



Finance Advisory & Audit Committee Meeting  
Monday, October 28, 2013 at 7:00 p.m.  
Palms West Chamber of Commerce, 13901 Southern Boulevard

Chair Lung Chiu  
Vice Chair Elise Ryan  
Committee Member Ken Johnson  
Committee Member Cheryl Miller  
Committee Member Virginia Standish

Town Council Liaison Ryan Liang  
Town Manager Mark Kutney  
Town Clerk Susan Eichhorn

**ADDENDUM NO. 1**  
**PUBLIC NOTICE/AGENDA**

**1. OPENING**

- a. Call to Order & Roll Call
- b. Approval of Agenda

**2. CONSENT AGENDA**

- a. Approval of Minutes – August 26, 2013

**3. PRESENTATION – *None***

**4. OLD BUSINESS**

- a. Cost Recovery Fee Matters - *None*
- b. Sales Tax Charges – *None*
- c. Discussion Relative to Establishment of a Town Road Resurfacing Policy
  1. Discussion Relative to Town Assuming Debt Service for OGEM Roads Transferred from Loxahatchee Groves Water Control District

## 5 NEW BUSINESS

- a. Approval of FY 2013 August Financial Statements
  1. Budget vs. Actual
  2. Bank Reconciliation
  3. General Ledger Detail
  4. Bank Statement
- b. Review of Planning and Zoning Invoices
- c. Approval of FY 2013 September Financial Statements
  1. Budget vs Actual
  2. Bank Reconciliation
  3. General Ledger Detail
  4. Bank Statement
- d. Review of Planning & Zoning Invoices - *None*

## 6. Administrative Updates:

- a. Reimbursements – June 2013 – *Receive and File*

## 7. CLOSING COMMENTS

- a. Public
- b. Committee Members

## 8. ADJOURNMENT

*The next FAAC meeting is Monday, November 25, 2013*

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

# Underwood Management Services Group, LLC

840 N.E. Stokes Terrace

Jensen Beach, Florida 34957

Telephone: 772.233.1511

William F. Underwood, II

Managing Partner

Email: umsg@att.net

## MEMORANDUM

**To:** Finance Advisory & Audit Committee  
**From:** William F. Underwood, II, Managing Partner *WFM*  
**Date:** October 27, 2013  
**Subject:** Discussion of Town Assuming Debt Service for OGEM Roads Transferred from Loxahatchee Groves Water Control District (LGWCD)

Underwood Management Services Group, LLC, submitted, a limited analysis on the possibility and under what circumstances the Town of Loxahatchee Groves (TOLG) could issue debt for the project of installing OGEM on the Town's roadway system February 2, 2012 ( attached hereto by reference).

It is my understanding the Town Attorney advised the Town could not enter into any form of indebtedness without a referendum vote. The opinion of Town Attorney precludes indebtedness without a vote, which restricts the method under which debt payments can be made by the TOLG. The question becomes, under what circumstances can the debt the LGWCD incurred to OGEM certain roads be assumed by the Town?

In this analysis, it appears that at least three (3) methods are available to the Town to subsidize or undertake the principal and interest payments obligations undertaken by the LGWCD in an effort to provide OGEM to some of the district roads within the Town.

1. LGWCD becomes a dependent district of the Town or is dissolved into the Town.
2. Annually, until 2022 the Town budgets and appropriates apportioned OGEM road acquisition
3. Modify current appropriations and remit payment in-full for road acquisition

**First**, the primary and most effective mechanism to undertake the LGWCD indebtedness is to restructure the LGWCD into a dependent district of the Town or dissolve the district into the Town. Based on the Town's charter, it was drafted in such a manner that the language in the charter envisioned the eventual absorption of the LGWCD into the auspices of the Town. Specifically, the Town may assume all outstanding indebtedness if it acquires another unit of local government. This is identified on page 15 of the Town's charter wherein under (5) BONDS; INDEBTEDNESS, ( b). The language in the charter is:

(5) BONDS; INDEBTEDNESS.—

**(b) The town may assume all outstanding indebtedness related to facilities it acquires from other units of local government and be liable for payment thereon in accordance with its terms.**

**Second**, another method available only on an annual basis would be for the Town Council to budget and appropriate funding from the Transportation Fund to subsidize the LGWCD for the debt service it incurred.

However, my understanding of the District debt is that the LGWCD borrowed \$2.6 million from Bank United with a Dated Date of December 20, 2011 maturing on August 1, 2022, at an interest rate of 3.06%. The approximate annual principal and interest payment for the entire loan is \$305,000. However, the district only used **61.53%** of the borrowed funds or **\$1,599,766.16** for the OGEM project. Apportioning this to the Town as a result of the transfer of the roads to the Town would support an annual budget and appropriation to the district for road acquisition of almost \$188,000. The Transportation Fund is expected to collect in fiscal year 2014, \$366,571 in the first and second local option gas tax revenue. This methodology would pay the apportioned debt and still provide the Town with about \$178,000 of available revenue for road projects. The balance of the debt service, \$117,000, would continue to be assessed to the property owners.

**Third** and finally, the TOLG could modify its Capital Improvement Plan and its Capital Improvement Element within the Comprehensive Plan and repurpose the existing funds in its fiscal year budget of \$1,802,564 to satisfy the entirety of the apportioned amount for the OGEM project undertaken by the district for **\$1,599,766.16**. This action envisions the Town using its transportation funds entirely supplemented by an advance from the General Fund to be reimbursed in subsequent years from future gas tax funds.

While the aforementioned options will provide for the OGEM road acquisition, there remains \$1,000,233.84 which will continue to be assessed to the affected properties unless the district is able to return the balance of the note to Bank United. However, the district did have cost of issuance expenses which consumed about \$200,000.

Regardless of any option taken, the level of available resources from gas tax revenue will be consumed to the point where few if any local option gas tax funding is available to operate and maintain the existing approximate 28 miles of Town roads (non-district roads) and district road infrastructure.

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William F. Underwood, II  
Managing Partner  
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## MEMORANDUM

**To:** Honorable Mayor and Town Council  
**From:** William F. Underwood, II, Managing Partner *WFM*  
**Date:** January 29, 2012  
**Subject:** Background on Bond Indebtedness to OGEM Town Roadway System

We have been asked to provide information and a limited analysis on the possibility and under what circumstances the Town of Loxahatchee Groves could issue debt for the project of installing OGEM on the Town's roadway system. This memorandum is not intended to be a comprehensive analysis for the Town of Loxahatchee Groves in its work toward implementing a funding structure for the roadway improvements requested.

Capital projects funded by the gas tax revenue bonds reflect a commitment by the Town Council to correct roadway system problems as well as protect the quality of life.

Like getting a home mortgage, the decision to delve into the capital markets to acquire funds for infrastructure projects is a serious proposition, not to be taken lightly. The decision to borrow funds from the capital markets versus an intra-governmental loan or pay-as-you-go should be undertaken only after determining the potential fiscal impact of the financing methods.

Under Florida State Statute 166.111, the Town has the authority to borrow funds under various conditions. FSS 166.111 provides for the "Authority to borrow.—The governing body of every municipality may borrow money, contract loans, and issue bonds as defined in s. 166.101 from time to time to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and may pledge the funds, credit, property, and taxing power of the municipality for the payment of such debts and bonds."

However, there appears to be a conflict within the Town's Charter between Section 6. Budget and Appropriation paragraphs (5) BONDS; INDEBTNESS and (6) REVENUE BONDS; LEASE-PURCHASE CONTRACTS attached hereto. I would recommend you seek the opinion of the Town Attorney in providing legal guidance regarding the Town's Charter.

Until an answer to the prior question is provided, I can provide you with some very preliminary thoughts regarding the issuance of debt for the stated purpose. Municipalities within the State can issue debt in two forms.

Tax-free revenue bonds are, in my professional opinion, the majority of debt issued by local governments in the State. Tax-free revenue bonds have also been construed to mean a governmental covenant to "budget and appropriate" sufficient funds, **excluding** the full faith and credit provision of ad valorem taxation, to meet the debt service requirement of a borrowing.

- This form of indebtedness does not generally require a vote of the electorate; however, in some local governments, their charter requires a referendum vote.
- Funding for this type of debt is provided through the governmental pledge of any or all specific revenue sources except ad valorem taxes to pay the principal and interest of the debt.

The second form of debt is through the issuance of tax-free ad valorem tax bonds.

- This form of indebtedness requires, pursuant to Florida State Statute, an affirmative vote of the electorate in a referendum.
- Funding for this type of debt is provided by the establishment of a specific millage rate to pay the principal and interest of the debt.

The foregoing analysis provides some insight into the proposition of bonding the gas tax funds versus a Pay-As-You-Go or combination of funding scenarios for the Town's roadway projects.

- The Town currently has no outstanding debt
- The Town has a CIP budget of \$1 million
- The Town Council needs to prioritize roadway surfacing
- The Town has Gas Tax revenues of about \$358,449
- The Town has not dedicated any current or future Gas Tax Funds
- Approximate cost to OGEM 1 average mile of the roadway system is about \$177,000
- The Town would like to piggyback the OGEM installation through the recently issued contract to achieve an economy

In order to facilitate road surfacing in conjunction with the LGWCD contract, the Town needs to take several actions.

1. Prioritize the roads to surface
2. Determine how the Town Council can enter into debt, if applicable
3. Adopt a resolution of "intent to reimburse" the Town, itself from the proceeds of a future debt issuance, if applicable
4. Determine how much gas tax and other revenue funding the Town wants to appropriate for the payment of principal and interest
  - a. \$1 million will surface about 5.65 miles
5. The Town can anticipate pledging all gas tax revenues for a period of 10 years in return for about \$2.7 million in funding.
  - a. The funds remaining to perform other roadway work would be about \$73,000 annually. Additional roadway work would come from other funding sources.

In the event the Town Council can borrow funds and they dedicated the CIP Fund for roadway surfacing, the Town could anticipate surfacing approximately 20 miles of the roadway system

Other actions the Town may wish to undertake is the creation and adoption of a debt policy and performing a debt capacity analysis, which we would be please to perform under additional services.