



Members Present:

Dave Browning, Mayor
Marge Herzog, Vice-Mayor
Dave Autrey, Council Member
Dennis C. Lipp, Council Member
Dr. J. William Louda, Council Member

Members Absent:

None

Others Attending:

Dr. Irv Rosenbaum, Interim Town Manager (NCS)
Matthew Lippman, Interim Town Clerk (NCS)
Michelle Kantor, Interim Assistant Town Clerk (NCS)
David Tolces, Esq., Town Attorney
Members of the Public

1. – 4. Call to Order/Roll Call/Pledge of Allegiance/Invocation

Mayor Browning called the meeting to order at 7:00 p.m. He then requested the roll call by Town Clerk Lippman. Town Clerk Lippman noted that Councilman Louda would be arriving late to the meeting. Upon completion of the roll, Mayor Browning requested everyone stand for the Pledge of Allegiance and Invocation.

5. Approval of Agenda

Vice-Mayor Herzog asked to add a quick LGLA presentation by Ken Johnson to the beginning of the meeting.

Councilman Autrey made a MOTION to approve the Agenda, SECONDED by Vice-Mayor Herzog and the MOTION passed unanimously 4-0, with Councilman Louda absent.

CONSENT AGENDA:

6. 11/4/08 Town Council Meeting Minutes: Approval

Councilman Lipp noted on Page 25 in the last Paragraph it should read **stone** wall not storm wall.

Councilman Lipp noted on Page 26 in the middle of the page there was an extra space that needed to be removed.

Councilman Autrey made a MOTION to approve the Consent Agenda, with changes to the minutes as noted tonight and previously sent via email to the Town Office, SECONDED by Vice-Mayor Herzog and the MOTION passed unanimously 4-0, with Councilman Louda absent.

REGULAR AGENDA:

THIS ITEM WAS ADDED TO THE AGENDA AT THE BEGINNING OF THE MEETING.

Ken Johnson-Presentation from LGLA

Ken Johnson, LGLA Member- said on behalf of the LGLA members we want to give Mayor Browning this poinsettia tree.

Mayor Browning said this will go in our Town Office and thanked Mr. Johnson and the Members of the Land Owner's Association.

7. 40th Street North Public Road Access: Discussion

Town Clerk Lippman said at the Tuesday, October 21, 2008 meeting there were some letters submitted into Public Record from some landowners that use 40th Street North as a Public Road access. He said they were some concerns raised about the North Road Canal Project which is something the LGWCD is managing with the County and that they were concerned about their right of way access. He said we have all been in discussion with each other and I had a meeting with Clete about this. He said I know there were some pictures taken today of the

current conditions. He said the odd thing is as we get into it, it is not a continuous access road it kind of breaks up as you go along. He said this is a road that some of the landowners have used for years and now when the canal project will be completed, some of the right of way be slightly impacted and they have raised some concerns.

Town Attorney Tolces said I have looked at the letters and at the agreement the LGWCD has with the County and the easement that was recorded by the County. He said the work that is being performed there is pursuant to the agreements. He said there are some concerns with the right of way there and to what extent the Public was able to use the road that to my understanding is being removed as a result of the construction. He said you as the Town Council not being around when the agreement was entered into between the LGWCD and the County, and not involved in the actual project itself, are kind of removed from what is going on out there. He said if you choose to spend municipal funds to address the issues out there, you can do that. He said but other than a decision by the Council to construct some sort of right of way out there, there is very little for you to do at this time.

Councilman Autrey said just one correction, Matt you stated the road is broken, and I drove it today and what is there now is from 140th Street North to A Road. He said I spoke with the residents and my concern is 2 years into this project why we are just now discovering what some residents are seeing as a financial bond to them and I agree with that. He said my concern is what can we do to help them out.

Town Clerk Lippman said I apologize for traveling purposes it is a continuous road.

Vice-Mayor Herzog asked when did the new contractor start doing this work because it had laid dormant for a long time.

Clete Saunier, LGWCD Administrator- said this project started a couple of years ago and it was a pipeline project and associated with it was the agreement your attorney David Tolces had referred to and part of that contract with the Utility Department required them to build a canal section along this entire stretch according to the design section given to them by us at that time; they did not fulfill that. He said the project manager from the County for whatever reason allowed them to be released; they then questioned after much protest by me why the contractor didn't fulfill the expectation. He said they went back and they had to draw on the performance bond the original contractor had submitted and that took time. He said that time evolved over a period of 8 months and there was a hiatus and then they awarded a contract to a preferred vendor on their list-Whiteside Construction, to do just the work that the LGWCD had made an agreement with the County for, and that is what is going on now. He said a point with 40th Street North is nobody is being restricted from continuing access the way the road exists today and it is in better shape. He said I went out there today and took photographs and showed an area directly in front of Mr. Lope's property and the Liang's property. He said here you see an old fence that is falling apart over the years and some stakes running along here the top of the bank. He said I met with the County and we adjusted the canal bank here to be 2foot further south so we could provide more access on a temporary base, although the canal section will remain that way. He then showed 12 foot width in the lane. He said they will finish the grading and it will be smoothed out a lot more before they are done. He said that is the situation we are faced with and what we have done is we have notified the landowners that the LGWCD fully intends to have Workshops for anyone who is affected by this to come and let's talk alternatives. He said we certainly want the Town's involvement in that because we have about \$30,000-\$50,000 set aside for road improvement material to be placed there. He said just like Mr. Lopes

and everyone else, we thought 40th Street North was one place, but it is actually North of that spot. He said we had wanted to put an equestrian trail adjacent to it, but we don't have the room. He said we had planned just like we did on F Road on putting an equestrian trail there. He pointed out a line FPL had put in the middle of the 30ft easement years ago.

Vice-Mayor Herzog said you also have a lake that is in the 30ft right of way, and asked how would you transverse that.

Mr. Saunier responded that is one of those detailed issues we would need to talk about at that Workshop. He said I am not pretending I have all the answers today as to how this would work.

Vice-Mayor Herzog said it would almost have to go on the North side of that lake.

Mr. Saunier responded I wouldn't envision it would go that far north. He said if there is an easement there goes back to a question that Matthew asked me during our meeting on how did I come up with the lane mileage for this section of 40th Street North. He said we were on a time crunch and used the link on the Property Appraiser's website where it measures and shows 40th Street North continuing from C Road all the way to D Road but if you look at those drawings that the County provided there is no easement there. He said in other drawings they do show an easement being there.

Town Clerk Lippman announced Councilman Louda is here at 7:20pm.

Vice-Mayor Herzog said Councilman Autrey mentioned that he drove from 140th the whole distance. She asked will that remain open or will there be an earth and berm like they did previously.

Mr. Saunier said Sunsport has expressed their desire to not have a road through there. He said there has never been a road through there. He said there currently appears to be a road there because all of that canal bank has been excavated. He said the other interesting thing is that from 145th to the D Road Bridge, which is not very far, like 300 feet, there is not an easement showing up on that property, but there is a road there.

Vice-Mayor Herzog asked if the residents want that North side to remain open it would remain open.

Mr. Saunier responded if they want it and we have funding to build the road then sure I don't know why the residents would not get it. He said that would be yours and the Board's decision.

Vice-Mayor Herzog said well you mentioned Sunsport wanted to have that road closed.

Mr. Saunier said Sunsport would be the ones to control that-they don't want it.

Councilman Autrey asked when were you guys aware that 40th Street North wasn't really 40th Street North, when did the LGWCD become aware of that.

Mr. Saunier responded probably when the plans were finalized, so about 18 months ago.

Councilman Autrey asked and the residents weren't notified at that time that there was going to be an issue.

Mr. Saunier responded no, because we didn't think there would be. He said once the stakes went in, which was when Whiteside picked up again, it became very obvious that the road wasn't in the easement and there wasn't a continuous easement all the way through.

Councilman Autrey said today I went and talked with a woman who lives up off 145th and asked her about her access, she has a small nursery and her concern is a semi truck trying to get back to her property when she harvests her trees and so we get to the 145th Street and that small section of D Road, cause that is the access she uses. He said the woman said the canal easement as it exists wouldn't work because the gentleman to the North of her has blocked off 145th from 45th. He said she was the only one I was able to talk to but there is a small group of homes up there. He said what Mr. Lopes and others have expressed to me is a bunch of dollar signs being laid on them at the time when this economy is just not good and I just hope we can come up with a fair solution for them that will work for all parties. He said in talking with Philomena she has some concerns with the easement and she also expressed a desire to see a road put in there because they might at some point want to sub divide. He said so I think personally the long term best solution is to look at a road and determine where that road is supposed to go and then how we go about funding the road, but for the short term, what do we do for Mr. Lopes who has concerns with his horse trailer getting in and out of his property and the lady on 145th who has similar concerns.

Mr. Saunier said comparatively speaking, before this project ever started, there is more access along that canal bank now than there ever was before they started putting those pipelines in. He said so I would just add that although it is a temporary access that we are permitting at this time and we are providing for, it is not going to be taken away until a permanent solution is resolved, and that is going to require cooperation from both you and my Board.

Vice-Mayor Herzog said well there are other situations in the LGWCD where canal easements are being used as roads, take for example C Road.

Mr. Saunier said it is completely outside the right of way.

Mayor Browning asked so the easements are different depending on where you are.

Mr. Saunier responded back in the 70's it was unregulated and decisions were made and no one was watching, like with this property here.

Councilman Louda asked about the C and D culvert on the map.

Mr. Saunier responded I think the Liang's would testify that they have an excellent bridge crossing at the C Road Canal that is much wider than it used to be.

Vice-Mayor Herzog said and guard rails which make it much safer.

Mr. Saunier said and all that is gratis from the County.

Councilman Louda said this comes down to legally getting easements.

Mr. Saunier said well there is another option as well, one option that was bantered about in my conversations with Mr. Lopes and the Liangs is what would happen if you just put a bridge in

and would that be less expensive than dedicating an easement all along your front, and then build a road, vs. just one crossing here.

Councilman Louda said the only culvert I heard of monetarily being built was the one over on E Road and that came in around \$80,000.

Mr. Saunier said Mr. Plant wanted it that way; it was a lot wider than it needed to be, so there was a lot more expense.

Councilman Louda said the culvert needs to be wide enough for the swing.

Mr. Saunier said this is true. He said no one is saying this is the final solution; I was just tossing that out there as another alternative.

Councilman Louda said the cheapest would be if we could get easements given and then smooth it out.

Mr. Saunier said it is just a matter if the Liang's want to donate.

Councilman Louda said someone is going to have to lose land to get a road.

Mr. Saunier said if that is an option, we have funding for the base road to go over the top of it but we don't have funding for the actual sub-grade preparation for such a road like that.

Vice-Mayor Herzog said I think until the residents have a chance to give their input I don't think we can make a decision for them.

Councilman Autrey said between A Road and Global Trail there are 3 properties currently who access that now and asked if they had been notified.

Mr. Saunier said yes, as a matter of fact I spoke to one gentleman there today and he is concerned about the slope in front of his property there and I assured him I would be meeting with the County this week to try and fill that up a little bit more in front of his frontage. He said there is an easement there, but the road is not in.

Vice-Mayor Herzog said now you did say you are going to build up that berm along the canal on the North side because it was pretty flat.

Mr. Saunier responded yes.

Councilman Louda said I just counted 7 existing culvert crossings on the map.

Mr. Saunier responded you are right, there are 7. He said you are allowed a culvert crossing every 600 feet.

Mayor Browning said plus that canal really doesn't flow much water.

Mr. Saunier said it is a collector that actually distributes the water south; once this project is completed that entire area should drain very well and is certainly better than what is was.

Councilman Autrey said I am just wondering if we should investigate and look into this whole easement issue because as we get further down the road we can speak knowledgably to the landowners on what can be done and what has to be done.

Town Attorney Tolces said I did some preliminary research on my own and while there is a reference to 30feet for right of way purposes and some deeds subject to an easement, I couldn't find the Seminole easement had been granted by any property owner. He said now I didn't look at every single property on there but from my perspective because this is a County project being constructed with an agreement with the LGWCD, legally the Town there is no obligation. He said but if you directed us to conduct more research, it would probably entail getting surveys and title work done to see if there were any easements recorded other than what the County did for this project. He said in order to do it properly we have to use the surveys that are already out there and then submit it all to a title company and figure out what is out there and absent of that we would just be fishing through Public Records.

Councilman Autrey asked how long is the LGWCD going to continue to allow people to use that easement.

Mr. Saunier said I believe the Board is committed to allowing them to use it until a permanent solution is come upon and without saying forever, I would hope to have some resolution within the next 6 months and I that is what I will be talking to the Board about that Monday night at our meeting about. He asked Town Attorney Tolces if they did a title search was it only within our right of way or did they do anything outside of our right of way.

Town Attorney Tolces said I didn't ask them that but since the LGWCD was the only entity in the eminent domain that was filed, that they probably didn't go outside of that easement to see what the title was of that area. He said I also placed a call Mary about it and didn't get a call back prior to tonight's meeting.

Mr. Saunier said I can answer that question and I did speak to Mary about that and they were really not involved in that at the time so they are really in the dark.

Town Attorney Tolces said I was more concerned about today and the concern of property owners not being able to access their properties and if the LGWCD had looked at that issue at all to the respect that the road had been used for some time and now that right of way will be removed, so that was before Thanksgiving and things keep moving and progressing. He said if you want to direct us to do any title work we can do that. He said I don't have any idea of the cost or of what information we could get but it would be something we could do.

Councilman Louda asked would there be a way for all the residents being impacted to get together and just somehow come up with a dedication of easement for what is needed without going through titles and everything, or to give up the easement they have to have the new survey.

Town Attorney Tolces said in order to figure out what needs to be dedicated you have to have a plan, so I would agree with Clete, the plan or some design needs to come forward if the intent is to replace the right of way. He said once you have the plan in place and you see what is needed then you can have some title work done to see exactly who owns what and what you would need from each property owner.

Councilman Louda said whatever happens we ain't buying the land.

Town Attorney Tolces said from the Town's perspective we are kind of on the sidelines trying to get something accomplished and if the Council makes a decision to make this a Town project, we can jump in full force although it will cost some money to actually do the project.

Councilman Louda said at some point down the road the easements have to be granted for us and them to legally do anything on it. He said we can't go build a road with no easement.

Town Attorney Tolces said essentially that is what has happened, at some point there was a road constructed, with or without an easement and the Public has used it and there are some legal circumstances associated with it. He said and that is typically for a judge to decide unless the property owner dedicates it and then the LGWCD maintains it for them. He said in this instance we are looking to reach an agreement between both governmental entities and the property owner to ultimately maintain the right of way and like Clete said, someone needs to come up with a plan and we will go from there.

Mr. Saunier said I just wanted to emphasize what we are trying to do is the County is obligated to do certain things and that does not include the road, so what we would like to do is have them finish and be out of the way, so that we as the Town and the LGWCD can address the issue independently, what has already taken way too long to finish.

Vice-Mayor Herzog said well you are not going to be able to put in the fencing.

Mr. Saunier said no, see they paid us a certain amount of money which we have in a separate account just sitting there waiting for this to be done. He said at the time we did this, there was no Town and now that there is a Town we fully intend to involve you in this.

Town Clerk Lippman said to sum up here so we can get direction, is issue (1) is you as a Council need to be assured that any resident that uses 40th Street North now will not be denied access until a permanent solution is done, so these people will be able to use it like they have always done (2) how do we come up with a long term solution, he said one thing you need to figure is there are a lot of empty parcels out there that could develop, and so whatever we plan now to help these residents and also anyone who may be there in the future (3) the sorest point of all and put ourselves in a resident mode and all of a sudden the road they have been using for years now someone is telling us we have to pay to continue use it and so we need to guarantee they will have access and decide how involved do you want us to get.

Mayor Browning asked for comments from the Public.

Vice-Mayor Herzog said I was just thinking we need to organize a Workshop so that we know what direction the residents want us to go in.

Town Clerk Lippman said I believe that Clete is being proactive and will communicate to us he will pick a date after the project is finished.

Vice-Mayor Herzog said since this is a Town road.

Town Attorney Tolces said that is the point I have been making, is this is a LGWCD project with the County and to that extent you should let the LGWCD lead the development of it and let them

come back to you with a plan and you can see to what extent the Town is able to participate or if the Town wants to participate.

Vice-Mayor Herzog said I thought I understood I heard Clete say he wanted to finish the project that the County had paid for and then I assumed that would become our problem because that is our road; it is not a LGWCD Road.

Mr. Saunier said no.

Vice-Mayor Herzog said then I assumed wrong.

Bill Gurney, 1453 E Road- said when I was a Board Member in the LGWCD back in the late eighties and early nineties the LGWCD was given a 100foot right of way through the entire Community by Mr. Benson, so that property became property of the LGWCD, and at that same time the landowners who had used the property for years and years and years claimed it was theirs so the LGWCD wound up giving up that property to these landowners because it was too much of a fight both monetarily and time to keep the property. He said so I want you to be very careful in what you do, because we also have the LGWCD using private property today in the same areas of the Community where the same thing could apply so I would just appreciate if you were very careful and turn over every rock before you make any decisions. Thank you.

Tony Lopes, 4451 148th Terrace North- said I don't have a lot of differences from what Clete says. He said we've lived out there and that road has always been wider. He said we have legally used that road for 15 years that I know of to go back and forth and access 148th Terrace North from C and D. He said Clete has these pictures here and he has gone out there and mowed everything back real good to make it look wide, but as soon as it starts to grow a little bit it will start to be a problem. He said there is a berm on there now and if he leaves that there will be a big mud hole there. He said we only have 12feet and that leaves like a foot and a half on each side of my horse trailer. He said I think the LGWCD made a big mistake here, they didn't notify nobody at all about this problem and this didn't start until I started squalking. He said I don't want to wait until the project is over with, we want to know what will be done before-don't let them sign off on it. He said my main concern is my situation. He said I don't consider that 12feet safe at all, not in the dark. He asked is Clete going to get out there and trim the trees all the time, is he going to take the water out of the roads. He said that road was wider than 12 feet and I've had big equipment down there and I don't think it could go down there now. He said they knew about it for 18 months and why did I need to squalk about it as soon as I found out the stakes were in the middle of the road. He said so Clete moved them over 2feet-it is not safe-not safe at all-this road is not safe. He said they made a big mistake. He asked another thing, is that canal where it is supposed to be or is it to the North too far. He said you guys need to take some consideration. He said I think there are people trying to cover themselves here and they are wrong.

Vice-Mayor Herzog said that was a concern of mine too, about the placement of the canals, because it seems that the Southside of North Road is much wider now than it used to be, and your side is much narrower, so I don't know what happened with the canal when they were putting the pipeline through, whether they straightened out mistakes from years gone by, but there is a difference. He said the Southside of North Road is a lot narrower now than it ever was.

Ron Jarriel, 2800 161st Terrace North- said I disagree with Tony 100%. He said first of all, that road is in better shape now then back when it was muddy. He said I rode that road today and they are compacting it and grading it. He said the only way you are going to solve this problem is with Workshops with the residents, and it is not going to do any good and say 18 months ago people didn't know about this. He said for one person like Tony, I can get 3 people who say it is better than it has ever been so that is no problem. Mr. Jarriel then showed the Council pictures he took today. He said as far as access and stuff-it is in good shape. He said we need to get the project done- it is not our fault the County is dragging their feet and when the County finishes up, we do our Workshops and come up with a solution.

Mayor Browning said I think what we are going to do is have some Workshops and we are going to try and work on this thing.

Town Clerk Lippman said I think the thing right now is we hear exactly what Clete is saying and we are asking the 5 of you if you are okay with that, are you okay with basically us taking a back seat with this and allow them to come to us with what they feel is a solution or do we get involved at that point and find out a little more information.

Councilman Lipp said I would just as soon let the LGWCD have their head on this and get going. He said I don't want to be spending more money on surveys and studies on something we may or may not have to do. He said if it comes down to our ballpark and we need to do things then we will do them at that time. He said I don't think we need to be proactive on things where we are spending a lot of money. He said and also when I hear things from Town Staff where road costs for the residents. He said we don't know what it is going to cost anybody, let alone a resident and I think saying things like that isn't productive. He said if a resident decides they want to put in a bridge culvert, get a permit. He said if you are looking for the Town to put in a bridge culvert, well that ain't gonna happen.

Vice-Mayor Herzog said well then there would be cost to the residents.

Councilman Lipp said that is their decision then, to put in a bridge.

Councilman Autrey said I would like to get some sense of the residents who are affected and whether or not they've been notified. He said the lady I talked to today had no idea of what was going on, so I am not convinced that everyone up there is aware of what is going on. He said if the LGWCD has done that then fine but that is what I would like to see.

Vice-Mayor Herzog said at the Workshop, I would like some clarification as to what happened with the canal and why is the Southside wider now than it used to be, and I'm sure the people on Southside of North Road are much happier with their road now because it is wider and the surface doesn't have the puddling it used to. She said sure Ron could bring in twice as many as the other people because there are more residents on that side.

Councilman Louda asked I am just wondering on the Southside did they not run a water line down there. He said I'm with Dennis, I think the LGWCD should handle this and get it closed out with the County and take a look at what is needed and have their Workshop since it was their project to begin with. He said come out with a plan and then see if the LGWCD and the Town together can finish the job together-cheaply.

Mayor Browning said I am in agreement. He said I would like to see more; right now there is not enough room up there for that right of way. He said I would like to see a horse trail there and most of us realize that have lived out here very long that the canals have wandered over the years so they are not real straight. He said so get the County out of the way and get some more stabilized rock out there to where it doesn't become a mud hole. He said as long as we are committing to them we are not going to cut off access to their property, I think we can work it out.

Mr. Lopes said I disagree with Mr. Jarriel-he is not an engineer. He said he has not ever lived up there and he is the one who told me you guys get \$35,000 a month so you guys should put the road in after a LGWCD meeting so I would not take his advice.

Ryan Liang, 4245 148th Terrace North- said I was just a little upset about what Dennis Lipp said about not helping with a culvert. He said if our access is removed and our only option is to put in a culvert, I would think we should get some type up help. He said we have to put up money to get access we are supposed to have.

Councilman Lipp said this is the point, when our own Staff brings up things that aren't necessarily true. He said you will continue to have access with the existing 40th Street-that is not going away until a permanent solution is found. He said if everyone decides a culvert is the best thing then that will be the best thing, but that has not been decided.

Mr. Ryan Liang said if down the road you guys say a culvert would be the best thing and say we have to foot the cost, I don't think that is fair. He said and then you saying that we will not help at all for the cost of the culvert-I just didn't like that comment, especially since there is a possibility that might happen.

Councilman Lipp said right now if we put a culvert in for everybody who needed one we would go bankrupt in a month.

Mr. Ryan Liang said I understand that. He said all I was saying is if our access was completely removed and our only option was a culvert, because our access was removed, I don't see it as being fair if the Town or the LGWCD or whoever doesn't help pitch in for the costs.

Town Attorney Tolces said that was one of my points. He said this is the LGWCD's project with the County so I wouldn't want the Town if somehow there is some responsibility to compensate landowners for loss of access, unless the Town wants to adopt it as a policy, I wouldn't feel it is the Town's responsibility to pay for that reinstatement for that access that's been lost.

Councilman Autrey asked Town Attorney Tolces, are you aware of a situation like this that has happened where a landowner had access and was denied access and lost it at some point in time.

Town Attorney Tolces responded I was involved in a matter down in a City to the South and there was an issue with a road that had been constructed next to a Drainage District canal and had been used over the years, and for some reason the city had to block off access from one direction and the city ended up getting sued because even though the road wasn't platted or formally dedicated to the city it had been used by the Public through the years, and after much time and money the judge did find there was legal access and compensation was paid. He said my perspective as the Town's Attorney being it is not a Town project, unless you as the Council

want to adopt a policy to participate somehow, I don't see the legal necessity to provide for such compensation and I will point out that I believe there was correspondence that I saw about a month ago where the LGWCD was originally asking the landowners to provide the right of way and potentially would have to pay for maintenance so I think that is where the concept of having the landowners contribute to a culvert for right of way might have come from.

Ken Johnson, 15409 Collecting Canal Road- said I think the Town Council has more than they can say grace over for right now and since it was the LGWCD who initiated this project, is working on this project, and I would give them the opportunity to finalize the project. He said the cost of going in and doing all of this research gets expensive quick and I don't think the Town should foot the bill for that at the present time. He said 12-14 months ago when I was working on the roads/streets name problems we had in the Town, I drove 40th from A Road to 145th and if that road is as it was depicted in Clete's photos and 12feet wide, I'm not saying that previously in some places it may have been wider. He said but if those pictures were accurate then it has a better width today.

Town Clerk Lippman said I will get with Clete to find out who he has corresponded with and work with him on it to ensure communication has been made.

Vice-Mayor Herzog asked are you communicating with the people on the North of the canal, South of the canal, or both.

Town Clerk Lippman said I don't have that answer right now but I will get with Clete.

Councilman Louda said one thing is should the communication go to all landowners, not just residents, because landowners long term could be affected, even if they don't live here now.

Mayor Browning moved to Item #8.

8. Damaged Culverts (Therese Murray and Thomas Fowler): Discussion

Town Clerk Lippman said the Town was in receipt of a couple of letters from Theresa Murray and Thomas Fowler in reference to a culvert and after reviewing those letters I had the opportunity to speak to Clete and he shared a lot of information with me and I would ask to yield to Councilman Autrey and for Clete to give you the information he gave me.

Councilman Autrey said I responded to a phone call from Town Staff to answer a call so I went out and met the residents and they told me their story and I asked them to submit a letter to the Town. He said it is my understanding there is a disagreement as to the sequence of events. He said they are crying for help so here we are.

Town Clerk Lippman said I met with Clete on this yesterday, and if I could ask him to come up. He said the reason I am bringing you up is the sequence of events as stated in the letters is slightly different than what you indicated.

Mr. Saunier said if you look at the aerial Matt has, right after Hurricane Wilma hit in October of 2005 water built up to such a point that it actually destroyed a very old and dilapidated drainage

culvert that was on that boundary line between the 2 properties. He said it corroded and blew out so badly that the entire road washed out from one side to the other. He said we immediately took action, Mr. Jarriel was witness to that and we put 6-8 loads of fill to immediately repair that problem and we didn't take the trouble to dig for all the pieces of that pipe because the water was still flowing and that was well before the County took possession of the right of way for this project. He said I met with Mrs. Martin 2-3 months ago a couple of times about a permit application and left my card with Mr. Fowler about having to buy a drainage culvert and have it put in. He said they for whatever reason 3 years ago they decided to not go forward with it until recently. He said so that is where that is at. He said that he suggested talking to her neighbors about sharing the cost of a new culvert or suggested she put the culvert in entirely herself on her property. He said I had not heard back from her yet, I just assumed the economic situation being what it is she decided to wait on it. He said then we started to get calls from Ms. Murray and at the time I was under the impression it was the drainage for 152nd way. He said I told her it was private property and I couldn't go on it and clean it out. He said the County actually has no responsibility to replace a culvert pipe that didn't exist before they took possession of the right of way. He said I talked to Ms. Martin and told her I would talk with Mr. John Everett who runs Whiteside Construction and asked him to provide her a very good price. He said I don't know if she ever followed through and called him or not.

Councilman Autrey said well that explains why she called the Town Office because you thought it was 152nd way and that is a Non-District and therefore that becomes a Town problem.

Mayor Browning asked what do we do.

Councilman Autrey responded I don't know, what do we tell her, not our problem.

Town Clerk Lippman said here is another unique situation and obviously there is a conflict of what was stated here and from what the residents remember and they feel this is property that was damaged and should be replaced and Mr. Saunier indicates differently. He said from a Town Staff perspective, I don't think we have enough information to make a decision on this and you can instruct us to look into this or you can direct us that this is a private property matter.

Vice-Mayor Herzog asked was that damaged after the construction work happened 6 months before.

Town Clerk Lippman said the letters submitted state the damage was done when the PBC Utility workers were there putting the line down and Clete is saying it happened before the construction happened. He said I am presenting the facts as is, we had someone raise concerns to the Town so we are obligated to look into it.

Vice-Mayor Herzog asked was this a result of a hurricane, the wash out.

Town Clerk Lippman responded it has been explained to me by Mr. Saunier that this particular culvert was pulled out after Hurricane Wilma came through and they were able to pull the culvert out to solve the issue and could do so because it was not a legally permitted culvert that was causing damage to the road.

Vice-Mayor Herzog said I would think there was FEMA funding that could have been used to pull this culvert out.

Mr. Saunier said we didn't pull the culvert pipe out it did itself. He said the water built up and started going over the bank and plugged the pipe and it corroded. He said we pulled as much of it out as we could but there were still pieces left. He said I hypothesize Mr. Fowler came home one day and he saw some County Workers out there and they possibly nicked a piece of that pipe.

Vice-Mayor Herzog asked what kind of cost are we looking at for a 20foot long culvert pipe.

Mr. Saunier responded actually it is probably more like 40-50 feet with materials we are looking at \$1500 maximum. He said again standing offer, if the road can drain off there, we would help them out with the heavy equipment work and they would just have the cost for the materials.

Councilman Louda asked that would be joined by 2 properties.

Town Attorney Tolces said I believe this occurred before the Town was in existence and you need to consider this as a policy issue, there may be other property owners who are similarly situated who will send you letters asking for assistance with drainage.

Vice-Mayor Herzog said my concern was just that there is some gray area here as to what happened, it sounds like the culvert was beginning to fail, but was it expedited by a little nick.

Town Attorney Tolces said if there is an issue a judge would be more than happy to dissolve this situation, but from your perspective as the Town Council have to decide if this is something you want to address.

Councilman Louda said this is a non issue to me, Clete and Ron said it was gone before Hurricane Wilma. He said that goes right back to the property owners. He said I don't expect the Town to pay for my culvert when it fails.

Vice-Mayor Herzog said I just think in some way or another the residents need to come to terms with it and we have a lot of residents that have the same issues. He said until they can work together I don't see anything happening.

Councilman Louda said I think the offer Clete made with the heavy materials is good.

Councilman Lipp said the handwritten letter the figure was \$3000 and we find out tonight it is \$1500.

Town Clerk Lippman said I believe he got a quote from somewhere else other than the LGWCD which would include labor and parts.

Vice-Mayor Herzog said that offer is good from the LGWCD as well as the contractor that is there now.

Mayor Browning responded I think it is 2 separate things.

Town Clerk Lippman said it is my understanding that if the landowners decide if they want to fund the materials for the culvert the LGWCD is willing to offer their heavy equipment and service for gratis.

Vice-Mayor Herzog said where I am going is they are going to be done with their project so these people can't be sitting around waiting.

Mr. Saunier said to answer your question Marge, I suggested the contractor do it because he was doing all the others at the time and would be able to get a quicker job done.

Vice-Mayor Herzog said my point was it would be cheaper for them to move forward while the contractor is still there so a letter needs to go to them making them aware of this.

Councilman Autrey said this is not specific to this issue and I imagine it could apply to a lot of different things. He asked Town Manager Dr. Rosenbaum about a grant program for projects like this to help landowners fund private improvements. He asked maybe there is something we could put in place that could help them.

Town Manager Dr. Rosenbaum said there are some possibilities we could come back and there are ways to help home owners with these types of things. He said there has to be some type of public purpose with these things.

Councilman Autrey said if we can come up with potential solutions I think that would be helpful.

Town Attorney Tolces said there are programs in municipalities where the homeowners are provided a certain amount of money in return for providing money the municipality gets the 2nd mortgage on the property. He said you would have to establish the program and guidelines and prove it serves a Public purpose.

Town Manager Dr. Rosenbaum said I could come back with something like that.

Councilman Lipp said I have no comments.

Mayor Browning said I have gone through this and we thought we had a culvert and when I moved in and it was all rotted out. He said I took advantage of the LGWCD offer and just as Clete said they provided the operator and the machine. He said to me the \$3000 is a bargain. He said historically that is what we did. He said \$1500-\$3000 is a pretty good deal to drain your property especially if you can get 2-3 properties to go in together.

Town Clerk Lippman said I think the key thing is I don't think anyone is looking for us to solve everyone's problem here but if we could look outside the box and see what we can do to assist people but not necessarily fund the projects.

Town Manager Dr. Rosenbaum said I think that is doable.

Mayor Browning said and the way the LGWCD Board does it, is if it used to drain the road then that becomes advantageous to the Public.

Mayor Browning asked for comments from the Public.

John Ryan, 3508 A Road- said on Sunday morning I was trying to find 152nd Way North and there is no street sign, it is only marked on a mailbox. He said I saw Theresa Murray's son who works for PBC and I talked to him and his mother and I think everything Clete has said is additional background information, but it seemed her property and Fowler's property were

impacted from the 3 hours and 8 inches of rain that flooded and the impression I had was that they knew they didn't have drainage into the North Road canal for a period of time but they had not really had the bad experience till we had the huge rainfall. He said it is clear they have a problem and I think if we communicate correctly with them they may all be willing to chip in.

Darlene Crawford, 3057 E Road- said I am just very excited to hear Mr. Tolces talking about the policy issue because I was worried about that because I think there are a lot of driveways with street names out here and people might decide it is a street and if there is no policy in place on how we are going to deal with each person as they come up and define what is really a road we are responsible for and what is a driveway, we will have issues and the money will run out. She said I am really excited to hear we are getting policies.

Elise Ryan and Ken Johnson said to disregard their comment cards on this issue.

Mayor Browning moved to Item #9.

9. Intergovernmental Committee (Town and LGWCD): Prioritizing issues and setting agenda for 1st meeting

Town Clerk Lippman said this particular item is coming from the last Town Council meeting in which you appointed Vice-Mayor Herzog to be the Council representative to begin these meetings with the LGWCD. He said we are at the point right now where we need to give some direction to Marge and Staff on what issues you feel are important and we are looking for some consensus on the top 3 items you would like to prioritize.

Councilman Louda said my biggest thing on Plan 4 is to get the Town and the LGWCD to work together going forward as a Town. He said by that I mean there have been objections to the Comprehensive Plan and so to the extent possible that we can get together and allay the LGWCD's problems with us and us with them and the ultimate goal I would like to see come out of this is the LGWCD in good faith rescind all objections to the Comprehensive Plan and to me that is the absolute first priority, because if that doesn't occur, then us getting together on road maintenance responsibilities is totally mutt. He said down the road, road responsibilities will be part of this getting together and them allaying their fears, but I am talking long term mute because there won't be a long term. He said to me that has got to be the first charge to get the LGWCD to help the Town be a Town and to work with the LGWCD. He asked how do we allay their fears because we have now put ourselves playing in their sandbox, so how do we get along.

Vice-Mayor Herzog said I agree with what Councilman Louda said and in addition to that we have to find a way to have a solution so that the tax payers don't keep getting hit with more and more expenses and we have got to figure out a way to make this system work.

Councilman Autrey said I agree with the Staff recommendations and some of the comments that were made.

Councilman Lipp said I think our #1 priority is water and the canal issues and getting past another couple of years with the SFWMD. He said we talk about a sandbox, but if our sandbox burns down we don't have any place to live. He said my #2 would be to more or less start with a

first step and just to note something with Bill and maybe I'm wrong and I hope I'm not, is if the LGWCD wrote a letter to DCA today saying we didn't mean what we said back on September 15, 2008.....

Councilman Louda said what I mean is we worked our differences out therefore our previous complaint is no longer valid.

Councilman Lipp said I think that is trying to un-ring a bell and the bell has already been rung. He said we need to look at what DCA said on those matters because they agreed and work it out. He said I don't think this committee is for working out Comprehensive Plan Matters and I would like to see us work toward what our shared responsibilities are. He said I talked with everyone on the LGWCD Board and they all agreed we share responsibilities. He said we share our responsibility to the residents. He said the primary things in mind, #1 Let's get water from SFWMD so we can pull water from our canals during a crisis. #2 As far as OGEM placement and road improvements I think the individual land owners who live on a road and have ponied up and said I want to spend this amount of money to stop eating dust, I think those projects should be allowed to continue, and that would be my suggestion.

Mayor Browning said I think all are good ideas. He said I would go a little further then what Dennis was saying, the OGEM is still always away and there is a process involved there so when we get to that point I think it is going to come down to prioritizing somehow how the roads will be done. He said then we will need to work together to provide what we can provide as a Town, like horse trails and things like that, but I like his term-shared.

Councilman Louda said I think I said that in working out our differences, I didn't use the term shared, but it was the same point. He said on the OGEMization, F Road was in a good position because it had the west side to get a horse trail and the County came forward with that. He said that is my only problem with the projects going forward is it was a process to get it done, not a plan. He said there is not a plan to OGEM this today and at the same time do this. He said that is hopefully what is going on with the MREG. He said I am not fighting OGEM anymore, I just want it done right, as a plan and not a process.

Vice-Mayor Herzog said when Dennis had said we didn't need to discuss the Comprehensive Plan at this meeting, I think it needs to be covered at these meetings, because if we can't get the issue about the road maintenance resolved we are going to be in trouble with our gas tax money and the allocation that is going to be missed from the letter roads. She said if we can't clear up that issue we've got a big problem and it will impact us tax wise.

Councilman Lipp said those are issue that need to be resolved but not by that four person committee. He said these are issues that are going to be resolved with as many minds as we can get and I think having the whole LGWCD and Town Council and Calvin-Giordano in that process is what I mean.

Councilman Autrey asked have we gotten anything from the LGWCD as to what Dennis said that they are in agreement to work with us.

Town Clerk Lippman said no sir.

Councilman Autrey said so as of this moment we haven't gotten any communication from them. He asked what is the time frame we have to respond, 120 days.

Shelley Eichner, Calvin-Giordano responded 120 days, 4 months.

Mayor Browning asked for comments from the Public.

Howard Voren, 1538 E Road- said cooperation, dual responsibility, I believe the Town Council has a responsibility to the citizens as well and in one respect I am disappointed I have not seen anyone make a MOTION or anyone move forward on the issue of having the Town Council or Town Staff and Management review the petitions that the LGWCD got from the residents that they claim prove that the majority of the residents on certain roads are in favor of it. He said when I went in to request the petitions, not one petition had more than 50% in favor of it and I think you owe it to the citizens of the Town to check what the LGWCD has for those surveys and whether they were done correctly and legally or they were hodge-podge like the last time and so far that has not been done which is a big disappointment for a lot of us and we expected the Town Council to ask to review the surveys that they are touting as to why they are able to move forward.

Vice-Mayor Herzog said I did review the ones for South B Road.

Ron Jarriel, 2800 161st Terrace North- said I think you got enough business to take care of without worrying about petitions and I know it will go to referendum here and if you really want to see what the percentage is, all you have to do is be here. He said someone asked the question have you gotten any response from the LGWCD and our meeting is on Monday night and you will hear our response Monday night if you come to our meeting.

Town Clerk Lippman said to respond to what Marge asked, at the last LGWCD they voted unanimously to support Alternative 4, so I would take that as they want to meet with us and they are going to meet with us, and I believe at their next meeting on Monday night they will appoint a representative to get these meetings started. He said assuming based on Public Record they are supporting us. He said we made some recommendations and we have some differences of opinion among the Council so we need to vote to set the Agenda of what we would like to see at this meeting. He said then they can discuss it on Monday and report back.

Vice-Mayor Herzog asked and a date will be agreed upon.

Councilman Autrey said within each of these 4 suggestions you gave us there are individual points.

Town Clerk Lippman responded that is correct, and I feel confident that some of these points will come up again when we discuss the ORC Report. He said I am not indicating any of these are more important than another, I am just indicating all 4 of these are of top importance.

Councilman Autrey made a MOTION to approve the 4 recommendations from Town Staff to discuss at the Intergovernmental Committee Meeting, SECONDED by Councilman Louda and discussion was then continued:

Councilman Louda said actually if you look at these, 1 & 2 are extremely tied together and could be rolled into one item. He said 3 & 4 are sort of policy and 4 just needs to come up with a cooperative letter to present a united front to lobby SFWMD for water. He said these four make perfect sense.

Councilman Autrey said I agree and I think 1, 2, & 3 are actually one single item.

Town Attorney Tolces said I would suggest you give them the 4 issues and let them discuss them and come back to you in whatever form they might.

Town Manager Dr. Rosenbaum said one final point, this could work very well and let's give it our best shot.

Mayor Browning asked for comments from the Public.

Ken Johnson, 15409 Collecting Canal Road asked will the meeting between the Town Council and the LGWCD be open to the Public.

Town Attorney Tolces responded it is a meeting amongst the 4 individuals and it will be open for the Public.

Councilman Louda said without comment though.

Town Attorney Tolces said it is a Public Meeting, not a Public Hearing.

The MOTION passed unanimously 5-0.

Mayor Browning moved to Item #10.

10. Ordinance 2008-009: Procurement Code (2nd reading and Public Hearing)

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA ENACTING A NEW SECTION OF THE TOWN OF LOXAHATCHEE GROVES CODE OF ORDINANCES ENTITLED "BID PROCEDURES; PUBLIC FUNDS" ADOPTING PROCUREMENT REQUIREMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

Town Attorney Tolces conducted the 2nd reading of Ordinance 2008-009-Procurement Code.

Vice-Mayor Herzog made a MOTION to approve Ordinance 2008-009-Procurement Code on the 2nd reading, SECONDED by Councilman Louda and discussion was then opened:

Councilman Lip said on Page 55, Section 23, I thought we talked about \$10,000 and it says \$25,000.

Town Attorney Tolces said this section talks about the amount before you have to go out for RFP. He said the \$10,000 is on Page 63 of 102 at the top.

Town Clerk Lippman said as a management policy the highest amount we have ever purchased without anyone knowing is \$200.

The MOTION passed unanimously 5-0.

Mayor Browning moved to Item #11.

11. Resolution 2008-033: Equalization of State Funding

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA URGING THE 2009 FLORIDA LEGISLATURE TO EQUALIZE FUNDING BASED ON POPULATION TO PROVIDE EACH REGION OF FLORIDA, INCLUDING SOUTH FLORIDA, ITS FAIR SHARE OF STATE FUNDING; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Tolces conducted the reading of Resolution 2008-033-Equalization of State Funding.

Councilman Louda made a MOTION to approve Resolution 2008-033-Equalization of State Funding, SECONDED by Vice-Mayor Herzog and the MOTION passed unanimously 5-0.

Mayor Browning moved to Item #12.

12. DCA ORC Report for Town Comprehensive Plan: Discussion

Town Clerk Lippman said on November 23, 2008 we did receive the report from DCA on the transmitted Comprehensive Plan for the Town. He said this report has been received and the planners, Town Staff, and Town Attorney have met to come up with an approach to it. He said one thing I can assure you is we have a good handle on this ORC report and it doesn't scare us, however, there are some tough decisions that need to be made on some policies that were brought up and we need some direction from the Town Council. He said the purpose of this evening is not to go line by line through this ORC report. He said we will come up with a laundry list of items we are just going to knock out, a list we need your opinions on, and a list to go over with DCA. He said then we will come back at the meeting on the 16th to go over those.

Shelley Eichner, Calvin-Giordano- said as Matthew said we did get the ORC Report and there are 26 objections and those are the issues we have to deal with. She said I have put phone calls in to the planner who did the report to get some clarifications. She said over half of them we can probably deal with amongst ourselves, which are just clarification issues. She said some of the objections we need direction on and if you like we can meet with each of you individually. She said there are several objections that are in the report that quite frankly as a planner that I have never seen before and that translates into a lot more research and a lot more data analysis which translates into a lot more cost. She gave an example of objections 8 and 16 with the Housing Element. She said they put in that we haven't accurately surveyed the housing. She said they want us to do a survey of all the housing in the Town to determine the age and integrity of those structures. She said I am very frustrated, we have done new Comprehensive Plans for new cities and we didn't get that kind of comment. She said those are the types of issues that we need to talk to the Planners to get some type of answers.

Councilman Lipp said I remember the word windshield and asked did it come up as an objection.

Mr. Eichner said I think that was in Objection 16. She said my point is why are they asking for that, and I don't have the answers but I think the Town should be aware that some of these objections translate into some pretty serious potential costs. She said Objection 14 deals with their desire for the Town to go through and inventory the roads and include location and mapping. She said if we surveyed all of this you would be looking at half a million dollars, and that is a serious concern and the question is why. She said I think maybe part of it is the planner who reviewed it really doesn't understand Loxahatchee so let's get him on a plane and fly him down here to see it. She said some of the other issues they brought up and keep in mind that when we submitted this Comprehensive Plan it was under the premise the entire Town was 1-5 and then an intervener filed an objection and we decided to repeal the 1-5 and clearly the planner is looking back and forth to what is the density. She said where you need direction and I am not asking for it tonight but these are the things you need to think about it because in 2 weeks we will need it. She said they are saying in their Objection 6 they want to see a Mixed Use Land Use Category which must include density and intensities, and you and the Council need to give us direction as to how many units per acre and what the FAR should be. She said Objection 10 is clear the planner doesn't understand the vision that you all have. She said what they are saying is by going to the 1-5 and adding 257 units that is Urban Sprawl and they are recommending the Town adopt some policies so that there could be a Town Center. She said where I am really having a hard time is it makes no planning sense. She said what changed just because an intervener filed an objection because we were in compliance with the State.

Councilman Louda asked did we send them our existing Commercial infrastructure.

Mr. Eichner responded then we get into a group of objections dealing with the roads, the maintenance of the roads, ownership, etc. She said and those objections go beyond the spirit of cooperation. She said they are looking for actual policies and service standards and capital improvements. She said we do have 120 days to respond and with the Vice-Mayor on this inter-governmental committee these issues really need to be resolved. She said it needs to be decided who has control and authority of what roads and who is going to establish the service standards and control them. She said the letter that LGWCD sent to DCA the DCA gave it a lot of weight and I think the DCA is looking for more than well we are all going to just work together to work it out-trust us. She said they want actual policies on how it will be resolved and worked out.

Councilman Louda said as I read through the road way improvement objections it looked like a catch 22 overlap because our MREG is not done.

Ms. Eichner responded that should be done in the next month or 2.

Town Attorney Tolces said in responding to these objections we will be able to show DCA what we are currently doing with respect to this committee and what we hope to do. He said we can put in their our objective is to enter into an agreement with the LGWCD on maintenance responsibilities but an agreement requires 2 parties and neither the DCA nor the Town can tie the LGWCD in with the adoption of this Plan. He said we can provide them with the statutory and constitutional language that we have to support our authority to maintain the Public Roads within the Town, but absent of that we need to talk to the folks at DCA about what they are expecting. He said we can tell them we are going to adopt the MREG and we are going to keep levels of service up to a certain level.

Vice-Mayor Herzog said one of the things that concerns me is it sounds to me that we are back to where we were before that cost us \$40,000 for the lawyers to chase around in a circle and we got nowhere because we couldn't come to an agreement with what the League of Cities and PBC wanted. She said it is a little scary we have 120 days to resolve this, and asked what are the consequences if we don't resolve these things.

Ms. Eichner said you have 3 years from the date of incorporation to adopt your Comprehensive Plan. She said if you don't have a Comprehensive Plan you can't process any future Land Use Plan Amendments and there is the risk of losing state revenue share and funding.

Vice-Mayor Herzog commented so we have a lot to lose.

Town Attorney Tolces said Calvin-Giordano will prepare a response to this and we will have a Comprehensive Plan to transmit to DCA that they will either find it in compliance or not in compliance and if they find it not in compliance then we will go to a hearing. He said as opposed to the other way where if we meet all their objections and they find it in compliance then it is up to any petitioner to file an objection and then we would be on the same side of DCA . He said I am hopeful that we will be able to satisfy DCA's concerns and a lot of the objections here are matters that might not necessarily be resolved in a Comprehensive Plan and we need to work with DCA to say look this is the best we can do and this is what the statute requires us to do and if there are anymore objections to that we will have to just have a hearing.

Vice-Mayor Herzog said it comes back to the same thing that the residents are being held hostage again just for want of being the winner.

Town Attorney Tolces said and that is where the cooperation with the LGWCD comes into play. He said the agreement we attempted to work out that was an attempt to guarantee the LGWCD they would receive the funds the Town collected, but right now there is no agreement in place. He said I would hope we can come to some agreement with respect to the Town's perspective and the LGWCD's perspective because ultimately it benefits the residents.

Councilman Louda said I know it says within 1 year but as you read this between the lines, do you think DCA wants the assurance the Town will adopt an ILA within 1 year or do they want one already in place. (in reference to Objection 22)

Ms. Eichner asked you are talking about Objection 22 now.

Councilman Louda responded yeah.

Ms. Eichner said they want more than just the words. She said they want to see more and other steps of what we will take to ensure you will enter into and ILA.

Town Attorney Tolces said from my perspective, we are just going to have to be detailed as far as what the Town will do because we can't say 100% there will be an agreement. He said we need to explain to the DCA that we understand your concerns and we share them and we are going to put in there as much language and time tables possible but what we can't put in there will be an agreement in place because that is not necessarily in our control.

Ms. Eichner said but we can put in this Intergovernmental Committee.

Councilman Louda asked could we not get a policy on the books within 120 days to show that we are actually working.

Councilman Lipp said that is basically what the ILA was, but not that simple.

Town Attorney Tolces said that is what this committee will do. He said as Shelley said we are not looking for answers tonight, and I don't think you necessarily need to rush into anything.

Councilman Lipp said the ones you need direction on are #6, #10, #15, #22, and #26.

Ms. Eichner said the others we made need more direction depending on what I find out when I speak to DCA.

Mayor Browning said I think it is a good idea to make contact with them and maybe invite them down.

Councilman Autrey asked how much interaction can you have through this process to get an idea if you are going in the right direction with the DCA.

Ms. Eichner said my first intent is for Lorraine and I to talk to the planner who did the report from planner to planner. She said depending on what answers I get, it may be that some of these things came from folks higher up and depending on what he says, I will be in a better position to discuss this.

Councilman Autrey asked so we will get an update.

Town Clerk Lippman said what we did already in getting prepared for that is we already took all the objections and divided them up.

Councilman Autrey said I just want to know during this 120 day period we get some stance these are being handled.

Ms. Eichner said I would hope by your next meeting I have made contact with the planner who did the report and will be in a better position to let you know where this needs to go.

Councilman Autrey said you mentioned who owns the roads and road maintenance-roads roads.

Ms. Eichner said it comes up in many of the objections.

Councilman Autrey asked Town Attorney Tolces based on what she said the ILA might not satisfy their concerns and asked what would be more than an ILA.

Town Attorney Tolces said I don't know what we could put in a Comprehensive Plan to satisfy that other than to get an order from a judge.

Councilman Autrey asked so this goes beyond just pure improvements.

Town Attorney Tolces said right, and I am not sure why they are asking for all this and Shelley is going to find out.

Councilman Autrey said I didn't look at the LGWCD's letter tonight but did you compare what the LGWCD sent in terms of the language and asked if they were similar.

Town Attorney Tolces said I think the DCA has read the letter and recognized there may be issues out there and included those comments in there in an effort to respond to the LGWCD's concerns and to see how the Town will respond to it.

Ms. Eichner said they say please refer to the comments provided by the LGWCD and make changes as necessary to address this group's concerns as the principal drainage entity within the Town. She said they are telling us to address all the issues in that letter.

Councilman Autrey asked did the LGWCD have an objection we can't satisfy. He said well the way we can satisfy it and this is going to go off like an atomic bomb is the LGWCD being dependent on the Town. He asked if an Ordinance would help.

Town Attorney Tolces responded you couldn't do that without a Comprehensive Plan.

Councilman Autrey said so doing nothing is not an option. He said an Ordinance isn't necessarily an option. He said the ILA doesn't sound like a good option. He said so I keep coming back to the same thing, do we just say forget the roads, can a Town function with no responsibility of roads.

Mayor Browning said at the same time there is a part of that you have a 298 LGWCD that has a responsibility and we should be able to say the roads are taken care of by this statute and that is what we have and we are not doing away with that.

Town Clerk Lippman said I will be very blunt, the reason this reason why this is an issue is because it was raised by the LGWCD and not the DCA. He said although this is something we should be able to handle ourselves between the entities, the letter going to the DCA introduced that.

Mayor Browning said and part of that is a result of us discussing legislation so it is going both ways.

Councilman Louda said I would like to make a MOTION that the Town fund a trip for the planner from DCA and bring the planner down for our next meeting.

Town Attorney Tolces said it is my understanding that employees of the DCA are not allowed to travel and not even if it is paid for by the applicant because that might be seen as favorable.

Councilman Louda said in lieu of that we need to send planners there.

Vice-Mayor Herzog asked what about our lobbyist we still have on the books.

Town Attorney Tolces said as Shelley said, I think we need to keep in planner to planner now.

Councilman Lipp said keep that grant possibility in mind now.

Mayor Browning said we have a suggestion from Shelley that she makes contact planner to planner and I think that is a good place to start.

Councilman Louda and also the lobbyist might have a role to play here

Councilman Lipp noted the Treasure Coast Regional Planning Meeting is on the 12th, and asked are we going to be on the Agenda.

Ms. Eichner responded yes.

Councilman Louda made a MOTION to send 1 or 2 planners to DCA and also to explore if the DCA planner could come here, SECONDED by Councilman Lipp and discussion was then continued:

Mayor Browning asked for comments from the Public.

Steve Gutman, 13050 Marcella Boulevard- said I am really concerned and it sounds to me the future of our Town really boils down to if we can cooperate with the LGWCD and if we can't I'm wondering if it is too early to be thinking about Plan B now as a back-up plan to preserve our rights here to maintain this Town as an incorporated entity.

The MOTION passed unanimously 5-0.

Town Clerk Lippman said we will work with them to try and get down here and I will work with Shelley and keep the costs down dramatically. He said we will be very cost efficient I assure you.

Councilman Autrey said well Steve talked about Plan B and I am trying to think through what we are doing, if none of this works, what we talked about doing, an ILA coming to some resolution, we are risking state revenue and the ability to process any Land Use Amendments.

Councilman Autrey said then we are back to square one.

Ms. Eichner said if the Plan doesn't meet the issues that DCA raised then we are going to be going into the DOA Hearings and a judge would decide and that would be time and money.

Councilman Autrey said the LGWCD held 2 workshops in the last 2 weeks for the OGEMing of roads. He said I know they were asked publically if they were going to work with the Town or not and they said we are moving forward. He said to me Plan B is an insurance policy and that is filing legislation to make the LGWCD dependent to the Town and if we didn't do that, then we are risking what Shelley just said and we are right back to where we started from and the window to do that is tonight.

Town Clerk Lippman said any monies received by the State of Florida can be cut or reduced and we are currently sitting at 1.2 million dollars.

Councilman Autrey stated this is what we get elected to do.

Councilman Autrey made a MOTION to direct Staff to file legislation by noon on Thursday to make the LGWCD dependent to the Town, SECONDED by vice-Mayor Herzog and discussion was then continued:

Councilman Lipp said I love the way Councilman Autrey played this, because we saw the study come back and without that recommendation. He said I think it is foolhardy to do that and we heard from a professional we spent \$5 grand on the money it would take. He asked are we prepared to spend that kind of money.

Vice-Mayor Herzog asked are we prepared not to.

Councilman Lipp said excuse me Marge I had the floor. He said we need to think through this thing because we just decided tonight what our 4 things would be that we are going to talk about, and we got our person to go there who seconds this MOTION which puts a doubt as to whether there will be a cooperation and I see this and I think it stinks. He said it is just some insider politics that doesn't sit right with me. He said it is an issue this Town needs to decide upon as a Town, have a straw poll, Councilman Louda agreed with that. He said Councilman Autrey was talking about meeting this deadline months ago, and the irony is I felt we could start working together and I really had a good feeling. He said now know exactly what DCA's problems are and if the LGWCD steps up and says to Marge or whoever sits on this committee then the die is cast. He said we are not going to lose the money overnight and we have time to get this done. He said this is an issue that is too vital to come up as it did where no one is in the audience who might have an opinion on this. He said I think it is an inappropriate MOTION and I will definitely vote against it.

Vice-Mayor Herzog said I don't agree with Dennis, and this has been coming on a long time. She said it is a question that is very important right now. She said and if we don't go forward, you heard what we could lose. She said it is going to impact every one of our pocket books. She said the LGWCD doesn't need to save face, the LGWCD needs to work with the taxpayers and work in our best interest and cooperate with us.

Councilman Louda said I'm gonna disappoint a lot of people who think they know how I'm gonna vote because we got this \$5000 piece of crap survey back and I can't support the

MOTION. He said I want to make the District dependent, but I don't want to do it this way. He said I want the true support of the people. He said my initial thing when I campaigned was yes the LGWCD probably has to become the Town's Public Works Facility, but we're not there yet. He said we went down there too fast and it is splitting the Town right down the middle.

Mayor Browning said my concern is we sit here and we talk about cooperation and we want to introduce legislation to do away with it and I think that is what started this whole pile of crap which the letter started. He said I got tipped off this might happen tonight and I said no that can't be, and then I come in here and feel blindsided. He said we talk about cooperation-I'm a little upset that we take a shot at the LGWCD after promising over and over and over we are not out to dissolve you and every time we turn around we are trying to put through some kind of legislation. He said I wish if we realized we couldn't do a Comprehensive Plan in a Town with the LGWCD in existence, we would have had the guts to tell the Public then and see how the vote would have went that way.

Mayor Browning asked for comments from the Public.

Howard Voren, 1538 E Road- said I saw the same political game, but obviously from a different angle. He said when Councilman Lipp suggested that the primary issue was getting water from SFWMD that goes directly against any of the issues that need to be discussed. He said I don't know why legislation can't be drawn up and ready and held on the side to see if the LGWCD cooperates or not that way we can be ready when Option 4 fails.

Ron Jarriel, 2800 161st Terrace North- said Dave I knew you'd pull it tonight. He said Marge, I was unsure if you'd support it or not and Bill, I'm proud of you. He said for you to not even want to let the planners go back to the planners and whether we sent a letter to the State or not I think they would have had a problem with you explaining to them who was maintaining the roads.

Darlene Crawford, 3057 E Road- said that sounds like bad faith. She said we are saying we are going to cooperate and go together to the meetings and try and work it out. She said Thank you Dr. Louda, we don't always agree but you think on your own.

Frank Schiola, 13734 Marcella Boulevard- said I think what we have here tonight is a meeting of the minds and the ball is now in the LGWCD and the Town Council's courts and we are going to remain on the side watching this game unfold and if one Board doesn't cooperate with the other we are going to know who it is. He said if the LGWCD doesn't step up to the plate and do what they say they are going to do then the people will be behind you to say to file legislation to make the LGWCD dependent and you will be able to do it at the next Legislative Session.

Bill Gurney, 1453 E Road- asked if we answer all the objections to the Comprehensive Plan that DCA is sending down, and we send the Comp Plan back to them, is it possible they will have additional objections.

Town Attorney Tolces responded no, this is their opportunity and we respond to them and then it moves on from there to either finding us in compliance or not in compliance.

Town Clerk Lippman clarified this and said so the answer is no, they cannot anymore.

Mr. Gurney continued my understanding to Mr. Autrey's MOTION was the filing legislation was actually a Plan B and that is all it was, it was to guarantee the cooperation from the LGWCD and if the cooperation wasn't there then we would move forward with it, so I thought it was not the 1st plan but the 2nd plan.

Councilman Autrey said my point was is even with an ILA and everything in place, there is no guarantee it will work. He said I didn't talk to any legislator. He said the writing is on the wall and you are rolling the dice and if the three of you want to roll the dice that is fine but if this thing comes back in your face 3 months from now. He said what you are gambling is the Plan is going to be approved. He said there is a sure way of doing it and that is why I made the MOTION.

Mr. Gurney continued my only concern is if the LGWCD has not cooperated with the Town since before its inception.

Councilman Autrey said we have Mr. Jarriel and Mr. DeMoris organizing an unincorporation campaign with Mr. Schiola involved as a backdrop so I am listening to this and thinking who are we kidding here.

Mr. Gurney said I would like to see the Council send a letter to Governor Christ asking for help on this matter.

Vice-Mayor Herzog said if the legislation passes then it is still coming back to the residents for a vote just like we did for incorporation. She said present the Bill and let the residents have the chance to vote.

Councilman Louda said we had no blackmail for incorporation, and to me this is blackmail.

Philomena Liang, 4245 148th Terrace North- She said this is the first time I heard about a motion to file legislation to make the LGWCD dependent. She said we spent money on a survey and the residents spoke up and said do Option 4 and the residents spoke particularly to that subject and now we will have 5 people deciding something whether this will affect all of us. She said I think the residents should have a say to this not a few people sitting on a dais, I don't think that is proper. She said I think this is a decision to be made by the people and I am speaking from my gut feeling.

The MOTION failed 3-2, with Councilman Lipp, Councilman Louda, and Mayor Browning opposed.

Councilman Lipp made a MOTION to appoint Mayor Browning to the Intergovernmental Committee and to remove Vice-Mayor Herzog.....

The MOTION died for lack of SECOND.

Mayor Browning said again, and I challenge both sides, we will answer to the taxpayers of Loxahatchee Groves.

Mayor Browning moved to Item #13.

13. Lobbyist Report: E-Road 140th final decision

Town Clerk Lippman said just to communicate with the timing of everything we anticipated that Friday, November 7, 2008 was the deadline for the notice of intent. He said there had been some communication that there would be an intervener, and luckily we didn't have one and once that notice of intent was completed it was officially adopted and that is the case. He said going back in time a little bit if this notice of intent had been challenged there would have to be some interaction and in this case there wasn't, so job well done to everybody and I just wanted to follow up.

Councilman Louda said I just want to make a point of what it takes to get things done in this County, I took this up in 93-94 and people had it before me and now 18 years.

Mayor Browning said finally, it takes awhile.

Mayor Browning moved to Item #14.

14. Public Comments

Ron Jarriel, 2800 161st Terrace North- said Councilman Autrey made a comment there is no sure method, well we got a game plan and I personally think it will work. He said I think a lot of the things are ridiculous. He said I don't know if we as the LGWCD can support or the taxpayers can help in any way and call legislation.

Frank Schiola, 13434 Marcella Boulevard- said first of all the 40th Street project was not the idea of the LGWCD, in fact they were against it from the very beginning and only wound up doing it until the county came in and said we are going to sue you for the right of way. He said the LGWCD tried everything they could to get what they could for the LGWCD and ultimately the Town. He said I am still getting complaints about the garbage not being picked up. He said I am not throwing Matt under the bus, but he just doesn't have the time to do it. He said we need to find a way to address that in a more proactive stance, people shouldn't have to call 4 or 5 times to Waste Pro customer service or send emails to get trash picked up, that is just not what customer service is all about and the last thing is addressed to Councilman Autrey and I just want him to know that he needs to have his facts in order and I did attend a meeting where one of the options was not to have a Town anymore but there were other options presented there as well. He said in order to keep this Town going and keep the people from fighting amongst each other we need to just go ahead and work together which is what the LGWCD is trying to do and the Town is trying to do.

Cindy Corum, 2452 C Road- (asked the following comment card be read into the record)

-Today Waste-Pro finally picked up vegetation piles off 24th Rd N. (off C Rd). These same piles have been sitting there for a month and were brown and crunchy. Neighbors off this Rd have made many phone calls to Waste-Pro and also sent several e-mails. Dried vegetation sitting for weeks like this can present a fire hazard. Isn't vegetation supposed to be picked up weekly? This has not happened in our area. And numerous appeals to Waste Pro have fallen on deaf ears. Can this be resolved? -signed Cindy Corum and many neighbors 12/2/08

Councilman Louda asked does anyone know if these piles were by a nursery. He said I am just wondering if Waste Pro looked at them as business vs. residential.

Town Clerk Lippman said I will address that in my comments.

Mayor Browning moved to Item #15.

15. Town Clerk Comments

Town Clerk Lippman said I appreciate Frank looking out after me and my time. He said I do have plenty of time and I deal with things very well. He said I think that if you look at the total amount of pick-ups vs.- the amount of complaints, I think we are still doing a fantastic job. He said I am not saying there are not mistakes being made. He said Michelle is staying on top of it and getting a weekly log from Waste Pro and the reason why there are so many problems with vegetative pick-up is something we could not control and it is strictly because the unlimited pick-up is not there anymore. He said we have to remember we couldn't ask these residents to be paying \$650 a year and I don't think anyone would want that and that is why the County went to that because they couldn't see charging people that much money. He said we had a company before that was getting paid a lot of money to pick up vegetation and was coming to the Groves 6 days a week. He said you can't expect Waste Pro to do that. He said there are definitely issues with Waste Pro that we are resolving and they are not perfect. He said for us to go to unlimited vegetation 6 days a week to 6 cubic yards once a week is a culture shock. He said I just want to work with the 5 of you to resolve to make a better future for you. He said unless I just remain silent, my words are always going to be viewed as supporting one side or the other. He said we have no agenda here. He said our agenda is just to make things work. He said we have a difference of opinion and although it is stressing us now, wherever we wind up getting to, hopefully we will look back on it and say it is unfortunate we went through that, but we resolved it and what that resolution and conclusion is we don't know right now and that is what is stressful to everybody up here. He said I had a very good conversation with the Mayor on the phone and he and I had a conversation nothing about politics or the Town, and although I think these are very important issues we have to resolve and I am not making light of anything, hopefully we can sit back and realize what is truly important in life.

Mayor Browning moved to Item #16.

16. Town Attorney Comments

Town Attorney Tolces said I hope everyone had a good Thanksgiving. He said as you are aware the legislative delegation will be meeting shortly and there will soon be many bills filed and we will certainly keep you advised as far as any bills that affect home rule or the Town. He said there will be a hearing on Thursday, December 4, 2008 at 9:45AM at the DOT headquarters. He said so we will be able to report back to you at the next meeting whether DOT granted the ingress and egress off of Southern Boulevard. He said and we are providing the letters to them with respect to their request which was brought up at the last meeting.

Mayor Browning moved to Item #17.

17. Council Member Comments

Councilman Lipp commented it was an interesting meeting but I didn't expect part of it, but I was prepared. He said we are going to work together as a Town and I think the LGWCD Board got a loud clear message; is we need to cooperate and everybody has a copy of that ORC report. He said 15, 22, and 26, and I hope you can have that on your agenda Monday night.

Councilman Autrey commented with respect to garbage Matthew touched on it. He said I figure they have done over 30,000 pick-ups and asked how many total complaints we have had. He said it is insignificant if you think about it with the number of stops they do, and in the whole scheme of things, I think Waste Pro is doing a great job. He said we hire professionals to give us advice, we've heard from the people we pay that we have a problem and we can either take the advice of the people we pay or ignore it, but what I heard tonight is there are no sure fire solutions giving what we are presented as options, but as I said tonight you are rolling the dice and I hope it comes back working. He said I heard and saw from Shelley tonight, there is no guarantee that an ILA and those mechanisms we have are going to work and this has been told to us for 6 months. He said at the last meeting when Southern Crossings was presented we got a letter from their attorney indicating that Councilman Lipp had called them and spoke to them about the development. He said now last year we passed an Ethics Ordinance and that Ordinance says that no Council person is going to speak to a developer once an application has been filed. He said Councilman Lipp did couch his comments by saying he got permission and I looked through the Ordinance and I don't see anywhere in that Ordinance where you can get permission to speak to a developer.

Councilman Lipp asked for a point of order and said I didn't call them-they called me. He said the point I made with Town Council is if they would like to speak with me they could certainly give me a call.

Councilman Autrey said you should have never taken the call, or you should have never spoke to them, we have an Ethics Ordinance, and my point is if we are going to have an Ordinance it needs to be adhered to and I think we all felt strongly about that issue or we wouldn't have passed the Ordinance. He said so what good is it to have an Ordinance if we are going to ignore it. He said I think we either need to amend the Ordinance to say there is no permission, but now I find out he didn't get permission he just answered the call and that's a problem and it is up to this Council to express their opinion of that and I just want the Public to know that I was very uncomfortable with it and we do have an Ethics Ordinance and I don't think it should be violated.

Councilman Autrey announced that a year ago he was told he had Cancer and he will not be running for re-election in March for health reasons. He said I am very proud to announce that I will be highly supporting Ilene Rindom for Seat #1 this March.

Vice-Mayor Herzog commented that is a hard act to follow. She said one of the things I wanted to make comment on is the trash issue and I want to know why the residents are calling Frank instead of calling the Town Hall. She said I asked this one other time when he was being taken out by the people for dinner and for breakfast, did we appoint him to represent and speak on behalf of the Town. She said and the answer I got was it is good PR that they are doing it, but I think there has to be a clarification to someone or somewhere that Frank is acting as an individual that he is not being assigned this job by the Town Council.

Town Clerk Lippman said there is no confusion with Waste Pro or the Town. He said the Town and Waste Pro understand that Frank is a resident. He said they respond to complaints brought by residents and we ask that the residents file the problems directly. He said we like to talk directly to the resident and talk to the people directly to solve the matter as fast as possible.

Vice-Mayor Herzog said just so there is no false or implied power being transferred. She said the other thing is do we have everything in order for the parade.

Town Clerk Lippman responded despite economic times right now I didn't think it would be appropriate to do a float. He said so I have reserved cars for the Council Members and Town Staff who will be there and we just have to submit the names and we are ready to go.

Vice-Mayor Herzog asked are we all squared away about the BBQ and said she wouldn't be attending.

Town Clerk Lippman said Dennis, Dr. Rosenbaum, and Dave Tolces will be there representing Town Staff.

Vice-Mayor Herzog commented I am a little concerned about the track history of the LGWCD and their behavior especially some of the Supervisors so I am hoping that this meeting between the two groups does produce a lot of good, but I do need to see more favorable direction on their part, they have already met with representatives of the legislature delegation for whatever reason. She said we were proceeding with nothing but yet they are still meeting and wheeling and dealing, so I am concerned.

Councilman Louda commented this is the best and worst meeting I have been to and I really didn't like being put on the spot and going against my long term gut feeling and having to vote. He said I really see a huge difference between a Bill and a referendum for making the LGWCD dependent because Plan B I look at solely as black mail. He said if you don't-we will, and when the time comes and as we mature I think the referendum has to go before filing the Bill and as we have been told many times, I don't know if the Bill would go through, I don't think it would make it out of the County, especially if they looked at the ORC Report. He said I won't be able to make it to the LGWCD Meeting Monday, but I hope the Members of the Board that are here convey my sincerest wish that we can work together and get down the roads together. He said trash, they pick my garbage up very well but I get skipped on construction debris and I am still sitting at the point of have they been educated of sites of more than 1 family, like my site is 4-1. He said I have noticed piles getting picked up and hopefully the complaints will go down. He concluded with I appreciate Staff's time.

Mayor Browning commented I just want to thank everyone for coming. He said thank you Staff.

Mayor Browning moved to Item #18.

18. Adjournment

Vice-Mayor Herzog MOTIONED to adjourn the meeting, SECONDED by Councilman Autrey and the Motion passed unanimously 5-0.

There being no further discussion and no additional public comment the meeting was adjourned at 10:18 p.m.



MAYOR DAVE BROWNING

ATTEST:



Matthew Lippman, Town Clerk



Date Approved