



**Town of Loxahatchee Groves**  
**Regular Meeting, January 4, 2011 at 7:00 p.m.**  
**MINUTES**

Loxahatchee Groves Water Control District  
101 West "D" Road, Loxahatchee Groves

Frank R. Spence, Town Manager  
Michael D. Cirullo, Jr. Town Attorney; Goren, Cherof, Doody & Ezrol, P.A.  
Ann Harper, Town Clerk

**1. OPENING**

- A. Call to Order/Roll Call**
- B. Pledge of Allegiance**
- C. Invocation**

Mayor David Browning called the meeting to order at 7 p.m. In addition to Mayor Browning, the following Council members were present: Councilmen Ron Jarriel, Ryan Liang, and Jim Rockett, and Vice-Mayor Dennis Lipp. After the Pledge of Allegiance, Mayor Browning gave the Invocation. Present from Staff were Frank Spence, Town Manager, Michael Cirullo, Town Attorney, and Ann Harper, Town Clerk.

**D. Additions and Deletions**

Mr. Spence added Agenda Memo 2011-1 to Agenda Item 8-B. Councilman Rockett added an agenda item to discuss the proposed settlement agreement with Callery-Judge.

**E. Approval of Agenda**

Motion was made by Councilman Rockett, seconded by Councilman Liang, to approve the Agenda as amended.

**2. CONSENT AGENDA**

- A. Approval of December 2010 Invoice from Goren, Cherof, Doody & Ezrol, P.A., Town Attorneys**
- B. Approval of December 7, 2010 Minutes of Town Council Meeting**

Vice-Mayor Lipp asked Councilman Liang for clarification on a subject on December 7 during discussion of item 8B relating to accepting property from the County. Councilman Liang volunteered his time and equipment to clean the swale along 22<sup>nd</sup> Road, and Vice-Mayor Lipp asked whether or not there was a time frame on completing the project. Councilman Liang said his offer was good as long as he was on the Council. Councilman Jarriel commented that the Town should have a professional company give an estimate on doing the job.

Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to approve the Consent Agenda. The motion carried by voice vote, 5/0.

**3. PRESENTATIONS – None**

**4. COMMITTEE REPORTS**

- 5. ORDINANCES - PUBLIC HEARING – 2<sup>nd</sup> Reading – None**
- 6. ORDINANCES - 1<sup>st</sup> Reading – None**

## 7. RESOLUTIONS

## 8. OLD BUSINESS

### A. Update on Proposed LGWCD Legislative Bill

(Town Attorney)

Attorney Cirullo said at the November meeting the Council adopted a resolution to support a proposed special act by the Water Control District that was intended to facilitate the District's ability to maintain existing roadways as opposed to how they were platted over time if there are issues with the width of the road. Since that time there have been concerns raised by the Palm Beach League of Cities about the scope of what was originally proposed. Last week there was a special Board meeting resulting in League not supporting the original proposed bill and authorizing staff and legal counsel to work with the District and the Town to come up with alternative language in a proposed special bill that would address what the District is trying to accomplish as far as getting maintenance and repair rights to roadways without jeopardizing the Town's gas tax dollars or home rule authority. He would like to confirm some direction from Council to authorize Staff and Attorney to continue to work with the League Staff and Counsel. There is a Legislation Delegation meeting on Thursday, and does the Council wish to have representation there. There is no alternative language to bring forward tonight.

#### Council Comments

Vice-Mayor Lipp asked Attorney Cirullo whether or not there has been any work done regarding a combination of the Town and the District whereby the District could operate and use the Town's authority regarding "prescriptive easements" to do their paving. Attorney Cirullo said he has not seen that language.

Councilman Rockett said he received from John Ryan a copy of a revised local bill. Councilman Rockett made a motion, which was seconded by Vice-Mayor Lipp, to receive and file the document. The motion carried by voice vote, 5/0.

Councilman Rockett said he is disturbed that some in the Town are working against what we are trying to accomplish. One Committee member is working very hard against what we are trying to accomplish. He suggested that we look at creating a code of conduct for committee members.

Councilman Jarriel said it is important for the Town to be represented at the Thursday meeting which the Attorney mentioned.

Clete Saunier, Water Control District Supervisor, said the District has maintained the roads for ninety years. This bill will allow the District to move forward with improvement projects. As it stands today, the Town does not have this ability because it has not maintained the roads for seven years. That is why we are asking for your support.

#### Council Action

Motion was made by Vice-Mayor Lipp that we support Staff working with the District and the League of Cities, on the language to assure that the Town does not lose gas tax revenue or home rule authority. Councilman Liang seconded the motion.

#### Public Comments

John Ryan spoke about the wording on the proposed bill and said the Water District is close to addressing all concerns and the Town should continue working with the District and the League of Cities.

#### Council Comments

Councilman Liang asked whether or not it would be necessary to make a motion to allow Council members to officially "lobby" residents in the community or members of delegations to help with the bill.

Council Action

Mayor Browning called for a vote on the motion made by Vice-Mayor Lipp, which carried 5/0.

Council Comments

In response to Councilman Liang's question, Attorney Cirullo said if you are speaking about advocating beyond what was discussed publicly, that is something the Council needs to endorse as a whole.

Council Motion

Councilman Liang made a motion to authorize Council members to speak about advocating beyond what was discussed publicly. Councilman Jarriel seconded the motion for discussion.

Council Comments

Councilman Liang said sometimes in a discussion you might go further than what was discussed at a meeting.

Councilman Rockett said he would like to verify what the Town Council members can say and should not say.

Attorney Cirullo said there is a difference between speaking for yourself and speaking on behalf of the Council.

Council Action

Mayor Browning called for a voice vote on the motion, which failed 1 to 4, with Councilmen Jarriel and Rockett, Vice-Mayor Lipp and Mayor Browning voting no. Councilman Liang voted yes.

B. Update on 40<sup>th</sup> Street North Culvert

*(continued from December 7)*

Mr. Spence said this is a continuation from the last meeting and read his agenda memo 2011-001 into the record. The memo is attached to these minutes.

Council Comments

Councilman Liang said he is abstaining from voting on this item because he lives on this road.

Councilman Rockett said we are following a path on this project, and we have to rethink it now that we have to find funding. We need to determine what the problem is and what the answer is. Widening the canal road is not the only option.

Councilman Jarriel said he thinks it is a good idea, but we don't need to take it on right away. He wants to know what the residents on that road feel about it and does not want to rush in. He disagrees with assessing every person who lives there. He said that 22<sup>nd</sup> Road North is more of a priority.

Mr. Spence said Council determines it is "in the interest of the general public" policy decision to pay or set up a special district. When a special district is established for improvements, the final cost is determined and is divided among the benefitted property owners, sometimes by footage, and the length of time they will have to repay it.

Vice-Mayor Lipp said moving ahead would be to take the fifty thousand dollars, agree to put the culvert in, and go out to get quotes. There is no time frame to get it done.

Councilman Jarriel said we do not need to move forward with this tonight, and there are only four residents who will be affected, and he will talk to all of them except for Councilman Liang. He is getting some negative "vibes" from some of the residents. He does not want to accept the \$50,000 tonight. He would like to put it out for bid right away, and if we like the bid, that would help Council decide whether or not to build it.

Mr. Spence said Attorney Barbara Richardson did not know how long the \$50,000 offer would be on the table.

After further discussion, the following action was taken.

#### Council Action

Motion was made by Councilman Jarriel, seconded by Councilman Rockett, to start the process towards getting a bid for installing the culvert. The motion carried 4/0, with Councilman Liang abstaining (Conflict of Interest Form attached to minutes).

#### C. Discussion of proposed MLU Text Amendment Report and Direction *(Jim Fleischman)*

Mr. Spence said at the last Council meeting regarding the proposed projects on Southern Boulevard, Jim Fleischmann, Town Planner, recommended an overlay that would add versatility to what could be done with the two parcels. There appeared to be a positive reaction. In the meantime, we met with developers and they pointed out the Council has not taken an official position on whether or not to adopt the MLU (Multiple Land Use) category. We are here this evening to present what it would do and why Staff is recommending approval.

Mr. Fleischmann said he is requesting Council authorization for action on four items as outlined in his Memorandum dated December 29, 2010, which is attached to these minutes. He reviewed the four requests as follows:

- (1) Separate the MLU Amendment from 09-1.1 and 09-1.2
- (2) Authorization to submit MLU proposal consisting of 3 components
- (3) Renumbering of proposed amendments
- (4) Approval of proposed processing schedule

Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to accept Staff recommendations for the four items so Staff can proceed to bring this to the Council for a transmittal hearing in March.

Vice-Mayor Lipp referred to page 37 of 73, Policy 1.1.14 d. Mix of Land Uses and asked will the formula listed there apply to Sunsport. Mr. Fleischmann said this would apply only to property with a MLU designation.

Mayor Browning called for a vote on the motion to approve, which carried 5/0.

#### D. Discussion of ILA for Road Maintenance *(Councilman Rockett)*

Councilman Rockett said he asked for this to be put on the agenda because he objected to some portions of the agreement. He spoke about requests for courtesy grading which could not be done because of equipment restrictions or the condition of the road or the growth surrounding other roads, and the Water Control District could not get to the road. Anyone should be able to ask for a road to be graded not based on the size of the Water Control District equipment. He suggested going out for a second source bid. We should be able to provide the whole Town with this service.

Councilman Liang asked about someone who has a private road.

Councilman Rockett said this applies only to a gas tax road, and the local agreement can be modified to provide service to the sixteen miles of roads that are not District roads.

Mr. Spence said he thinks this can be done without modifying the agreement.

Vice-Mayor Lipp suggested directing Staff to come back with language to take care of the sixteen miles.

Councilman Jarriel said instead of a backup contractor, we need one to three contractors to be waiting so if the District cannot get to the road, they can come in and take care of it. We should know whether or not they will do it for less than the Water Control District charge of \$160/mile.

Councilman Rockett made a motion to go out for bids to maintain all 32 miles of Town roads, specifically the 16 miles that cannot be maintained by the District.

Mayor Browning said he thought we were looking for someone to fix roads on an as-needed basis and on a per-hour basis.

Councilman Jarriel said he would second the motion, but he wants to know how much they will charge per mile.

Mayor Browning said in order to get a cost figure per mile, contractors will have to go high because some roads will require a lot of work and some will be less. The first call the contractor gets will be for a road where the cost will be high. It would be better if the cost is by the hour.

Vice-Mayor Lipp said the bid should include work for the 16 non-District roads.

#### Public Comments

John Ryan said \$160/mile is not in the ILA; it is a grading estimate and not what will be billed to the Town. It will be difficult to get an estimate on a per-mile basis because of the different maintenance requirements.

#### Staff/Council Comments

Councilman Jarriel said when a problem arises we need to have someone ready to give us estimated costs. We don't need a contractor to bid on 16 miles of roads.

Attorney Cirullo suggested issuing an RFQ, then as-needed, there will be people qualified who can submit cost estimates.

Councilman Rockett amended his motion to have someone to call as a backup.

#### Public Comments

Erik Bryson, 24<sup>th</sup> Court North, asked whether or not the Town has looked at purchasing or leasing the equipment to do the additional sixteen miles that the District can't do.

Councilman Jarriel said the Town has not done that yet.

#### Council Action

Mayor Browning called for a vote on the motion to go out for RFQ's. The motion carried by voice vote, 5/0.

### Council/Staff Comments

Councilman Rockett said there should be a procedure in place for residents to use on the website when requesting service for roads.

Clete Saunier, Water Control District Administrator, said the WCD is capable of grading the other sixteen miles of roads, but we have never received petitions from them. He explained the ongoing procedure when the Town receives a call requesting grading.

Mayor Browning said we should establish a procedure for grading the roads, whether or not they request it.

- E. Discussion on appointment of Town Council Representative to Palms West Chamber of Commerce Economic Development Task Force *(Councilman Jarriel)*

Councilman Jarriel said he is bringing this subject up again because there could be a conflict in the future. Vice-Mayor Lipp sits on this Task Force, and he works for Commissioner Santamaria who also sits on this committee. Vice-Mayor Lipp said he would be willing to give it up if someone else would volunteer to serve. It now appears there is a volunteer to take his place. Vice-Mayor Lipp asked who would be the person to volunteer. Councilman Jarriel said he believes Councilman Liang has volunteered, and he feels there is friction on the Council because of this committee.

Motion was made by Councilman Jarriel to replace Dennis Lipp with Ryan Liang on the Economic Development Task Force. There was no second to the motion.

### **9. NEW BUSINESS**

- A. Consideration of entering into contract with Municipal Code Corporation for publication of ULDC's sole source and waiving any competitive bid requirements

Mr. Spence said he is recommending the Town enter into an agreement with Municipal Code Corporation based upon their proven professional competency to publish the ULDC's and the Code of Ordinances. He did not want to use the term "sole source" because there may be other companies who provide this service, but Municipal Code is the provider for over three hundred of the four hundred municipalities in the State. Mr. Spence referred to the list of cities and counties in the backup material who have contracted with Municipal Code. He also reviewed the list of charges for various services.

Councilman Jarriel asked whether or not this has to be taken care of now, or can it be postponed. Mr. Spence said this is the most important document with the power to enforce the Town's land codes and code enforcement issues.

In response to Councilman Rockett's question, Attorney Cirullo said the codification process puts it into an organized structure for reference, and this company will put it on the internet so it will be in their searchable database. Attorney Cirullo said he is not familiar with anyone else who does this; it is a specialized service.

### Council Action

Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to authorize staff to go ahead with Municipal Code Corporation to codify the ULDC's and Ordinances. The motion carried by voice vote, 5/0.

- B. Agreement with Supervisor of Elections

Mr. Spence said Council members have in the backup materials the revised agreement from the Supervisor of Elections. It has been reviewed by the Attorney, and this agreement has been sent to

every City in the County. All costs for an election are being shifted to the cities, and the Supervisor's Office will be reimbursed for all costs.

#### Council Action

Motion was made by Councilman Rockett, seconded by Councilman Jarriel, to approve the agreement. The motion carried by voice vote, 5/0.

Vice-Mayor Lipp said in view of the cost of future elections, candidates should be willing to pay a filing fee, and he recommended one percent of the estimated cost of election.

#### Public Comments

Sharyn Browning said she had not seen the agreement and asked Attorney Cirullo to explain some of the provisions for staffing the polls. Attorney Cirullo responded to her questions.

#### Council Discussion

After discussion about the procedure for moving the Town's election date to coincide with the General Election date, the Council decided not to charge a filing fee for candidates until the Council members receive a salary.

#### **C. Callery-Judge Update (Added at beginning of meeting)**

Attorney Cirullo said a conference call has been set up for this Thursday with a public call-in number. The call will be mainly between the Manager, the Attorney, the Mayor and DCA. The public will be afforded an opportunity to speak. It would be better if Council members speak at their public meetings. This call is part of the process of trying to resolve the petition that has been filed by Callery-Judge.

Councilman Rockett said he has not received any "positive" calls from residents. There is a lot of agony about roads coming in to the center of the community from the North border. We must have an opportunity for residents to give input to the Council.

Attorney Cirullo said he would like to clarify something about connecting roads. There are two phases: (1) the first is to identify, and (2) the second phase is to connect them to the Town's boundaries. There is a cost to doing this.

Vice-Mayor Lipp said he has had many calls from people about the cut-through traffic from the Acreage and people cannot ride their horses any more. He objects to the language which states "Loxahatchee Groves shall . . ." at many places in the agreement. He suggested that at the time the Town puts straightening of E Road to 140th, he would like for the agreement to read "Callery-Judge Groves and Seminole Improvement District shall pay for the OGEM and speed tables on E Road from 149<sup>th</sup> to Okeechobee."

Vice-Mayor Lipp asked Councilman Liang to clear the air and get an opinion on his own as to his family's ownership of acres in Callery-Judge. Chairman Liang said he already has an opinion on that, but he has not produced it.

Mayor Browning said he has been involved in negotiation with Callery-Judge, and he would like to keep the Groves as it is, but he is trying to get our Comprehensive Plan approved so we can begin doing things we need to do as a Town. Ultimately, the Council will do whatever the residents want them to do.

Councilman Jarriel said the Council has spent a lot of time in Shade Meetings, and Council agreed to take it to the next step. There will be public meetings, and he wants to see the house packed, and he will listen to the public.

Councilman Liang said Council has worked on this for over a year, and we need to see it through.

Public Comments

Mayor Browning read a letter from Brett and Suzanne Davis regarding the settlement agreement objecting to the reliever roads as it would split their Okeechobee Boulevard property.

Cassie Kovacs said she objects to the settlement agreement and does not support another development trying to destroy our town with the open access causing increased traffic, crime and more calls for service from fire and police.

Neil Schiller, Attorney representing Bill Day, requested a workshop or charette be held concerning a vision for Okeechobee Boulevard

Frank Schiola asked how much it will cost the taxpayers to put in these roads. He objects to entering into an agreement without know what it will cost us. Also Callery-Judge needs to agree not to increase their density because they have the connector roads.

Erik Bryson said Callery-Judge could not build and sell the homes fifteen years ago, and if they had money to do it, they would be doing it now.

**10. ADMINISTRATIVE UPDATE**

- A. January 2011 Calendar
- B. Bucket List

Mr. Spence reviewed the January calendar and also announced that Russ Elgin has been hired as the new Code Enforcement Officer. Mr. Elgin is a Supervisor with the Riviera Beach Fire Department and is a certified Code Enforcement Officer.

**11. CLOSING COMMENTS**

- A. Public Comments

Marge Herzog announced the Landowners Association meeting on January 27<sup>th</sup>

Frank Schiola said the Town needs to select a Charter Amendment Committee, so when something needs to be addressed, there will be a group in place to work on it.

- B. Town Attorney Comments
- C. Town Council Member Comments
- D. Adjournment

There being no further discussion and no additional public comment, the meeting was adjourned at 10:30 p.m.

  
\_\_\_\_\_  
**DAVID BROWNING, Mayor**

\_\_\_\_\_ May 3, 2011 \_\_\_\_\_  
**Date Council Approved**

**Attest:**   
\_\_\_\_\_  
**Ann Harper, Town Clerk**

8B



Meeting Date: January 4, 2011  
Regular Agenda Item: 8.B.

**TOWN OF LOXAHATCHEE GROVES.**

**AGENDA MEMO No. 2011-001**

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**Subject Matter:** 40<sup>TH</sup> Street North Culvert

**Background:** Council is aware of this subject since December 2009 when Attorney Barbara Richardson, representing the Attorneys Title Insurance Fund, which has a title policy on one of the affected landowners, Golden Harvest Enterprises, Inc., seeking relief from being prohibited from driving on the Water Control District's Canal Maintenance Road and requiring access to a public road. This would require the construction of a culvert and bridge running southward connecting to 40<sup>th</sup> Road North. Her title company offered to contribute \$80,000.00 towards the construction of that culvert.

Since that time the Title Company has reevaluated the situation and the unresolved issues to the extent that they have revised their offer to \$50,000.00. This means that if the Town or the District wants to take over the responsibility of building the culvert/bridge, they would have to pay the difference for anything over the \$50,000.00. The District's Attorney has already advised her Board that the District would not be permitted to build this culvert, plus even if allowed, the District does not have sufficient funds to pay for it.

**Backup Material:** See Town Attorney Michael Cirullo's memo dated December 7, 2010 in the Agenda back-up package.

(continued)



Meeting Date: January 4, 2011  
Regular Agenda Item: 8.B.

**AGENDA MEMO NO. 2011-001 (continued)**

**ACTION: IT IS MY RECOMMENDATION:**

1. That the Town assume the responsibility for building this culvert;
2. Accept the \$50,000.00 from the Title Insurance Company;
3. Agree to pay for any construction costs over and above \$50,000.00;
4. That the engineering and construction plans would have to be approved by the Water Control District's District Engineer;
5. That the Town create a Special Improvement District and assess all benefitted property owners to recoup our costs.
6. The Town does have funds to front the costs of constructing this project.
7. Authorize and instruct the Town Attorney and Town Manager to move forward with this project, as outlined above, including the preparation of competitive sealed bid documents. All expenses, including the Town Attorney's time and the District Engineer's time, will be documented and included in determining the final construction cost.

**TOWN OF LOXAHATCHEE GROVES**

**MEMORANDUM NO. 2010-019**

TO: Mayor David Browning  
Members of the Town Council  
Frank R. Spence, Town Manager

CC: Ann Harper, CMC, Town Clerk

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

DATE: December 7, 2010

RE: Town of Loxahatchee Groves ("Town")/40<sup>th</sup> Street North – Access Issues

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In late 2009, the Loxahatchee Groves Water Control District ("District") sought to prevent further use of the North Road Canal right-of-way as a public access road, and noticed property owners in the area of its intent. The North Road Canal right-of-way has been commonly referred to as 40<sup>th</sup> Street North. The directly affected property owners are Golden Harvest Enterprises, Inc., Dancing Crane Farms, LLC; Peter and Philomena Liang; and, Anthony and Nancy Lopes.

Golden Harvest Enterprises, Inc., has title insurance with the Attorneys Title Insurance Fund (the "Fund"), which is represented by Barbara Richardson, Esquire. The Fund sought to resolve issues relating to access for its insured, Golden Harvest, and Ms. Richardson has been engaged in discussions with representatives of the District, representatives of other affected property owners, and the Town over the past several months. The main focus of the discussions was to construct a culvert crossing over the North Canal near the location of the roadway commonly referred to as 148<sup>th</sup> Terrace North.

On September 7, 2010, this office updated the Town Council on the status of the access issue. At that time, the Fund and District were continuing to discuss the construction of the crossing culvert and related issues as to 148<sup>th</sup> Terrace North. The plan was for the Fund to pay for and construct the crossing culvert across the North Road Canal, which would then provide access not only to its insured, Golden Harvest, but to the other affected properties as well. The District and Fund needed an entity to apply for the permit from the District for the construction of the culvert crossing and to seek certain rights for 148<sup>th</sup> Terrace North. The Town Council authorized the Town to file the permit with the District and to pursue certain rights as to 148<sup>th</sup> Terrace North.

Since that time, the design and construction documents, and the permit application, have been prepared by an engineer retained by the Fund. However, the application has not been filed due to issues that remained to be resolved among the District, the Fund and property owners in the area other than Golden Harvest Enterprises.

Page 2  
December 7, 2010

On November 23, 2010, a conference call was conducted by and between counsel for the District, Mary Viator, Ms. Richardson for the Fund, and Donald J. Doody and Michael Cirullo for the Town. Ms. Richardson advised the Town and District that the Fund had re-evaluated the claim in light of the remaining unresolved issues, and determined that it was no longer in the Fund's best interest to construct the crossing culvert. Instead, the position of the Fund was that it would pay a flat sum of \$50,000 to be used for the construction of the culvert. The entity that would construct the culvert could use the design and construction documents, as well as any surveys and materials produced at the Fund's request. In the alternative, the Fund would seek to establish its rights through litigation.

During the call, counsel for the District indicated that the District either could not expend any funds for the crossing culvert, or did not have the funds to do so. As a result, the Town is being asked to construct the crossing culvert, applying the \$50,000 from the title company towards the cost.

The title company's engineer has estimated a construction cost of \$70-80,000. If the Town were to construct the crossing culvert using the funds from the Fund, the Town would be responsible for funding the remaining costs of the culvert of approximately \$30,000.00. An agreement with the Fund and the District would be necessary. In addition, the documents prepared by the Fund to date for the culvert, including the engineering plans and construction documents, would need to be reviewed to determine whether they could be re-used in the event the Town undertook competitive bidding for the construction work.

Prior to expending time and legal resources to proceed as requested, the Town Attorney seeks direction from the Town Council on whether it is willing to consider constructing the crossing culvert and funding all costs that exceed \$50,000. I am available to discuss this issue in greater detail at your convenience.

MDC:aw

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# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>LIANON, Ryan, Peter</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Town Council</i>
MAILING ADDRESS <i>4245 148 Ter N</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY <i>Loxahatchee Groves</i> COUNTY <i>Palm Beach</i>	NAME OF POLITICAL SUBDIVISION: <i>Town of Loxahatchee Groves</i>
DATE ON WHICH VOTE OCCURRED <i>JANUARY 4, 2011</i>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

01-06-11 P01:49 IN

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Ryan LIANG, hereby disclose that on JANUARY 4, 20 11:

(a) A measure came or will come before my agency which (check one) Agenda item 8B

inured to my special private gain or loss;

inured to the special gain or loss of my business associate, \_\_\_\_\_;

inured to the special gain or loss of my relative, \_\_\_\_\_;

inured to the special gain or loss of I live on affected property by whom I am retained; or

inured to the special gain or loss of \_\_\_\_\_, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

1-6-2011  
Date Filed

[Signature]  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

**To:** Frank Spence, Town Manager

**From:** Jim Fleischmann, Town Planning Consultant

**Re:** Proposed Comprehensive Plan Amendments 09-1.1 (Simon Property) and 09-1.2 (Loxahatchee Equestrian Partners/Solar Sportsystems, Inc.)

**Date:** December 29, 2010

**M E M O**

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Following several public meetings and discussions regarding proposed Amendments 09-1.1 and 09-1.2 and the Multiple Land Use (MLU) future land use category, culminating in the Council Workshop on December 7, 2010, both applicants have requested that they be directed to submit revised applications.

In this regard, staff is requesting authorization from the Council to implement the following strategy:

**1. Separate The Multiple Land Use (MLU) Amendment From 09-1.1 and 09-1.2**

As the 09-1 amendments are currently proposed, all of the text amendments creating the Town's MLU category are included within Amendment 09-1.1. Since the MLU future land use category is proposed to be applied to both applications, and can be assigned to other potential locations in the Town (i.e. only to a parcel or parcels fronting Southern Boulevard which meet the proposed size and dimension criteria), it is recommended by staff that it be incorporated within the Comprehensive Plan as a separate "stand-alone" amendment.

If this approach is followed, the Council will hear the following three amendment applications: (1) Staff initiated MLU Amendment; (2) Simon Property Amendment; and (3) Loxahatchee Equestrian Partners/Solar Sportsystems, Inc. Property Amendment.

## **2. Components and Criteria of the MLU Future Land Use Category**

It is recommended that staff be authorized to submit the MLU proposal consisting of the following three amendments to the Future Land Use Element of the Comprehensive Plan (Ref: Attachment 1):

- Amendment of Table 1-8 to add the MLU future land use category.
- Creation of Policy 1.1.14 which establishes the criteria necessary to qualify for MLU designation.
- Creation of Objective 1.15 which allows the Council to impose specific development limitations and conditions on an MLU approval (i.e. by adopting Special Policies in the Comprehensive Plan).

## **3. Renumbering Of Proposed Amendments**

Comprehensive Plan amendments are normally assigned a number with a prefix denoting the year of adoption. For example, Amendment 10-1 would be assigned to the first Comprehensive Plan amendment adopted in calendar year 2010. As the Simon and Loxahatchee Equestrian Partners/Solar Sportsystems, Inc. Amendments (09-1.1 and 09-1.2) were initially submitted in 2009, it is proposed that they be renumbered to 11-1.2 and 11-1.3, respectively. (NOTE: The MLU Amendment will be assigned Amendment 11-1).

## **4. Proposed Processing Schedule**

It is proposed that Amendments 11-1.1, 11-1.2 and 11-1.3 be processed according to the schedule presented in Attachment 2.

## ATTACHMENT 1: GENERAL MLU AMENDMENTS

- Amendment of Table 1-8 to add the MLU future land use category.
- Creation of Policy 1.1.14 which establishes the criteria necessary to qualify for MLU designation.
- Creation of Objective 1.15 which allows the Council to impose specific development limitations and conditions on an MLU approval (i.e. by adopting Special Policies in the Comprehensive Plan).

Table 1-8 Future Land Uses

<i>Land Use Category</i>	<i>Density</i>	<i>Intensity (Maximum Floor Area Ratio)</i>	<i>Uses</i>
<b>RESIDENTIAL</b>			
Rural Residential 5 (RR-5)	1 du/5 acres	0.2 non-residential uses only)	Single-family dwelling units, public schools, and limited institutional and public facilities. Agricultural uses shall be compatible with a rural residential neighborhood.
<b>COMMERCIAL</b>			
Commercial Low Uses (CL)		0.10	A limited range of neighborhood-oriented commercial activities designed primarily to provide services to adjacent residential areas and public schools. Limited institutional and public facilities allowed.
Commercial Office Uses - Commercial Low (CL-O)		0.20	Offices for administrative, professional and business purposes; banking and financial institutions; membership organizations; and, uses that are accessory to the office use including restaurants and public schools. Limited institutional and public facilities allowed.
<b>INSTITUTIONAL</b>			
Institutional and Public Facilities (INST)		0.10	Uses permitted in the Institutional and Public Facilities future land use designation include a full range of regional and community uses such as educational; child care facilities and adult day care facilities; congregate living facilities; medical and accessory offices; hospitals, public health clinics, emergency shelters; governmental, religious, cemetery, civic, cultural, judicial and caretakers' quarters; and equestrian facilities.

<i>Land Use Category</i>	<i>Density</i>	<i>Intensity (Maximum Floor Area Ratio)</i>	<i>Uses</i>
<b><u>PARKS AND RECREATION</u></b>			Developed or planned sites owned by a governmental entity that provide the public an opportunity to partake in a variety of recreational activities that may be active, passive, or special in nature in a safe and convenient manner that is compatible with its environs.
<b>Parks and Recreation (PARK)</b>		0.10	
<b><u>CONSERVATION</u></b>			Natural areas for the purpose of conserving or protecting natural resources or environmental quality. These areas may be used for wildlife management, passive recreation, and environmental restoration/preservation. The Town shall designate lands which contain natural resources that are to be protected, restored, enhanced, and managed, as appropriate, to sustain viable ecosystems and wildlife habitat and natural resources. These natural areas may include site improvements to support uses which are deemed appropriate and consistent with the function of the designated area.
<b>Conservation (CON)</b>		0.10	
<b><u>MULTIPLE LAND USE</u></b>			Parcels planned to incorporate multiple Town land use categories, as defined herein, within a unified development concept. Uses may vary from parcel to parcel, depending upon the approved mix of Town land use categories incorporated therein, consistent with Policy 1.1.14 and site specific policies, per Objective 1.15.
<b>Multiple Land Use (MLU)</b>	Ref. Policy 1.1.14	Ref. Policy 1.1.14	

**NOTES:**

1. The density calculation for a property is based on the property's gross acreage.
2. That portion of a property dedicated for right-of-way in exchange for compensation may not subsequently be included with the parent property or another property for the purpose of a density or intensity calculation.

12/28/2010

## Proposed Policy 1.1.14 and Objective 1.15

### 1.1.14: Policy

The Multiple Land Use (MLU) land use designation may be assigned to a parcel or parcels which is/are planned to incorporate more than one land use category within a unified plan of development in order to implement Comprehensive Plan directives, including: promotion of sustainable living concepts; preservation of the natural environment; joint traffic impacts assessment and mitigation; encouragement of alternative transportation modes and economic growth; and mitigation of potential adverse impacts to surrounding areas. In order to be approved by the Town for an MLU designation, a parcel of land shall meet the following criteria:

- a. Minimum Parcel Size: 50 acres.
- b. Road Frontage and Primary Access: A minimum of 1,000 linear feet on an arterial roadway, as defined on Map TRN – 2.3 of the Comprehensive Plan.
- c. Maximum Parcel Depth From Road Frontage: 2,000 linear feet.
- d. Mix of Land Uses: Each parcel assigned an MLU land use designation shall contain a combination of three (3) or more land uses from those listed in Table 1-8. In order to encourage the incorporation of a residential development component, the maximum number of residential units allowed shall be calculated based upon the gross area of the entire MLU parcel multiplied by a density of one unit per five acres, and rounded to the nearest whole unit.
- e. Non-Residential Development Intensity: The maximum aggregate non-residential development potential for an MLU-designated parcel shall be determined by multiplying the acreage of each included non-residential land use category by its intensity, as defined in Table 1-8, and summing the result. However, based upon the infrastructure impact assessments performed during the approval process, or otherwise voluntarily by an applicant, development potential may be further limited by the Town Council.

- f. Conditions of Approval: Any conditions of approval limiting development intensity of an MLU under Policy 1.1.14.e, or other conditions deemed necessary by the Town to implement Comprehensive Plan directives shall be stated in the form of a Special Policy under Objective 1.15 of the Future Land Use Element of the Comprehensive Plan.
- g. Future Land Use Map: Each parcel of land with an approved MLU future land use designation shall be so indicated on the Future Land Use Map, along with notes referring to conditions of approval enacted by special policy under Objective 1.15 of the Future Land Use Element.
- h. Following the submittal of a complete MLU application, and prior to the Local Planning Agency (LPA) public hearing, the Town Council shall convene a public workshop to discuss the proposed amendment and its implications on the Town and neighboring properties.

Draft: 5/24/2010; Rev.: 12/28/10.

*1.15 Objective:* Special land use policies may be adopted by Loxahatchee Groves when necessary to address site-specific issues related to implementing the Loxahatchee Groves Comprehensive Plan and its special planning studies.

*1.15.1 Special Policy:* Land use and density/intensity of development on the property delineated as "Special Policy 1.15.1" on the Future Land Use Map, Map # FLU -1.10, shall be regulated by the application of the Multiple Land Use (MLU) land use category, and limited to the following maximums: **(Reserved for Simon Property Amendment conditions)**

*1.15.2 Special Policy:* Land use and density/intensity of development on the property delineated as "Special Policy 1.15.2" on the Future Land Use Map, Map # FLU -1.10, shall be regulated by the application of the Multiple Land Use (MLU) land use category, and limited to the following maximums: **(Reserved for Loxahatchee Equestrian Partners/Solar Sportsystems, Inc. Amendment conditions)**

Draft: 5/24/2010; Rev.: 12/28/10

**ATTACHMENT 2**  
**PROCESSING SCHEDULE THROUGH TRANSMITTAL**  
**AMENDMENTS 11-1, 11-2 AND 11-3**

<u>DATE (2011)</u>	<u>ACTION</u>
January 10	Applicants submit revised applications requesting Multiple Land Use designations
January 17	Revised staff reports for Amendments 11-1, 11-2 and 11-3 issued
January 17	Posted Notice* (on property) and Mailed Notice* (adjacent property owners).
January 21	Advertise for Local Planning Agency (LPA) Public Hearing**
February 1	LPA Public Hearing
February 21	Advertise for Transmittal Public Hearing (Town Council)***
March 1	Transmittal Public Hearing (Town Council)

\* - 15 days prior to LPA Hearing

\*\* - At least 10 days prior to LPA Hearing

\*\*\* - At least 7 days prior to Transmittal Hearing