURE LAND USE WITHIN THE AREA DEFINED BY THE FOLLOWING FEATURES: COLLECTING CANAL (NORTH); SOUTHERN BOULEVARD (SOUTH); "C" ROAD (EAST); AND "B" ROAD (WEST); 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 Future Land Use Text Amendment Application CPA 2016-04, as set forth in a staff report dated October 18, 2016 to the Town Council, setting forth conditions and recommendations, which report is incorporated herein; and,

WHEREAS, Seth Brier has applied to amend the Comprehensive Plan as it relates to future land use opportunities within the area defined by the following features: Collecting Canal (north), Southern Boulevard (south), “C” Road (east), and “B” Road (west); and,

WHEREAS, the application meets all conditions as an amendment subject to the “Expedited Review Process”, pursuant to Section 163.3184(2)(a), Florida Statutes; and,

WHEREAS, the Town of Loxahatchee Groves Local Planning Agency, at its meeting on September 29, 2016, 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 conducted the required public hearing on this Amendment to the Town of Loxahatchee Groves adopted Comprehensive Plan on October 18, 2016; and,

WHEREAS, the reports, records, and materials from the public hearings to adopt Ordinance 2016-09 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 Amendment CPA 2016-04 to the Town’s Adopted Comprehensive Plan in accordance with Chapter 163, Florida Statutes, concerning a text amendment proposed by Seth Brier, the Applicant, to add Special Policy 1.15.7 to the Future Land Use Element of the Town’s adopted Comprehensive Plan, as recommended by the Town’s Planning Consultant and Local Planning

Agency, to confirm the ability of property owners to apply for non-residential future land use designations within the area defined by the following features: Collecting Canal (north), Southern Boulevard (south), "C" Road (east), and "B" Road (west).

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 Comprehensive Plan Amendment Application CPA 2016-04 and finds the following:

1. Amendment CPA 2016-04, as presented in Exhibit A, attached hereto and included 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 are compatible with the proposed Amendment;
3. The Town of Loxahatchee Groves has the ability or will have the ability to 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 presented in the staff report dated October 18, 2016 and incorporated herein by reference.

SECTION 4: Comprehensive Plan Amendment CPA 2016-04 to the adopted Comprehensive Plan of the Town of Loxahatchee Groves, as presented in Exhibit A, attached hereto and included herein, is hereby adopted.

SECTION 5: The Town's Planning Consultant is further authorized and directed to make the necessary changes to the text of the Future Land Use Element of the adopted Comprehensive 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 effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 8: This Ordinance shall become effective as provided 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 ____ DAY OF _____, 2016.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS ____ DAY OF _____, 2016

ATTEST:

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

TOWN CLERK

Mayor David Browning

APPROVED AS TO LEGAL FORM:

Vice Mayor Tom Goltzene

Town Attorney

Council Member Ron Jerriel

Council Member Ryan Liang

Council Member Todd McLendon

EXHIBIT A – AMENDMENT CPA 2016-04

1. Addition of Special Policy 1.15.7 to the text of the Future Land Use Element to clarify the future development potential within the area defined by the following features: Collecting Canal (north), Southern Boulevard (south), “C” Road (east), and “B” Road (west)..

Words underlined are additions to the current text of the Comprehensive Plan.

1.15.5: Special Policy:

Properties within the area defined by the following features, where a planned mixture of non-residential land use designations currently predominates, may apply for a change in land use to a CL, CLO, INST or CON Future Land Use designation: Collecting Canal (north), Southern Boulevard (south), “C” Road (east), and “B” Road (west).

**TOWN OF LOXAHATCHEE GROVES
LOCAL PLANNING AGENCY (LPA)
September 28, 2016**

**AGENDA ITEM STAFF SUMMARY: COUNTRY CORNER
LARGE-SCALE FUTURE LAND USE MAP AMENDMENT CPA 2016-04**

I. General Information

A. Project Name: Country Corner.

B. Agent: Jon E. Schmidt & Associates, Inc.

C. Applicant: Seth Brier

D. Owner: Elaine Smiley and K & J Ranches , LLC

E. Parcel Control Numbers (PCN): 41-41-43-17-01-804-0010 and 41-41-43-17-01-804-0040.

F. Project Location: 444 "B" Road and 556 "B" Road, Loxahatchee Groves. East side of "B" Road, approximately 0.2 mile north of Southern Boulevard (Ref: Map 1).

G. Size of Property: 15.62 acres.

H. FLU Map Designation: Rural Residential 5 (RR 5).

I. Zoning Map Designation: Agricultural Residential (AR)

J. Existing Uses:

1. 556 "B" Road (south 7.5 acres): Single-family residence (2,282 sq. ft.); Single-family residence (2,704 sq. ft.); Stables (13,200 sq. ft.); Office trailer (664 sq. ft.); Country Corner Variety store (4,400 sq. ft./2 stories); Horse paddock; Horse arena; Food Truck.

2. 444 "B" Road (north 8.12 acres): Single-family residence (2,648 sq. ft.); Caretaker residence (794 sq. ft.); Barn/stables (2,940 sq. ft.); Dressage training area; Turnout paddock.

Summary: Four residential units (8,428 sq. ft.); Two Barn/stables (16,140 sq. Ft.); Variety store (4,400 sq. ft.); and Office trailer (664 sq. ft.). Total structures = 29,452 sq. ft. Additional facilities: Horse paddock, Horse arena, Dressage training area, Turnout paddock; and Food Truck.

K. Maximum Development Potential Proposed Land Use: 68,041 sq. ft. sq. ft. of CL space (15.62 acres x 43,560 sq. ft. per acre x 0.1 FAR)

Map 1 – Site Location



II. Adjacent Land Uses

The property is bordered on its east and south by the approved 90.32 acre Groves Town Center Multiple Land Use Planned Unit Development (MLU/PUD), which consists of the following uses: Commercial Low (34.34 acres/103,000 sq. ft. of retail commercial space); Commercial Low Office (16.0 acres/44,000 sq. ft. of office space); and Institutional (40 acres/128 assisted living beds)..

To the north is a 5.03 acre property assigned a wholesale nursery Use Code (6900). The property is owned by Red Clover Lawn Service, Inc.

The property is bordered by "B" Road on the west followed by the Palm Beach State College Campus. "B" Road is currently being paved from Sothern Boulevard north to the Collecting Canal.

III. Requested Comprehensive Plan Amendments

Proposed CPA 2016-04 consists of adding two Special Policy Text Amendments to the Future Land Use Element and a Map Amendment to the Future Land Use Map.

A. Future Land Use Element Text Amendments

1.15.7: Special Policy:

Properties within the area defined by the following features, in combination, are defined as a "Mixed-Use Superblock" where a planned mixture of non-residential land use designations, including Commercial Low (CL), Commercial Low Office (CLO), Institutional and Public Facilities (INST) and Conservation (CON), currently predominates. In keeping with the planned character of the "Mixed-Use Superblock", properties assigned an RR 5 future land use designation may apply for a change in land use to a CL, CLO, INST or CON Future Land Use designation.

1.15.8: Special Policy:

Existing residential and commercial equestrian uses on the property delineated as "Special Policy 1.15.7" on the Future Land Use Map, Map # FLU-1.10, may remain subject to Sections 75-020: Nonconforming uses and 75-025: Nonconforming Structures of the Loxahatchee Groves Unified Land Development Code (ULDC). The existing residential and commercial land uses shall not be included in the floor-area-ratio (F.A.R.) calculation for the property.

B. Future Land Use Map Amendment

The current future land Use category assigned to the subject property is Rural Residential 5. The applicant has requested the assignment of a Commercial Low (CL) Future Land Use (FLU) Map designation to the subject property.

Uses permitted under the requested CL FLU category are described in Table 1-8 of the Future Land Use Element of the Comprehensive Plan, as follows:

- Commercial Low (CL): “A limited range of neighborhood-oriented commercial activities designed primarily to provide services to adjacent residential areas and public schools. Limited institutional and public facilities allowed.

Under the Comprehensive Plan, the Commercial Low FLU category allows for a maximum development intensity (Floor-Area-Ratio) of 0.10. The maximum development intensity under the proposed CL Future Land Use designation is 68,041 sq. ft. of retail commercial space.

IV. Proposed Development Program

The applicant has requested the assignment of a CL FLU designation for the 15.62 acre parcel. A specific plan of development has not been submitted to the Town at this point. However, via proposed Special Policy 1.15.8, the Applicant proposes two conditions: (1) to be allowed to maintain the existing residential and commercial equestrian land uses until development of a development concept under the CL designation; and (2) be allowed a 0.1 commercial F.A.R. in addition to maintaining existing residential and commercial uses. Detailed plans will be submitted with the rezoning and site plan approval applications.

V. Support Data

The Applicant has submitted the following support documents: Justification Statement; Built features inventory and map and list of structures currently located on the property; Transportation Analysis (Pinder Troutman Consulting, Inc.; 3/13/2015); Drainage Statement (Engenuity Group, Inc.); Wellfield Zone Map; Natural Features Inventory and Map (Jon E. Schmidt & Associates); Request for Historic Resources letter from Palm Beach County; Fire Rescue response letter; and Request for water and sewer letter from Palm Beach County;

The Transportation Analysis evaluated the impacts of a mixed development concept consisting of the following components: 49,984 sq. ft. of retail space; 4 single-family dwellings; 3 groom’s quarters; equestrian stables (40 stalls); and a 1.39 acre wholesale/retail nursery. All impacted roadway segments are projected to meet the adopted LOS “D” standard for the long-range (2035) analysis. A TPS analysis will be required when a specific plan of development (i.e. Site Plan approval application) is submitted to the Town.

VI. Staff Analysis

A. Appropriateness of the Current Future Land Use (FLU) Map Designation

The subject property consists of two parcels (a total of approximately 15 acres) located on the east side of “B” Road, approximately 0.2 miles north of Southern Boulevard. The current FLU Map designation is Rural Residential 5 (RR 5). At the time of the adoption of the Town’s Comprehensive

Plan, "B" Road was not improved and all surrounding properties were assigned the RR 5 FLU designation.

The principal justification for the proposed FLU amendment is that a substantial change in circumstances in the surrounding area since the adoption of the Town's Comprehensive Plan (Town Plan) leads to the conclusion that the current FLU designation is no longer the most appropriate.. Within the area bounded by Collecting Canal (north), Southern Boulevard (south), "C" Road (east), and "A" Road (west), the following approvals have occurred since the Town Plan was adopted: Palm Beach State College campus (75 acres); Loxahatchee Groves Commons shopping center (22 acres); and Groves Town Center mixed use development (90 acres). Combined, these approvals encompass approximately 187 acres, or 90% of the 207 acres within the area described above. Only 20 acres of conventional RR 5 land remain; the subject site at 15 acres and the 5 acre property to its immediate north.

B. Appropriateness of the Proposed Amendment

The changed nature of the surrounding area is also the principal justification for the proposed CL FLU Map designation. In addition to the large-scale non-residential approvals cited above, "B" Road improvements (i.e. paving and the addition of turn lanes, from Southern Boulevard to Collecting Canal and Collecting Canal bridge improvements) and central water and sewer improvements along "B" Road increase site accessibility, desirability and marketability of the property. The character of the surrounding area has dramatically changed from that of agriculture to mixed-use (Institutional and Retail and Office Commercial). The proposed FLU Map amendment is consistent with the recent areal change in character.

VII. Staff Findings

Planning staff finds proposed Special Policy 1.15.7 and Future Land Use Map Amendment 2016-04 generally consistent with the Comprehensive Plan and the changing nature of the surrounding area. Further, Staff finds proposed Special Policy 1.15.8 consistent with the Comprehensive Plan and land development regulations, with the exception that the maximum F.A.R. should not exceed 0.10, for all onsite uses, including those retained existing structures.

VIII. Local Planning Agency (LPA) Recommendation

To be included following the LPA meeting on the subject.

IX. Town Council Transmittal

To be determined by the Town Council at its meeting on the subject.

X. Regional And State Agency Review

To be included if the Town Council decides to transmit the application for appropriate regional and state agency review.

XI. Staff Recommendation

Staff recommends approval of proposed Special Policy 1.15.7 and FLU Map Amendment 2016-04.. It is further recommended that proposed Special Policy 1.15.8 be revised to read as follows:

1.15.8: Special Policy:

Existing residential and commercial equestrian uses on the property delineated as "Special Policy 1.15.7" on the Future Land Use Map, Map # FLU-1.10, may remain subject to Sections 75-020: Nonconforming uses and 75-025: Nonconforming Structures of the Loxahatchee Groves Unified Land Development Code (ULDC). ~~The existing residential and commercial land uses shall not be included in the floor-area-ratio (F.A.R.) calculation for the property.~~

XII. Town Council Adoption

To be included if, and when the Town Council has second reading of the related adoption ordinance.

ATTACHMENT A1
FUTURE LAND USE ELEMENT TEXT AMENDMENT 2016-4

1. Addition of Special Policies 1.15.7 and 1.15.8 of the Future Land Use Element

Words underlined are added to the current text of the Future Land Use element of the Loxahatchee Groves Comprehensive Plan.

1.15.7: Special Policy:

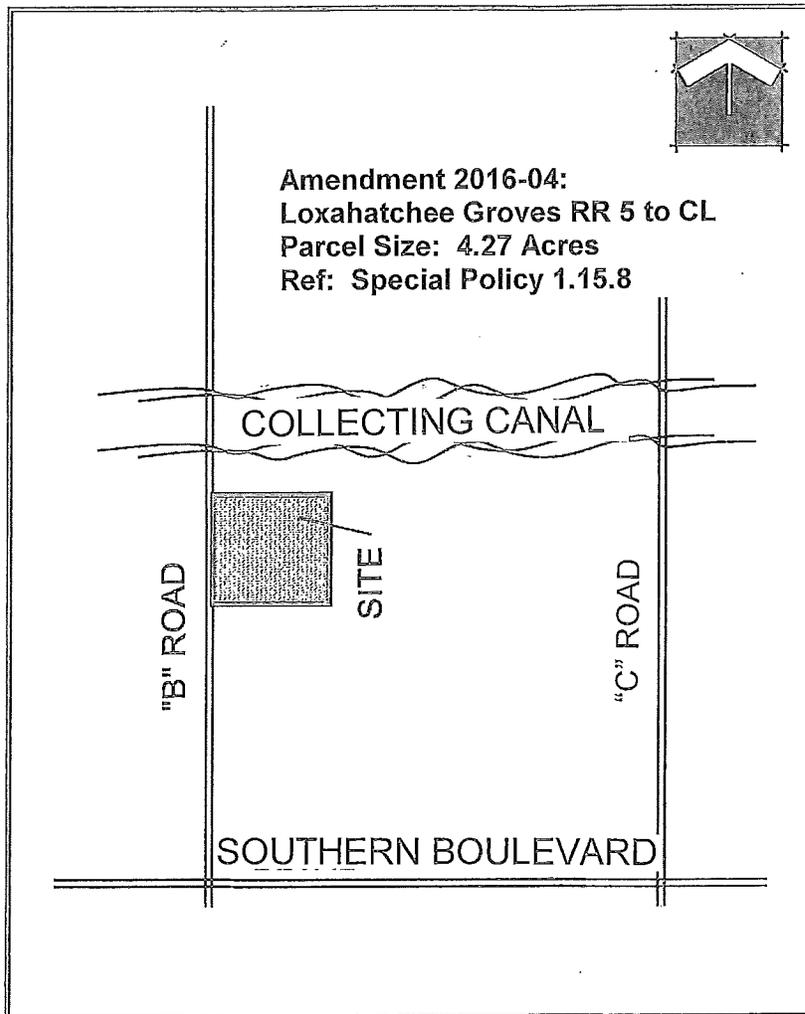
Properties within the area defined by the following features, in combination, are defined as a "Mixed-Use Superblock" where a planned mixture of non-residential land use designations, including Commercial Low (CL), Commercial Low Office (CLO), Institutional and Public Facilities (INST) and Conservation (CON), currently predominates. In keeping with the planned character of the "Mixed-Use Superblock", properties assigned an RR 5 future land use designation may apply for a change in land use to a CL, CLO, INST or CON Future Land Use designation.

1.15.8: Special Policy:

Existing residential and commercial equestrian uses on the property delineated as "Special Policy 1.15.6" on the Future Land Use Map, Map # FLU-1.10, may remain subject to Sections 75-020: Nonconforming uses and 75-025: Nonconforming Structures of the Loxahatchee Groves Unified Land Development Code (ULDC). The existing residential and commercial land uses shall not be included in the floor-area-ratio (F.A.R.) calculation for the property.

ATTACHMENT A2
FUTURE LAND USE MAP #FLU-1.10 AMENDMENT 2016-04

1. Amendment of the Future Land Use Map FLU-1.10 of the Future Land Element of the Loxahatchee Groves Comprehensive Plan to assign the Commercial Low (CL) Future Land Use designation to the subject property and incorporate a specific reference to Special Policy 1.15.8.





John A. Carey
Inspector General

**OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY**



Inspector General
Accredited

"Enhancing Public Trust in Government"

Audit Report

2016-A-0004

**Town of Loxahatchee Groves
Audit of Contracts, Vendors
and Fixed Assets**

September 23, 2016

Insight – Oversight – Foresight



John A. Carey
Inspector General

OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY



Inspector General
Accredited

September 23, 2016

Mayor David Browning
Vice Mayor Tom Goltzene
Ron Jarrel, Councilman
Ryan Liang, Councilman
Todd McLendon, Councilman

The Honorable Mayor, Town Council, and Citizens:

The Office of Inspector General, Audit Division completed the Audit of the Town of Loxahatchee Groves: Contracts, Vendors and Fixed Assets.

We presented the draft audit report to the Town Council on September 1, 2016, and in accordance with the Inspector General Ordinance, we requested a response to the draft report be provided by September 21, 2016. Since we have not received a response within the requested timeframe, we are issuing the attached final report without a response from the Town Council. The Final report is a public record.

We understand that the Town Council was prohibited by law from discussing the draft report outside a public meeting. If the Town Council chooses to publicly discuss the final report in order to develop a response to it, and we receive such response by October 17, 2016, we will issue a revised final report inclusive of the response.

I would like to take this opportunity to thank each Council Member and the Town Attorney for their cooperation during this audit.

Please contact me at 233-2350 if you have any questions. Thank you.

Sincerely,



John Carey

"Enhancing Public Trust in Government"

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



John A. Carey
Inspector General

OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

AUDIT REPORT: 2016-A-0004 AUDIT OF TOWN OF LOXAHATCHEE GROVES

DATE ISSUED: SEPTEMBER 23, 2016



Inspector General
Accredited

"Enhancing Public Trust in Government"

SUMMARY RESULTS AT A GLANCE

What We Did

Our overall audit objective was to determine whether controls over contract management, vendor payments, and fixed assets were in place and working effectively to safeguard the Town's assets. Our scope included activities from October 1, 2013, to September 30, 2015 (FY2014 and FY2015). Our audit procedures included testing \$1,051,603 (FY2014) and \$1,211,763 (FY2015) in contract payments; \$83,064 in vendor payments and \$52,233 in credit card transactions. We also reviewed the Town's inventory of assets.

What We Found

We identified **\$229,019** in total questioned costs,¹ and **\$1,765** in identified costs,² itemized on page 21.

We found that some of the Town's internal controls need improvement. We identified deficiencies and compliance issues related to:

¹ Questioned costs can include costs incurred pursuant to a potential violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds, and/or a finding that such costs are not supported by adequate documentation, and/or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable in amount. As such, not all questioned costs are indicative of potential fraud or waste.

² Identified costs are those dollars that have a potential of being returned to offset the taxpayers' burden.

- Contract monitoring;
- Managing/overseeing the Town Manager contract;
- Purchasing and credit card usage;
- Payment processing; and
- Asset management.

More specifically, our audit identified the following deficiencies and compliance issues:

Contracting

The Town Manager's responsibilities include monitoring and managing the Town's contractual obligations. We tested a sample of service contracts from a list of contracts provided by the Town Manager. We identified weakness in controls over the monitoring of contract performance and payments. We noted **\$95,874** in questioned costs from our contract testing.

Our audit also identified the following issues related to the current Town Management Company's contract:

- It did not align with the Town Charter, and creates risks for the Town;
- The Town Council did not conduct performance reviews of the Town Management Company as required by the contract;
- The contractor was reimbursed for mileage and training expenses. The contract did not provide for

reimbursement for these expenses, resulting in identified costs of \$1,765.

Additionally, two leases and one contract were entered into without the required approval of the Town Attorney, resulting in questioned costs of \$12,430.

Vendor Management

During our testing of vendor payments and credit card transactions, we identified the following issues:

- The Management Company could not provide receipts to support 12 credit card transactions totaling \$1,661;
- Purchases over \$1,000 lacked evidence of required telephone quotes, resulting in questioned costs of \$17,754;
- The Town could not provide documentation to show required Town Manager approval of expenses totaling \$100,602.

Payments not in compliance with the Town's Purchasing Ordinance or Finance and Accounting Procedures resulted in \$120,017 in questioned costs.

The Town paid unnecessary fees for late payments, sales tax and over-limit fees resulting in questioned costs of \$698.

Additionally, we noted the Town Management Company did not appear to follow IRS guidelines regarding the

issuance of Form 1099's on behalf of the Town.

Assets and Inventory Management

We found that the Town Management Company did not maintain an accurate inventory of the Town's equipment. We identified four items costing a total of \$7,849 that were not tagged as required by the Town's Finance and Accounting Procedures Manual.

What We Recommend

We made 22 recommendations to assist the Town in improving controls and ensuring compliance with its Charter, Purchasing Ordinance and Finance and Accounting Procedures. During our audit, the Town has been proactive in improving some of the internal control deficiencies identified.

The Town Manager provided comments on all of our findings and some comments on our recommendations. These comments are included in toto as an attachment to the report. His comments are only included within the body of the report when related to recommendations addressed to the Town Manager. Sixteen of the 22 recommendations are addressed to the Town Council. We will amend our report to include Town Council comments if the Council meets publicly to discuss our report and provides a formal response.

BACKGROUND

The Town of Loxahatchee Groves was founded in 2006, and has an estimated population of 3,180 living within 12.5 square miles. The Town operates under a Council-Manager form of government, with five elected council members, one of whom is the Mayor. The Town has no employees, but instead, uses contractors to perform government services. According to its website, the Town prides itself on its independence, contracted service – type government (“Government Lite”),³ farming/nursery spaces and slow growth rate. In 2011, the Town Council (Council) entered into a contract with its current management firm, which provides a Town Manager, Town Clerk, Planning Technician, and clerical staff. The Town has also entered into other service contracts for Code Enforcement,⁴ Town Attorney, Town Engineer, and a Solid Waste Consultant.⁵



At the outset of this report, we wish to emphasize that our findings and recommendations do not reflect either a positive or negative stance on outsourcing public services. Outsourcing of public services has been a trend in recent years and, when properly executed, can save taxpayers' dollars. Some keys to successful outsourcing include contracts that delineate a clear scope of work, appropriate performance standards, solid performance evaluation techniques, and strong contract administration and management oversight. The degree of outsourcing in the Town of Loxahatchee Groves is uncommon in that the Town has contracted out all of its public services. While outsourcing has a number of advantages, there are also challenges. Our report points out some of the risks in outsourcing all public services and offers recommendations to mitigate those risks.

OBJECTIVES, SCOPE, AND METHODOLOGY

The overall objective of the audit was to determine whether controls over contracts, vendors, and fixed assets were in place and working effectively to safeguard the assets of the Town.

The scope of the audit included a review of activities from October 1, 2013, to September 30, 2015. Our audit procedures included, but were not limited to:

- Reviewing internal controls;

³ http://www.loxahatcheegrovesfl.gov/Pages/LoxahatcheeFL_WebDocs/info

⁴ As of June 2016, the Town Management Contract includes Code Enforcement services.

⁵ The Town terminated the contract with the Solid Waste Consultant in 2015.

- Interviewing contractors and personnel in order to gain an understanding of the controls and ascertain operational compliance;
- Evaluating compliance with applicable policies and procedures;
- Reviewing executed contracts for compliance;
- Performing detailed testing of judgmentally selected transactions; and,
- Reviewing inventory of assets.

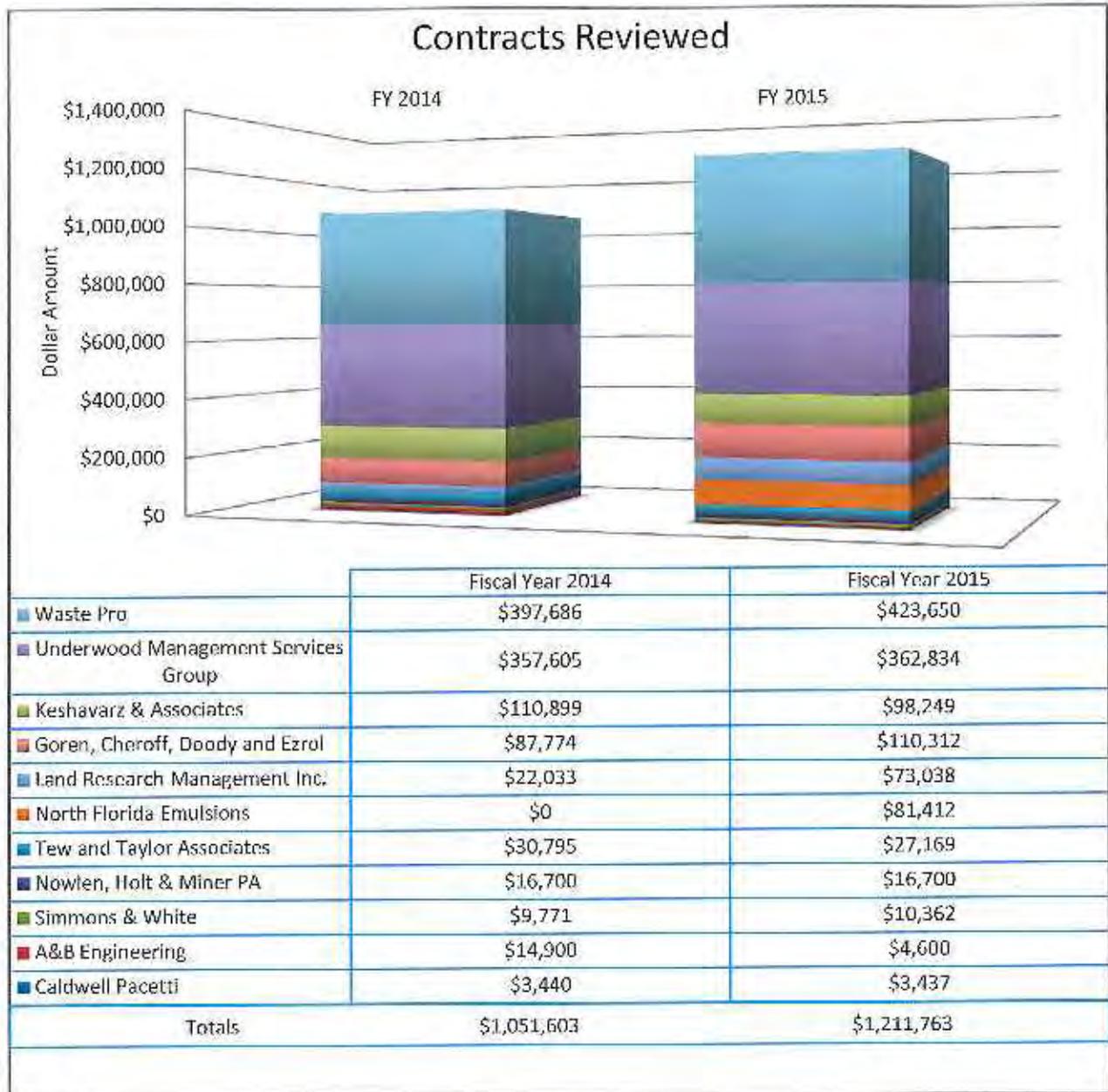
We reviewed the contracts for Town services including Town Manager & Clerk, Attorney, Planner, Engineer, Surveyor, Special Magistrate, Code Enforcement, and Solid Waste and Recycling, as well as contracts for road maintenance to determine whether the management and oversight of these contracts was adequate to ensure that contractors complied with contract terms. Our review of contracts included verifying that a valid executed contract was in effect for the services provided, recalculating payments to contractors, reviewing documentation of deliverables for contracts, and reviewing documentation of monitoring activities performed (e.g. photos of site visits, phone contact logs, daily activity logs, etc).

In total, we reviewed \$1,051,603 in payments on contracts for Fiscal year 2014, and \$1,211,763 in payments on contracts for Fiscal Year 2015.

The following items were excluded from our audit scope:

- Fixed monthly payments made to the Town Management Company;
- Payments to the Loxahatchee Groves Water Control District;
- The contract with, and payments to, the Solid Waste Consultant.

This audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



FINDINGS AND RECOMMENDATIONS**Finding (1): THE TOWN DOES NOT HAVE ADEQUATE POLICIES AND PROCEDURES FOR CONTRACT MONITORING**

The contract for Town Manager outlines "Contract Manager" as one of the duties in the scope of work to be performed. Specifically, the contract outlines the following operational responsibilities as Contract Manager:

- (1) Monitors all independent contractors on specific projects and on-going contractual agreements on behalf of the Town. Ensures proper compliance with the contract's terms and conditions.
- (2) Monitors all contracts to ensure adherence to contractual obligations and report to Town Council when contract is not being fulfilled. Corrective measures will be recommended to the Town Council and enforced.

Although the contract requires the Town Manager to monitor contracts, there are no policies, procedures, or guidelines prescribing what specific activities should be performed. Developing procedures would help ensure that each contract is managed effectively and consistently, and would allow the Town to gauge whether the Town Manager has adequately performed the contract management duties required by the contract.

We selected and reviewed nine contracts to determine whether the contracts were being properly monitored by the Town Manager. We identified weaknesses in controls over the monitoring of contract performance and payments as follows:

- The contract files did not always contain evidence of review or monitoring of the contract such as:
 - Documents supporting the amounts being invoiced or paid,
 - Progress reports provided by contractors, especially for contracts billed based on the percentage of work completed, and
 - Time logs for hourly contracts.
- One of the nine contractors reviewed did not have executed contracts on file with the Town for the services rendered.
- For two of the nine contracts, there was no documentation of required insurance on file for the contract term.

More specifically, we identified the following issues:

- **Land Research Management Inc. (LRMI – Planner Services):** The original contract for LRMI was dated November 27, 2007, and contained a "Scope of Services" that outlined three services to be completed: "(1) Assistance to the Town in establishing a Planning Commission and/or Planning and Zoning Board; (2) Assistance to the Town in establishing a Local Planning Agency (LPA); [and]"

(3) Assistance to the LPA in drafting a program for preparing the Town's initial Comprehensive Plan." According to Town records, the three services were completed in 2011.⁶ The services for which LRMI invoiced the Town during the period reviewed were not included in the original contract, and there was no additional or amended contract.

We identified **\$95,071** in payments made to the contractor between October 1, 2013, and September 30, 2015, for which there was no amended contract or agreement on file for the services performed. Therefore, we consider these payments to be questioned costs.

- **Tew and Taylor (Code Enforcement):** The contract required all weekend and holiday hours to be approved by the Town Manager; however, there was no documented approval from the Town Manager for weekend/holiday hours worked. We asked for documentation showing approval by the Town Manager for weekend/holiday hours, of which there was none. We noted six instances totaling **\$803** where the contractor conducted work on the weekend without evidence of the Town Manager's approval, and charged a higher hourly rate. Despite the lack of approval, the invoices for work performed were paid. Thus, we are considering these questioned costs. Also, there was no proof on file that the contractor maintained the automobile and worker's compensation insurance required by the contract.
- **A&B Engineering (Surveying):** The contractor submitted invoices for work performed. Upon our request, the Town Manager could not produce the Work Authorization for this project. Also, there was no proof on file that the contractor maintained the insurance required by the contract.

The above noted questioned costs total **\$95,874**.

Recommendations:

We recommend:

- 1) **The Town Council develop and implement policies, procedures, or guidelines to be used for monitoring the Town's contracts to include ensuring contracts are properly executed, a documented review of deliverables is performed prior to payment, and verifying that required insurance coverage is maintained.**
- 2) **The Town Manager ensure that all contractors have an executed contract on file prior to conducting business and making any payments.**

⁶ The Town's Comprehensive Plan was adopted in February 2009. The Town's Planning and Zoning Board was established in July 2011, and acts as the Town's Local Planning Agency.

- 3) The Town Manager review insurance requirements on a consistent basis (at least annually), and request updated insurance documents from contractors as needed to ensure required coverage is maintained.

Management Response:

- 3) Town Manager response in part:

We concur with the audit recommendation relative to review of insurance requirements, on an annual basis, and will request updated insurance documents as needed. We would further suggest and recommend the Town Council consider uniformity in the contract criteria relative to insurance requirements on future contracts.

OIG Comment:

The Town Manager disagreed with some of the facts supporting finding No. 1. The Town Manager did not address whether recommendation No. 2 will be implemented. The Town Manager's full response is included as Attachment 1 to this report, and begins on page 22.

Finding (2): THE CONTRACT FOR TOWN MANAGEMENT SERVICES DOES NOT ALIGN WITH THE TOWN CHARTER, AND THE ORGANIZATIONAL STRUCTURE CREATES RISKS FOR THE TOWN

The language in Section 4 of the Town Charter refers to an employee when describing the Town Manager per the following clauses:

- "The Town manager and the Town attorney are designated as charter officers, except that the office of Town attorney may be contracted to an attorney or law firm."
- "The compensation of the charter officers shall be fixed by the Town council through the approval of an acceptable employment contract."
- "The Town manager shall be appointed by resolution approving an employment contract between the Town and the Town manager. The Town manager shall receive such compensation as determined by the Town council through the adoption of an appropriate resolution."

Although the Charter specifies that the Town Attorney may be an individual or firm, the charter makes no such concession for the Town Manager. Additionally, the charter specifies that the Town Manager will have an employment contract. Thus, it is anticipated that the Town Manager will be an employee, and not an independent contractor.

Contrary to the Town Charter, the Town Management contract states "This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that Underwood is an independent contractor under this Agreement and not the Town's employee for any and all purposes..."

On May 3, 2016, the Town Council passed a resolution to hold a referendum vote to amend the Town Charter to clarify that the Town Manager may be engaged through an agreement with a management firm. On August 30, 2016, the voters approved the amendment to the Town Charter. Nonetheless, placing all of the functions set forth in the current Town Management contract under the responsibility of a single business entity creates several risks for the Town.

Some concerns include the following:

- **Segregation of Duties:** The U.S. General Accounting Office (GAO) *Standards for Internal Control in the Federal Government* states:

Key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event.

Currently, the Town Management company has the ability to:

- o Invoice the Town for Town Management services, approve the invoice, and print a check.
 - o Receive, approve, collect payments, and record all transactions related to planning and zoning.
 - o Initiate and authorize purchases, authorize payments, receive goods, and manage inventory.
- **Potential for Conflicts of Interest:** We noted that other vendor contracts (i.e. the Engineering and Code Enforcement contracts) contained a Conflict of Interest clause, but the contract for Town Management services does not. A Conflict of Interest clause could provide an additional safeguard for the Town by 1) prohibiting the business from participating in activities which could be construed as a conflict of interest, and/or 2) requiring full disclosure of activities, including work for other municipalities or contractors, which could have the potential for actual and perceived conflicting priorities.
- **Business Continuity and Succession Planning:** Contracting many of the Town's operational functions through one business entity presents the risk that in the event of an emergency or a situation where the contract is unexpectedly terminated, the Town's operations could be negatively impacted. The key functions of the Town Manager, Town Clerk, Planning and Zoning, Code Enforcement, Financial Management, and Office Coordinator (support staff)

could all be vacant simultaneously until a new contractor(s) assumed the duties. Moreover, there is a risk of loss of critical documentation such as financial records because they are not in the custody and control of the Town.

We noted there are no comprehensive standard operating procedures for critical functions of the Town, such as Code Enforcement, Planning and Zoning, and Town Clerk. Having written procedures and a succession plan may assist the Town in resuming these critical functions, obtaining custody of records, and transferring knowledge, if needed.

Recommendations:

We recommend:

- 4) The Town Council consider developing a Town Manager employer/employee relationship to mitigate some of the above noted risks.
- 5) The Town Council separate the financial, clerk, and Town management duties to ensure segregation of duties over key government functions, or create other mitigating controls to address the risks associated with contracting all key functions under one entity.
- 6) The Town Council consider including a Conflict of Interest clause in the Town Management contract, which requires disclosure of activities that have a potential for actual and perceived conflicts of interest.
- 7) The Town Council consider developing written procedures for critical functions, and a succession plan, that can be used in the event of transitioning between town management companies.

Finding (3): THE TOWN COUNCIL DID NOT CONDUCT PERFORMANCE REVIEWS OF THE TOWN MANAGEMENT CONTRACTOR AS REQUIRED BY THE CONTRACT

The Town Council has not conducted a performance review to ensure that the Town Management contractor was in full compliance with the contract. The contract for Town Management services, executed September 30, 2011, states in Exhibit A – Review of Contract for Town Management Services:

The Contract for Town Management Services shall be reviewed annually. This annual review will be comprised of performance and evaluation criteria established and managed by the Town Council based upon the duties contained in the Contract for Town Management Services along with the Town Management Report through June of the current year prepared by the Town Manager. This annual review of the Contract for Town Management Services shall occur no later than August 1 of each year.

However, no documented annual review of performance has been completed since the beginning of the contract. As discussed in Finding No.'s 1, 4, 6, and 10, we found that the contractor (Underwood Management Services Group, or UMSG) did not always adhere to all requirements of the contract. Conducting annual performance reviews will help ensure that the contractor is adhering to the contract terms and conditions, and that the Council is receiving the intended outcomes of utilizing a Town management company. The Town paid UMSG more than \$357,000 in Fiscal Year 2014 and \$362,000 in Fiscal Year 2015, without conducting a performance review.

Recommendation:

- 8) We recommend Town Council take a more active role in the oversight of the Town Management contract by (a) establishing performance evaluation criteria; (b) performing annual reviews of the Town Management contract; and (c) ensuring all contract deliverables are met.

Finding (4): THE TOWN MANAGEMENT CONTRACTOR WAS REIMBURSED FOR EXPENSES OUTSIDE OF THE SCOPE OF THE CONTRACT

Staff of the Town Management Company received reimbursements from the Town for mileage expenses and notary training costs. The contract does not specify that such expenses would be paid.

The contract specifies a fixed fee that UMSG will be paid monthly for providing the services outlined in the contract. The contract included specific tasks that would require travel such as attend off-site meetings, act as liaison with other governmental entities, deposit monies, perform Planning, Zoning and administrative duties, and perform "other duties as may be required by the Council." Also, Section 7(g) of the contract states "... the Town will not be liable for any obligation incurred by Underwood or other Underwood personnel..."

The Town paid a total of \$1,576 in mileage reimbursements to the Management Company staff from October 1, 2013, through September 30, 2015. Also, we noted several mileage logs attached to the check requests for mileage reimbursement which did not provide the destination, or odometer readings as requested on the forms. Additionally, we noted the Town paid \$189 for one staff of UMSG to become a notary. There was no documented approval by the Council for this expense. We noted the Council routinely approves monthly payments and reimbursements to the Town Attorney, but a similar process is not followed for payments to the Town Management firm or its staff.

We consider the above noted reimbursements totaling \$1,765 to be identified costs because such payments are outside the scope of the contract.

Recommendations:**We recommend:**

- 9) The Town Council consider recouping the \$1,765 in identified costs.
- 10) The Town Council consider clarifying the terms of the Town Management contract regarding mileage and training expenses.
- 11) The Town Council consider approving all payments and reimbursements made to the Town Management firm prior to payment.

Finding (5): THE TOWN DID NOT ALWAYS RECORD MEETING MINUTES PROMPTLY, OR MAKE THEM AVAILABLE FOR INSPECTION, AS REQUIRED

The Town Council meeting minutes for two meetings, one held May 19, 2015, and another held June 16, 2015, were approved by the Council on April 5, 2016, more than nine months after the meetings were held. Additionally, as of August 2, 2016, the minutes for the Town Council meetings held July 7, and July 21, 2015, had not been approved by the Council. Upon our initial request for these meeting minutes, the Town Management Company indicated the minutes were not available because they had not yet been approved.



Florida Sunshine Law, FS 286.011, states "(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be ***promptly*** recorded, and ***such records shall be open to public inspection***... (3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500."

The Town Management Company is responsible for compiling the minutes for the Town Council, Committee and Board meetings. The Town Management Company contract in effect during the aforementioned meetings required these minutes to be available for approval within two weeks. However, 38 of the 49 Council Meeting minutes we reviewed were approved more than 30 days after the meeting. The failure to record and approve minutes within two weeks violated the terms of the contract, and contributed to the Town not making such minutes available for inspection as required by the Florida Sunshine Law.

Recommendation:

- 12) We recommend the Town Council require the Town Management Company to record and submit the meeting minutes within the deadlines prescribed in the Professional Services Contract (or prior to the next regularly scheduled Council Meeting), and make recorded minutes available in accordance with F.S. 286.011.

Finding (6): VENDOR PAYMENTS WERE NOT ALWAYS IN COMPLIANCE WITH THE TOWN'S PURCHASING ORDINANCE AND PROCEDURES

Our test of vendor payments included a review of authorizations and documentation provided with vendor invoices, including credit card statements and receipts supporting the purchase or invoice.



We tested a judgmental sample of 33 transactions totaling \$83,064 in vendor payments and 300 transactions totaling \$52,233 in credit card payments made between October 1, 2013, and September 30, 2015. During this time, three Town credit cards were used by UMSG. One of the cards was cancelled after the prior Town Manager left the position. Two cards are currently in use; one in the name of the current Town Manager, and one in the name of the additional managing partner for UMSG.

We also tested payments made to contractors to ensure these payments were in compliance with purchasing policies.

The controls over the Town's purchases appear to be weak and may not adequately protect the Town's assets. The Town has limited policies regarding Town purchases, and those policies were not consistently followed by the Town Management Company. For example, we noted the following:

- We identified 12 credit card transactions totaling **\$1,661** that were missing receipts to validate the purchase; thus, we consider these transactions to be questioned costs.
- The Town Management Company made purchases over \$1,000 but did not maintain sufficient documentation demonstrating that three quotes were obtained prior to each purchase. The Town's Purchasing Ordinance 2008-09 states in the Procurement Code section (J) "all such purchases of greater than the estimated

cost of one thousand dollars (\$1,000) but less than or equal to five thousand dollars (\$5,000) shall require at least three (3) quotations by telephone.”

- Nine credit card transactions (totaling **\$13,799**) and two payments by check (totaling **\$3,955**) lacked sufficient evidence of at least three telephone quotes; thus, we consider these transactions to be questioned costs.
- The Town Manager did not approve all payments as required. The Town's Finance & Accounting Procedures (Check Disbursements - Check Authorizations) states, "Under no circumstances will; Invoices be paid unless approved by the Town Manager." The process for documenting approval was evidenced by affixing the Town Manager's initials and date on each invoice. We found the process for documenting approval was not always followed:
 - The Town paid **\$5,351** (\$4,997 in credit cards and \$354 in vendor payments) without documented authorization by the Town Manager; thus, we consider these transactions to be questioned costs.
 - We noted that the Town paid **\$95,251** in contractor payments without documented authorization by the Town Manager; thus, we consider these payments to be questioned costs.

Total questioned costs: \$120,017

Recommendations:

We recommend:

- 13) The Town Council take steps to ensure the established procedures requiring the Town Manager's written authorization prior to payment processing are adhered to.
- 14) The Town Manager take steps to ensure sufficient documentation of required telephone quotes is maintained to demonstrate compliance with the Town's purchasing ordinance.
- 15) The Town Council update its Finance and Accounting Procedures to establish procedures for processing payments when receipts or invoices are missing.

Management Response:

- 14) Town Manager response in part:

We concur that we did not always comply with Town's Purchasing Ordinance and procedures. However, we would like to take this opportunity to further illuminate, as some of the comments made in Report may be misleading...

The 9 credit card transaction of \$13,799, and two payments by check totaling \$3955 were supported by written quotes rather than telephone quotes that were received in advance of purchases, and provided for the audit, but rejected for various inconsequential reasons. Town did provide what we believe is sufficient documentation of the quotes received in writing or by internet on all items over \$1000 despite the fact that only verbal quotes by telephone were required...

We agree that payment of \$4,997 in credit card payments and \$354 in vendor payments lacked the signature approval of the Town Manager on the invoice that was processed for payment. We agree there were 11 invoices in contractor payments that did not contain the signature approval of the Town Manager on invoices processed for payment as indicated. The invoices in question represented 2 invoices in FY 2014, and 9 invoices in FY 2015. Even though invoices were not signed by the Town Manager when processed for payment, all services as identified in the questioned invoices were provided by Tew & Taylor, Waste Pro, and Keshavrz & Associates, and the invoices were approved and paid by the Town Council.

OIG Comment:

The Town Manager's response did not address whether recommendation No. 14 will be implemented. The Town Manager's full response is included as Attachment 1 to this report, and begins on page 22.

We reiterate our position that the Town Manager did not maintain sufficient documentation of the required three quotes.

Finding (7): THE TOWN DID NOT ALWAYS ISSUE IRS FORM 1099-MISC TO CONTRACTORS

The Town has no government employees, but depends on independent contractors to provide all services. The instructions for Internal Revenue Service (IRS) Form 1099-MISC indicate that the form is completed for each individual who is paid during the year "at least \$600 in (2) services performed by someone who is not your employee (including parts and materials)... (9) Payments to an attorney." According to the IRS.gov website,⁷ each contractor should provide the Town with a Form W-9 (Request for Taxpayer Identification Number and Certification) so that the Town can report income paid to the contractor.

⁷ <https://www.irs.gov/uac/about-form-w9>, accessed July 7, 2016.

It appears the Town did not follow IRS guidelines regarding form 1099-MISC. During our testing, we reviewed copies of the W-9 forms for 13 individuals who received over \$600 from the Town within a year. Based on the W-9 forms, we identified several individuals and two law firms who were not issued 1099 forms for payments received.

The Town Management Company was responsible for following statutory requirements in maintaining proper municipal accounting, and preparing federal financial reports. These responsibilities should include appropriate issuance of 1099 forms. The Town had no documented procedures regarding issuing of 1099 forms to vendors.

If IRS guidelines are not followed, the Town risks noncompliance with federal reporting requirements and possible penalties. Moreover, contractors could be at risk of not reporting income for tax purposes.

Recommendations:

We recommend:

- 16) The Town Council take steps to ensure compliance with IRS guidelines regarding issuance of 1099s.
- 17) The Town Council seek professional advice to determine if retroactive issuance of 1099s to any contractors is required.

OIG Comment:

The Town Manager concurred with this recommendation. However, the recommendation was directed to the Town Council. We will await the Council's response for inclusion in an amended report.

Finding (8): CONTRACTS WERE ENTERED INTO WITHOUT TOWN ATTORNEY APPROVAL AS REQUIRED BY THE TOWN CHARTER

During testing we noted two leases and a contract which were entered into without the required Town Attorney approval. Under the Town's Charter 2006-328, Section 4, the Town Attorney is required to "approve all contracts, bonds, and other instruments in which the Town is concerned and shall endorse on each his or her approval of the form and correctness thereof." It further states, "No contract with the Town shall take effect until his or her [Town Attorney] approval is so endorsed thereon."

A 48-month lease for a credit card processing service was established by the prior Town Manager. The Town's Attorney did not approve the lease. The lease began in August 2011, and expired in July 2015. This lease bound both the future Town Manager and the future Council into a multi-year, "non-cancellable" lease. The prior Town Manager approved the authorization for all future payments to be automatically deducted from the Town's bank checking account. We found the contracted service

was never used and not needed because the Town does not process credit card payments. Thus, we consider the costs related to this service which amount to \$1,504 for 48 monthly lease payments plus \$473 in fees, for a total of \$1,977 in questioned costs.

Similarly, a month-to-month lease agreement for a storage unit was established in the name of a prior Town Manager in May 2012. Monthly payments of \$149 are automatically charged to the Town's credit card. The Town's Attorney did not approve the lease. Therefore, we consider the monthly payments of \$149 for 24 months between October 1, 2013, and September 30, 2015, a total of \$3,576, to be questioned costs.

Lastly, we noted that the Town made payments to the contractor for Special Magistrate services based on a letter dated August 15, 2011, which outlined an hourly amount to be billed for services. The letter was signed by the prior Town Manager agreeing to the terms of the letter. However, there was no indication that the Town Attorney reviewed or approved the agreement as required by Town Charter. Thus, we are considering the \$6,877 that was paid to the contractor from October 1, 2013, to September 30, 2015, to be questioned costs.

Total questioned costs: \$12,430

Recommendation:

- 18) We recommend the Town Council ensure that all leases are reviewed and approved by the Town Attorney, prior to execution, as required under the Town's Charter.

Finding (9): THE TOWN MADE LATE PAYMENTS TO CONTRACTORS, AND INCURRED UNNECESSARY LATE FEES, SALES TAX, AND OVER-LIMIT FEES

During our review of contract monitoring, we noted that the Town made late payments to contractors as follows:

- Waste Pro: 15 of 24 invoices (or 63%) were paid after the due date.
- Keshavarz and Associates: Nine of the 51 invoices reviewed (or 18%) were paid after the due date.
- Simmons and White: Three of the 17 invoices reviewed (or 18%), were paid after the due date.

The Town did not incur fees for these late payments. However, the contractor's agreement for Simmons and White stated that payments made after the due date "shall include interest from date of invoice at a simple rate of 1 ½ percent per month." By not making timely payments, the Town risked accruing interest charges had the contractor opted to invoke sanctions provided in the contract.

During our review of credit card and vendor payments, we noted that the Town paid for late fees, over-limit fees, and sales tax on some purchases. These fees could have been avoided with better controls over purchasing and credit card payments, including providing proof of sales tax exemption to vendors.

We identified the following unnecessary fees and charges:

- \$442 in late fees and finance charges as a result of not making payments on time;
- \$139 in sales tax; and,
- \$117 in over-limit fees as a result of Town Management Company exceeding credit card limits.

These unnecessary fees and charges amounted to **\$698**, and are considered questioned costs.

The Town Management contract outlines the processing of all invoices and payments as a contractual function of the Town Manager.

Recommendation:

- 19) We recommend the Town Manager and Town Council ensure payments are reviewed and processed to avoid unnecessary late fees, sales tax and over-limit fees.

Management Response:

- 19) Town Manager's response in part:

Regarding late payments to three firms, Waste Pro, Keshavarz and Associates, and Simmons and White, we do not disagree that late payments occurred; however, this report in some instances took into account the date of the invoice not the date it was received. Additionally, cause of some late payments was due to coordination of Town Council members to execute checks. Further, some late payments were because of the Manager questioning specific information, or requests by the Manager to bifurcate invoice billing into separate components contained within an invoice.

OIG Comment:

The Town Manager's response did not address whether recommendation No. 19 will be implemented. The Town Manager's full response is included as Attachment 1 to this report, and begins on page 22.

Finding (10): THE TOWN DID NOT TAG EQUIPMENT, OR PERFORM A PHYSICAL INVENTORY, AS REQUIRED BY THE TOWN'S PROCEDURES MANUAL

The Town Manager does not maintain an accurate listing of equipment that is owned by the Town. At the start of the audit, there was no detailed listing of inventory, furniture and electronics owned by the Town. At our request, the Town Manager created a listing of items, including furniture, computer equipment, and audiovisual equipment. The list did not contain a cost for every item over \$1,000 having a useful life over one year. Also, none of the items were tagged or etched to show Town ownership.

The Town Management company did not follow the guidelines of the Finance and Accounting Procedures Manual and Florida Statutes referenced therein. The Town's Finance and Accounting Procedures Manual, January 2012, states for property (page 6).

Equipment shall be defined as all items (purchased or donated) with a unit cost of \$1000 or more and a useful life of more than one year. Descriptions and serial numbers of all such equipment shall be recorded and kept in the Town office fire-proof safe. In addition all equipment shall be etched to identify ownership as belonging to the Town of Loxahatchee Groves. An annual physical inventory of fixed assets will be conducted in accordance with Florida Statute 274.02.

We identified four items costing \$1,000 or more with a useful life over one year, totaling \$7,849, which should have been tagged or etched as property owned by the Town as required by the accounting procedures manual. There was no documentation of the current value associated with these items.

Without a detailed inventory of equipment, it would be difficult to file a claim after an insured event such as a natural disaster, theft, or fire. For insurance purposes, the existence and value of equipment would be easily determinable if the Town maintained a detailed inventory. Moreover, because the Town Management company has custody of the equipment, the risk of loss of equipment due to a change in management companies is higher without a clear tagging demonstrating which items belong to the Management Company and which items belong to the Town.

Recommendations:

We recommend:

- 20) The Town Manager complete an updated listing of items owned by the Town which have value of \$1,000 or more, or would have a significant impact if lost during a natural disaster, theft, or fire. This listing should:
 - Include a date of purchase and value or cost of equipment, and distinguishing serial numbers;
 - Be kept in the fire-proof safe; and,
 - Be updated at least annually as required by the Town's Finance and Accounting Procedures Manual.

- 21) The Town Manager ensure all equipment valued at \$1,000 or more with a useful life of more than one year is etched or tagged in order to demonstrate ownership by the Town as required by the procedures manual.
- 22) The Town Council require an annual physical inventory of the Town's property to ensure that it aligns with the inventory listing.

Summary of Management Response:

- 20) Town Manager response in part:

An inventory list was already in existence with respect to all electronic equipment. The computer equipment list did included serial numbers, but not identified items costs. The inventory list for the audio visual was prepared by the vendor as part of the vendor payment and provided to Town at time of installation that included identified costs and serial numbers. The Furniture inventory was created specifically for the OIG as requested...While we concur having the information readily available would assist for insurance purposes, each item exceeds the insurance deductible if stolen, or lost through a natural disaster.

- 21) Town Manager response in part:

The Town purchased inventory tags for all mobile items. The tags will be attached to the items and an annual inventory will be completed.

SUMMARY OF POTENTIAL FINANCIAL AND OTHER BENEFITS IDENTIFIED IN THE AUDIT

Questioned Costs⁸

Finding	Description	Questioned Costs
1	Lack of documentation for contract payments.	\$95,874
6	Payments not in compliance with the Town's Purchasing Ordinance and procedures manual	\$120,017
8	Payments for leases entered into without Town Attorney approval as required.	\$12,430
9	Unnecessary fees for late payments, sales tax, and over limit fees.	\$698
TOTAL QUESTIONED COSTS		\$229,019

Identified Costs⁹

Finding	Description	Identified Costs
4	Reimbursements outside of scope of contract.	\$1,765

ATTACHMENT

Attachment 1 – Complete Management Response from Town Manager

ACKNOWLEDGEMENT

The Inspector General's audit staff would like to extend our appreciation to the Town of Loxahatchee Groves' Town Council, contractors and residents for their assistance in the completion of this audit.

This report is available on the OIG website at: <http://www.pbcgov.com/OIG>. Please address inquiries regarding this report to Robert Bliss, Director of Audit, by email at inspector@pbcgov.org or by telephone at (561) 233-2350.

⁸ Questioned costs can include costs incurred pursuant to a potential violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds, and/or a finding that such costs are not supported by adequate documentation, and/or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable in amount. As such, not all questioned costs are indicative of potential fraud or waste.

⁹ Identified costs are those dollars that have a potential of being returned to offset the taxpayers' burden.

ATTACHMENT 1 - Management Response-Town Manager



Town of Loxahatchee Groves

155 F Road
Loxahatchee Groves, FL 33470

Phone (561) 793-2418
Fax (561) 793-2420
www.loxahatcheegrovesfl.gov

September 20, 2016

We would like to take this opportunity to thank the OIG for their extensive detailed nine (9) month examination of the 2-year study period beginning October 1, 2013 and ending September 30, 2015. Although the review seemed exhaustive, one's perception of the work product does not reflect an unbiased evaluation of the Town of Loxahatchee Groves performance. A fundamental issue is due to the position the OIG takes regarding municipal management services in concept specifically the lack of understanding of the role and function of the Town Manager as anything other than the traditional Manager/Employee municipality as opposed to a municipality that contracts out all its services.

To the Town Council's credit, the three firms engaged to provide municipal services have all had extensive municipal experience in South Florida. None of the three Management firms had a learning curve with respect to operations of local governments.

A theme that contract services create risks for the Town is stressed through the entire Audit Report. The Report begins by acknowledging the trend in outsourcing municipal services, and identifies several factors for success. We feel that "delineation of clear scope of work, appropriate performance standards, solid performance evaluation techniques, and strong contract administration and management oversight" as stressed in the Report is no different than what is expected from the traditional municipality with employees.

One could argue the work performed in this Report could have yielded a better product for the Town and its citizens if the effort had focused on identifying the inconsistencies between the Town Charter, RFP for Management Services, Management Services Contract and FAAC Policies and Procedures Policy. Instead, the Report cherry picks pieces of the four documents in an effort to apply to what they perceive as specific standards. These same documents applied by this audit to a traditional municipality with Manager/Employees would produce similar if not the same outcome.

In fact, the Management staff has been working to identify the various inconsistencies that create what the OIG believes is failed performance in the Town before the OIG had announced its Audit Schedule of FY2016 which included the Town of Loxahatchee Groves.

At no time did the Report try to meld the Charter, RFP for Management Services, Management Services Contract, and the FAAC Policies and Procedures Manual to any of the findings identified. On the other hand, the Audit Report never looks to the Fiscal Policies that are adopted annually by the Town Council, with respect to any of its findings.

The following is Management's Response to the Audit Report.

William F. Underwood, II, Town Manager

ATTACHMENT 1 - Management Response continued

Finding (1): THE TOWN DOES NOT HAVE ADEQUATE POLICIES AND PROCEDURES FOR CONTRACT MONITORING

While it is true that the Town Manager's Contract states the Manager monitors all Town Contracts, that is in conflict with certain Town contracts whereby others are designated as monitors on those specific contracts. Presently, we can specifically identify three contracts that are outside the Manager's purview.

- Contract files are not used for documents supporting amounts being paid.
- Project reports and correspondence were primarily maintained in electronic files.
- Of the 16 contracts provided to OIG, there is no requirement in those contracts to provide time logs for contracts that bill on an hourly rate basis. We do not understand how a time log is evidence of contract review or monitoring.

We would recommend the Town Council consider uniformity in the Contract criteria relative to payment structure.

No Executed Contracts:

- Land Research Management did have an executed contract with the Town for services rendered; however, the contract may have or may not be expired. It is questionable that the firm has fully completed the task identified in the Contract relative to the Comp Plan as the Town continues to work on modifications to its Comp Plan beginning in 2011 and continuing through today. With regard to the services contract, the Town Council Agenda Report of 2007 reflects LRM engagement to provide Town planning consultant services (See Exhibit A).

In addition, the Town Council has continued to use LRM for planning consultant services and rendered payment for services received continuously since 2007.

- The contract for Special Magistrate services with Caldwell Pacetti was not mentioned in the Audit Report under "Finding 1" even though it too was included as one of the 16 contracts provided by the Town. Even though there was a letter agreement approved by the previous management firm, there was no approved contract by the Town Council. Just like the LRM contract, the Town Council continued to use their services and rendered payment for services received.

In August, the Town issued Requests for Letters of Interest for Special Magistrate services, and three (3) proposals were submitted. The Town Council is scheduled to interview all applicants at its September 20, 2016 meeting.

No Insurance Documentation:

- While the Contract with Land Research Management identified specific insurance requirements, the Town Council took specific action waiving identified insurance requirements in 2007.
- We disagree with the Audit Report that Tew & Taylor did not have Workers Compensation Insurance on file with the Town. Tew & Taylor provided their annual exemption from Workers Compensation through the State of Florida each year.

ATTACHMENT 1 - Management Response continued

The Audit Reports ignores several Town Contracts that were provided and reviewed that also did not have insurance policies on file as follows: Town Road Maintenance Services Contract with Luxahatchee Groves Water Control District, and Frank Schiola Contract.

Questionable Costs:

- **Land Research Management Inc. (LRMI – Planner Services):**

We disagree with the Audit Report relative to the questionable cost of \$95,071 to Land Research Management for the Audit period beginning October 2013 and September 30, 2015. Specifically most of those payments were ordered and work directed by the Town Council to LRM for services including, but not limited to planning, comprehensive plan modifications, moratorium issues, and various other Council directed planning related services.

- **Tew & Taylor (Code Enforcement):**

We disagree with the Audit Report relative to questionable cost of \$803 to Tew & Taylor for contractor to conduct work on weekends without evidence of the Town Manager approval at a higher hourly rate for the Audit period. Code Enforcement Services Contract allows a higher hourly rate for weekend work. The Contract does not specify the methodology of approval for this weekend work to be performed. All cases identified as questionable by the OIG are regarding noise complaints with the exception of one case, and in that instance there was a specific reason for the early morning call out.

Additionally, to the best of our knowledge, the Audit Report does not reflect that they contacted the Town's former Town Manager Kutney to inquire if he had approved the weekend hours as submitted in the Tew & Taylor invoicing. We would assume that the OIG would have a policy of contacting specific parties to gain a perspective of oral conversations regarding the authorization in question.

- **A&B Engineering:**

We disagree with the Audit Report relative to Work Authorization, percent complete or fee earned, and no approved insurance on file relative to A&B Engineering. We have provided the Work Authorization, correspondence between the contractor and Town Manager, correspondence reflecting telephone conference calls with Town Manager and Town Attorney, preliminary survey and road plat relative to legal descriptions and survey work performed on the three projects identified as Bryan Road, Glen Platt/Folsom, and North Road Survey. Legal descriptions for Bryan Road were incorporated into Easements signed over to the Town by all Bryan Road residents, and Glen Platt/Folsom properties and recorded in the PBC public records prior to the Town resurfacing those specific roadways.

With respect to Insurance policies, the Town received the required insurance certificate from the contractor for 2013-2014. No further services have been provided by contractor after the completion of the above mention work in 2013, and as such no updated insurance has been required (See Exhibit B).

Payments to A&B Engineering were not identified in the Audit Report as questioned costs even though the Report identifies many of the same deficiencies as identified in the LMR and Tew & Taylor Contracts.

With the exception of the three Town engineering contract, most Town contracts in place precede our commencement date with the Town. Because of undocumented changes to many of the Town's existing contracts, we have implemented adoption of Resolutions for Town Council action as it provides the ability to better track Council actions. For example when we were researching LRM insurance requirements, we

ATTACHMENT 1 - Management Response continued

discovered that in 2007 the Town Council at a regular meeting waived insurance requirements included in the LRM contract by a voice vote only without ever amending the contract.

We concur with the Audit recommendation relative to review of insurance requirements, on an annual basis, and will request updated insurance documents as needed.

We would further suggest and recommend the Town Council consider uniformity in the Contract criteria relative to insurance requirements on future contracts.

Finding (2): THE CONTRACT FOR TOWN MANAGEMENT SERVICES DOES NOT ALIGN WITH THE TOWN CHARTER, AND THE ORGANIZATIONAL STRUCTURE CREATES RISKS FOR THE TOWN

This is an accurate statement; however, the finding is insufficient. Not only does the Town Management contract not align with the Town charter, it does not align with the Request for Proposals (RFP), or the Town's policy and procedures. The Audit's characterization ignores the Town's inalienable right to determine how it desires to manage the Town. In other words, the Town Council and citizens have the right to self-determination through home-rule.

The report ignores the fact Town Manager is "appointed by resolution," and presumes the Town Manager shall receive such compensation as determined by the Town Council. The report implies that after the issue was brought forward to the Town Manager on March 4, 2016 by OIG, that the issue would be addressed by a resolution to hold a referendum vote to amend the Town Charter. Had the investigation inquired, the report would have stated the discussion regarding conflicts between the Town Charter, Management Services RFP, Management Services Contract, and FAAC Policy and Procedures Manual along with policy aspects of Town Manager duties and responsibilities were first addressed by Loxahatchee Groves Water Control District Supervisor John Ryan at the Town Council meeting in August 2015.

At the October 13, 2015, meeting, the Town Manager identified the conflicts regarding management duties and responsibilities in the four documents. At that time, the Town Council requested that the Town Manager provide a revised Contract to address all the necessary changes for Town Council consideration. At no time was the matter of employee/firm relationship identified as a concern.

In March, the Town Council modified the UMSG Contract to reconcile the discrepancies between the documents. In relation to other separate matters, the Town Council decided to include three (3) Charter referendums questions for voter consideration, as changes to the Charter cannot be modified, changed, or altered through a legislative resolution, or ordinance.

The Audit Report chose to identify only a very select portion of the Charter while ignoring other conflicts in the Charter, RFP, Contract, and policies as it relates to management.

For example, as part of the duties and responsibilities included in the Charter is the provision that identifies the Town Manager as the sole signer on all checks of the Town even though in 2010-2011, the Town Council adopted a Resolution identifying the Town Council as sole signers on all checks. Additionally, the FAAC Policy and Procedures specifies that checks to be signed by Town Council members only.

The Audit Report chose only to focus on the language of the Charter as it relates to the form of employment by the Town of a Manager as employee rather than as contracted services without at a minimum identifying other language contradictions of the Charter. In fact, the check signing conflict was identified to the OIG staff, but was dismissed because the Town adopted a Resolution making the change. Changes to the Charter cannot be

ATTACHMENT 1 - Management Response continued

modified, changed, or altered through a legislative resolution, or ordinance, however in this Audit Report the OIG attributed their suggestions of March 2016 as a factor for the Charter change to be included in a voter referendum.

At no time since the Town incorporated in 2007, has the Town of Loxahatchee Groves ever entered into an employer/employee relationship with its previous Managers. In fact, four of the five original Town Council members were also part of the Incorporation committee. Additionally, the Town's legal firm was used by the Incorporation committee in drafting its charter and preparing the RFPs and contracts for management services for the previous and current management company.

- **Segregation of Duties:**

It remains unclear how managing the Town through a management contract or employee Town Manager creates "several risks for the Town." Specifically, the report identifies an issue with "Segregation of Duties" as recommended in the U. S. General Accounting Office (GAO) *Standards for Internal Control in the Federal Government*. First, the Town's Charter has a no interference clause regarding Council interference with Town staff, whether a contract company or Town Manager employee, all employees report to the head of the operation, i.e. Town Manager. In either case, the employees work at the pleasure and under the control of the Manager. We believe that this noninterference clause is a standard practice in most cities in South Florida, to include Palm Beach County.

- The report states the Town Management company has the ability to "[i]nvoice the Town for Town Management services, approve the invoice, and print a check to pay itself." The Town management company, under current circumstances, cannot "pay itself." Only the Town Council has the ability to pay the management company as two of the authorized signatories of Town Council members sign all checks issued.

The structure used by the Town is likely more secure than most local governments. For example, a typical local government in Palm Beach County, a Manager or through its Finance Director approves the invoices, authorizing the check printing to pay invoices without Council direct oversight and review as very few cities still manually sign all checks. City Managers/Employees in traditional municipalities approve, print, and pay themselves, without the benefit of their respective legislative bodies reviewing and signing those checks individually.

- Approximately 98% of all payments received by the Town are through wire transfer or EFT, we are responsible to record them, as well as planning and zoning permit payments that over 99% received by the Town are through checks.
- It is true the management firm oversees the code enforcement contract function; however, the Audit report is completely incorrect, as the Management Company does not fine individuals for code enforcement infractions. The Town's Special Magistrate sets the amount for infractions and records the magistrate's order, collects and reconciles the amount collected in the accounting system.

As in many local governments, whether contracted or employee hired, the Town Manager has the responsibility to initiate and authorize purchases, authorize payments, receive goods, and manage inventory.

The Audit Report failed to acknowledge a vital internal control function provided by the Finance Advisory and Audit Committee (FAAC) composed of the following members:

- Chairman Lung Chiu, Inspector General of the Palm Beach County School Board;
- Vice Chair Elise Ryan, former Finance Director Lucent Technologies;

ATTACHMENT 1 - Management Response continued

- Chery Miller, IRS Enrolled Agent;
- Ken Johnson, former JC Penney Company Finance Division; and
- Virginia Standish, private sector accounting.

This committee is charged with reviewing all financial statements, payments, deposits and expenses incurred monthly, and provide the Town Council with monthly reports. This committee specifically reviewed all Land Research Management invoices, all cost recovery accounts, all reimbursements including mileage reimbursements to staff, sales tax charges, late payments, and finance charges on a monthly basis as well.

Finally, it should be noted that with respect to segregation of duties and internal controls there are several governments in Palm Beach County, and throughout Florida, that have as many employees as Town management staff has, and those municipalities are faced with the same situation with respect to segregation of duties and internal controls regardless of structure.

- **Potential for Conflicts of Interest:** The Town Management firm does not participate in activities which could be construed as a conflict of interest and the firm has disclosed activities including work for other municipalities, but has no relationships with any Town contractors that could have the potential for actual or perceived conflicting priorities. The Town Manager and management staff adhere to the Palm Beach County Ethics Ordinance, and all state filing and reporting requirements similar to the requirements for municipal employees in Palm Beach County.
- **Business Continuity and Succession Planning:** "The key functions of the Town Manager, Town Clerk, Planning and Zoning, Code Enforcement, Financial Management, and Office Coordinator (support staff) could all be vacant simultaneously until a new contractor(s) assumed the duties."

The Town Council has always had a past practice of arranging with its previous management firms to assist in the transition to a new company. The three firms the Town has selected have all been prior professional city, town, or village managers. As professional managers, the transition between management companies has occurred somewhat seamlessly each time.

If the OIG had inquired about past transitions, there would have been no need to comment on succession planning as the Town Council has always provided for seamless transitions. With respect to Community Strategies (the first management company) they continued to provide financial support during the transition to Frank Spence (the second management company), and the Town Clerk was hired by Spence. When UMSG began, it spent the last week of the Spence contract in the office with the Manager Spence and Town Clerk Harper. It also received all requested financial documents from the Financial Services provider used by Spence firm so that UMSG could close out their fiscal year.

During the study period, the report stated that code enforcement was a key function even though the Audit Report identifies Tew & Taylor as the Code Enforcement Services provider. Again, the contradictions of FAAC Policy and Procedures Manual which identifies code enforcement as a key function of the management firm.

The report also stated: "Moreover, there is a risk of loss of critical documentation such as financial records because they are not in the custody and control of the Town."

The current Town Management firm provided the Town Council an assessment over four years ago that they, the Council, should provide for their own financial recording and reporting system rather than rely on its management firms to provide the information in a usable format. The Town Manager urged the Town Council to contract with a firm that could provide a financial SaaS solution for the Town. The Council approved a contract during the examination period and implementation is scheduled for FY2017.

ATTACHMENT 1 - Management Response continued

The Audit Report did not identify this activity even though they reviewed the Contract with Blackbaud, the financial SaaS provider.

At this point, the Town will have complete control of its financial records.

Finding (3): THE TOWN COUNCIL DID NOT CONDUCT PERFORMANCE REVIEWS OF THE TOWN MANAGEMENT CONTRACTOR AS REQUIRED BY THE CONTRACT

Town Management has provided the Town Council with two separate Performance Evaluation Review Templates for their review and consideration. To date, the Town Council has not taken action to review, revise, seek other templates, or accept those received.

Evaluations are identified to occur each year to coincide with the release of the annual Audit. The Town Council in the past has looked to bidding Management Services each year beginning in Year 3 and 4 of the current ongoing contract rather than conducting performance reviews. The contract was renewed on each of those identified years as there was no majority to go out to bid. In fiscal year 2015, a majority of Town Council decided to bid Management Services in June. Again, no evaluation was considered. Bids were received, and a new management firm was selected; however, they withdrew their proposal the following week.

At no time did UMSG consider resubmitting a proposal for the contract. UMSG did advise the Council each year that it would do whatever was necessary to ensure a successful transition with the successful firm selected. In addition, UMSG requested the Town Council allow it to help develop a new RFP that was in line with the requirements of the separate governing documents to include current or more effective standards. Each time the Town Council majority chose to use the same RFP that has been used since 2007 with the exception of the 2015 RFP that the Town Council requested FAAC input. The only change to the RFP provided was for the Planning and Zoning function to be included as part of the services to be provided.

We would recommend that the Town Council should seek guidance in drafting a new RFP for Management Services that ensures that all provisions of the Charter, RFP, Management Contract and any policies and procedures in place are addressed to avoid confusion in the future choices.

Finding (4): THE TOWN MANAGEMENT CONTRACTOR WAS REIMBURSED FOR EXPENSES OUTSIDE OF THE SCOPE OF THE CONTRACT

Town Management Contractor was reimbursed for expenses outside of the scope of the Contract.

If it was the intent of the Council to not reimburse mileage, or notary training costs and fees, then the Council would have noted such in the Addendum to the RFP. This Addendum to RFP 2011-006 specifically identified, and included that the contractor would be responsible to pay, through their contract, for the cost of the proportionate share of the OIG costs of \$0.25% of certain contract expenses to the Office of Inspector General, and proposers should include such in the cost proposal of a response to the RFP.

In order for Council to expect the contractor to include mileage costs in their proposals, the RFP would have indicated the number of miles to be traveled, on behalf of the Town, by the contractor, similarly to what was included in the Addendum for OIG expenses. Additionally, when we entered into the contract, it was past practice to reimburse previous management companies for mileage and any expenses incurred on behalf of the Town.

ATTACHMENT 1 - Management Response continued

While the OIG is stating a fact that the contract does not state that such expenses will be paid, it is also a fact that the contract does state that such expenses will not be paid. While it is true that the Contract with UMSG indicated that payment would be made monthly for providing services as outlined in the contract, specifically 95 hours, it is not necessarily true that specific tasks would require travel to offsite meetings as offsite meeting are not identified in the contract or RFP.

Additionally, deposit of monies, performance of planning, zoning, administrative, and other duties as may be required by the Council does not imply or infer that UMSG or its employees will incur the cost of such travel on behalf of the Town. In fact, the Town could engage an armored car firm to provide for the pickup and delivery of the deposits at an approximate annual cost of \$6,000 and use alternative mode travel to include taxi services throughout the Town, to attend meeting, or perform other duties required by the Town Council. Alternatively, the Town could purchase a vehicle.

Reimbursements of \$1576.00, made by the Town, to specific personnel of UMSG for individual expenses incurred on behalf of the Town is an obligation of the Town, and not of UMSG. For example, travel by staff to PBC Water Utilities in Boynton Beach, FL for establishing water service at the Town Hall is an obligation of the Town, not one of UMSG or its employees.

The Audit noted that the Town paid \$189 for a UMSG staff member to become a Notary. There is no requirement in the contract or elsewhere that UMSG provide notary services on behalf of the Town. Every municipal government in PBC pays for the training and associated fees of its employees to become Notaries. Specifically, UMSG contract stated that that "it would be responsible for payment of all fees and/or costs associated with Professional Designation, Certifications, and Licenses of any individual required to possess a professional designation, certification, or license by the Town Charter or the RFP 2011-16." The only position that requires a professional designation, certification, or license in the Town Charter or the RFP is that of the Town Manager which is required to be a Credentialed Manager, not a Notary.

UMSG has not requested or been reimbursement for payment of all fees and/or costs associated with the Town Manager professional designation, certifications, and licenses, or those held by the Town Clerk or any of its staff.

The Audit Report failed to report that the FAAC Committee reviews all reimbursements to include mileage, and notary services. At no time did the FAAC express concerns or include comments to the Town Council as part of their monthly report about the mileage reimbursement, reimbursement forms used, or the detail included as part of the reimbursement. Beginning in April 2015, Vice Chair Else Ryan questioned staff mileage reimbursement to Boynton Beach relative to establishing a water utility account for the New Town Hall. While the FAAC chose not to address this concern to the Town Council, Management advised the Town Council on the concern expressed by Vice Chair Ryan.

Additionally, the Audit Report failed to report the reimbursement of purchases made individual members of the Citizen Emergency Response Team "CERT" for purchases made.

Finding (5): THE TOWN DID NOT ALWAYS RECORD MEETING MINUTES PROMPTLY, OR MAKE THEM AVAILABLE FOR INSPECTION, AS REQUIRED

We concur that meeting minutes be made available as soon as practical after the meeting. In the meantime, web-streaming video is recorded and available for review within 24 to 48 hours after the meeting to the public. On occasion, circumstances beyond our control may cause a delay in minute presentation to Council.

ATTACHMENT 1 - Management Response continued

Finding (6): VENDOR PAYMENTS WERE NOT ALWAYS IN COMPLIANCE WITH THE TOWN'S PURCHASING ORDINANCE AND PROCEDURES PURCHASING ORDINANCE AND PROCEDURES

Vendor Payment not always in compliance with Town's Purchasing Ordinance and procedures

We concur that we did not always comply with Town's Purchasing Ordinance and procedures. However, we would like to take this opportunity to further illuminate, as some of the comments made in Report may be misleading. For instance, while it may be true that OIG sampled 33 transactions in vendor payments and 300 transactions in credit card payments made during the two (2) year period, we believe based on our observation, and evidentiary material of nearly 100% of vendor transactions and credit card transactions were reviewed by OIG staff.

- Examples noted by the report of 12 credit card transactions with missing receipt that have been identified as questioned costs can be supported through visual identification, and Independent third party confirmation.

For instance, the Town provides delivered meals to Town Election workers, and within the statement, the receipt for the meals delivered was noted as missing and included a copy of the Tou Jay's Restaurant food order placed for the date of election with the associated cost.

While the Audit Report states that it may appear that controls are weak and do not adequately protect the Town's assets, it should have identified all payments for any invoice whether it is by vendor, payments, or contractor payments are reviewed by at least two council members. Executed transactions logs by Town Council members were included as part of the review and approval of purchases and payments.

Additionally, the Report should have acknowledged that credit card transactions are also reviewed by the Town's Finance Advisory and Accounting Committee on a monthly basis. Committee members were provided information with respect to purchases and missing receipts. Chair Chiu had previously advised that notations of missing receipts should be included as part of the credit invoicing, and payment. FAAC always has urged and staff concurs that every attempt be made to avoid loss of receipts.

While the Audit Report identifies the issuance of multiple credit cards by the Town, it could have been beneficial to the OIG staff if they had inquired as to why there were multiple cards issued. The FAAC recommended that an additional Town credit card be issued to a managing partner for UMSG as the firm was making purchases on behalf of the Town, and sales tax was being charged to UMSG credit card for such purchases. (See Exhibit D).

- With respect to payments made over \$1000, the Audit states that staff did not maintain sufficient documentation demonstrating that telephone quotes were obtained prior to each purchase. The 9 credit card transaction of \$13,799, and two payments by check totaling \$3955 were supported by written quotes rather than telephone quotes that were received in advance of purchases, and provided for the Audit, but rejected for various inconsequential reasons.

ATTACHMENT 1 - Management Response continued

Town did provide what we believe is sufficient documentation of the quotes received in writing or by internet on all items over \$1000 despite the fact that only verbal quotes by telephone were required. For example, it has been indicated that evidentiary documentation for Town Hall dedication barbeque was insufficient, as the selected menu, items did not provide totals from one of the vendors. Secondly, adequate quotes were provided for necessary furniture items needed for the New Town Hall by more than three (3) vendors. The quotes were not acceptable because they identified in an aggregated list of office items needed rather than segregated by individual item such as conference room chairs, and some quotes did not contain identical items for comparison.

The Town Manager did not approve all payments as required. The Town's Finance & Accounting Procedures states, "Under no circumstances will: Invoices be paid unless approved by the Town Manager."

- We agree that payment of \$4,997 in credit card payments and \$354 in vendor payments lacked the signature approval of the Town Manager on the invoice that was processed for payment.
- We agree there were 11 invoices in contractor payments that did not contain the signature approval of the Town Manager on invoices processed for payment as indicated. The invoices in question represented 7 invoices in FY2014, and 4 invoices in FY2015.

Even though invoices were not signed by the Town Manager when processed for payment, all services as identified in the questioned invoices were provided by Tew & Taylor, Waste Pro, and Keshavz & Associates, and the invoices were approved and paid by the Town Council.

As mentioned in Management's response throughout this report, there are many conflicts between many of the Town's documents. The Manager function is to verify and process invoices for payments, and approval authority rests solely with the Town Council. While the FAAC policies state that the Town Manager shall approve all invoices, the Town Management Contract reflects that the Town Manager shall process payments, and does not address signing invoices as a requirement.

DIG staff reviewed invoices submitted by Loxahatchee Groves Water Control District for road maintenance services contract that there not signed or verified for payment by the Town Manager, but the Audit Report failed to identify those invoices payments.

The invoices in question were paid by official action of the Town Council without the approval or ability of work verification, or resubmission of corrected invoicing by the contractor was provided.

Finding (7): THE TOWN DID NOT ALWAYS ISSUE IRS FORM 1099-MISC TO CONTRACTORS.

We concur with the recommendation and will seek guidance to ensure compliance with IRS guidelines.

Finding (8): CONTRACTS WERE ENTERED INTO WITHOUT TOWN ATTORNEY APPROVAL AS REQUIRED BY TOWN CHARTER

We agree that Town Attorney did not approve the credit card processing service established in August 2011 by the former Management Company. Staff attempted to cancel the lease to include requesting an early release consideration, but to no avail.

ATTACHMENT 1 - Management Response continued

- The month to month storage facility lease agreement was entered into by Town Manager Kutney as a result of the loss of one office unit rented to another vendor by the landlord, Yee's Corporation. The rental charge for the storage unit at the time was less expensive than renting an additional office unit of \$600 monthly as proposed by Yee's Corporation. (See Exhibit C)

We would like to point out that two separate monthly subscription services that also were not approved by the Town Attorney as follows: Boost Mobile in the amount of \$55.00 monthly for cellular phone service for the Town's Waste Monitor, and Microsoft Exchange in the amount of \$112.00 monthly for email service accounts for 14 users. Carbonite and Dropbox are two other services used by the Town that are paid electronic and no contract is available for Town Attorney approval. While reviewed by the OIG, it was not included in the Audit Report.

We will ensure that all contracts are signed by the Town Attorney; however, we have no solution for such approvals for subscriptions such as those identified above.

Finding (9): THE TOWN MADE LATE PAYMENTS TO CONTRACTORS, AND INCURRED UNNECESSARY LATE FEES, SALES TAX, AND OVER-LIMIT FEES

Regarding late payments to three firms, Waste Pro, Keshavarz and Associates, and Simmons and White, we do not disagree that late payments occurred; however, this report in some instances took into account the date of the invoice not the date it was received. Additionally, cause of some late payments was due to coordination of Town Council members to execute checks. Further, some late payments were because of the Manager questioning specific information, or requests by the Manager to bifurcate invoice billing into separate components contained within an invoice.

The report also noted "...that the Town paid for late fees, over-limit fees, and sales tax on some purchases." Again, Town Management does not control elected officials or their schedules. Since management is not a signatory on the Town's checking account, late fees for credit card payments are a function of signatory availability. Over-limit fees are a function credit card posting reserves against the available balance and orders being fulfilled concurrently. Sales tax proof of tax exemption is used whenever and wherever practical. Unfortunately, there are times when management staff is coincidentally at a vendor that can provide supplies needed by the Town; however, the tax-exempt form cannot be used because the staff uses their personal credit or debit card to make the needed purchase.

These three categories totaling \$689 were reviewed, and payment approved and signed by members of the Town Council. Additionally, these items were reviewed, discussed, and approved at various times during the performance period by the FAAC, chaired by Mr. Lung Chiu. At no time earlier in the FAAC review was this matter ever reported to the Town Council as a concern.

Management does not disagree that the Town Management contract outlines the processing of all invoices and payments as a contractual function of the Town Manager. However, as indicated throughout this report and our response, the conflicts between the RFP, Town Charter, Management Contract, FAAC Policy and Procedures, and the Town Council Fiscal Policy, mitigating the matters raised in this report are more complex than delineated by the OIG through selective application of specific rules in conflict.

ATTACHMENT 1 - Management Response continued

Finding (10): THE TOWN DID NOT TAG EQUIPMENT, OR PERFORM A PHYSICAL INVENTORY, AS REQUIRED BY THE TOWN'S PROCEDURES MANUAL

OIG states: "At the start of the audit, there was no detailed listing of inventory, furniture and electronics owned by the Town. At our request, the Town Manager created a listing of items, including furniture, computer equipment, and audiovisual equipment. The list did not contain a cost for every item over \$1,000 having a useful life over one year. Also, none of the items were tagged or etched to show Town ownership."

- An inventory list was already in existence with respect to all electronic equipment. The computer equipment list did include serial numbers, but not identified items costs.
- The inventory list for the audio visual was prepared by the vendor as part of the vendor payment and provided to Town at time of installation that included identified costs and serial numbers.
- The Furniture Inventory was created specifically for the OIG as requested.

It must be noted that with the exception of the digital camera in the council chambers that is used for web streaming video of Town Council Meetings, the encoder that transmits the video to the website, receiver, along with the rack that holds the encoder, and the Town Manage Desk, no other items identified in the Inventory provided or created for the OIG are over \$1,000.

The Town purchased inventory tags for all mobile items. The tags will be attached to the items and an annual inventory will be completed.

While we concur having the information readily available would assist for insurance purposes, each item exceeds the insurance deductible if stolen, or lost through a natural disaster.

The Town Council Fiscal Policy adopted annually states that in 1.B.5, "The Town shall maintain its capital and non-capital asset records in accordance with the policy and procedures set forth by the Town Manager. Individual asset costing \$5,000 or more shall be capitalized. However, non-capital mobile assets costing \$1,000 or more and electronic equipment shall be tracked for inventory purposes."

ATTACHMENT 1 - Management Response continued

Management Response Loxahatchee Groves

Exhibit "A"

ATTACHMENT 1 - Management Response continued



Regular Town Council Meeting
AGENDA PACKET

Tuesday, June 21, 2011

Master Page 1 of 52

ATTACHMENT 1 - Management Response continued



Meeting Date: November 6, 2007

Regular Agenda Item No. 15

Town of Loxahatchee Groves

155 F Road
Loxahatchee Groves, FL 33470

TOWN OF LOXAHATCHEE GROVES

Phone (561) 793-2418
Fax (561) 793-2420
www.loxahatcheegrovesfl.gov

AGENDA MEMO

Subject Matter: Planning Consultant Contract – Land Research Management

Background: The Town has retained the services of Land Research Management to provide the Town with planning consultant services in respect to addressing applicants in the county's DRO process and other various planning issues that may arise. Town staff is looking for approval of the contract to provide such services.

Backup Material: Planning Consultant Contract – Land Research Management

Action: To approve above stated contract

ATTACHMENT 1 - Management Response continued

Management Response – Town of Loxahatchee Groves

Exhibit "B"

ATTACHMENT 1 - Management Response continued

1/20/10

Discovery - Perla Underwood - Outlook

Microsoft Exchange (Exchange Web Services)

The top 500 mailboxes and public folders with the most hits are displayed below.

All items
Item count: 97
Size: 214 MB

Will Underwood 1
Item count: 97
Size: 214 MB

Sort by Date (Oldest on top) 6/28/2013

Mark Kutney	8/28/2013	↓
Draft: Agreement Land Surveying Serv...		
dpainter@ahengineering.net	7/1/2013	↓
Re: Draft Agreement Land Surveying Serv...		
Bram A. Maravent	7/1/2013	↓
Revised Professional Agreements (Engi...		
Bram A. Maravent	7/1/2013	↓
FW: Revised Professional Agreements (Engi...		
Mark Kutney	7/1/2013	↓
FW: Draft Agreement Land Surveying Serv...		
Dennis Painter	7/9/2013	↓
Re: FW: E&O Insurance		
Mark Kutney	7/9/2013	↓
FW: E&O Insurance		
Bram A. Maravent	7/23/2013	↓
Re: FW: E&O Insurance		
Mark Kutney	7/23/2013	↓
Re: E&O Insurance		
Bram A. Maravent	7/9/2013	↓
Land Surveying - Final Proposed 070913.doc		
Mark Kutney	7/19/2013	↓
FW: Land Surveying - Final Proposed 070913.doc		
Susan Eichhorn	7/16/2013	↓
Agenda Packet for 7-16-13 Town Council M...		
Andrea Lemer	7/16/2013	↓
Loxahatchee Groves SWA matter		
Susan Eichhorn	7/23/2013	↓
Contract ready for signing		
Mark Kutney	7/23/2013	↓
Dennis Painter's Contact		
Mark Kutney		↓

FW: E&O Insurance

From: Mark Kutney
1/9/2013
Invoiced@polya.com

Blank

What do you think good to go?

Mark

Mark A. Kutney, MCP, SCMA, CM
Town Manager

TOWN OF LOXAHATCHEE GROVES
14579 Southern Blvd, Suite 7
Loxahatchee Groves, FL 33478
(561) 793-2418, Phone
(561) 793-2420, Fax
www.loxahatcheegroves.org

Note: Please direct all future correspondence to:
mkutney@loxahatcheegrovesfl.gov

Original Message-----
From: Dennis Painter [mailto:DPainter@ahengineering.com]
Sent: Tuesday, July 09, 2013 1:15 PM
To: Mark Kutney
Subject: Re: FW: E&O Insurance

Mark

Regarding our insurance policy, our policy is for \$1,000 each occurrence and \$2,000,000 aggregate. According to our agent, we can add the Town to our general liability policy, but not to our professional liability policy.

Is there anything else that the Town requires from us?

Dennis Painter
Registered Land Surveyor

A & B Engineering, Inc.
3461 Fairlane Farms Road
Wellington, FL 33414

Phone: (561) 393-7480

Quoting Mark Kutney
mkutney@loxahatcheegrovesfl.gov:

- > Gentlemen,
- >
- > As promised, here is the final request related to the Insurance.
- > Please respond back to me as quickly as you can addressing the items
- > so that I can get this to the attorney and keep the agreements moving
- > forward for approval tonight.
- >
- > Best regards,
- > Mark
- >

ATTACHMENT 1 - Management Response continued

August 26, 2013



A&B Engineering, Inc.

Mark Kutney, Town Manager
Town of Loxahatchee Groves
14579 Southern Blvd. Suite 2
Loxahatchee Groves, FL 33470

**RE: PROPOSAL FOR LAND SURVEYING SERVICES:
PREPARE MAINTENANCE MAP FOR PORTIONS OF NORTH ROAD
OUR PROJECT NO. 96035-NN, DRAWING NO. FP-1589V**

Dear Mr. Kutney:

A & B Engineering, Inc. will prepare a Roadway Maintenance Map and Special Purpose Survey for the southerly maintained side of North Road adjacent to "B" Road, and E Road for a lump sum fee of \$11,660. The Maintenance Map will include the determination and survey of the historic roadway maintenance line as currently in use. The Maintenance Map and certified Special Purpose Survey will be drawn in such a manner so as to be approved and executed by the Town Council and/or District Board, and suitable for filing in the Public Records of Palm Beach County, Florida. Printing will be additional and copies will be billed at 115% of our cost. We expect the project to be completed and delivered to the District for filing within 4 to 6 weeks from receipt of your written authorization to proceed.

Thank you for your consideration and we look forward to serving you.

Sincerely,

A & B ENGINEERING, INC.

A handwritten signature in black ink that reads "Dennis Painter". The signature is fluid and cursive, with the first name being the most prominent.

Dennis Painter
Registered Land Surveyor
Chief of Survey

DP:s

M:\PROPOSALS\SURVEY\96035NN - 1 OF NORTH ROAD Maintenance Map & Survey.dwg

Consulting Engineers • Land Surveyors

3461 Fairlane Farms Road, Wellington, Florida 33414 • Tel: 561-383-7480 • Fax: 561-383-7485
E-mail: abengineering@abengineering.net • Website: www.abengineering.net

ATTACHMENT 1 - Management Response continued

August 29, 2013



A&B Engineering, Inc.

Mark Kutney, Town Manager
Town of Loxahatchee Groves
14579 Southern Blvd. Suite 2
Loxahatchee Groves, FL 33470

**RE: PROPOSAL FOR LAND SURVEYING SERVICES:
REVIEW DEEDS OF ADJACENT GLENN TRACTS ON FOI SOM ROAD
OUR PROJECT NO. 96035-PP**

Dear Mr. Kutney:

A & B Engineering, Inc. will review deeds and prepare a statement as to the findings of the adjacent parcel locations for a lump sum fee of \$240.

This proposal is based on the title information being provided to A & B Engineering by the Town. We expect the project to be completed within 1 week from receipt of the Town's written authorization to proceed.

Thank you for your consideration and we look forward to serving you.

Sincerely,

A & B ENGINEERING, INC.

A handwritten signature in black ink, appearing to read 'Dennis Painter', written over a horizontal line.

Dennis Painter
Registered Land Surveyor
Chief of Survey

DP:s

AL:PROPOSAL SURVEY 96035-PP - FOX - LISA GLENN PARCEL LOCATIONS.doc

Consulting Engineers • Land Surveyors
3441 Fairlane Farms Road, Wellington, Florida 33414 • Tel: 561-383-7480 • Fax: 561-383-7485
E-mail: abcengineering@abcengineering.net • Website: www.abcengineering.net

ATTACHMENT 1 - Management Response continued

August 29, 2013



A&B Engineering, Inc.

Mark Kutney, Town Manager
 Town of Loxahatchee Groves
 14579 Southern Blvd. Suite 2
 Loxahatchee Groves, FL 33470

**RE: PROPOSAL FOR LAND SURVEYING SERVICES:
 BRYAN ROAD LOCATION & REVIEW - 0.73 MILES
 OUR PROJECT NO. 96035-00, DRAWING NO. FP-1589W**

Dear Mr. Kutney:

A & B Engineering, Inc. will review deeds, calculate, stake for viewing and prepare a sketch of the Bryan Road location for a lump sum fee of \$3,000. The determination of fees is as follows:

Review Deeds:	\$ 480
Stake R/W Lines:	\$ 1,560
Draft Sketch:	\$ 960
Total:	\$ 3,000

This proposal is based on the title information being provided to A & B Engineering by the Town. We expect the project to be completed within 2 weeks from receipt of the Town's written authorization to proceed.

Thank you for your consideration and we look forward to serving you.

Sincerely,

A & B ENGINEERING, INC.

Dennis Painter
 Registered Land Surveyor
 Chief of Survey

DP:s

M:\PROPOSALS\SURVEY\96035-00 - LOX BRYAN ROAD LOCATION.doc

Consulting Engineers • Land Surveyors

3461 Fairlane Farms Road, Wellington, Florida 33414 • Tel: 561-383-7480 • Fax: 561-383-7485
 E-mail: abengineering@abengineering.net • Website: www.abengineering.net

ATTACHMENT 1 - Management Response continued

9/22/2016

Discovery - Perta Underwood - Outlook

412 discovery search process: Details Inside

The top 500 mailboxes and public folders with the most hits are displayed below

All Items
Item count: 97
Size: 214 MB

Will Underwood I
Item count: 97
Size: 214 MB

Items by Date (Click on top)

survey cad FW: Proposal for Land Surveying Services I	8/29/2013
Weekly Significant Issues email 8/19/13-8/7	7/30/2013
Mark Kutney Weekly Significant Issues email 8/19/13-8/7	8/30/2013
Mike Cirullo Dennis Painter	9/5/2013
Lynnette Ballard 2013 09-11 BOARD MEETING PACKET - PM	9/6/2013
Mark Kutney RE: Dennis Painter	9/9/2013
Mike Cirullo RE: Dennis Painter	9/9/2013
Jim Rockett 9/17/13 TC Agenda	9/10/2013
Dennis Painter Bryan Road - Review Deeds and Stakeout	9/27/2013
Dennis Painter RE: Bryan Road - Review Deeds and Stakeout	9/30/2013
Mark Kutney FW: Bryan Road - Review Deeds and Stakeout	9/30/2013
Mike Cirullo RE: Notice to Proceed - Work Authorization	10/1/2013
Braeden Garrett FW: Bryan Road - Review Deeds and Stakeout	10/1/2013
Dennis Painter Bryan Road - Stakeout Scheduling	10/11/2013
Dennis Painter RE: FW: Bryan Road - Review Deeds and Stakeout	10/22/2013
Mike Cirullo Pending Items	10/30/2013
Mark Kutney RE: Pending Items	10/30/2013

RE: Bryan Road - Review Deeds and Stakeout - North Road Update

DP Dennis Painter <survey-cad1@abe.com>
Mark Kutney &

You forwarded this message on 9/30/2013 4:26 PM

Mark:

Should I call the attorney directly with my request (shown below). I can't proceed with the road sig of-way staking until I receive the title information Bryan Road. Thank you for your assistance.

Dennis Painter
Registered Land Surveyor

A & B Engineering, Inc.

----- Original Message -----

Subject: Bryan Road - Review Deeds and Stakeout - North Road Update
Date: Fri, 27 Sep 2013 08:56:04 -0400
From: Dennis Painter <survey-cad1@abengineering.net>
Organization: A & B Engineering, Inc.
To: Mark Kutney <mkutney@loxahatchiegrovesllc.com>

Mark:

I am ready to begin the review of the B location for stakeout of the right-of-way. I am requesting copies of the adjacent describe the location of the road right

We have completed the field work for Na drawings next week.

Thank you for your assistance.

Dennis Painter
Registered Land Surveyor

A & B Engineering, Inc.

ATTACHMENT 1 - Management Response continued

10/2/2016

Discovery - Perla Underwood - Outlook

-Discovery is used to present folders with 72 items

The top 500 mailboxes and public folders with the most hits are displayed below.

All items
Item count: 97
Size: 314 MB

Will Underwood 1
Item count: 97
Size: 314 MB

Item	Date	Direction
survey cad Final Proposal for Land Surveying Services I	8/29/2013	↓
Weekly Significant Issues email 8/29/13-8/29	8/29/2013	↓
Mark Kutney Weekly Significant Issues email 8/29/13-8/29	8/29/2013	↓
Mike Cirullo Dennis Painter	8/6/2013	↓
Lynnette Ballard 2013 09 11 BOARD MEETING PACKET - PAI	8/6/2013	↓
Mark Kutney RE: Dennis Painter	8/5/2013	↓
Mike Cirullo RE: Dennis Painter	8/5/2013	↓
Jim Rockett 9/17/13 LC Agenda	8/20/2013	↓
Dennis Painter Bryan Road - Review Deeds and Stakeout	8/27/2013	↓
Dennis Painter RE: Bryan Road - Review Deeds and Stakeout	8/26/2013	↓
Mark Kutney FW: Bryan Road - Review Deeds and Stakeout	8/26/2013	↓
Mike Cirullo RE: Notice to Proceed - Work Authorization	10/1/2013	↓
Braeden Garrett FW: Bryan Road - Review Deeds and Stakeout	10/1/2013	↓
Dennis Painter Bryan Road - Stakeout Scheduling	10/1/2013	↓
Dennis Painter RE: FW: Bryan Road - Review Deeds and Stakeout	10/22/2013	↓
Mike Cirullo Pending Items	10/30/2013	↓
Mark Kutney RE: Pending Items	10/30/2013	↓

MC Mike Cirullo <MCirullo@cityatly.co>
10/1/2013
Mark Kutney, Perla

Good afternoon, Mark. Any updates from Dennis on the matters?

-Mike-

----- Original Message -----

From: Mark Kutney
mailto:mkutney@loxahatchee.gov
Sent: Tuesday, September 10, 2013 10:01 AM
To: Mike Cirullo
Cc: Perla Underwood
Subject: FW: Notice to Proceed - Work Authorization & 13-0901- Survey

Mike:

FW, per your inquiry.

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.loxahatchee.gov

Note: Please direct all future correspondence to
mkutney@loxahatchee.gov

----- Original Message -----

From: Denise Rodriguez
Sent: Monday, September 08, 2013 3:01 PM
To: 'survey-cad@lchengineering.net'
Cc: Mark Kutney
Subject: Notice to Proceed - Work Authorization No. 1, 0901- Survey

Good afternoon Mr. Painter.

Please find attached the "Notice to Proceed" Work Authorization No. 13-0901-Survey, for your review and signature.

Please sign in BLUE INK, and return it back to our office.

Sincerely,

Denise O. Rodriguez
Office Coordinator

TOWN OF LOXAHATCHEE GROVES
14579 Southern Blvd, Suite 2
Loxahatchee Groves, FL 33470
(561) 793-2418; Phone
(561) 793-2420; Fax
www.loxahatchee.gov

ATTACHMENT 1 - Management Response continued

9/2/2015

Discovery - Peter Underwood - Outlook

Discovery (Folder) (View) (Refresh)

The top 500 mailboxes and public folders with the most hits are displayed below.

All items
Item count: 97
Size: 214 MB

Will Underwood |
Item count: 97
Size: 214 MB

Sort by Date (Click on flag)

Dennis Painter	↓	10/27/2013
Re: FW: Bryan Road - Pending Deeds and Sit		
Mike Cirullo		10/30/2013
Pending Items		
Mark Kutney	↓	10/30/2013
RE: Pending Items		
Mike Cirullo		10/30/2013
RE: Pending Items		
Dennis Painter	↓	11/01/2013
BRYAN ROAD - LAND SURVEYOR'S REPORT		
Mark Kutney	↓	11/02/2013
FW: BRYAN ROAD - LAND SURVEYOR'S REP		
Ronald Jarriel		11/05/2013
Re: BRYAN ROAD - LAND SURVEYOR'S REP		
Mike Cirullo		11/05/2013
RE: BRYAN ROAD - LAND SURVEYOR'S REP		
Dennis Painter		11/12/2013
Land Surveyor's Report - 136+ PL North - 4c		
Braeden Garrett	↓	11/14/2013
FW: Land Surveyor's Report - 136+ PL North		
Dennis Painter	↓	11/25/2013
North Road Survey and Road Plat (Preferred		
12/11/13-12/31/13 The "50" YDI		12/11/2013
Mark Kutney		12/11/2013
12/11/13-12/31/13 The "50" TOL		
Lynnette Ballard	↓	1/9/2014
2014-01-12 BOARD MEETING PACKET		
Lynnette Ballard	↓	1/11/2014
2014-01-14 BOARD MEETING PACKET - FIN		
Mark Kutney	↓	1/14/2014
FW: 2014-01-14 BOARD MEETING PACKET		
F. Martin Perry	↓	1/17/2014
Groves Loan Center @ Loxahatchee Groves C		

RE: Pending Items

MC Mike Cirullo <MCirullo@cityatty.co
1/30/2014
Mark Kutney &

Monday it is. Thanks

From: Mark Kutney
[mailto:mkutney@loxahatcheegrovesfl.gov]
Sent: Wednesday, October 30, 2013 11:01 AM
To: Mike Cirullo
Subject: RE: Pending Items

Mike:

If we can, let's do it Monday.

Thanks,
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) 793-2428: Fax
www.loxahatcheegroves.org

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

From: Mike Cirullo [mailto:MCirullo@cityatty.com]
Sent: Wednesday, October 30, 2013 10:21 AM
To: Mark Kutney
Subject: Pending Items

Mark, I wanted to follow up on 2 items:

1. Dennis Painter/Bryan Road and North Road
2. Srdar

I know we're busy with the items for Tuesday, so if the need to wait until next week, that's fine. But we may need to be prepared for questions on Bryan and North since roads will be discussed extensively Tuesday night at a several items.

Let me know if you want to talk today or tomorrow on Monday.

Thanks...

Michael D. Cirullo, Jr.
GOREN, CHEROKEE, DODD & FZROU, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
Telephone (954) 771-4500 x 325 * Fax (954) 771-4921
Email: MCirullo@cityatty.com
www.cityatty.com

ATTACHMENT 1 - Management Response continued

November 4, 2013



Mark A. Kutney, AICP, ICMA-CM
Town Manager
TOWN OF LOXAHATCHEE GROVES
14579 Southern Blvd, Suite 2
Loxahatchee Groves, FL 33470

RE: BRYAN ROAD - LAND SURVEYOR'S REPORT
OUR PROJECT NO. 96035-00

Dear Mr. Kutney:

The undersigned land surveyor at A & B Engineering, Inc. has reviewed the title information that was provided by the Town, and we have surveyed and staked the right-of-way lines for Bryan Road from T-Road to Folsom Road according to said title information, and we have determined that the physical road paving does in fact lie entirely within the right-of-way.

Please contact me if you have any questions regarding this proposal.

A & B ENGINEERING, INC.

Dennis Painter
Registered Land Surveyor
Chief of Survey
DP/s

C:\Documents and Settings\Painter\Desktop\Bryan Road Photos\96035-00 Bryan Road Land Surveyor's Report.doc

Consulting Engineers • Land Surveyors

3461 Fairlane Farms Road, Wellington, Florida 33414 • Tel: 561-383-7480 • Fax: 561-383-7485
E-mail: abengineering@abengineering.net • Website: www.abengineering.net

ATTACHMENT 1 - Management Response continued

9/2/2016

Discovery - Perla Underwood - Outlook

Outlook (mailto:perla.underwood@cityoflakeland.com)

The top 500 mailboxes and public folders with the most hits are displayed below.

All items
Item count: 97
Size: 214 MB

Will Underwood I
Item count: 97
Size: 214 MB

Item	Item by Date (Oldest on top)
FW: Bryan Road - Review Deeds and Stakes	9/30/2013
Mike Cirullo RE: Motion to Proceed - Waik Antiochman	10/3/2013
Braeden Garrett Re: Bryan Road - Review Deeds and Stakes	10/1/2013
Dennis Painter Bryan Road - Stakeout Scheduling	10/11/2013
Dennis Painter Re: FW: Bryan Road - Review Deeds and Sta	10/22/2013
Mike Cirullo Pending Items	10/30/2013
Mark Kutney RE: Pending Items	10/30/2013
Mike Cirullo RE: Pending Items	10/30/2013
Dennis Painter BRYAN ROAD - LAND SURVEYOR'S REPORT	11/4/2013
Mark Kutney FW: BRYAN ROAD - LAND SURVEYOR'S REP	11/5/2013
Ronald Jarrel Re: BRYAN ROAD - LAND SURVEYOR'S REP	11/5/2013
Mike Cirullo RE: BRYAN ROAD - LAND SURVEYOR'S REP	11/5/2013
Dennis Painter Land Surveyor's Report - 13th Pl North - 11	11/12/2013
Braeden Garrett FW: Land Surveyor's Report - 13th Pl North	11/14/2013
Dennis Painter North Road Survey and Road Plat (Prelimin	11/25/2013
12/11/13-12/25/13 The "50" Trl	12/11/2013
Mark Kutney 12/11/13-12/25/13 The "50" Trl	12/12/2013
Lynnette Ballard	

FW: BRYAN ROAD - LAND SURVEYOR'S REPORT

Mark Kutney
11/1/2013
Run Jarrel, Denis+3 more *

96035-CO Bryan Road 1...
166 KB

Download

Run

As you requested, here is the copy of the email transmitted to me by Dennis Painter yesterday afternoon.

Mark

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



TOWN OF LAKAHATCHEE GROVES
14578 Southern Blvd, Suite 2
Lakahatchee Groves, FL 33470
(561) 793-2415 Phone
(561) 793-2470 Fax
www.lakahatcheegroves.org

Note: Please direct all future correspondence to mkutney@lakahatcheegrovesfl.gov.

From: Dennis Painter [mailto:DPainter@abengineering.com]
Sent: Monday, November 04, 2013 4:25 PM
To: Mark Kutney
Subject: BRYAN ROAD - LAND SURVEYOR'S REPORT

Dear Mr. Kutney:

Transmitted herewith is a copy of my PDF surveyor's report regarding the location of pavement of Bryan Road. Please call me if I can be of further service.

Sincerely,

Dennis Painter
Registered Land Surveyor

A & B Engineering, Inc.
3461 Fairlane Farms Road
Wellington, FL 33414

ATTACHMENT 1 - Management Response continued

9/2/2016

Discovery - Perla Underwood - Outlook

Discovery search process: Dennis Painter

The top 500 mailboxes and public folders with the most hits are displayed below.

All items
Item count: 97
Size: 214 MB

Will Underwood |
Item count: 97
Size: 214 MB

Sender	Subject	Date	Direction
Mike Cirullo	Re: Pending Items	10/22/2013	↓
Mark Kutney	RE: Pending Items	10/22/2013	↓
Mike Cirullo	RE: Pending Items	10/20/2013	↓
Dennis Painter	RE: BRYAN ROAD - LAND SURVEYOR'S REPORT	11/4/2013	↓
Mark Kutney	RE: BRYAN ROAD - LAND SURVEYOR'S REP	11/5/2013	↓
Ronald Jarriel	RE: BRYAN ROAD - LAND SURVEYOR'S REP	11/5/2013	↓
Mike Cirullo	RE: BRYAN ROAD - LAND SURVEYOR'S REP	11/5/2013	↓
Dennis Painter	Land Surveyor's Report - 13th Pl. North - 40	11/12/2013	↓
Braeden Garrett	FW: Land Surveyor's Report - 13th Pl. North	11/14/2013	↓
Dennis Painter	Re: Folsom Road Survey and Road Plan Prelims	11/25/2013	↓
	12/11/13-12/11/13 The "50" TOL	12/11/2013	↓
Mark Kutney	12/11/13-12/11/13 The "50" TOL	12/12/2013	↓
Lynnette Ballard	2014-05-11 BOARD MEETING PACKET	5/15/2014	↓
Lynnette Ballard	2014-07-31 BOARD MEETING PACKET - FIN	7/31/2014	↓
Mark Kutney	FW: 2014-07-14 BOARD MEETING PACKET	7/14/2014	↓
F. Martin Perry	Ground Town Center/Loxahatchee Groves E	7/17/2014	↓
	Town Engineer Review-B Rev'd Prelims	7/23/2014	↓

Land Surveyor's Report -
13th Pl. North - Lisa
Glenn

Dennis Painter <DPainter@abergit
11/12/2013
'Mike Cirullo' <MVC>

Mike:

From review of the title information provic
Lisa Glenn owns the east half of Tract 39,
Block F, and Marine Services Agency, Inc.
owns the east half of Tract 40, Block F.
Tract 39 is located north of and adjacent t
Tract 40.

I have reviewed all the deeds that I have f
the east half (E.1/2) of Tracts 39 and 40,
Block F, and I cannot find any reference to
road or access easement, except for the
additional right-of-way that was taken for
Folsom Road (the east 50 feet).

These are the deeds that I reviewed:

O.R.B./PAGE

- 5801/1721
- 6293/521
- 25396/386
- 25621/86.3
- 26113/81

However, upon reviewing the deed for the
adjacent property located to the west of t
east half of Tracts 39 & 40, which is filed
O.R.B. 25282, page 536, I found the follow
easement:

"... an easement for ingress and egress ove
the North 30 feet of the East 1/2 of Tract
Block F, LOXAHATCHEE GROVES...." (the
deed also calls for an access & utility
easement over the North 30 feet of the e
half of Tract 40).

This would indicate that there could be a r
or driveway over the north 30 feet of Trac
40, being south of and adjacent to the Lisa
Glenn parcel. Although there appears to be

ATTACHMENT 1 - Management Response continued

6/22/2014

Discovery - Parla Underwood - Outlook

Discovering mail properties: Dennis Painter

The top 500 mailboxes and public folders with the most hits are displayed below.

All items
Item count: 97
Size: 214 MB

Will Underwood I
Item count: 97
Size: 214 MB

Item	Item by Date (Sorted on top)	
Mike Cirullo Sending Items	10/30/2013	↓
Mark Kutney RE: Patricia Items	10/30/2013	↓
Mike Cirullo RE: Patricia Items	10/30/2013	↓
Dennis Painter BRYAN ROAD - LAND SURVEYOR'S REPORT	11/4/2013	0
Mark Kutney FW: BRYAN ROAD - LAND SURVEYOR'S REP	11/5/2013	0
Ronald Jarriel RE: BRYAN ROAD - LAND SURVEYOR'S REP	11/5/2013	0
Mike Cirullo RE: BRYAN ROAD - LAND SURVEYOR'S REP	11/5/2013	0
Dennis Painter Land Surveyor's Report - 23th Pl. North - 11	11/12/2013	0
Braeden Garrett FW: Land Surveyor's Report - 13th Pl. North	11/14/2013	↓
Dennis Painter North Road Survey and Road Plat (Preliminary)	11/25/2013	0
	12/11/2013	↓
12/11/13-12/11/13 The "50" TOL	12/11/2013	↓
Mark Kutney 12/12/13-12/12/13 The "50" TOL	12/12/2013	↓
Lynnette Ballard 2014-05-12 BOARD MEETING PACKET	5/8/2014	0 ↓
Lynnette Ballard 2014-07-14 BOARD MEETING PACKET - FIN	7/11/2014	0 ↓
Mark Kutney FW: 2014-07-14 BOARD MEETING PACKET	7/14/2014	0 ↓
F. Martin Perry Groves Town Center/Sandhatch Groves C	7/17/2014	0 ↓
	7/28/2014	0 ↓
Town Engineer Review-0 Road Activities	7/28/2014	0 ↓

North Road Survey and Road Plat (Preliminary)

DP Dennis Painter <DPainter@abengh.com>
10/25/2013
Mark Kutney, Mike

96075 NN-North Rd - C...
157 KB

Attachments (724 KB) Download all

Mr. Kutney,

Transmitted herewith is a PDF copy of the preliminary survey and Road Plat for North Road.

Please review the first sheet as I am not sure who will be signing the plat, or what entries should be included for signing.

The remainder of the sheets should be ready and are included for your information.

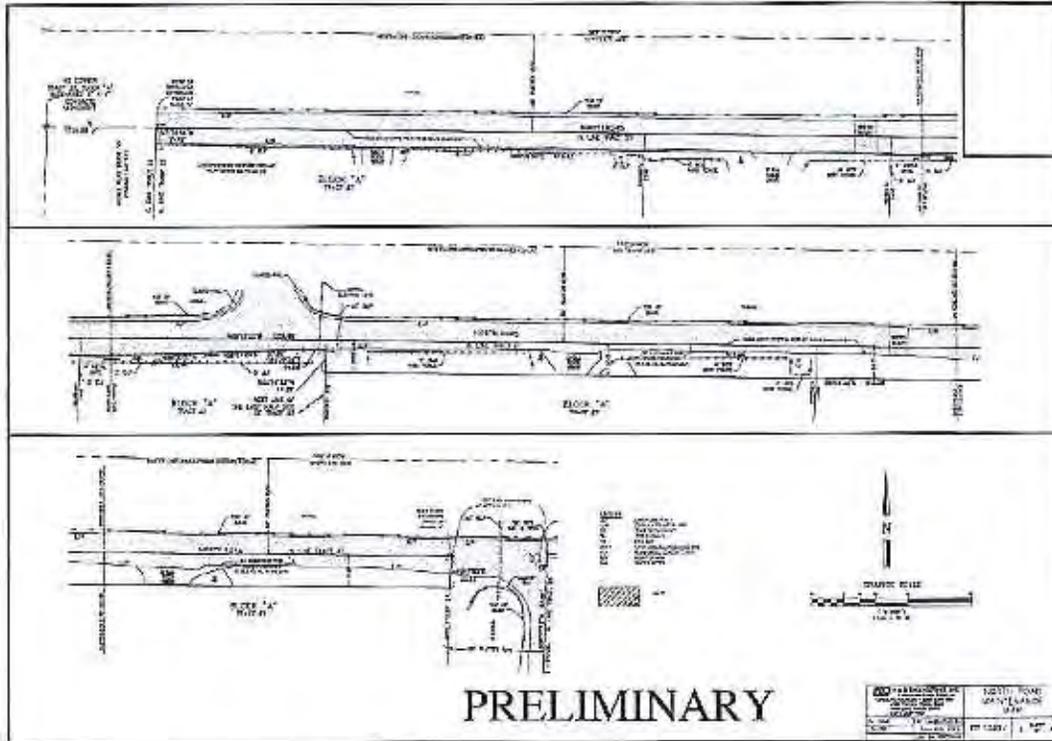
Please inform me as to any corrections. Thank you.

Dennis Painter
Registered Land Surveyor

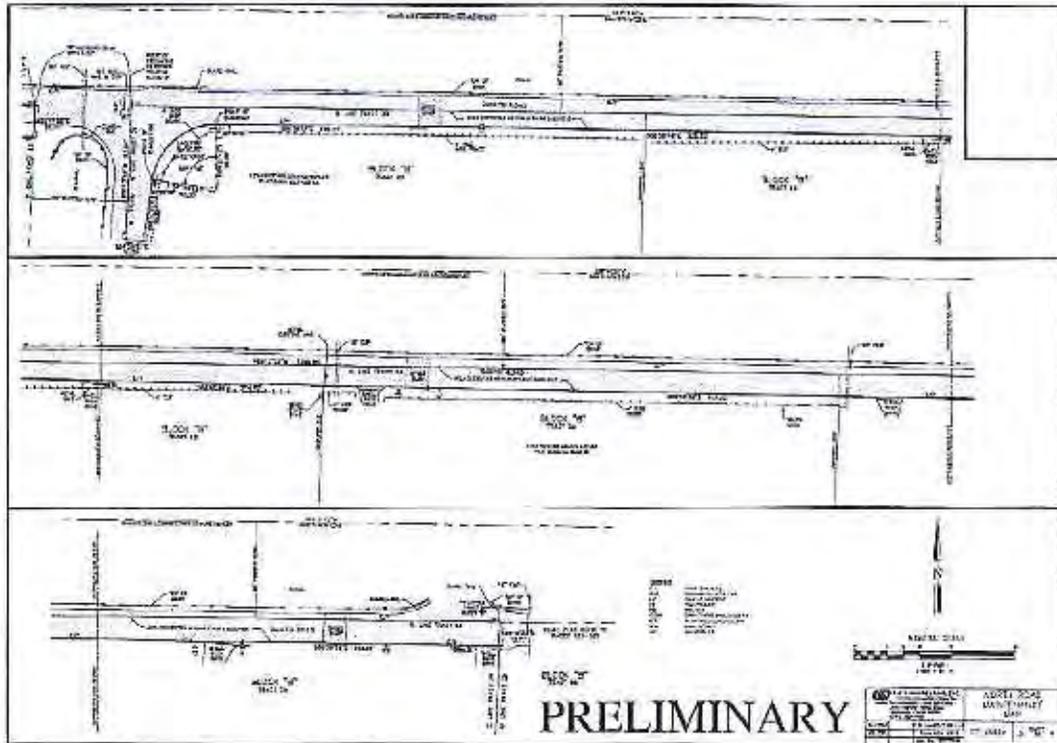
A & B Engineering, Inc.
3451 Fairlane Farms Road
Wellington, FL 33414

Phone: (561) 383-7480

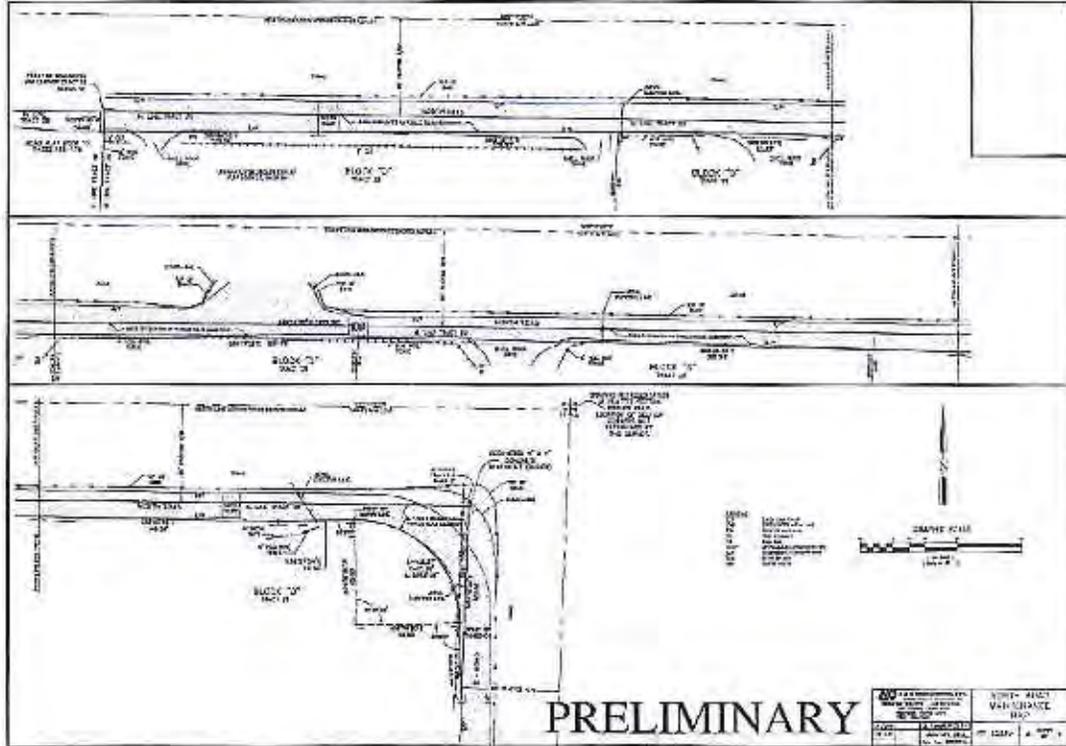
ATTACHMENT 1 - Management Response continued



ATTACHMENT 1 - Management Response continued



ATTACHMENT 1 - Management Response continued



ATTACHMENT 1 - Management Response continued

Management Response – Town of Loxahatchee Groves

Exhibit "C"

ATTACHMENT 1 - Management Response continued

Public comments:**Marge Herzog:**

Stated that if one reads the contracts, it should say that the contractors should provide insurance liability policy. Committee should be directing that all contracts be required to carry the required insurance coverage.

Town Manager Kutney advised that he feels the current contracts were done on a case by case basis. Chair Chiu suggested that staff bring this to Town Council attention.

A discussion took place with respect to the Town's Procurement Ordinance. It was agreed that the staff should include the Procurement Ordinance in a future agenda under Old Business.

Chair Chiu inquired about the sales tax being charged on Underwood Management Services credit card when they make purchases on behalf of the Town. Chair Chiu suggested that Underwood Management should be provided a Town credit card. Bill Underwood explained that the Town's Bank, Wells Fargo, requires a resolution for another person to have a credit card. Following discussion, it was recommended that the Committee recommend to the Town Council that Perla Underwood be approved for a Town credit card when they make the next monthly financial report at the Town Council Meeting.

Member Johnson inquired about the Storage Unit charges, and why is the town renting a storage unit. Town Manager Kutney explained that the storage unit was rented when Mr. Yee rented Room #3 that the town was using as a conference room to another vendor. Mr. Kutney advised that the CERT supplies, along with the recording from Palm Beach County, and other supplies were moved to the new storage facility.

Public comments:**Marge Herzog:**

She asked if it would be less expensive to rent the additional office that is available from Mr. Yee. Mr. Kutney advised that Mr. Yee rental charge for the extra room is \$600 monthly, and the cost of the storage unit is approximately \$149 monthly.

h. Review of Planning & Zoning Invoices

Member Johnson inquired about the invoices for Valley Crest and the Hay Sale. The Committee was advised that the Work Authorization for Hay sales is not subject to Cost Recovery, as this matter was Council initiated.

Chair Chiu inquired about Underwood Management Services Group reimbursements. Mr. Underwood advised that the Management Company always provides its reimbursement payments that include all reimbursement requests with support documentation to the Committee for their review and information.

Chair Chiu asked when the Town Council members sign the checks, if they go over and verify that they know what they are signing so that they can determine they have correct information.

ATTACHMENT 1 - Management Response continued

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

acres of rice paddies that were being flooded at the same time that there was a drought. He maintained that was a decision of the South Florida Water Management.

4. Committee Reports

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

Virginia Standish presented the Finance Advisory & Audit Committee (FAAC) Report and Approval of the January 2013 Financial Reports. The committee is recommending issuing another credit card for the use of the office.

Motion: Vice Mayor Jim Rockett moved to approve the Finance Advisory and Audit Committee Report and Approval of the January 2013 Financial Report. Councilman Ron Jarriel seconded the motion, which passed 5-0.

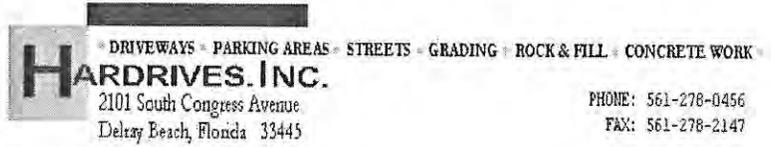
Motion: Councilman Ron Jarriel moved to approve that an additional credit card be issued to Town Staff. Councilman Ryan Liang seconded the motion, which passed 5/0.

5. PUBLIC HEARINGS – (Ordinance 2nd Reading) -

- a. Ordinance No. 2012-12

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

CHANGE ORDER



AIA DOCUMENT G701

- OWNER
- ARCHITECT
- CONTRACTOR
- FIELD
- OTHER

PHONE: 561-278-0456
 FAX: 561-278-2147
 AN EEO COMPANY

DATE: 7/20/2016

PROJECT: B Road Pavement Resurfacing Project
 (name, address) Keshavarz & Associates, Inc.
 711 North Dixie Highway, Suite 201
 West Palm Beach, FL 33401

CHANGE ORDER NUMBER: RCO # 5

TO: (Contractor) Hardrives of Delray, Inc. dba Hardrives, Inc.
 2101 South Congress Avenue
 Delray Beach, FL 33445

PROJECT NO.: 3284
 CONTRACT FOR:
 CONTRACT DATE: 5/6/2016

You are directed to make the following changes in this Contract:

Discription: add to scope

<u>Qty.</u>	<u>Unit</u>	<u>Item</u>	<u>Price</u>	<u>Cost</u>
1	LS	Relocate hogwire fence at sta 40+30 thru 46+70 (approximately 640')	\$1,750.00	\$1,750.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
TOTAL:				\$1,750.00

The original Contract Sum was	\$	1,033,008.80
Net change by previous Change Orders.....	\$	94,172.00
The Contract Sum prior to this Change Order was.....	\$	1,127,180.80
The Contract Sum will be (increased) (decreased) (unchanged) by this Change Order	\$	1,750.00
The new Contract Sum including this Change Order will be.....	\$	1,128,930.80
The Contract Time will be (increased) (decreased) (unchanged) by	0	Days

0 Keshavarz & Assoc.

Hardrives, Inc.

G.C.

CONTRACTOR

OWNER

0

2101 South Congress Ave.

Address

Address

Address

0

Delray Beach, FL 33445

By:

By:
 W. Allen Poston, Vice President

By:

Date: 9/29/16

Date: 7-20-16

Date:

CHANGE ORDER

DRIVEWAYS · PARKING AREAS · STREETS · GRADING · ROCK & FILL · CONCRETE WORK

HARDRIVES, INC.

2101 South Congress Avenue
Delray Beach, Florida 33445

PHONE: 561-278-0456
FAX: 561-278-2147
AN EEO COMPANY

AIA DOCUMENT G701

- OWNER
- ARCHITECT
- CONTRACTOR
- FIELD
- OTHER

DATE: 9/15/2016

PROJECT: B Road Pavement Resurfacing Project
(name, address) Keshavarz & Associates, Inc.
711 North Dixie Highway, Suite 201
West Palm Beach, FL 33401

CHANGE ORDER NUMBER: RCO # 6

TO: (Contractor) Hardrives of Delray, Inc. dba Hardrives, Inc.
2101 South Congress Avenue
Delray Beach, FL 33445

PROJECT NO.: 3284
CONTRACT FOR:
CONTRACT DATE: 5/6/2016

You are directed to make the following changes in this Contract:

Discription: additional structure in lieu of MES

<u>Qty.</u>	<u>Unit</u>	<u>Item</u>	<u>Price</u>	<u>Cost</u>
1	LS	Nyloplast drain basin grate w/ low profile 18"CAP 90 & 4'x4' pad	\$1,925.00	\$1,925.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
			TOTAL:	\$1,925.00

The original Contract Sum was\$ 1,033,008.80
 Net change by previous Change Orders.....\$ 94,297.00
 The Contract Sum prior to this Change Order was.....\$ 1,127,305.80
 The Contract Sum will be (increased) (decreased) (unchanged) by this Change Order\$ 1,925.00
 The new Contract Sum including this Change Order will be.....\$ 1,129,230.80
 The Contract Time will be (increased) (decreased) (unchanged) by 0 Days

0 Keshavarz & Assoc.

Hardrives, Inc.

G.C.

CONTRACTOR

OWNER

0

2101 South Congress Ave.

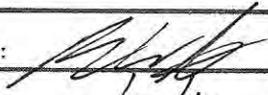
Address

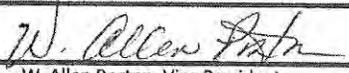
Address

Address

0

Delray Beach, FL 33445

By: 

By: 
W. Allen Poston, Vice President

By:

Date: 9/29/16

Date: 9-15-16

Date:

Town of Loxahatchee Groves, Florida

Town Council Agenda

AGENDA ITEM REPORT

ITEM NO. 6 E

MEETING DATE: 10/18/16

PREPARED BY: BARRY TROMBLEY

SUBJECT: 8th Place North

1. BACKGROUND/HISTORY:

Problem Statement: The erection of a fence over previously open travel lane has restricted access to the property owned by Zara LLC and Cletus Keaton.

Problem Solution: Restore the road to the historical travel path which has been maintained for the required 7 year period under F.S.S. 95.361.

8th Place North is a dirt/gravel road which runs north off Collecting Canal Road west of D Road along the western edge of the canal, turning west at the property line between the two properties owned by Mark Jackson. This road services four (4) property parcels with three (3) property owners affected. The road has historically been used for travel unimpeded and maintained by the Town of Loxahatchee Groves for the past seven (7) years. Property owner Jackson has recently erected a fence over a portion of the road historically used for travel.

2. CURRENT ACTIVITY

The property owner, Jackson, has fenced off a portion of the road historically used for travel thereby restricting access to the western properties located on the road

3. ATTACHEMNTS

Florida State Statute 95.361
Deeds of Mark Jackson properties

4. FINANCIAL IMPACT

Currently unknown

5. RECOMMENDATIONS

Authorize the Town Manager and Town Attorney to resolve this matter through any and all legal mechanisms

#53 *new*
Warranty Deed

(STATUTORY FORM-SECTION 689.

SEP-06-1988 02:44pm 88-246880
ORB 5797 Pg 1740

This Indenture, Made this 5th day of May, 1988, **Between**

EDWARD V. COELHO and LUCILLE COELHO, his wife

of the ~~County of~~ City of Mountain View, State of California, grantor*, and

MARVIN FRANCIS JACKSON, JR., and TONIA ROSE, his wife

whose post office address is 687 "D" Road; Loxahatchee

of the County of Palm Beach, State of Florida 33470, grantee*.

Witnesseth, That said grantor, for and in consideration of the sum of

-----TEN (\$10.00)-----Dollars,
and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Palm Beach County, Florida, to-wit:

The E 332.70' of the following-described property: The E 1/4 of Tract 2, less the W 626.10' and the N 20' thereof, Block C, LOXAHATCHEE GROVES, according to the Plat thereof filed in Plat Book 12, Page 29, public records of Palm Beach County, Florida. Subject to an easement for road purposes over the S 20' thereof and together with an easement for ingress and egress over and across the East 30' of the following-described parcel: Tract 1, less the W 2259.32', Block C, LOXAHATCHEE GROVES, according to Plat filed in Plat Book 12, Page 29, public records of Palm Beach County, Florida; both aforescribed easements as created by and subject to Easement Agreement recorded in Official Record Book 3142, Page 1554, public records of Palm Beach County, Florida.

SUBJECT TO restrictions, reservations, easements, and limitations of record and taxes and assessments for 1987 and subsequent years.

Con 60,000.00 Doc 330.00
JOHN B DUNKLE, CLERK - PB COUNTY, FL

and said grantor does hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever.

*"Grantor" and "grantee" are used for singular or plural, as context requires.

In Witness Whereof, Grantor has hereunto set grantor's hand and seal the day and year first above written. Signed, sealed and delivered in our presence:

John P. Dahl (Seal)
Shirley M. North (Seal)
John P. Dahl AS TO BOTH (Seal)
Shirley M. North (Seal)
STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Edward V. Coelho (Seal)
Edward V. Coelho
Lucille Coelho (Seal)
Lucille Coelho (Seal)

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared EDWARD V. COELHO and LUCILLE COELHO, his wife

to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged before me that they executed the same. WITNESS my hand and official seal in the County and State last aforesaid this 5th day of May 1988.

My commission expires:



Carolyn B. Hughes
Notary Public
[Notarial Seal]

This instrument was prepared by: and RETURN TO:



DeSANTIS, COOK, KAUFFMAN, GASKILL, et al.
11891 U.S. HIGHWAY ONE
NORTH PALM BEACH, FLORIDA 33408

RECORD VERIFIED
PALM BEACH COUNTY, FLA.
JOHN B. DUNKLE
CLERK CIRCUIT COURT

82 090017

Print

This instrument was prepared by:

R. K. KRAMER

Warranty Deed

(STATUTORY FORM—SECTION 689.02 F.S.)

Law Office of
R. K. KRAMER
2273 Palm Beach Lakes Boulevard
WEST PALM BEACH, FLORIDA 33409

This Indenture, Made this 20th day of May 1982, Between

MARK JACKSON joined by his wife, TONIA ROSE JACKSON

of the County of Palm Beach, State of Florida, grantor*, and

MARK JACKSON and TONIA ROSE JACKSON, his wife

whose post office address is 687 "D" Road, Loxahatchee

of the County of Palm Beach, State of Florida, grantee*,

1982 JUN -9 AM 8:45

Witnesseth: That said grantor, for and in consideration of the sum of

TEN and NO/100 (\$10.00) Dollars,

and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Palm Beach County, Florida, to-wit:

Tract 1, less the West 2259.32 feet, Block C, LOXAHATCHEE GROVES, according to the Plat thereof filed in Plat Book 12, Page 29, Public Records of Palm Beach County, Florida.

460
45

Subject to an easement over the South 20 feet thereof for road purposes; also subject to an easement over the North 20 feet thereof for drainage and utilities; also subject to an easement over the East 30 feet thereof for road purposes which easement shall be created by and subject to that certain easement agreement recorded simultaneously herewith under Clerk's File Number 79-169221, Public Records of Palm Beach County, Florida.

Subject to easements, restrictions, reservations and limitations of record and taxes for the year 1982 and to zoning and other governmental regulations.

It is the intention of this conveyance to create an estate by the entirety in this property, and said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

* "Grantor" and "grantee" are used for singular or plural, as context requires.

In Witness Whereof, Grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

R. K. Kramer

Mark Jackson (Seal)
MARK JACKSON

Christine V. Lish

Tonia Rose Jackson (Seal)
TONIA ROSE JACKSON

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared

MARK JACKSON joined by his wife, TONIA ROSE JACKSON

to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged before me that they executed the same.

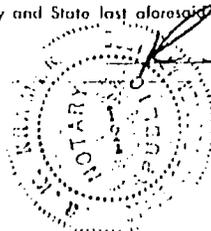
WITNESS my hand and official seal in the County and State last aforesaid this 20th day of May 1982

My commission expires:

R. K. Kramer
Notary Public

B3738 P0046

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES AUG 31 1983
BONDED THROUGH CLERICAL INS. UNDERWRITERS



RECORD VERIFIED
PALM BEACH COUNTY, FLA.
JOHN B. DUNKLE
CLERK CIRCUIT COURT

95.361 Roads presumed to be dedicated.—

(1) When a road, constructed by a county, a municipality, or the Department of Transportation, has been maintained or repaired continuously and uninterruptedly for 4 years by the county, municipality, or the Department of Transportation, jointly or severally, the road shall be deemed to be dedicated to the public to the extent in width that has been actually maintained for the prescribed period, whether or not the road has been formally established as a public highway.

The dedication shall vest all right, title, easement, and appurtenances in and to the road in:

- (a) The county, if it is a county road;
- (b) The municipality, if it is a municipal street or road; or
- (c) The state, if it is a road in the State Highway System or State Park Road System,

whether or not there is a record of a conveyance, dedication, or appropriation to the public use.

(2) In those instances where a road has been constructed by a nongovernmental entity, or where the road was not constructed by the entity currently maintaining or repairing it, or where it cannot be determined who constructed the road, and when such road has been regularly maintained or repaired for the immediate past 7 years by a county, a municipality, or the Department of Transportation, whether jointly or severally, such road shall be deemed to be dedicated to the public to the extent of the width that actually has been maintained or repaired for the prescribed period, whether or not the road has been formally established as a public highway. This subsection shall not apply to an electric utility, as defined in s. [366.02\(2\)](#). The dedication shall vest all rights, title, easement, and appurtenances in and to the road in:

- (a) The county, if it is a county road;
- (b) The municipality, if it is a municipal street or road; or**
- (c) The state, if it is a road in the State Highway System or State Park Road System,

whether or not there is a record of conveyance, dedication, or appropriation to the public use.

(3) The filing of a map in the office of the clerk of the circuit court of the county where the road is located showing the lands and reciting on it that the road has vested in the state, a county, or a municipality in accordance with subsection (1) or subsection (2) or by any other means of acquisition, duly certified by:

- (a) The secretary of the Department of Transportation, or the secretary's designee, if the road is a road in the State Highway System or State Park Road System;
- (b) The chair and clerk of the board of county commissioners of the county, if the road is a county road; or
- (c) The mayor and clerk of the municipality, if the road is a municipal road or street,

shall be prima facie evidence of ownership of the land by the state, county, or municipality, as the case may be.

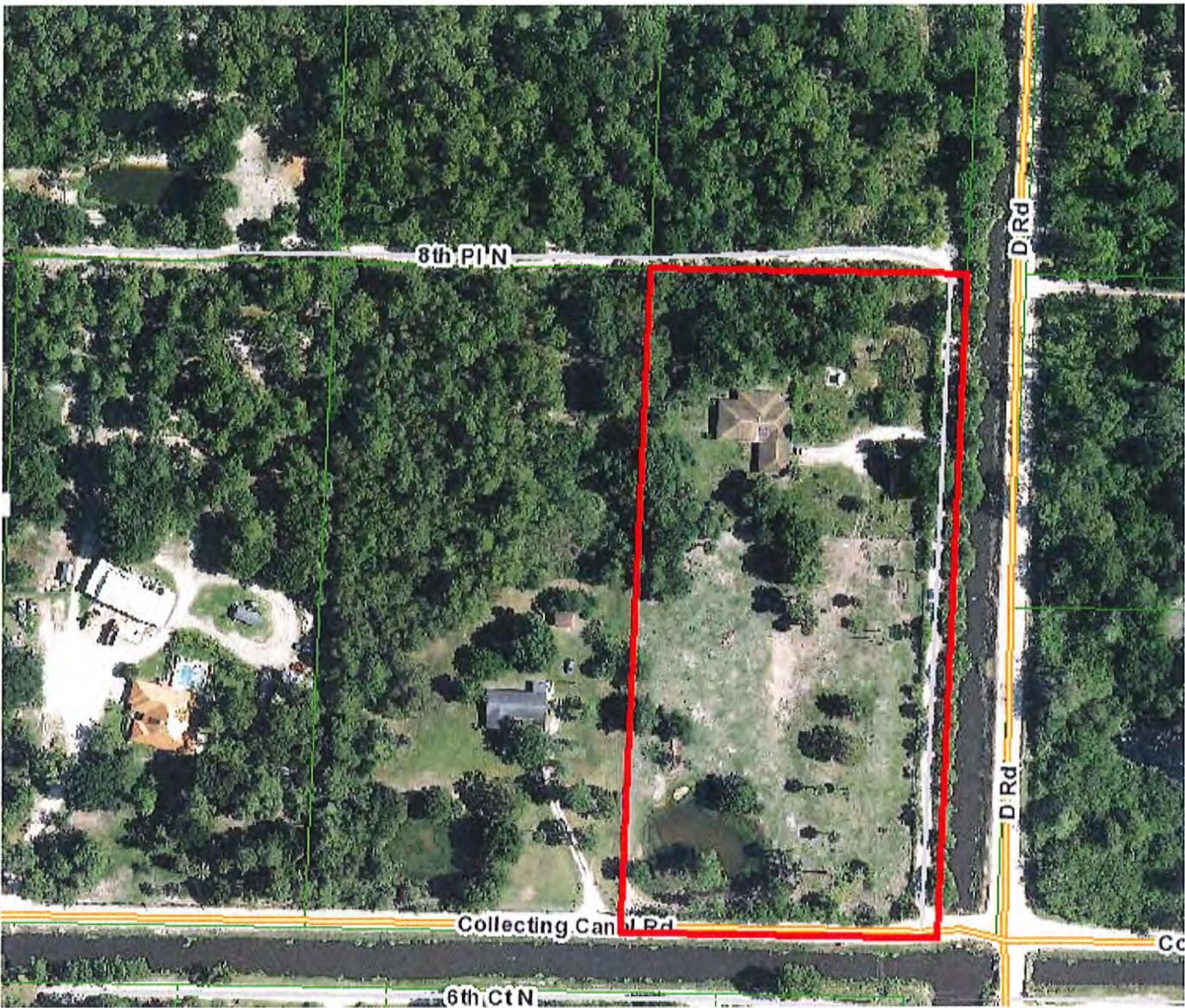
(4) Any person, firm, corporation, or entity having or claiming any interest in and to any of the property affected by subsection (2) shall have and is hereby allowed a period of 1 year after the effective date of this subsection, or a period of 7 years after the initial date of regular maintenance or repair of the road, whichever period is greater, to file a claim in equity or with a

court of law against the particular governing authority assuming jurisdiction over such property to cause a cessation of the maintenance and occupation of the property. Such timely filed and adjudicated claim shall prevent the dedication of the road to the public pursuant to subsection (2).

(5) This section does not apply to any facility of an electric utility which is located on property otherwise subject to this section.

History.—s. 110, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 23, ch. 74-382; s. 1, ch. 77-174; s. 3, ch. 88-168; s. 529, ch. 95-147; s. 54, ch. 2003-286; s. 14, ch. 2004-366.

Note.—Former s. 337.31.





8th PIN

8th PIN

ABOUT 30' WIDE

D Rd

D Rd

PIN

Town of Loxahatchee Groves, Florida
Town Council Agenda
AGENDA ITEM REPORT
ITEM NO. 6 F
MEETING DATE: 10/18/16

PREPARED BY: BARRY TROMBLEY

SUBJECT: Hiring of outside Council and Code Investigator

BACKGROUND/HISTORY –

1. Problem Statement:

There is a conflict between Staff and Town Council

2. Problem Solution:

The hiring of an outside Code Investigator and outside Legal Counsel.

This complaint spans 9 years. The complaining party, Leftkowitz, and the alleged violator, McLendon, have been at odds over the fact that McLendon has a large number of birds and the alleged noise produced from these birds. The presence of the birds, the number of birds, and the placement of the birds is not in question. The complaint revolves around the Loxahatchee Groves ULDC section regulating noise, 55 dm. At the time of the initial complaint the area was under the jurisdiction of the Palm Beach County ULDC. At the time of incorporation, while the county ULDC still regulated the Town, the County Code Enforcement abandoned the case as it no longer fell within its jurisdiction.

3. CURRENT ACTIVITY

The case is presently open but inactive pending direction of the Town Council.

4. ATTACHEMENTS

Case complaint sheets for 2015-0434 and 2015-0439

5. FINANCIAL IMPACT

Unknown

6. RECOMMENDATIONS

Authorize the Town Attorney and Manager to engage outside Legal Counsel and an outside Code Investigator to complete the investigation to resolve this matter through any and all legal mechanisms.



RECEIVED
OCT 23 2015

Town of Loxahatchee Groves

BY: BK

155 F Road, Loxahatchee Groves, Florida 33470

Phone (561) 793-2418

Fax (561) 793-2420

CODE COMPLIANCE – AFFIDAVIT OF COMPLAINT

Date: 10/23/15

Case #: 20150439 *Ongoing Since 2006*

COMPLAINANT CONTACT INFORMATION:

Name:	<u>Lefkowitz, Maureen</u>
Street Address:	<u>3485 D Rd.</u>
City, State, Zip	<u>Loxahatchee, FL 33470</u>
Contact Phone Number:	<u>Maureen 561-386-1049</u>
Email Address:	<u>maureenlef@gmail.com</u>

Maureen Lefkowitz (Signature)
Must be signed in person at Town Hall

I give permission to the Town Code Enforcement Officer to enter my property to view the violator's actions:

<input checked="" type="checkbox"/>	At will <u>Maureen Lefkowitz</u>
<input checked="" type="checkbox"/>	With prior verbal consent, at a scheduled time, to be accompanied by me or my representative

VIOLATOR INFORMATION:

Name:	<u>McLendon, Todd & Shire</u>
Street Address:	<u>3481 D Rd.</u>
City, State, Zip	<u>Loxahatchee FL 33470</u>
Nature of Alleged Violation:	<u>Daily every day some time @ different hrs Severe Screaming TACOWS But avg. 4hrs Trespassing can hear them in per day our Bedroom / office - extreme outdoors in our yard.</u>

OFFICIAL USE ONLY

PCN: 41-41-43-17-01-332-0010 Date Inspected: _____

Results: _____

Violation Issued: No / Yes _____ (Code Officer)

AUG 06 2015

BK



14579 Southern Blvd #2
Loxahatchee Groves, FL 33470
Office Hours: Mon. - Fri. 9:00 am to 4:00 pm
Phone: 561-793-2418 Fax: 561-792-2420

CODE COMPLIANCE - AFFIDAVIT OF COMPLAINT

Date: 8-6-15

Case #: 20150434

Complainant Contact Information:

Name: Larry LeFKowitz
3485 D Road
(Street Address) Loxahatchee
(City)

Contact Phone: 561-313-5012
[Signature] (Signature)
(must be signed in person at the Town Office)

I give permission to the Town Code Enforcement Officer to enter my property to view the violator's actions:

- at will,
- with prior verbal consent, at a scheduled time, to be accompanied by me or my representative

Name of Violator: Todd McLendon

Nature of alleged violation: Daily multiple violations of noise ordinance for several years. New 7 day noise study shows continuous & egregious nature of violations

Address/location of Violation: 3481 D Road

OFFICIAL USE ONLY

PCN: 41 41 43 _____ Mailing address of Violator: _____

Action Taken By Code Compliance Division: Date Inspected: _____

Results: _____

Violation Issued: No Yes _____ (Code Officer)

Town of Loxahatchee Groves, Florida
Town Council
AGENDA ITEM REPORT
AGENDA ITEM NO. 8a

MEETING DATE: 10/18/2016

PREPARED BY: William F. Underwood, Town Manager

SUBJECT: Roads Joint Meeting with LGWCD

1. BACKGROUND/HISTORY

Problem Statement: LGWCD Board of Supervisors has invited the Town Council and staff to discuss roads from 6:30 PM to 7:30 PM on Monday, November 14, 2016.

Problem Solution: Accept, modify, or deny the meeting date and time.

As the Council is aware, a meeting was set for October 4, 2016 at 6:00 PM at town hall. Unfortunately, it is my understanding that only two of the five supervisors would or could attend the meeting at Town Hall. As a result, the meeting was canceled.

2. CURRENT ACTIVITY

We anticipate the meeting may have a number of concerned citizens attending and others that may wish to view it live through the Town's web streaming system. The district's offer to host the meeting is appreciated but I believe that Town Council chambers in Town Hall is a better location to hold the meeting as we can accommodate over 110 individuals in the Council Chambers, in the lobby, which has live viewing, and on the covered porch which includes a sound system. All meetings are streamed live and recorded for future review and the meetings can be held with ease at this location.

3. ATTACHMENTS

Email invitation from Steve Yohe, Administrator, LGWCD

4. FINANCIAL IMPACT

N/A

5. RECOMMENDED ACTION

Motion by the Town Council to accept, modify or deny the meeting date and time.

William (Bill) Underwood, II

From: Stephen E. Yohe <yohe@lgwcd.org>
Sent: Tuesday, October 11, 2016 12:14 PM
To: William (Bill) Underwood, II
Cc: schiola@lgwcd.org; danowski@lgwcd.org; kane@lgwcd.org; widening@lgwcd.org; fernandez@lgwcd.org; viator@caldwellpacetti.com
Subject: November 14, 2016 Town Council and District Supervisors Round Table Discussion

Bill,

At the District Board Meeting last night, the Board directed staff to invite the Town Council and staff to attend a Round Table Discussion on roads from 6:30 pm to 7:30 pm on Monday, November 14, 2016. Please let me know if this is satisfactory to the Town Council.

Thanks.

Steve



Stephen E. Yohe, P.E.
District Administrator
Loxahatchee Groves Water Control District
P.O. Box 407, 101 West "D" Road
Loxahatchee, FL 33470-0407
Phone: 561-793-0884
Fax: 561-795-6157
E-mail: yohe@lgwcd.org

While I attempt to respond to my email requests in a timely manner, please do not rely on email alone as a means to communicate time-sensitive requests and notifications. Refer to the contact number provided so that I may assist you promptly. Please note that Florida has very broad public records laws. Most written communications to or from local officials regarding official business are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.



U.S. Department of Homeland Security
Region IV
3003 Chamblee-Tucker Road
Atlanta, Georgia 30341



FEMA

August 18, 2014

Revised Prelim-EAP

The Honorable David Browning
Mayor, Town of Loxahatchee Groves
14579 Southern Boulevard, Suite 2
Loxahatchee Groves, Florida 33470

Community Name: Town of Loxahatchee Groves,
Palm Beach County,
Florida
Community No.: 120309

Dear Mayor Browning:

On May 31, 2013, the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) provided your community with Preliminary copies of the Flood Insurance Rate Map (FIRM) panels and a Flood Insurance Study (FIS) report for Palm Beach County, Florida and Incorporated Areas for your review and comment. The FIRM panels and FIS report were produced in the countywide format, which means that flooding information for the entire county, including Palm Beach County Unincorporated Areas and all incorporated areas, is also shown.

Select Preliminary FIRM panels (shown and listed on the enclosed Map Index Overview) have been revised to incorporate the data received between June 1, 2013 and February 28, 2014 for the following flooding sources: the C-51 Basin; E2, E3, and E4 Canals; Coastal Transects 7, 8, 9, and 15; AO Zones in the City of Palm Beach Gardens and Palm Beach County Unincorporated Areas; and various other community updates. We have enclosed a full set of FIRM panels for your community, including those revised Preliminary FIRM panels (dated August 18, 2014) for which revised flood hazard information was prepared and those which remain the same from the May 31, 2013 Preliminary distribution. Your community is receiving an updated FIS Report and Summary of Map Actions (SOMA), both dated August 18, 2014.

We are sending the revised Preliminary copies at this time to give your community an opportunity to review them. Additionally, in an effort to assist you in circulating the information, FEMA has posted digital copies of the FIRM and FIS report materials online. To view Preliminary Flood Hazard Data, visit <https://hazards.fema.gov/femajportal/prelimdownload>.

A formal Preliminary DFIRM Community Coordination (PDCC) meeting to discuss the revised flood hazard information, ordinance adoption, and other frequently asked questions and concerns has been scheduled for Monday September 8, 2014. Four public Open House Meetings have been scheduled across Palm Beach County the week of September 8th through September 11th. Detailed information about these meetings will be sent in a separate letter from FEMA later this month. In the meantime, we encourage you to circulate the enclosed copies as widely as possible among elected officials, staff, and other individuals or organizations in the community that would have an interest in the FIRM and FIS report so that they will have the opportunity to review them thoroughly before the formal community coordination meeting. The review period provides community officials and citizens in the affected communities with an opportunity to identify changes or corrections to non-technical information, such as corporate limits, road names, and stream names on the FIRM or in the FIS report.

www.fema.gov

Comments may be sent to:

Michael Taylor, PE, CFM
AECOM
1360 Peachtree Street NE, Suite 500
Atlanta, GA 30309

All comments and changes received during this review period will be incorporated, as appropriate, before the FIRM and FIS report become effective.

As shown on the enclosed FIRM panels, we have identified Special Flood Hazard Areas (SFHAs), areas that would be inundated by the flood having a 1-percent-annual-chance of being equaled or exceeded in any given year (also known as the base, or 100-year, flood), within the limits of your community. According to our records, your community is not participating in the National Flood Insurance Program (NFIP). Participation in the NFIP makes flood insurance available to residents, thereby providing valuable financial protection against potential flood losses. Participation in the NFIP provides additional protection because it leads to local enactment of a sound floodplain management program that will ensure safe construction standards in identified SFHAs. Therefore, we encourage your community to consider participating in the NFIP. The enclosed brochure, titled *Joining the National Flood Insurance Program*, explains the effects of non-participation and the benefits of participation in the NFIP for communities that have been identified as having SFHAs. Please contact our office or your State NFIP Coordinator to discuss participation in the NFIP.

We reviewed our records to determine if any previous Letters of Map Change (LOMCs) (i.e., Letters of Map Amendment, Letters of Map Revision [LOMRs]) for your community will be superseded when the FIRM becomes effective. According to our records, no LOMCs have been issued for your community.

Your community should be aware that recently approved LOMCs, specifically LOMRs, may have been issued for your community. The LOMR process is dynamic and FEMA is reviewing LOMR applications regularly. To complete production of the Preliminary FIRMs which includes incorporating the effects of "mappable" LOMRs issued since the last map effective date, a specific cutoff was established. FEMA will address any approved LOMRs issued after the cutoff date when the final SOMA is distributed. If your community has concerns regarding a specific case, please submit the LOMR case number, as well as any appropriate documentation, to our FEMA Regional Office at 3003 Chamblee-Tucker Road, Atlanta, Georgia 30341 before the end of the comment or appeal periods discussed below to assist us in keeping the map up to date.

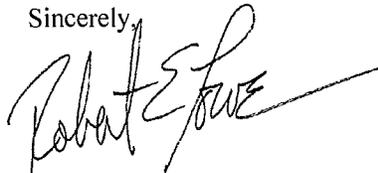
After the PDCC Meeting, we will initiate a statutory 90-day appeal period for certain communities within Palm Beach County. A statutory 90-day appeal period is required when FEMA adds or modifies Base (1-percent-annual-chance) Flood Elevations (BFEs), base flood depths, SFHAs, flood zone designations, or regulatory floodways within a community, as shown on the revised Preliminary FIRM panels. If your community is identified as requiring an appeal period, we will send you a letter approximately 2 weeks before the start of the 90-day appeal period to detail the appeal process. The letter will forward information regarding notifications to be published in the FEDERAL REGISTER and local newspaper(s) and will provide the first and second publication dates. The appeal period will start on the second newspaper publication date. Additional information concerning the 90-day appeal period will be provided during the PDCC Meeting.

After the 90 day appeal period has ended and we have addressed all comments/appeals, we will initiate final preparation of the FIRM and FIS report. The new FIRM and FIS report for your community will become effective approximately 7 to 10 months later. Before the effective date, you will be notified in writing of the official FIRM and FIS report effective date and asked to adopt floodplain ordinances or

modify existing ordinances as necessary that correspond with the new FIRM or FIS report. If you or other community officials have any questions regarding floodplain ordinances, you may raise them with our FEMA Regional Office or you may discuss those issues with your State NFIP Coordinator. Several months before the effective date, we will mail one set of printed copies of the finalized FIRM and FIS report and digital copies of the map and report products.

Your community's comments on the Preliminary FIRM panels and FIS report are an important part of our review process, and we will consider them carefully before we publish the FIRM and FIS report in their final form. If you have any questions regarding the Preliminary copies of the FIRM and FIS report, please contact the Mitigation Division of FEMA in Region IV at 770-220-5406 and ask for the Regional Project Officer assigned to your community, for assistance. If you have general questions about mapping issues, please call our FEMA Map Information eXchange (FMIX), toll free, at (877) 336-2627 (877-FEMA MAP) or e-mail our FMIX staff at FEMAMapSpecialist@riskmapcds.com.

Sincerely,



Robert E. Lowe, Chief
Risk Analysis Branch
FEMA Region IV

Enclosures:

Index Overview of Revised Panels
Revised Preliminary FIRM Panels
Revised Preliminary FIS Report
Joining the National Flood Insurance Program Brochure

cc: Marianne Arbulu, State NFIP Coordinator (without enclosures)
Mark Kutney, Town Manager, Town of Loxahatchee Groves (without enclosures)

Town of Loxahatchee Groves, Florida
Town Council
AGENDA ITEM REPORT AGENDA

(carried forward from 9/08/2016)

MANAGER’S REPORT ITEM NO. 9a

Roads: Speed limit reduction on Okeechobee and Folsom

August 23, 2016	Filming and surveying Folsom and Okeechobee for baseline condition and signs Ordering speed limit signs for Okeechobee and Folsom. Signs are expected to arrive in two to three weeks.
July 27, 2016	Staff is expecting information shortly from the County regarding the installation of 30 MPH signs on the roads.

Traffic: Staff is working with Minto to draft an agreement between Minto and the Town for the funding of the traffic light at Okeechobee Boulevard and D Road.

August 31, 2016	No activity
July 27, 2016	No activity on this item
July 14, 2016	No activity
May 10, 2016	No activity on this item
April 27, 2016	No activity
April 13, 2016	No activity on this item
March 29, 2016	No activity on this item
February 24, 2016	No activity on this item
February 10, 2016	No activity on this item
January 26, 2016	No activity on this item
January 12, 2016	No activity on this item
December 29, 2015	No activity on this item
November 25, 2015	Will be setting a teleconference the week of 11/30/2015
November 13, 2015	Emailed bullets and report to G. Webb
October 29, 2015	Provided J. Easton copy of bullet points and report
October 27, 2015	No activity on this item
October 13, 2015	Telephone call to Mr. George Webb, County engineer, and left a message for a return call.
October 8, 2015	Simmons & White submitted an analysis of the traffic light cost (attached) based on the Minto Proposal.
September 29, 2015	The town's traffic engineer should finish the costing during this week and can be available on the agenda of 10/20/2015.
September 1, 2015	Town traffic engineer determining cost for items not included in the Minto proposal. This is needed in order to determine amount of Town funding needed.

Town of Loxahatchee Groves, Florida

Town Council

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(carried forward from 9/08/2016)

MANAGER'S REPORT ITEM NO. 9a

August 25, 2015	Received email and will look to analyzing potential cost to implement light at D Road and Okeechobee. Transmitted information to Town Engineer for very preliminary estimates of cost.
August 12, 2015	No activity on this item
July 15, 2015	No activity on this item
June 30, 2015	No activity on this item
May 11, 2015	No activity on this item
April 15, 2015	This office met with representatives from Minto. Discussion points were covered regarding the proposed funding of the traffic control appurtenances for D Road and Okeechobee. Staff will review the information and report progress at the June 16 Town Council meeting.
April 1, 2015	No activity on this item
March 1, 2015	This office has received communication and we are trying to establish a date and time during the week of March 9 th .
February 10, 2015	No activity on this item
January 26, 2015	No activity on this item
January 14, 2015	No activity on this item
December 29, 2014	A discussion with Minto's attorney indicated Palm Beach County would agree for the Town and Minto to enter into a funding agreement which may exclude the County.

Code Enforcement: CEO is working to close old open cases

August 31, 2016	All case files from 2007 to present have been reviewed and catalogued. 30 cases have been closed, 12 are scheduled to be closed due to lack of information, 9 older cases remain open, 15 new cases have been filed.
July 27, 2016	Code officer continues to work on active cases and is closing cases.
July 14, 2016	Staff is closing or taken specific action on more than 15 cases. Many are simply closed for lack of an issue and others are pending the parties action or inaction over a specified time period.

Code Enforcement: Need a Special Majistrate

August 16, 2016	Town received three (3) responses for majistrate services: BRANDENBURG & ASSOCIATES, P.A.; CORBETT, WHITE, DAVIS AND ASHTON, P.A.; PAUL J. NICOLETTI Council direction is requested at the 9/8/2016 regular meeting
July 27, 2016	Bid is prepared for advertising and responses are to be received by 1:00 PM August 16, 2016

Town of Loxahatchee Groves, Florida
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(carried forward from 9/08/2016)

MANAGER’S REPORT ITEM NO. 9a

July 14, 2016 It has been nearly a year since the Town had a code enforcement officer. Presently, the CEO does not require a majestrate. Staff has requested that PBC contract with the Town for the provision of a majestrate. In the meantime, the Town should consider engaging a majestrate to hear and rule on cases

Trails: Permit to all non-motorized trails

August 24, 2016	LGWCD Administrator will be taking an agenda item to the board at their 9/12/2016 meeting to remove the PBSC from the perpetual permit
July 27, 2016	Legal continues to work through methodology to exclude PBSC property
July 14, 2016	No activity
May 10, 2016	No activity
April 27, 2016	LGWCD has declined to meet with the Palm Beach State College stating they believe the issue is with the Town and potential trail on the property. We have provided a letter from the College's attorney and email on the subject under Councilman Jarriel's reports on 5/3/2016.
April 13, 2016	No activity on this item
March 29, 2016	No activity on this item. Based on discussion at the last IGC meeting, the perpetual permit offered by the LGWCD is not offered in segments. In other words, the Town accepts all the berms for trails or none.
February 24, 2016	No activity
February 10, 2016	No activity on this item
February 8, 2016	Town Council removed trails agenda item and staff requested the LGWCD provide better detail information to Exhibit A of the trail permit

Trails: 6th Court North, Red Clover Nursery

July 27, 2016	No activity on this item
July 14, 2016	No activity
May 10, 2016	No activity on this item
April 27, 2016	No activity
April 13, 2016	No activity on this item
March 29, 2016	No activity
February 24, 2016	No activity
February 10, 2016	No activity on this item
January 26, 2016	No activity on this item
January 12, 2016	No activity on this item
December 29, 2015	No activity on this item

Town of Loxahatchee Groves, Florida
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(carried forward from 9/08/2016)

MANAGER’S REPORT ITEM NO. 9a

October 12, 2015	Preparing scope of project to survey needed property for trails on 6th Court North
October 29, 2015	No activity on this item
September 17, 2015	Met with owners, Denise & Marcel Bosse, of Red Clover Nursery to discuss potential of expanding the trail easement along the northern boundary of their property. The owners were general receptive. I advised the Town would prepare a survey after the Town receives the survey from the LGWCD.

Roads/Culvert Replacement: Attended a meeting at West C Road and Timberlane to meet the District

July 27, 2016	No activity
July 14, 2016	No activity
May 10, 2016	No activity on this item
April 27, 2016	No activity
April 13, 2016	No activity on this item
March 29, 2016	No activity on this item
February 24, 2016	No activity
February 10, 2016	No activity
January 26, 2016	Town Council adopted a culvert replacement policy that can be used for this area of concern.
December 29, 2015	No activity on this item
November 25, 2015	Formulating policy for Council consideration delayed from 11/03/2015 meeting.
October 29, 2015	No activity on this item
October 29, 2015	No activity on this item. Due to return to Council for further consideration.
October 6, 2015	Town Council requested this item for the 10/20/15 agenda for culvert replacement policy postponed to 11/6/15
September 22, 2015	A culvert appears to be collapsed under the road leading into C canal. Property Owners are looking for relief in fixing the culvert and road after the repair. The Town collects gas tax for this road; however, the road is not the same as Compton, Marcella, and Bryan.

Building: Staff had a meeting with the Day property representative to preliminary discuss the prospective site plan for the property on Tuesday, December 9. The meeting was to review site plan requirements and process

August 31, 2016	No activity on this item
July 27, 2016	No activity

Town of Loxahatchee Groves, Florida
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MANAGER’S REPORT ITEM NO. 9a

July 14, 2016	This office executed an administrative amendment to the property to allow a phasing in of the building development.
June 30, 2015	All funds have been received in this cost recovery accounts.
May 20, 2015	Staff began working with the owner to remediate the outstanding balance from the cost recovery that occurred prior to the settlement.
May 19, 2015	Town Council approved the site plan
May 19, 2015	The site plan with conditions supported by staff is being presented to the Town Council at its May 19, 2015 meeting. Town Attorney spoke with Day’s counsel. The Town Attorney has received comments regarding the requested trail easement and will be providing a response soon.
February 19, 2015	The February 19 th P&Z and RETGAC joint meeting placed additional conditions upon the site plan such as an equestrian trail on the north boundary of the property from east to west and the Town’s engineer provide a review of the conclusions of the traffic study and acceptance.
February 19, 2015	This item is due to be presented to the P&Z and RETGAC committees jointly at their meeting.
January 12, 2015	Staff and Mr. Lipp, met with representatives reviewing Rural Vista guidelines assisting the representatives determine the guidelines.
December 16, 2014	No Activity
December 9, 2014	Discussed the site plan specifically the following: Timing of submittal and hearings addressing conditions of approval perimeter landscaping buffer requirements horse trail potential PBC manages traffic related issues and may need to be at meetings LGWCD to affirm positive outfall for drainage Interconnection to westerly property discussion Set RETGAC meeting for January 2015 P&Z meeting for January 2015 About March present to Town Council. We reviewed the site plan submission requirements

Roads: Balance of District Roads

August 16, 2016	A joint workshop is being scheduled for a date in October. The district offered October 10, which is a holiday, so I recommended October 4 before the Town Council meeting. We have no response to the counter proposal
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Town of Loxahatchee Groves, Florida
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(carried forward from 9/08/2016)

MANAGER’S REPORT ITEM NO. 9a

July 14, 2016 At the LGWCD meeting on July 11, 2016, the Board of Supervisors again discussed roads under the districts control.

February 9, 2016 LGWCD denied the request of Town Council to place all district roads under the operation and maintenance of the Town

Roads: Tree trimming

August 31, 2016 LGWCD has been advised verbally that trees need to be trimmed on North Road east of D road intersection.

Roads: This office met with Angela Hendrichsen Sandoval, P. E., PMP, Section Leader, and Ken Mudd, Resource Professional IV, representing South Florida Water Management District (SFWMD) in reference to a permit the SFWMD issued in 1982 for a road and swale improvement on 43rd. As I understand the purpose of the meeting, SFWMD was looking to determine whether or not the Town would assist them in correcting a deficiency in the road and swale drainage system on the road. The Town will be contacted in the future regarding the next step to be taken to correct the problem.

July 27, 2016 No activity

July 14, 2016 No activity on this item

May 10, 2016 No activity

April 27, 2016 No activity on this item

April 13, 2016 No activity

March 29, 2016 No activity on this item

February 24, 2016 No activity on this item

February 10, 2016 No activity on this item

January 26, 2016 No activity on this item

January 12, 2016 No activity on this item

December 29, 2015 No activity on this item

November 25, 2015 No response as of this date to request for meeting.

November 13, 2015 Email to SFWMD staff to set a meeting.

October 29, 2015 No activity on this item

October 14, 2015 Staff was unable to contact SFWMD to set a meeting to review letter to property owners on 43rd

September 30, 2015 No activity on this item. Staff will reach out to the SFWMD during the week of October 5.

September 7, 2015 No activity on this item

August 12, 2015 No activity on this item

July 15, 2015 No meeting has been set by SFWMD and the Town to discuss the contents of the letter.

Town of Loxahatchee Groves, Florida

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(carried forward from 9/08/2016)

MANAGER'S REPORT ITEM NO. 9a

June 30, 2015	No meeting has been set by SFWMD and the Town to discuss the contents of the letter.
June 11, 2015	Staff received a proposed letter from SFWMD to the property owners on 43rd
May 27, 2015	Received a telephone call from Ken Mudd regarding a draft letter that will be sent and establishing a meeting date. It is believed the draft letter will be forthcoming in the next week or two.
May 11, 2015	No activity.
April 14, 2015	No activity on this item.
April 1, 2015	No activity.
February 23, 2015	Ms. Hendrichsen Sandoval stated that this office will be notified in advance of a letter will be drafted informing residents of a meeting to discuss the matter.
February 11, 2015	No activity.
January 15, 2015	This office received communication from SFWMD regarding their internal work to plan their path forward. Upon completing their planning effort, they will be in touch with staff.
January 14, 2015	No activity from SFWMD representative
December 16, 2015	No activity

Manure Dumping: We continue to monitor equestrian waste hauling

August 24, 2016	Attended Equestrian Waste Management - Staff Level Meeting at Clayton Hutchinson Agricultural Center - 559 North Military Trail, WPB
March 29, 2016	No activity on this item
February 24, 2016	Received a concern regarding dumping and contacting PBSO
February 10, 2016	We have received no more complaints and no activity from PBSO
January 26, 2016	We have received no more complaints and no activity from PBSO
January 12, 2016	Special detail has been ordered and awaiting further details.
December 29, 2015	We have contact PBSO to implement a targeted effort to put a stop to this activity.

IGC Meeting:

Town of Loxahatchee Groves, Florida

Town Council

AGENDA ITEM REPORT AGENDA

(carried forward from 9/08/2016)

MANAGER'S REPORT ITEM NO. 9a

August 24, 2016

Meeting held in the Council Chambers at Town Hall. The district's proposed fill management policy needed additional research before further consideration; code enforcement violation on North A Road canal maintenance berm was discussed but no action currently; the perpetual trail permit excluding the Palm Beach State College will be presented to their board at the 9/12/2016 meeting; tire amnesty program is not moving forward; discussed the Town's and the district's standard permitting process.

July 27, 2016

Meeting held; advised Council approved ILA for FY 2017; discussed having the perpetual permit ILA modified to eliminate PBSC property and we send a letter to LGWCD for their consideration; changing the IGC meeting location from the LGWCD to Town Hall.

July 14, 2016

No activity on this item

April 27, 2016

No activity on this item

March 23, 2016

This office, Vice Mayor Jarriel, and LGWCD representative met 3/23/2016. Discussion concerning quit claim deeds for North and South F Road and South B Road occurred and it was determined the LGWD would hold off for several months before submitting the quit claim deed to the Town. In other action, Vice Mayor Jarriel placed on the agenda discussion regarding the Town's standard permit for the LGWCD or anyone performing work on Town roads. The discussion surrounded the matter the LGWCD had not submitted the permit for work they were doing on North A Road and others. The Administrator requested that the Town forgo having plans submitted to the Town in advance for approval, however, the LGWCD would submit as-built plans. In reciprocity, the Town would not have to submit plans to the LGWCD for road work. Currently, the Town is not or should not be required to submit plans on Town roads. Only when or if the work has direct impact on the canal system would such a permit be necessary under the current program. I requested the reciprocity be extended to the future trail network and I was discussed the current ILA with the LGWCD requires the permit from them. I recommended the LGWCD undertake a change in the ILA to allow similar treatment of Town trail projects as the LGWCD desires to have on the work they perform on Town roads. There was no resolution at this time.

Town of Loxahatchee Groves, Florida
Town Council
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(carried forward from 9/08/2016)

MANAGER'S REPORT ITEM NO. 9a

February 23, 2015 This office, Vice Mayor Jarriel, and LGWCD representative met 2/23/2016. Some discussion occurred regarding the LGWCD fill policy. No action is recommended regarding the issue between Palm Beach State College and the LGWCD. No presentation regarding culvert replacement. 40th North was closed with no discussion. Dust control program had no action.

Roads: 8th Place North

August 29, 2016 Pursuant to Council direction, staff removed from the public road on 8th Place North, a gate intruding into the right-of-way. On Friday August 29, about 11 a.m., Mr Jackson claimed the gate to be his property. We asked him to execute a statement acknowledging the gate was in good condition and the Town, henceforth, would consider items located within the road would be considered abandoned property. Mr. Jackson refused to execute the notice; however, the statement was read to him in the presence of two witnesses. Mr. Jackson asked the gate be returned to the road and we asked for another location. He stated it could be returned to his property which was done.

July 27, 2016 Records submitted to Town Attorney and he is working with their attorney to resolve the matter.

July 14, 2016 Staff continues research for work on this road. The LGWCD provided records back to January 2012 and stated that records before that date are not as complete

May 3, 2016 Staff has worked to locate records requested by Mr. Kurtz, Attorney for Mark Jackson. Records have been transmitted; however, more research and cost would be incurred. Staff presented the Town Attorney with records, some of which date back seven years, and due to the billing methodology at that time, we presume that billing provided by the LGWCD providing for non-district road grading or "courtesy grading" was for all Town roads.

The Town Attorney will advise counsel for Mr. Jackson the road is a public road and for Mr. Jackson to remove the pole and gate from hindering vehicular ROW. In the event the items are not moved, staff, under the auspices of the Town Council, will remove the pole and open the gate now hindering access to properties to the north and west on 8th Place North, no later than Friday, May 13, 2017.

Town of Loxahatchee Groves, Florida
Town Council
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(carried forward from 9/08/2016)

MANAGER’S REPORT ITEM NO. 9a

Water Utility: Franchise fee to Royal Palm Beach Work to avoid Town residents from paying an extra 10% for potable water service to Royal Palm Beach Request for Proposals for Public Works related functions.

August 29, 2016	Mayor Browning and Town Manager met with the Royal Palm Beach Mayor and Village Manager to discuss the 10% franchise fee charged Town properties by the PBC Utilities for all water sales in the Town on Tuesday, August 30, 2016 . Further investigation should be pursued to correct the matter.
July 27, 2016	Meeting set for 7/25/16 temporarily postponed to be reset
July 14, 2016	No activity on this item
May 10, 2016	No activity
April 13, 2016	No activity
March 29, 2016	No activity on this item
February 24, 2016	No activity on this item
February 10, 2016	No activity on this item
February 10, 2016	No activity on this item
January 26, 2016	No activity on this item
January 12, 2016	No activity on this item
December 29, 2015	No activity on this item
November 25, 2015	No activity on this item
November 13, 2015	Teleconference with Ed Lowrey; teleconference with Shannon LaRoque RE: funding and large user agreement.
October 29, 2015	Met with Jim Stiles, PBC Utility Director for preliminary discussions.
October 14, 2015	No activity as of this date. Will work to contact PBC utility before the 10/20/15 Town Council meeting.

Adopted Millage:

July 19, 2016	Town Council adopts the same millage rate as its proposed millage rate of 1.4718 mills. Town Council is scheduled to adopt its tentative millage rate at the 9/8/2016 meeting.
June 29, 2016	Taxable value provided by Property Appraiser \$258,253,505
September 29, 2015	Town Council adopted 1.4718 mills for FY 2016.
September 30, 2015	Property Appraiser reduced assessed taxable value by \$1,546,793 through the value adjustment board. This is a reduction of 0.69%. The budget impact can be about a \$2,100 reduction in ad valorem tax revenue.

Town of Loxahatchee Groves, Florida
Town Council
AGENDA ITEM REPORT AGENDA

(carried forward from 9/08/2016)

MANAGER'S REPORT ITEM NO. 9a

Building: Big Dog Ranch Rescue

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| August 17, 2016 | The Town received payment for outstanding cost recovery amount and staff is working to release the request MOT for Big Dog to install a crossing onto Okeechobee Blvd. |
| July 14, 2016 | Attorneys are continuing to work on the matter. |
| May 10, 2016 | Contacted PB County and requested they take appropriate action to cause non-construction activity to cease. My understanding is they have investigated to determine if the operation is more than construction offices. PB County advised them that Big Dog must correct the matter with the Town within 10 working days from May 9, 2016. If non-construction oriented operations do not cease, the electrical services will be terminated. |
| April 26, 2016 | <p>Met with PB County Building Department, Doug Wise, and Bradford Brown regarding processing commercial applications in the Town. Near the end of the meeting, we discussed activity occurring in Town at the Big Dog Ranch Rescue site at D Road and Okeechobee Blvd. We were provided a copy of an application and site plan that reflected two (2) temporary office trailers (construction trailers), and a house all located in the southwest quadrant of the property. The copies we received had neither approval on the application nor the site plan. We have asked Lauren Simmons, to please submit the approved documents for our inspection. As of 4/28/2016, the this office has not received confirmation. Electrical services were provided without authorization from the Town. Pursuant to 20-010 (D) CONSTRUCTION TRAILERS. One construction trailer may be placed on the site for up to one year after</p> <p>Additionally, I was advised by Ms. Simmons that one trailer was for medical/veterinary clinic, one trailer was for adoptions, and another for administrative purposes. Additionally, a house is included on the site plan and is being used for another purpose.</p> <p>Dogs are being processed and housed through the site.</p> |

Building: Loxahatchee Groves Commons

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|-----------------|---|
| August 31, 2016 | Met with representative for Taco Bell to review signs, elevations, and other pertinent information. Tara Toto, Jim F., Tina B. attended. Issued approval for PBC to move forward, if acceptable, with certificate of occupancy for the Commons. |
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Town of Loxahatchee Groves, Florida
Town Council
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(carried forward from 9/08/2016)

MANAGER’S REPORT ITEM NO. 9a

Financial Software Implementation: Financial Edge software implementation

August 31, 2016	Implementation go-live date is 10/1/2016 and a representative from Blackbaud will be present during/immediately prior to the go-live date.
July 27, 2016	Implementation continues pursuant to the 10/1/2016 go-live date
July 14, 2016	Staff has met with representative of Blackbaud and the new goal is to go live on the software near the beginning of the new fiscal year.
May 10, 2016	No activity
April 27, 2016	Waiting for Blackbaud contract execution and return
March 29, 2016	Due to delays in the implementation beyond the staff control, Blackbaud has requested a change order in methodology of payment. For specific implementation tasks being completed. The changes orders are being presented at the April 5, 2016 meeting.
February 24, 2016	Staff continues to push the project forward; however, there have been months of inactivity due to Town Council actions. The attached report reflects tasks and items completed or yet to be completed before full implementation can occur

Roads: B Road Improvement

August 31, 2016	Construction was slowed due to weather but we believe the timeline will still be met for completion of the project
July 14, 2016	Construction is progressing and 10 of the 20 catch basins have been installed beginning at the north end of B Road moving south. The project is still on schedule to be completed shortly after the beginning of the new fiscal year.
April 27, 2016	Hardrives has been notified to submit contract documentation for contract award by Town Council
April 13, 2016	Town received and place on the 4/19/2016 agenda a modification to the original four -party agreement for the B Road improvement project to allow the Town to substitute paving for OGEM. Upon Council approval, the Town staff will move forward with contract execution after all elements are in place.
April 4, 2016	Town Council awarded the construction bid to Hardrives, Inc. for \$1,033,008.80
March 29, 2016	No activity on this item

Town of Loxahatchee Groves, Florida
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MANAGER’S REPORT ITEM NO. 9a

February 24, 2016	Attorney and Manager meeting to review responses, bid results, and multi-party agreement for the construction of B Road improvements.
February 10, 2016	Pre-bid conference held and waiting for questions and answers.
January 26, 2016	Advertisements for contractors was advertised in the Palm Beach Post and on the Town's web site.
December 29, 2015	Per discussion with Randy Wertepny, Town Engineer, significant progress has been made in the design and permitting portion of the improvement. We will receive an update of their progress at the next Town Council meeting. Bid documents are nearing completion which will facilitate meeting the completion date.

Millage: Palm Beach County Fire Rescue Proposed Millage Rate

July 12, 2016	BCC proposed millage rate set at 3.4581 mill for FY 2017
7/1/2016	Millage of 3.4581 mills
June 9, 2015	This office received a letter (attached) dated June 1, 2015 from the PBC Fire Rescue Finance Director, Michael Martz. The letter indicates the proposed millage for FY 2016 will be 3.4581 mills . This rate is 6.05% over the roll-back rate.

Taxable Value: Palm Beach County Property Appraiser advises estimated taxable value.

July 1, 2016	This office received form DR-420 (Certification of Taxable Value) reflecting a \$37,166,113 increase in Town values from \$221,087,392 to \$258,253,505
May 21, 2015	This office received a letter (attached) dated May 22, 2015 from the PBC Property Appraiser. The letter indicates the estimated taxable value for FY 2016 is \$217,069,265 . This value is a 10.77% increase over the FY 2014 value.

Annexation: 556 FOLSOM RD

August 31, 2016	Scheduled to be back on 9/29/2017
July 27, 2016	Planning and zoning Board heard the applicant and the annexation is continued to the next P&Z meeting.
July 14, 2016	The owner, Dr. Ira Grossman, has requested the Town annex their property into the Town of Loxahatchee Groves. The application has been submitted and thus far, Palm Beach County staff has no objections to the annexation. PBC staff would request the Town include the easterly portion of Folsom Road to the canal berm within the annexed area. We will have a meets and bounds survey prepared for this process.

Town of Loxahatchee Groves, Florida
Town Council
AGENDA ITEM REPORT AGENDA

(carried forward from 9/08/2016)

MANAGER'S REPORT ITEM NO. 9a

Annexation: 455 FOLSOM RD

August 31, 2016	No Activity except a telephone call from the applicant
July 14, 2016	The owners, Debra and Gary Cramer, have requested the application for voluntary annexation. Staff is waiting for the submittal.

ULDC/Comp Plan: Committee meets to review ULDC and Comprehensive Plan

August 25, 2016	AR zone discussions continue with proposed language modifications to ULDC and associated chapters and comprehensive plan
August 5, 2016	Begin discussion of permitted, and accessory uses in the Agricultural Residential (AR) zone.
July 28, 2016	Organizational meeting to be held on 8/28/2016 and receive first work program

RETGAC: Committee meeting

August 31, 2016	Meeting is set for 9/27/2016 at 10:00 a.m. in Town Hall
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Legislative Priorities: Town Council needs to develop its legislative priorities for the State of Florida

August 31, 2016	Approval of appropriation requests on the 9/8/2016 agenda
July 14, 2016	Staff would like to begin the process for the development of the next (2017) legislative session in Tallahassee

Emergency Preparedness Plan:

August 25, 2016	This office, Mayor Browning, CERT, PBSO, PBFD, and LGWCD met to perform an emergency table top exercise under differing scenarios. The results of the exercise indicated the Town should invest in a ham radio antenna for Town Hall location, invest in a generator - preferably natural gas and tap into the line running in front of Town Hall; invest in a satellite telephone which is only billed when used.
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3. ATTACHMENTS

None

4. FINANCIAL IMPACT

Not applicable.

5. RECOMMENDED ACTION

Motion to receive and file report.

William (Bill) Underwood, II

From: Ronald Jarriel <jarriellr@bellsouth.net>
Sent: Tuesday, October 11, 2016 11:27 AM
To: William (Bill) Underwood, II
Subject: Items for LGTC AgendaTuesday, 10/18/16

Good morning, Bill,

Here are some items I would like to put on Tuesday's (10/18/16) Town Council Agenda:

- 1) Recreational Trails perpetual permit agreement for discussion and direction
- 2) OIG Audit Report 2016-A-0004 Town of Loxahatchee Groves, September 23, 2016, for discussion and direction
- 3) ILA with Loxahatchee Groves Water Control District for grading, hedging, mowing and emergency call in services

Thank you...

Respectfully,

Ron Jarriel, Councilman
TOLG

561-315-5213

Perla D. Underwood

From: Todd McLendon <Tmclendon@loxahatcheegrovesfl.gov>
Sent: Wednesday, October 12, 2016 3:35 PM
To: Perla Underwood
Subject: Item for agenda
Attachments: Model Zoning Code Update Ordinance v7.doc

Peral

Can you add an item for me for Tuesdays agenda? Proposed ordinance for reducing pollution in Loxahatchee Groves.

Thank You,
Todd McLendon
Council Member

Town of Loxahatchee Groves
155 F rd
Loxahatchee Groves, Fl 33470
561-793-2418

PROPOSED ORDINANCE
Executive Summary

Proposed ordinance relating to updating zoning district regulations for the development of an electric vehicle charging infrastructure includes the following:

1. Amendment to Definitions to include terms relating to electric vehicle.
2. Amendment to District Regulations to include electric vehicle charging stations (i.e., parking equipped with level-1 and level-2 EVSE) as a permitted accessory use and structure in all districts.
3. Amendment to District Regulations to include electric vehicle charging stations equipped with DC Fast Charge EVSE as a permitted accessory use and structure in the following districts: Residential General; Office-Institutional; Commercial; Industrial; certain Special Purpose Interest Districts; Neighborhood Commercial; Live Work; Mixed Use Planned Developments; and Mixed Residential Commercial.
4. Amendment to District Regulations to include electric vehicle battery exchange stations (termed as “battery exchange stations”) as a permitted principal use and structure in the following districts: Commercial; Industrial; SPI-11, -15, -16, -18, -20, -21, and -22; and Mixed Residential Commercial. The battery exchange stations were limited to districts where automobile service stations are a permitted principal use and structure.
5. Amendment to Application of Zoning Regulations to create an incentive program that reduces the number of parking spaces necessary to meet minimum parking requirements. This program would count each parking space that is converted to or newly constructed as an electric vehicle parking space and/or electric vehicle charging station as three regular parking spaces in calculating whether minimum off-street parking requirements have been met. The program would apply in all districts and would be subject to certain limitations, while allowing the Department to reduce the incentive where the total number of parking spaces, including EV parking/charging stations, is inadequate for needs as determined through results of the incentive program.
6. Amendment to add General Design standards and criteria related to electric vehicle parking and charging stations in parking facilities. The design standards would be in the General and Supplementary Regulations section of the Zoning Code and detail aspects as location of EVSE installation, criteria for EVSE installation, wayfinding signs, example of signage to be used, etc.

A MODEL ORDINANCE RELATING TO THE DEVELOPMENT OF THE CITY OF _____'S ELECTRIC VEHICLE CHARGING INFRASTRUCTURE, AMENDING THE ZONING CODE TO PROVIDE DEFINITIONS RELATED TO ELECTRIC VEHICLE CHARGING AND TO DEFINE CERTAIN REGULATIONS RELATED THERETO.

WHEREAS, the Environmental Protection Division (OR ITS EQUIVALENT) of the state of _____ has assessed the air quality in the city of _____ as a "nonattainment" area for ozone; and

WHEREAS, a substantial percentage of all air pollution and greenhouse gas emissions in the city of _____ is derived from emissions in the transportation sector; and

WHEREAS, air pollution, in high levels, has been shown to cause premature death and to aggravate lung illnesses such as acute respiratory infections, asthma, chronic bronchitis, emphysema, and lung cancer, all of to which children and the elderly are more susceptible; and

WHEREAS, the use of alternative fuels, such as electricity, for transportation reduces air pollutants, including greenhouse gases, emitted from said sector; and

WHEREAS, the city of _____ can reduce air pollution and greenhouse gas emissions by encouraging the transition to electric vehicle use and facilitating the development of a convenient, cost-effective, citywide electric vehicle charging infrastructure; and

WHEREAS, the driving distance between battery charges in current, commercially available electric vehicle models is limited, which limited driving distance is a fundamental disadvantage to broad consumer adoption of electric vehicles, and in order to eliminate this disadvantage and to increase consumer acceptance and usage of electric vehicles, an infrastructure of convenient electric vehicle charging opportunities is essential and must be developed; and

WHEREAS, the use of alternative fuels, such as electricity, which are domestically produced, also reduces the reliance on imported sources of energy for transportation; and

WHEREAS, electricity is a sustainable and domestically produced source of transportation fuel that may be used to power motor vehicles with zero or ultra-low tailpipe emissions; and

WHEREAS, the use of vehicles with zero or ultra-low tailpipe emissions will help not only to improve air quality and to reduce greenhouse gas emissions, but will also help to create local jobs as more electric vehicles are adopted and transportation fuel expenditures are reinvested in domestic sources of energy; and

WHEREAS, the city of _____'s economic security is jeopardized by its near total reliance on imported petroleum for transportation purposes, and which supply of imported petroleum is vulnerable to interruptions, making its price extremely volatile; and

WHEREAS, the use of electricity as a source of transportation fuel diversifies the supply of transportation fuels available, resulting in a more stable and secure base for the local economy; and

WHEREAS, the cost of gasoline in the city of _____ has been volatile but remains at price levels above \$2.00 per gallon; and

WHEREAS, the cost of electricity to recharge an electric vehicle is much cheaper than gasoline, the equivalent of paying \$_____ per gallon of gasoline; and

WHEREAS, the market for electric vehicles in the United States, including the city of _____, has steadily increased since the introduction of commercially available models in 2011, and with new industry standards that ensure universal compatibility between vehicle manufacturers, more residents and businesses have purchased or have started to consider the purchase of an electric vehicle as a means of transportation; and

WHEREAS, electric vehicles need to be electrically recharged; and

WHEREAS, because the electric charging for private electric vehicles will take place mostly in residential settings, including those located in mixed-used districts and those without access to attached garages, allowing and defining regulations for an electric vehicle charging infrastructure in these districts of the city of _____ is in the public interest; and

WHEREAS, because businesses in non-residential areas may want to install electric vehicle infrastructure for their business uses or for their clients and/or employees to use, allowing and defining regulations for an electric vehicle charging infrastructure in these districts of the city of _____ is in the public interest; and

WHEREAS, the development of an electric vehicle charging infrastructure and of related regulations will allow the residents and businesses of the city of _____ to have and use safe electric vehicle charging equipment at their place of residence and employment, will give the opportunity for commercial and industrial projects to provide electrical vehicle charging services to customers and employees, and will allow businesses to set up charging equipment to supply their electric vehicle fleets; and

WHEREAS, the development of an electric vehicle charging infrastructure will create jobs and foster economic growth as the automobile industry transitions to this technology because local retailers and contractors will be required to sell, install, maintain, and repair these electric vehicles and the charging equipment; and

WHEREAS, the development of zoning regulations related to electric vehicle charging will foster economic growth through streamlining the process of installing charging equipment with clear and definitive regulations related to electric vehicle charging equipment and the districts in which the use of such equipment is allowed; and

WHEREAS, the city of ____ is committed to increasing and improving the City’s sustainability goals, including improving air quality by reducing pollutants, and making possible sustainable land use and transportation policies by incorporating development standards that are appropriate for urban uses; and

WHEREAS, it is in the best interest of the city of _____ to define terms related to electric vehicles and their charging infrastructure, to refine the definitions of “permitted accessory use and structure” in all zoning district regulations, and to refine regulations related thereto; and

WHEREAS, the City Council (OR ITS EQUIVALENT) adopts this Ordinance pursuant to its police power to provide for the public, health, safety, and welfare;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF _____, as follows:

SECTION 1. Chapter ____, Definitions, of the Zoning Code of the City of _____, is hereby amended to read as set forth below. New text is shown by underline. Deletions of text are shown by strikethrough. All other provisions of Chapter ____ shall remain unchanged and in full force and effect.

“(4) *Automobile*: Any vehicle propelled by its own motor and operating on ordinary roads. As used herein, the term includes passenger cars, trucks, motorcycles, motor scooters, motorized bicycles and the like. For purposes of this part, classes of automobiles may be separately controlled or regulated (as for example passenger cars, trucks and motorcycles).

(a) *Battery electric vehicle (BEV)*: Any motor vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle’s battery, and produces zero tailpipe emissions or pollution when stationary or operating.

(b) *Electric vehicle*: Any motor vehicle that is licensed and registered to operate on public and private highways, roads, and streets, and operates either partially or exclusively on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. Electric vehicle includes battery electric vehicles and plug-in hybrid electric vehicles.

(c) *Plug-in hybrid electric vehicle (PHEV)*: An electric vehicle that (1) contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor; (2) charges its battery primarily by connecting to the grid or other off-board electrical source; (3) may additionally be able to sustain battery charge using an on-board internal-combustion-driven generator; and (4) has the ability to travel powered by electricity.

...

(14)(c) *Service station*: An establishment where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and in connection with which is performed general automotive servicing as distinguished from automotive repairs. Battery exchange stations as defined in this section shall be construed as a service station.

...

(56) Alternative fuel vehicle charging station: A place or area which enables a vehicle to refuel itself with non-gasoline and non-diesel alternative fuels. Alternative fuels include pure methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels (including E85 and M85); natural gas and liquid fuels domestically produced from natural gas (including compressed natural gas and liquefied natural gas); liquefied petroleum gas (including propane); hydrogen; biodiesel (B100); fuels other than alcohol derived from biological materials; electricity (including electricity from solar energy); P-series fuels; and any other fuel the United States Secretary of Energy determines by rule is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

(a) Electric vehicle charging station: A public or private parking space that is served by electric vehicle supply equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery in an electric vehicle.

(b) Electric vehicle charging station — restricted use: An electric vehicle charging station that is (1) privately owned and restricted access (e.g., single-family home, designated employee parking) or (2) publicly owned and restricted (e.g., fleet parking with no access to the general public).

(c) Electric vehicle charging station — public use: An electric vehicle charging station that is (1) publicly owned and publicly available (e.g., on-street parking and city-owned parking facilities) or (2) privately owned and publicly available (e.g., shopping center parking, non-reserved parking in multi-family parking lots).

(d) Charging: When the connector from an electric vehicle supply equipment (or standard outlet) is inserted into the electric vehicle inlet, and electrical power is being transferred for the purpose of recharging the batteries on board the electric vehicle.

(e) Charging level: The standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged.

1. Level 1 is considered slow charging, typically requiring a 15 or 20 amp breaker on a 120-volt AC circuit and standard outlet.

2. Level 2 is considered medium charging, typically requiring a 40 amp to 100 amp breaker on a 240-volt AC circuit.

3. DC Fast Charge is considered rapid charging, typically requiring a 60 amp or higher dedicated breaker on a 480-volt or higher three-phase circuit with special grounding equipment. DC Fast Charging uses an off-board charger to provide the AC to DC conversion, delivering AC directly to the car battery.

...

(80) Electric vehicle infrastructure: The structures, machinery, and equipment necessary and integral to support an electric vehicle, including the electrical conduit and premises wiring requirements for the installation of electric vehicle supply equipment, as well as battery exchange stations.

(81) Electric vehicle supply equipment (EVSE): The conductors, including the ungrounded, grounded, and equipment grounding conductors and the electric vehicle conductors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for purposes of delivering energy from the premises wiring to the electric vehicle, complying and conforming with National Electric Code Article 625 and Society of Automotive Engineers J1772 Standard.

(82) Battery exchange station: A facility where an electric vehicle with a swappable battery can enter and exchange its depleted battery with a fully charged battery through a fully automated process.”

SECTION 2. The Zone District Regulations of the Zoning Code of the City of _____ are hereby amended to include electric vehicle charging stations as defined in section XXXX(56) that are equipped with Level 1 and Level 2 EVSE as a “permitted accessory use and structure” in all zoning districts.

SECTION 3. The Zone District Regulations of the Zoning Code of the City of _____ are hereby amended to include electric vehicle charging stations as defined in section XXXX(56) that are equipped with DC Fast Charge EVSE as a “permitted accessory use and structure” in the following districts: Residential General; Office-Institutional; Commercial; Industrial; Neighborhood Commercial; Live Work; Mixed Use Planned Developments; and Mixed Residential Commercial.

SECTION 4. The Zone District Regulations of the Zoning Code of the City of _____ are hereby amended to include electric vehicle charging stations as defined in section XXXX(56) that are equipped with EVSE as a “permitted principal use and structure” in the following districts: Commercial; Industrial; and Mixed Residential Commercial. If a parcel of land is to be used primarily for the retail electric charging of vehicles as a principal use and structure, then the use shall be equivalent to an automobile service station for zoning purposes, located only in zoning districts that permit service stations and subject to all rules and regulations applicable to automobile service stations.

SECTION 5. The Zone District Regulations of the Zoning Code of the City of _____ are hereby amended to include electric vehicle battery exchange stations as defined in section XXXX(82) as a “permitted principal use and structure” in the following districts: Commercial; Industrial; and Mixed Residential Commercial. Battery exchange stations are specifically prohibited in exclusively residential zones and Historic/Landmark districts.

SECTION 6. Section XXXX, Off-Street Parking Requirements, of the Code of Ordinances, City of _____, is hereby amended to read as set forth below. New text is shown by underline. Deletions of text are shown by strikethrough. All other provisions shall remain unchanged and in full force and effect.

“Incentive program related to minimum off-street parking requirements – applicable to the conversion of parking spaces to or the new construction of electric vehicle parking and charging

stations: The City of _____ is committed to becoming one of the top ten sustainable cities in the United States of America and supports the development of alternative fuel vehicle infrastructures. There is established an incentive program for the reduction in the number of car spaces and off-street parking spaces required in each zoning district to meet applicable minimum parking requirements, whereby each parking space that is converted to or is constructed newly as an electric vehicle parking space and/or an electric vehicle charging station, as defined in section XXXXXX, counts as three parking spaces toward meeting the off-street parking requirements as stated in these regulations. The incentive program is subject to the following limitations:

- (a) The provisions of this section shall apply to any building, commercial establishment, or property for which a permit for new construction is issued following the effective date of this part, and to the alteration of existing buildings in all cases where sufficient space exists to provide such parking facilities.
- (b) Electric vehicle parking spaces shall be reserved for the exclusive parking of an electric vehicle.
- (c) Electric vehicle charging stations shall be reserved exclusively for the charging and parking of a vehicle that is connected to the EVSE for electric charging purposes.
- (d) If the Department or board of zoning adjustment considers the incentive program to result in inadequate off-street parking for occupants, visitors, and/or employees considering the character or use of the building, the Department or board of zoning adjustment is hereby empowered to require a modification of the number of parking spaces that may be reduced pursuant to this section.

...

Other limitations on use of off-street parking and loading areas: No required unenclosed off-street parking and loading area shall be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies; and no other area on a lot shall be used for such purposes. The restrictions in this subsection do not apply to the electrical charging or servicing of electric vehicles in spaces equipped with EVSE or electric vehicle charging stations...

SECTION 7. Chapter ____, General and Supplementary Regulations, of the Zoning Code the City of _____ is hereby amended by adding a new section, which section reads as set forth below. New text is shown by underline. All other provisions of Chapter ____ shall remain unchanged and in full force and effect.

“Section XXXX. - Design standards and other criteria for electric vehicle parking and charging facilities.”

- (1) The following design criteria apply to parking facilities offering electric vehicle parking and charging services for public use:
 - (a) Electric vehicle parking and charging stations, as defined in section XXXX(56), should be equal to parking space size and performance standards as provided in these

regulations. The installation of an EVSE should not reduce the electric vehicle charging station's length to below off-street parking space size and standards required under Section XXXX.

(b) Where electric vehicle charging stations are provided:

(1) Installation of EVSE shall meet National Electric Code Article 625;

(2) Charging station outlets and connectors shall be no less than 36 inches and no higher than 48 inches from the surface where mounted;

(3) Equipment mounted on pedestals, lighting posts, bollards, or other device shall be designated and located as to not impede pedestrian travel or create trip hazards on sidewalks;

(4) Adequate electric vehicle charging station protection, such as concrete-filled steel bollards, should be used where warranted. Curbing may be used in lieu of bollards, if the battery charging station is setback a minimum of 24 inches from the face of the curb; and

(5) Adequate site lighting should be provided unless charging is for daytime purposes only. Higher lighting levels are encouraged to improve visibility of cables, charging equipment, and vehicle inlets.

(c) Way finding signs should be installed at the parking facility entrance and at appropriate decision points to effectively guide the motorists to the electric vehicle parking space and/or charging station.

(d) Each electric vehicle parking space and charging station shall be designated, clearly marked with appropriate signage indicating the space is an "electric vehicle reserved parking" or is an "electric vehicle charging station". If time limits or vehicle removal provisions are to be applied, regulatory signage including parking restrictions, hours and days of operations, towing, and contact information shall be installed immediately adjacent to, and visible from, the electric vehicle parking or charging station.

(e) Electric vehicle charging station should be maintained in all respects, including the functioning of the EVSE. A phone number or other contact information shall be provided on the equipment for reporting when it is not functioning or other problems are encountered.

(2) On-street electric vehicle charging stations.

(a) Where on-street parking spaces are designated and equipped to be electric vehicle charging stations, such spaces should be for the exclusive purpose of electric charging.

- (b) Electric vehicle charging stations should be installed to use the last space on a block face in the direction of travel. Locating charging stations as such will reduce cable management issues and place the electric vehicle charging station closer to crosswalks and curb ramps.
 - (c) In parallel parking configurations, electric vehicle supply equipment should be installed near the front of the electric vehicle charging station based on the direction of travel.
 - (d) In perpendicular or angle parking configurations, electric vehicle supply equipment should be centered, or to the left, in front of the electric vehicle charging station for single connectors, and placed between two electric vehicle charging stations for dual connectors.
 - (e) When electric vehicle supply equipment is placed in a sidewalk or walkway adjacent to the on-street electric vehicle charging station, it should not interfere with the minimum pedestrian clearance widths as defined in Chapter 11B of the American Disability Act Standard.
 - (f) Retraction devices or a place to hang permanent cords and connectors when not in use sufficiently above the pedestrian surface should be provided. Cords, cables, and connector equipment should not extend across the path of travel within the sidewalk or walkway.
- (3) Electric vehicle parking or charging structures as either principal or accessory use: In addition to Section XXXX relating to Parking Structures, the following regulations shall apply:
- (a) When located immediately adjacent to any public right-of-way, public park, private street, or adjacent R-1 through R-5, RLC, R-G, MR, or PD-H District:
 - (1) Shall be delineated to, and including, the third story above the sidewalk-level executed through windows, belt courses, cornice lines or similar architectural detailing and shall conceal automobiles from view. Said structure shall have an appearance similar to that of the adjoining or attached residential, commercial or mixed-use structure.
 - (2) Parking structure façades shall have openings screened with mesh or decorative panels, tinted or sandblasted glass, or similar screening elements so as to prevent views into the parking structure.
 - (3) Parking decks shall be illuminated with uplighting or shall contain shielded internal light bulbs to eliminate light spillage outside the structure.
 - (b) Along all façades not along any public right-of-way, public park, or private street, a continuous landscaped strip between the structure and property line should be planted as follows:

- (1) As to not impede visibility within visibility triangles at street intersections, as measured from the curb, between the heights of two and one-half feet and eight feet above grade; otherwise, a continuous minimum five feet wide landscaped strip shall be provided between the structure and the public sidewalk, except at ingress and egress points into the structure. Said landscaped strip shall be planted with street trees spaced a maximum distance of 20 feet on center. The landscape strip shall also be planted with evergreen ground cover such as mondo grass, liriope spicata, ivy or evergreen shrubs with a maximum mature height of 24 inches. All plantings, planting replacement and planting removal shall be approved by the city arborist.

- (2) To meet an active-use depth requirement from said parking structure façade at sidewalk-level, except at ingress and egress points into said parking structures. When two or more floors meeting the definition of sidewalk-level exist within the same building, this requirement shall only apply to the frontage of each floor located within five vertical feet above or below the grade of the adjacent sidewalk. For the purposes of this chapter active uses shall be serviced by plumbing, heating, and electricity and are limited to residential, retail, eating and drinking establishments, museum, gallery, office, institutional, auditorium, library, hotel lobby, or cultural facility uses, and shall not include parking, non-residential storage areas, driveway or queuing lanes parallel to the adjacent street. Minimum active-use depths shall be provided as follows:
 - (i) Residential uses: Minimum depth of ten feet.

 - (ii) All other uses (as specified above): Minimum depth of 20 feet.

(4) Signage

- (a) All signage must comply with the Sign Ordinance of the City _____.

- (b) Placement and Clearances:
 - (1) Signs should be no smaller than 12”W x 18”H

 - (2) Bottom of sign shall be 7’ above ground.

 - (3) Poles shall be located from 24” from the curb.

 - (4) Signs shall not be hidden by other signs or objects.

 - (5) Intersections: Signs may be no closer than 20’ from the closest edge of a cross walk or 30’ from the corner of an intersection if no cross walk exists.

 - (6) Fire Hydrant: Signs may be placed 15’ from either side of a fire hydrant.

 - (7) Driveway/Curb Cur: Signs may be placed 10’ from a driveway/curb cut.

(8) ADA: signs shall not be placed within 48” of another pole.

(c) Sign Installation

(1) Signs to be placed and installed within right-of-way must comply with Section XXX.

(2) Where possible, signs shall be attached to light poles or u-channel poles.

(3) If existing poles do not correlate with the placement of the EVSE, new u-channel poles shall be installed. Other signs that are not location-sensitive will be moved to the new pole.

(4) Signs shall not be adhered to wooden poles, trees, or way-finding signs.

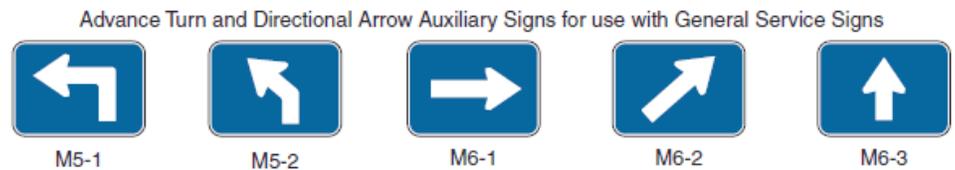
(5) If 2 or more signs exist on the same pole, then parking restriction signs (red) shall be placed above general service signs or regulatory signs (green).

(6) If 2 or more signs exist on the same pole, then parking restriction signs (red) shall include a 6”x12” sign with a RED arrow indicating where the restriction applies with respect to the sign.

(7) Way-finding signs associated with EVSE general service signs will utilize WHITE arrows with BLUE background unless otherwise directed by the City of _____.

(d) Examples of Signs

(1) Way-finding Signs



(2) General Service Signs



(3) Regulatory Signage



i. EV Parking Only

ii. EV Parking Only

iii. EV Charging Only

(4) Striping



(5) Minimum landscaping requirements for surface electric vehicle parking and charging station lots. The requirements of City Code of Ordinances, chapter _____ vegetation, article II, tree protection, section XX, parking lot requirements, shall apply to electric vehicle parking and charging station lots in addition to the street tree planting requirements, with additional requirements as follows:

(a) Said surface parking lot requirements shall apply to all lots regardless of size;

(b) Existing parking lots shall not be required to reduce the number of parking spaces by more than three percent as a result of implementing the following surface parking lot landscaping regulations:

(1) All parking bays shall be terminated with a landscape strip a minimum width of five feet and equal to the length of the parking bay.

(2) All required landscaped areas shall be planted with evergreen groundcover or shrubs with a maximum mature height of 30 inches; and

(3) All required landscaped buffer strips, regardless of length, shall have a minimum of one tree planted per 30 feet of length with a minimum caliper of two and one-half inches.”

SECTION 8. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 9. If any section, clause, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any court of competent jurisdiction, such section, clause, or provision declared unconstitutional, void, or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

SECTION 10. The proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law when they were commenced.

SECTION 11. The provisions of this Ordinance are hereby ordered to take effect upon the publication in the manner prescribed by the Charter of the City of _____.

SECTION 12. This Ordinance is hereby declared to have been adopted by the City Council of the City of _____, at a meeting thereof duly called and held on _____ day of _____, 20____, and ordered to be given publication in a manner prescribed by the Charter of the City of _____.