



# AGENDA

Lake Park Town Commission  
Town of Lake Park, Florida  
Regular Commission Meeting  
Wednesday, November 18, 2009,  
Immediately following the CRA Meeting  
Lake Park Town Hall  
535 Park Avenue

<b>Desca DuBois</b>	—	<b>Mayor</b>
<b>Jeff Carey</b>	—	<b>Vice-Mayor</b>
<b>Edward Daly</b>	—	<b>Commissioner</b>
<b>Patricia Osterman</b>	—	<b>Commissioner</b>
<b>Kendall Rumsey</b>	—	<b>Commissioner</b>
.....		
<b>Maria V. Davis</b>	—	<b>Town Manager</b>
<b>Thomas J. Baird, Esq.</b>	—	<b>Town Attorney</b>
<b>Vivian M. Lemley, CMC</b>	—	<b>Town Clerk</b>

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision of the Town Commission, with respect to any matter considered at this meeting, such interested person 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 record includes the testimony and evidence upon which the appeal is to be based. *Persons with disabilities requiring accommodations in order to participate in the meeting should contact the Town Clerk's office by calling 881-3311 at least 48 hours in advance to request accommodations.*

- A. **CALL TO ORDER**
- B. **INVOCATION**
- C. **PLEDGE OF ALLEGIANCE**
- D. **ROLL CALL**
- E. **ADDITIONS/DELETIONS - APPROVAL OF AGENDA**
- F. **PROCLAMATION:**  
**Merry Ann Catasus, Finance Employee in Recognition of 34 ½ Years of Service**
- G. **PRESENTATION:**  
**American Cancer Society Relay for Life 2010**
- H. **PUBLIC and OTHER COMMENT**  
**This time is provided for audience members to address items that do not appear on the Agenda. Please complete a comment card and provide it to the Town Clerk so**

speakers may be announced. Please remember, comments are limited to a TOTAL of three minutes.

- I. CONSENT AGENDA: All matters listed under this item are considered routine and action will be taken by one motion. There will be no separate discussion of these items unless a Commissioner or person so requests, in which event the item will be removed from the general order of business and considered in its normal sequence on the Agenda. Any person wishing to speak on an Agenda item is asked to complete a public comment card located on either side of the Chambers and given to the Town Clerk. Cards must be submitted before the item is discussed.

**For Approval:**

1. Special Call Commission Meeting Minutes of October 21, 2009
2. Sober House Workshop Minutes of October 28, 2009
3. Resolution No. 55-11-09 Mayor to Sign Amended Hy-Byrd, Inc. Contract
4. Resolution No. 57-11-09 Final Budget Amendment for Fiscal Year 2008/2009
5. Resolution No. 58-11-09 FIND Grant Agreement Phase II Breakwater Project
6. Resolution No. 59-11-09 Job Description for Administrative Assistant II Position For the Community Development Department
7. Mayor's Letter for Lake Park Street Map and Resource Guide

J. ORDINANCE ON FIRST READING:

8. ORDINANCE NO. 17-2009 - Changing the Time of the Regular Commission Meeting Tab 8  
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 2, DIVISION 2, SECTION 2-51, OF THE TOWN CODE ENTITLED "MEETINGS" TO CHANGE THE TIME REGULAR MEETINGS OF THE TOWN COMMISSION BEGIN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

K. COMMISSIONER COMMENTS, TOWN ATTORNEY, TOWN MANAGER:

L. ADJOURNMENT:

# Proclamation

**Town of Lake Park Town Commission  
Agenda Request Form**

**Meeting Date: November 18, 2009**

Agenda Item No.

- |   |   |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING                 | <input type="checkbox"/> RESOLUTION     |
| <input type="checkbox"/> Ordinance on Second Reading    |   |
| <input type="checkbox"/> Public Hearing                 | <input type="checkbox"/> DISCUSSION     |
| <input type="checkbox"/> ORDINANCE ON FIRST READING     | <input type="checkbox"/> BID/RFP AWARD  |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM       | <input type="checkbox"/> CONSENT AGENDA |
| <input checked="" type="checkbox"/> Other: Proclamation |   |

**SUBJECT: Proclamation in Honor of Merry Ann Catusus**

**RECOMMENDED MOTION/ACTION: Approval of Proclamation**

Approved by Town Manager *[Signature]* Date: 11/12/09  
*[Signature]* 11/9/09  
 Name/Title HR Director Date of Actual Submittal

<b>Originating Department:</b> Town Manager	Costs: \$ -0- Funding Source: Acct. #	<b>Attachments:</b> Copy of Proclamation
<b>Department Review:</b> <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____	<input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone_BMT _____ OR Not applicable in this case <u>Yes</u> _____:  Please initial one.

**Summary Explanation/Background:**

**PROCLAMATION  
IN HONOR OF MERRY ANN CATUSUS**

**WHEREAS;** for 34 and a half years, Merry Ann Catusus has served as an employee of the Town of Lake Park; and

**WHEREAS;** throughout her employment, Merry Ann Catusus has served as Day Care Director, Summer Tot Leader, and Child Care Director in the Town's Recreation Department, and as Accounting Clerk, Senior Accounting Clerk, Accounting Clerk II, Administrative Assistant, and Accounts Payable/Receivable Coordinator in the Finance Department and has done so with distinction; and

**WHEREAS;** in the various roles in which she has served the Town of Lake Park, Merry Ann Catusus has demonstrated her commitment to the Town and to its citizens by providing the utmost in customer service by always providing service with a friendly smile and a pleasant comment; and

**WHEREAS;** Merry Ann Catusus has often gone beyond the call of duty by accepting and performing additional duties and has always placed the Town and its customers first in the performance of her responsibilities; and

**WHEREAS;** through her devotion and high caliber of customer service, sense of teamwork, and professionalism, Merry Ann Catusus has proven herself to be a highly valued and knowledgeable employee and a great asset to the Town of Lake Park; and

**WHEREAS;** the Town of Lake Park wishes to publicly recognize Merry Ann Catusus for her accomplishments and as an esteemed member of the Finance Department.

**NOW, THEREFORE,** on behalf of the Commission of the Town of Lake Park, I, Desca DuBois, Mayor of the Town of Lake Park, do hereby publicly recognize and commend Merry Ann Catusus for her dedication and the service which she has rendered to this community.

**IN WITNESS WHEREOF,** I have hereto set my hand and caused the official Seal of the Town of Lake Park, Florida to be affixed this 18<sup>th</sup> day of November, 2009.

By: \_\_\_\_\_  
Mayor Desca DuBois

ATTEST:

\_\_\_\_\_  
Vivian Mendez Lemley, Town Clerk

# Presentation

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: November 18, 2009

Agenda Item No. Presentation

- |   |   |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING                 | <input type="checkbox"/> RESOLUTION     |
| <input type="checkbox"/> Ordinance on Second Reading    |   |
| <input type="checkbox"/> Public Hearing                 | <input type="checkbox"/> DISCUSSION     |
| <input type="checkbox"/> ORDINANCE ON FIRST READING     | <input type="checkbox"/> BID/RFP AWARD  |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM       | <input type="checkbox"/> CONSENT AGENDA |
| <input checked="" type="checkbox"/> Other: Presentation |   |

**SUBJECT:** American Cancer Society Relay for Life 2010

**RECOMMENDED MOTION/ACTION:**

Approved by Town Manager *W. J. Davis* Date: *10/30/09*  
*Debra M. McElroy* *10/29/09*  
 Name/Title *HR Director* Date of Actual Submittal

<b>Originating Department:</b> Town Manager	Costs: \$ -0-  Funding Source:  Acct. #	<b>Attachments:</b> Relay for Life Information from the American Cancer Society
<b>Department Review:</b> <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____	<input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone <u>BMT</u> OR Not applicable in this case _____:  Please initial one.

**Summary Explanation/Background:** In April of 2009, the Town of Lake Park participated in the American Cancer Society Relay for Life which took place at Suncoast High School in Riviera Beach, Florida. The purpose of this presentation is to provide the Town of Lake Park with information regarding the upcoming 2010 American Cancer Society Relay for Life and to request the Town's participation. This event will take place on Friday and Saturday, April 9 and April 10, 2010, at the John D. MacArthur Beach State Park in North Palm, Florida.



# AMERICAN CANCER SOCIETY RELAY FOR LIFE Of Singer Island/Riviera Beach/Lake Park

- Who:** YOU! We're looking for great people like you to walk to raise money to fight cancer!
- When:** Friday, April 9, 2010 - Saturday, April 10
- What:** Each individual is asked to raise \$100 in pledges plus a \$10 commitment fee & walk to raise money (1- 1 1/2 hour time commitment at a minimum!)
- Where:** MacArthur Beach State Park, 10900 Jack Nicklaus Dr., North Palm Beach, FL, 33408

For further details or to join, read on below or e-mail/call one of the people at the bottom!

#### WHAT IS RELAY FOR LIFE?

Relay for Life is a fundraiser to raise money to fight cancer and to raise awareness of cancer in the community. The event honors cancer survivors, and remembers those who have lost their lives to cancer.

#### WHAT HAPPENS?

During Relay, teams walk around a track to raise money for the event. We are looking to get teams of about 8 to 15 people together. Relay has a party atmosphere! We'll have entertainment including music, dancing, mascots from local sports teams, masseuses, movies, games, food and prizes.

Relay is a great way for companies to get exposure to many people in the area, an excellent way for volunteers to meet other people, and for people to unite to eradicate cancer!

#### WHAT WOULD YOU HAVE TO DO?

You could do to help this event by doing one of the following:

1. **Walk/run at the event to raise money.** If you are the member of a team, you'll be asked to collect \$100 from donors before the event and provide \$10 as your commitment fee.
2. **Volunteer for planning the event or at the event.** We need volunteers to make things go!
3. **Get a team together!** A team captain organizes a team of 8-15 people to participate... We'll show you how!
4. **Make a donation to the cause...** All donations are greatly appreciated.
5. **Come out and check out the event!** Once you see Relay For Life, you'll know why it means so much!

Feel free to contact:

Adrian Orozco, Event Chair    561-255-2568    [adrianorozco7@gmail.com](mailto:adrianorozco7@gmail.com)





# American Cancer Society Relay For Life

## What is Relay For Life?

Relay For Life is a celebration of life in honor of those touched by cancer. Relay For Life also raises funds for the American Cancer Society's programs of research, education, advocacy and service – programs that can reduce cancer deaths and cancer incidence, and improve the quality of life for those touched by cancer.

Relay For Life began in 1985. Dr. Gordon Klatt, an oncologist in Tacoma Washington, wanted to make a difference in the lives of his cancer patients. Dr. Klatt's idea was to run laps around a track for 24 hours and raise funds. He raised \$27,000 and donated the money to the American Cancer Society. Since then, Relay For Life has grown to become the American Cancer Society's national signature activity. In 2007, over 4,800 Relay For Life events were held throughout the United States and raised just over \$400 million. More than 3 million people participated and over 500,000 cancer survivors walked the opening lap. In Florida we grew to 329 events, had more than 100,000 participants and more than 19,000 survivors walking the opening laps of our community events. Almost \$22 million was raised in the fight against cancer in Florida alone. Relay For Life is the largest fundraising event in the United States. It has also grown to nineteen other countries outside of the United States.

Relay For Life is a true community event where people of all ages and from all walks of life come together for a common cause. We walk, jog or run relay style around the tracks or pathways at school or community football fields, fairgrounds and parks for eighteen hours. Friends, relatives, local businesses, hospitals, schools, faith based organizations, service clubs and other organizations organize teams of 10-15 people. Each team member is asked to raise a minimum of \$100 before the event.

Food, fun and camaraderie are part of the Relay For Life experience. There is the opening ceremony and first lap called our 'victory lap'. We cheer on our local cancer survivors, our friends, family and co-workers who have survived cancer. There is also a more solemn aspect of the event during the Luminaria ceremony. This is an emotional candle-lighting ceremony to honor those who have survived cancer and to remember those who have not. This powerful ceremony ties participants personally to the cause of fighting cancer. Relay For Life is about a community taking up the fight.

Relay For Life – it's all about providing Hope for the future, Progress towards a cure, and Answers to cancer questions.

**One Community, One Mission, One Fight!**

***For more information about Relay For Life or how to become involved,  
please contact your American Cancer Society at***

***(561) 366-0013***

[www.cancer.org](http://www.cancer.org)

1-800-ACS-2345



“Where does the money go?”

The American Cancer Society is accelerating the progress against cancer in every community, thanks to donations made at RELAY!

Saving Lives	Helping Those Touched by Cancer	Empowering People to Fight Back Against Cancer
<ul style="list-style-type: none"> <li>• Since the inception of its Research Program in 1946, The Society has contributed to almost every major cancer discovery. As a result of research advances, there are more than 10 million cancer survivors in America.</li> <li>• Society funding of select researchers led to effective treatments like chemotherapy, radiation, and bone marrow transplants that extend thousands of lives each year.</li> <li>• Many cancers such as breast, cervical, colon and prostate can be detected early when treatment is more effective. Society-funded research has led to the development of early detection methods such as the PSA test and mammography.</li> <li>• If colon cancer is discovered and treated early, the 5-year relative survival rate is 90%. The Society has been a leader in raising awareness about the importance of getting tested for colon cancer to save lives.</li> <li>• Original Society scientific research contributed to the recognized link between smoking and lung cancer. The Society is helping smokers double their chances of quitting through our Quitline, 1-877-YES-QUIT.</li> <li>• The Society advocates for stronger smoking ordinances and state laws to protect employees and the public from tobacco smoke in an effort to reduce death and illness caused by smoke.</li> <li>• The Society works to fund researchers early in their careers, when funding is particularly hard to receive. Remarkably, 40 of those funded researchers have gone on to win the Nobel Prize.</li> </ul>	<ul style="list-style-type: none"> <li>• Any time, day or night, people facing cancer can connect with lifesaving information, resources, and support online at <a href="http://www.cancer.org">www.cancer.org</a> or through our toll-free call center – 1-800-ACS-2345.</li> <li>• You are never alone in the Cancer Survivors Network<sup>SM</sup>, an online community that connects patients, survivors, and caregivers with others who have “been there” for insight, moral support, and inspiration.</li> <li>• When the best hope for a cure is at a cancer center far from home, Hope Lodge<sup>®</sup> provides a comfortable, nurturing environment where patients and caregivers can stay free of charge during treatment and focus on what is most important – getting well.</li> <li>• Through I Can Cope<sup>®</sup> classes, medical professionals help patients and their families overcome fears through information and resources to understand their cancer experience.</li> <li>• Patients need not worry about how to get to and from their treatments when trained American Cancer Society volunteers offer free transportation, friendship, and support through our Road to Recovery<sup>®</sup> program.</li> <li>• A free consultation with a Look Good ... Feel Better<sup>®</sup> beauty consultant helps female patients feel beautiful again by providing tools and tips to overcome treatment side effects and restore their pre-cancer appearance and self-esteem.</li> <li>• The American Cancer Society offers many other programs, services, and resources to help with the cancer journey. Call the Society to find out which ones are right for you, 1-800-ACS-2345.</li> </ul>	<ul style="list-style-type: none"> <li>• Increased federal funding to allow low-income women access to breast and cervical cancer screenings.</li> <li>• Doubled the funding for the National Institute of Health and National Cancer Institute to allow an increase in cancer research.</li> <li>• Assured that all individuals covered under Medicare receive access to the most current clinical trials.</li> <li>• Advocated for expanded access to quality cancer treatment, prevention, and education, as a result mammography is guaranteed in 49 states.</li> <li>• Society events such as Relay For Life<sup>®</sup>, Making Strides Against Breast Cancer<sup>®</sup>, and Celebration on the Hill<sup>®</sup>, offer a venue to make a difference in the fight against cancer and share the camaraderie of others with the same passion.</li> <li>• Created the American Cancer Society Cancer Action Network<sup>SM</sup> for voter education and to issue campaigns aimed at influencing candidates and lawmakers to support laws and policies that will help people fight cancer, <a href="http://www.acsacan.org">www.acsacan.org</a>.</li> </ul>

# Consent Agenda

# TAB 1

**Town of Lake Park Town Commission  
Agenda Request Form**

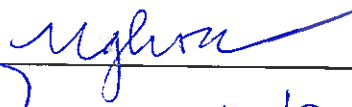
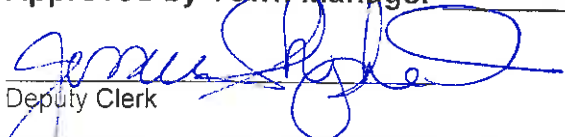
Meeting Date: **November 18, 2009**

Agenda Item No. **1**

- |   |   |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> Ordinance on Second Reading<br><input type="checkbox"/> Public Hearing<br><br><input type="checkbox"/> ORDINANCE ON FIRST READING<br><br><input type="checkbox"/> GENERAL APPROVAL OF ITEM<br><br><input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION<br><br><input type="checkbox"/> DISCUSSION<br><br><input type="checkbox"/> BID/RFP AWARD<br><br><input checked="" type="checkbox"/> <b>CONSENT AGENDA</b> |
|---|---|

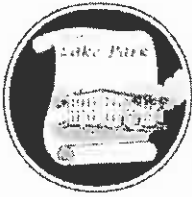
**SUBJECT:** Special Call Commission Meeting Minutes of October 21, 2009.

**RECOMMENDED MOTION/ACTION:** Approve the Special Call Commission Meeting Minutes of October 21, 2009.

Approved by Town Manager  Date: 11/12/09  
 Deputy Clerk  10/30/09  
 Date of Actual Submittal

<b>Originating Department:</b> Town Clerk	Costs: \$ N/A  Funding Source:  Acct. #	<b>Attachments:</b>
<b>Department Review:</b> <input type="checkbox"/> City Attorney <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input checked="" type="checkbox"/> Town Clerk <u>VMC</u> <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case <u>x</u> _____:  Please initial one.

**Summary Explanation/Background:**



**Minutes  
Town of Lake Park, Florida  
Special Call Commission Meeting  
October 21, 2009 6:05 p.m.**

**Town Commission Chambers, 535 Park Avenue**

The Town Commission met for the purpose of a Special Call Commission Meeting on Wednesday, October 21, 2009 at 6:05 p.m. Present were Mayor DuBois, Vice-Mayor Carey, Commissioners Daly, Rumsey, and Osterman, Attorney Thomas Baird, Town Manager Maria Davis and Town Clerk Vivian Lemley.

Mayor DuBois led the invocation and the Pledge of Allegiance.  
Town Clerk Vivian Lemley performed the Roll Call.

At 6:07 p.m. Mayor Dubois announced that the meeting would convene and the Commissioners would go into an Attorney-Client Session. Pursuant to and as authorized by Section 286.011 (8), Florida Statutes with its Town Attorney, Thomas J. Baird, and Town Manager Maria V. Davis to discuss pending litigation, in which the Town is presently a party, specifically the United States of America v. the Town of Lake Park, Florida, et. al)

**Mayor DuBois reconvened the Special Call Commission Meeting at 6:30 p.m.**

**ADDITIONS/DELETIONS/APPROVAL OF AGENDA**

The Agenda was changed to allow the Department of Environmental Protection to conduct their workshop whenever they arrive.

**Motion: A motion was made by Commissioner Osterman to approve the Agenda as modified; Vice-Mayor Carey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		
Commissioner Daly	X		
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois	X		

Motion passed 5-0.

**BOARD APPOINTMENT**

**Application for Board Appointment of Robert Dow as an Alternate Member of the Library Board**

Mr. Dow was not present. Mayor DuBois asked if the board application could be placed on the next meeting agenda of November 4, 2009 so that Mr. Dow could be present to introduce himself.

**PUBLIC and OTHER COMMENT**

*Steven Hockman, 638 Flagler Blvd.* – thanked Town Manager Maria Davis, Public Works Director Michael Arnold, and Finance Director Anne Costello for taking time to meet with him to discuss the parking meters. He stated that he was disappointed because Ms. Davis did not allow him to record the meeting. He stated that there was nothing that they could show him to prove his figures on the parking meters wrong other than the fact that the money for the Code Enforcement would be coming out of the General Fund. He expressed his concerns and issues with the meeting that took place and the money spent on the parking meters. He stated that the Town's people wanted the Commission to create a document that would show all funds and expenses from the meters under a meter account.

**CONSENT AGENDA:**

1. Special Call Commission Meeting Minutes of September 23, 2009
2. Special Call Commission Meeting Minutes of September 30, 2009
3. Expert Witness Services for Marina Litigation
4. Calvin, Giordano, & Associates Additional Professional Services Contract for Lake Shore Drive Drainage Project
5. Resolution No. 50-10-09 Florida City Government Week
6. Resolution No. 51-10-09 Changes to Fee Schedule to Add Parking Meter Fees and Expired Meter Fine Amounts
7. Amendment to Community Development Department Positions
8. Resolution No. 52-10-09 Job Descriptions for Parking Enforcement/Code Compliance Officer
9. Approval of a Lease Agreement with Dunkin Donuts for Lease a Portion of Town Land to Dunkin donuts for Additional Parking

**Public Comment Open.**

*None*

**Public Comment Closed.**

Commissioner Daly asked that items 6, 7 and 8 be pulled from the Consent Agenda for discussion and clarification.

**Motion: A motion was made by Commissioner Rumsey to approve items 1 through 5 and 9 of the Consent Agenda; Vice-Mayor Carey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		
Commissioner Daly	X		
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois	X		

Motion passed 5-0.

Commissioner Daly asked that the items pertaining to charges and fees for the parking meters be more detailed.

Town Manager Maria Davis stated that the only change that was made was number 37 which gave the Town Manager authorization to issue parking meter discounts, passes and bulk purchases. She stated that it was the only change made since the Commission received the Agenda last Friday night.

Commissioner Daly stated that his concern was that if the Town were to give parking meter discounts it could cause issues by giving one person a discount and not another.

Vice-Mayor Carey explained that the discount would be for special occasions only.

Commissioner Daly expressed his concerns with giving out discounts.

Town Manager Maria Davis stated that she was very aware of the grants that the Town has received for the Marina and would be very cognizant in making sure they are not discriminating against outside groups versus Lake Park groups.

Commissioner Daly asked Town Manager Davis for clarification on item #7 of the Consent Agenda.

Town Manager Davis explained that a Code Enforcement Officer requested to be laid off and in lieu of hiring back a full time person with benefits it would be more beneficial to the Town to hire multiple part-time people for Code Enforcement and Parking Enforcement. She explained that they were converting the full-time position and it would not need to amend the budget because there was not a cost differential. They would be deleting a full-time position and creating multiple part-time positions to accommodate the Code Enforcement and Parking Meter



Enforcement.

Commissioner Rumsey asked if the part-time employees would be taking up the majority of the weekend work and early morning and late evening work so that the full-time Code Enforcement employees would not need to be called on at those times.

Commissioner Daly asked if the salaries of the part-time employees would exceed that of one full-time Code Enforcement employee.

Town Manager Davis stated that the part-time salaries would not exceed one full-time salary. She stated that part-time workers could work for a total of 46 hours and be at the same salary as a full-time worker. She stated that it was simply changing the job description to include parking meter enforcement.

**Motion: A motion was made by Vice-Mayor Carey to approve items 6 through 8 of the Consent Agenda; Commissioner Daly made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		
Commissioner Daly	X		
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois	X		

Motion passed 5-0.

**ORDINANCE ON 2<sup>nd</sup> READING:**

**ORDINANCE NO. 14-2009 – Florida Public Utilities**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, ADOPTING AND RENEWING A GAS FRANCHISE WITHIN THE TOWN OF LAKE PARK FOR THE FLORIDA PUBLIC UTILITIES COMPANY, ITS SUCCESSORS AND ASSIGNS; PROVIDING FOR THE IMPOSITION OF PROVISIONS AND CONDITIONS RELATING TO THE FRANCHISE; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**Public Comment Open.**

*None*

**Public Comment Closed.**

Mayor DuBois explained the reason for Ordinance No. 14-2009

**Motion: A motion was made by Vice-Mayor Carey to approve Ordinance No. 14-2009 upon 2<sup>nd</sup> reading; Commissioner Rumsey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		
Commissioner Daly	X		
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois	X		

Motion passed 5-0.

Attorney Thomas Baird read Ordinance No. 14-2009 by caption-only.

**MINI WORKSHOP**

**Florida Department of Environmental Protection Personnel Will Be Present to Answer Various Questions of Commissioners Regarding the Marina**

Town Manager Davis introduced Ms. Jennifer Smith from the Department of Environmental Protection and asked her to come to the podium and answer questions for the Commissioners regarding the Marina.

Commissioner Daly asked why they were told by the DEP that it would cost \$80,000 per year to have a restaurant at the Marina. He stated that when they asked for permission to build the restaurant they were informed that the cost would be approximately 1 million plus other costs that would far outweigh the benefits.

Ms. Smith asked if an amendment to the deed restriction had been discussed.

Commissioner Daly stated that there was not a discussion about a deed restriction amendment.

Ms. Smith explained that typically the DEP collects 6% of generated revenue from an establishment. She stated that a request for a restaurant would be something that she would have to discuss with counsel.

Commissioner Daly stated that he wanted to know what the process was to submit a request to the DEP and that something in writing would be preferred.

Ms. Smith explained that the Town has been through the processes necessary to request permission from the DEP to do certain projects at the Marina.

Commissioner Daly asked if the Town was required to pay a continuous fee from the restaurant's revenue.

Ms. Smith stated that she did not know for sure but other deed restrictions from other facilities have required a percentage of revenue. She stated that she did not make that decision but it was counsel that would determine that requirement.

Commissioner Daly expressed his concerns regarding having any issues arise after the building of a restaurant at the Marina.

Ms. Smith explained that the Town should come to the DEP and have discussion with them before starting any projects at the Marina.

Commissioner Daly stated that Mr. Adams from Tallahassee was the person who had sent the Town information stating that the Town would be charged a percentage of the restaurant's revenue.

Ms. Smith addressed Commissioner Daly's concerns and asked that he bring a clear proposal of what the Town wanted to do at the Marina and then the counsel would be able to give clear direction and requirements on that proposal but would not be able to give him a general list of requirements for any and all projects done at the Marina.

Commissioner Rumsey asked if the Town came to the DEP with a request for a restaurant and if a permit was approved. He also wanted to know if the DEP asked for a percentage would that percentage rate be fixed or adjustable.

Ms. Smith stated that she believed that the rate would be fixed, but that she would check into that and give him a firm answer to that question.

Mayor DuBois asked for clarification on whether or not the DEP would allow permits for any construction at the Marina without first confirming that those projects follow DEP requirements.

Ms. Smith stated the DEP was aware of everything that has taken place at the Marina and what the deeds say. She stated that the DEP would not issue anything now that was not consistent with the deed restrictions.

Vice-Mayor Carey asked if the Town had ever started a project in the past without going to the DEP first.

Ms. Smith stated that she did not know of any of projects done by the Town without DEP approval.

Town Manager Davis stated that Ms. Smith had received a request from Town staff for a retention pond in the center of the north end of the Marina. The Town wanted to add an 18 inch strip of impervious surface for parking. She asked if it would violate the Town's storm water permit.

Ms. Smith explained that the addition of the 18 inch strip would not be considered a violation.

Town Manager Davis stated that it was her understanding that since they were doing the as built, they learned that there was more pervious surface than is required of the permit.

Ms. Smith stated that she did not recall that specific portion of the permit.

Town Manager Davis explained that the engineer who designed the Marina failed to properly close out the permits. When the Town went to the DEP to get clarification on the proposed parking additions, she had to get Calvin Giordano and Associates to do "as built" because the permits at the Marina were not properly closed out.

She asked if the Town wished to have the deed restrictions amended, what approach would Ms. Smith suggest for the Town to take with Tallahassee.

Ms. Smith stated that the district office does not handle deed restrictions or their amendments. She stated that they are handled through the staff in Tallahassee. She suggested that the Town come to her first to discuss what they want to do and she would then get the Town in contact with Scott Woolem, Bureau Chief who would take the lead and is the key contact person in Tallahassee. Ultimately any deed amendments would go to the Board of Trustees for approval.

Town Manager Davis stated that there was a 120 foot charter vessel in the Marina's basin and the Commission would like to use it as a floating restaurant one or two nights a week. She asked if there would need to be permitting or approval from the Board of Trustees.

Ms. Smith recommended that the Town receive approval from the Board of Trustees.

Commissioner Daly asked if Ms. Smith worked with the staff in Tallahassee.

Ms. Smith stated that she worked with staff from Tallahassee.

Commissioner Daly explained that the deed restrictions were holding up the process for projects that would generate revenue for the Marina.

Ms. Smith stated that not all deed restrictions would be removed but the goal would be to keep the Marina as a public source for access to the water.

Commissioner Daly suggested that the Town start moving in the direction of getting information

on what kind of modifications could be done on the deed restrictions.

Ms. Smith recommended that the Town put together a list of those specific things that the Town wants to do for revenue at the Marina and bring it to the DEP so that it can go up the chain of command for approval.

Commissioner Rumsey asked how long it would take to get an answer on a request.

Ms. Smith stated that the request would take at least six months.

Town Manager Davis thanked Ms. Smith for her time.

**DISCUSSION AND POSSIBLE ACTION:**

**Authorize Town Attorney to Execute a Stipulation with the USA**

Town Attorney Thomas Baird gave a brief history of the case between the Town and the United States of America. He stated that the Town's attorneys have been working together with the Department of Justice to find a method of election that would provide for inclusion for minorities that reside and vote in the Town. He stated that the attorneys have reached an agreement with the Department of Justice where the Town would enter into a Consent Decree that would provide for a method of voting called Limited Voting Method. He stated that he previously outlined the terms of that method for the Commission. He explained that at the next election in March, all four Commission seats would be open for election and any candidate that wishes to run for a seat on the Town Commission would go through the proper channels of filing and qualifying to run for that seat. The top four vote getters would be elected to the Commission for a three year term and at the end of that term there will be another election with the same voting method. He explained that both the Department of Justice and the Town through the Consent Decree would have agreed that any violation that was alleged in the lawsuit will have been remedied. He requested a motion from the Commission to authorize him to enter into the Consent Judgment and Decree. The paperwork would be executed tomorrow between him and Attorney Adams, filed with the court and the process would then begin to amend the Charter to provide for the Limited Voting Method to be utilized by the Town.

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Motion: A motion was made by Commissioner Osterman to approve the Limited Voting Method and to proceed with the amendments to the Town Charter; Commissioner Rumsey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner			

Rumsey	X		
Commissioner Daly	X		
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois	X		

Motion passed 5-0.

**FPL Street Lighting Agreement to Install and Maintain Four Street Lights on Bayberry Drive**

Town Manager Davis explained that the Commission had made it a priority to add street lighting throughout the Town and has asked her to find alternative methods in order to do so. She stated that there was a program that FPL offers for leasing the poles and light fixtures. She stated that she had also hired a lighting consultant in order to explore other options. She stated that FPL was still experimenting with LED lights and solar lighting. She asked the lighting consultant to come up with alternatives. She explained that FPL was offering the light pole, light fixture and the electricity for \$19.07 per month but the Town would not eventually own the pole. She stated that it would not be cost effective to the Town. She stated that she would have a presentation at the first Commission Meeting in November to discuss the lighting alternatives. She stated there would be a lease purchase option and possibly installing lighting throughout the entire Town by asking the electorate whether they would like to float a bond. She stated that she believed that it would be the most cost effective and efficient way to light up the Town. This option would abandon the FPL poles and all of their infrastructure to install all new poles. She stated that she would provide all of the options in November but would like to do the one block of Bayberry Drive as a comparison. She asked for permission to do so but if the Commission wanted to wait until the first meeting in November to review the options they could do so.

Vice-Mayor Carey asked if it would cost under \$1000 for the year to install the four light poles and how soon could they be installed.

Town Manager Davis stated that the light poles could be installed right away.

Vice-Mayor Carey asked how long it would take to install the other optional light poles.

Town Manager Davis stated that she did not have that information as of yet.

Vice-Mayor Carey asked how long the Town would have to lease the poles that are installed on Bayberry Drive.

Town Manager Davis stated that as soon as the poles are installed the lease payments begin. She

stated that she was concerned about the leasing of the pole from a fiscal standpoint.

Vice-Mayor Carey asked if the Town would have to maintain the light bulbs on the poles.

Town Manager Davis stated that the maintenance of the light bulbs would be included in the lease.

Commissioner Rumsey asked if the Town went to a new system of lighting and no longer used the FPL poles they would not be responsible for continuing to pay a lease.

Town Manager Davis explained that there would not be the cost of a lease on the new lighting system. The Town would only be responsible for the maintenance of the poles and the difference in the maintenance costs was remarkable. She stated that LED was very easy to maintain and the difference in the power costs was also remarkable.

Commissioner Rumsey stated that with the LED lights you do not lose lumens as quickly as the other lighting poles and with the LED lighting the power lines could possibly be buried.

Town Manager Davis stated that burying the power lines was one of the options that would be presented to the Commission. She stated that lighting alternatives and their estimates would be presented to the Commission at the first meeting in November.

Commissioner Osterman asked if the FPL poles would be removed once the Town decides on an alternative lighting system.

Town Manager Davis stated that the FPL poles and infrastructure would be completely removed once the other lighting system is installed.

Vice-Mayor Carey asked how long the FPL lease was.

Town Manager Davis stated that she did not have that information and would bring it back to the Commission.

Commissioner Osterman stated that she did not want the Town to get stuck with paying for poles that cannot be used.

Town Manager Davis stated that the FPL contract was a 10 year contract and would have to see if the contract could be broken.

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Motion: A motion was made by Commissioner Osterman to Defer the FPL Street Lighting Agreement to Install and Maintain Four Street Lights on Bayberry Drive ; Vice-Mayor Carey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		
Commissioner Daly	X		
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois	X		

Motion passed 5-0.

**COMMISSIONER COMMENTS, TOWN ATTORNEY, TOWN MANAGER:**

**Commissioner Rumsey** announced that next Wednesday night October 28, 2009 at 6 p.m. there will be a community workshop on sober houses taking place in the Commission Chamber.

**Vice-Mayor Carey** announced that the Kiwanis Club would be hosting a Halloween party at the Marina on October 30<sup>th</sup>.

**Commissioner Daly** asked Town Manager Davis if the owners of the yacht at the Marina was still interested in having a restaurant on the yacht once or twice a week.

**Town Manager Davis** stated that the Captain of the yacht was positive about a possible restaurant but after speaking with Ms. Smith there would need to be approval from the DEP.

**Commissioner Daly** recommended that the Town check into getting approval for a restaurant on the yacht at the Marina.

**Commissioner Osterman** stated that she was very pleased that the Town was able to resolve their issues with the Department of Justice. She stated that she was also pleased with the outcome. She thanked Attorney Thomas Baird for his guidance.

**Mayor DuBois** stated that she has had people comment to her about how well the Town looks and the progress that the Town has made despite the hardship of the current economy. She reminded everyone of the Sober Housing Workshop on October 28, 2009. She stated that Ellen Bagdanoff from District 91 would be including the issue of transient housing in her folder of the Legislature for 2010. She thanked Attorney Baird and the gentleman from Washington for coming to a solution that was best for the Town.



**Town Attorney Thomas Baird** thanked the Mayor and the Commission for their confidence. He stated that he believed that they reached a solution that would provide the opportunity for inclusion for everyone.

**Town Manager Maria Davis** stated that she attended the North County Economic Development Meeting and was pleased to hear that Lake Park was the only municipality in the County that passed a referendum for Ad Valorem tax incentives which was noted as a best practice and they were encouraging the rest of the cities in Palm Beach County to do the same. She stated that another best practice that was noted for Lake Park was its Façade Improvement Grant Program and was noted as an innovative best practice.

**ADJOURNMENT**

There being no further business to come before the Commission and after a motion to adjourn by Vice-Mayor Carey and seconded by Commissioner Rumsey, and by unanimous vote, the meeting adjourned at 8:08 p.m.

\_\_\_\_\_  
Mayor DuBois

\_\_\_\_\_  
Deputy Clerk Jessica Shepherd

\_\_\_\_\_  
Town Clerk Vivian Lemley

Town Seal

Approved on this \_\_\_\_ of \_\_\_\_\_, 2009.

# TAB 2

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: **November 18, 2009**

Agenda Item No. **2**

- |   |   |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> Ordinance on Second Reading<br><input type="checkbox"/> Public Hearing<br><br><input type="checkbox"/> ORDINANCE ON FIRST READING<br><br><input type="checkbox"/> GENERAL APPROVAL OF ITEM<br><br><input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION<br><br><input type="checkbox"/> DISCUSSION<br><br><input type="checkbox"/> BID/RFP AWARD<br><br><input checked="" type="checkbox"/> <b>CONSENT AGENDA</b> |
|---|---|

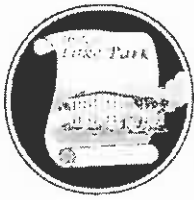
**SUBJECT:** Workshop Meeting Minutes of October 28, 2009.

**RECOMMENDED MOTION/ACTION:** Approve the Workshop Meeting Minutes of October 21, 2009.

Approved by Town Manager *[Signature]* Date: 11/12/09  
 Deputy Clerk *[Signature]* 11/9/09  
 Date of Actual Submittal

<b>Originating Department:</b> Town Clerk	Costs: \$ N/A  Funding Source:  Acct. #	<b>Attachments:</b>
<b>Department Review:</b> <input type="checkbox"/> City Attorney <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input checked="" type="checkbox"/> Town Clerk <i>VMC</i> <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case <input checked="" type="checkbox"/> _____:  Please initial one.

**Summary Explanation/Background:**



**Minutes**  
**Town of Lake Park, Florida**  
**Town Commission Workshop**  
**October 28, 2009 6:00 p.m.**  
**Town Commission Chambers, 535 Park Avenue**

The Town Commission met for the purpose of a Workshop on Wednesday, October 28, 2009 at 6:00 p.m. Present were Mayor DuBois, Vice-Mayor Carey, Commissioners Daly, Rumsey and Osterman, Town Manager Maria Davis, and Town Clerk Vivian Lemley.

Mayor DuBois led the pledge of allegiance  
Town Clerk Vivian Lemley performed the Roll Call

**DISCUSSION:**

**Community Groups Presentation regarding Sober Houses**

Kevin Bandy, 831 Northern Drive, Lake Park – thanked Commissioners Rumsey and Osterman and the Commission for their help with the sober housing issue. He began a Power Point presentation regarding the sober housing issue (see Exhibit “A”). He explained the differences between sober houses and halfway houses (see page 3 of Exhibit “A”). He stated that a halfway house was a step down in care from a sober house. He explained that it was a facility that a person would go to as the next step to their treatment or care after leaving a licensed treatment facility. Halfway houses have a high level of structure, access to 12 step meetings, on site staff, potentially an affiliation with a licensed treatment center, and a requirement to be involved in some form of outpatient setting. He explained that a sober house was a more relaxed structure that would include random urine screening as a form of accountability. He stated that the Department of Children and Families did not recognize either sober houses or halfway houses as licensed or regulated within the continuum of care for those dealing with substance abuse. However, the Department of Children and Families does report regular phone calls from residents of sober houses who report abuse endured in the homes and the DCF is unable to do anything. He stated that the City of Delray Beach has a self-monitoring agency that works to regulate sober houses in the City and the Town of Lake Park does not have such an agency. The men and women in sober houses are not afforded the confidentiality that a patient would be afforded in a licensed treatment center. Confidentiality is left up to potentially unlicensed and untrained residents, owners, managers, etc. He continued to explain the operations and procedures of sober houses and stated that they were not required to have policies and procedures set in place (see page 4 of Exhibit “A”).

He continued his presentation and questioned why sober houses would not get licensing (see page 4 of Exhibit “A”). He gave an overview of how many sober houses were currently in Lake Park. He stated that there was only one sober house recognized by the Town. He stated that the Town was not able to license a sober house on a clinical level; only DCF could do so. He gave an overview and explanation of Ordinance No. 12-2009 (see page 6 of Exhibit “A”) He gave an overview of “Points of Conflict” with Ordinance 12-2009 (see page 7 of Exhibit “A”). He explained that as a community group they have confidently identified 13 addresses of sober houses that are currently advertising as such in the Town of Lake Park and that the Town was only identifying the sober house at 306 Foresteria Drive as the only operating sober house. He

closed his presentation by thanking the Town and everyone who came to the meeting to express their concerns with the sober housing issue.

Tim Kasher of 315 Foresteria Drive began a Power Point presentation regarding sober houses (see Exhibit "B"). He gave a brief history of his home purchase in Lake Park and the purchase and history of the 306 Foresteria Drive property (see page 2 of Exhibit "B"). He gave an overview of the "Negative Impact on Homes" (see page 4 of Exhibit "B") by sober housing. He explained that he was trying to sell his home and move out of the Town he loves but has been unable to do so. He explained the reason for sober facilities (see page 5 of Exhibit "B"). He explained the "Demand on Town Services" (see page 7 of Exhibit "B"). He gave an overview of Ordinance No. 12-2009 (see page 12 of Exhibit "B"). He closed his presentation with reading the Town of Lake Park's Mission Statement (see page 13 of Exhibit "B").

### **PUBLIC and OTHER COMMENT**

*Rick Goodsell, 410 9<sup>th</sup> St.* – asked if County rules and regulations applied to the Town with regards to occupation limitations.

Attorney Thomas Baird stated that the Town had its own occupancy limitations based on the square footage and number of bedrooms and bathrooms in a unit.

*Lynn Duto* – asked if the Attorney would be able to provide information on items discussed and any information regarding Town code or be able to access the Town code when a question is asked.

Town Attorney Baird stated that he would be reviewing the Town Ordinances that the Town has adopted with relation to sober housing.

Mayor DuBois explained that it would not be possible to refer to the Code with each question presented since the Town's Code book was voluminous.

*Emily* – stated that she lives in North Palm Beach and used to be a resident of Lake Park and once resided at the "Women of Dignity" halfway house. She stated that she completely supported the "Women of Dignity" house. She stated that she credited them for the improvement in the quality of her life. She stated that she was very grateful to them for being there when she got out of treatment. She stated that she was now 27 months sober and the "Women of Dignity" halfway house does a great service to the community for women whose goal is recovery.

*Bill Boyles, 742 Laurel Dr.* - stated that he was a resident of one of the sober houses. He stated that the level of care he receives was tremendous and what he was looking for. He stated that he believed that he and the residents of the sober house made good neighbors and were quiet. He stated that he would feel safer knowing that his neighbor was being drug tested regularly. He stated that there were people that you would least suspect on drugs and alcohol who drive under the influence. He stated that he wanted to point out that in the entire area there were not many licensed treatment centers that operate as halfway houses. There were many treatment centers that were residential but were not operating as halfway houses. He explained how he had moved to the sober house from Orlando and he accredited the availability of the sober house as a big part of his sobriety. He asked if the houses would be permitted by Town Code if they got

licensed as treatment centers.

Attorney Baird explained that there was no licensing procedure in the State of Florida for halfway houses or sober houses.

Mr. Boyles asked if they could be permitted in the Town if they were licensed as treatment centers.

Attorney Baird explained that the Town did not permit licensed treatment centers and that they were not permitted in a single family residential area but were permitted in multi-family and commercial districts.

Mr. Boyles stated that he also wanted to point out that Mr. Bandy was a counselor at the Hanley Center when he attended. He stated that the Hanley Center had an agreement with another halfway house which is not in Lake Park. He stated that they wanted him to attend that halfway house and he wanted to point out the potential conflict of interest.

*Brad, 742 Laurel Dr.* – stated that he attended a treatment center where Mr. Bandy was a counselor. He stated that Mr. Bandy recommended the sober life to him. He stated that he went to a halfway house that was recommended by the treatment center and it was a dump. He stated that he was at the halfway house in Lake Park and he couldn't ask for more.

*Chuck Sheen, 510 Evergreen Dr.* - stated that he worked with the Better Business Bureau and has known the halfway house at 742 Laurel Drive since it opened and has never known of an abuse situation there with any of the tenants. He stated that he worked at Hanley Center, Oakwood, Sandy Pines and other treatment centers. He stated that Mr. Kevin Bandy did work at Hanley Center and it was a conflict of interest. He stated that Mr. Kasher's comments were dramatic and reactionary. Neighbors sometimes compromise with each other and the issues Mr. Kasher was having with his boat was an issue that anyone could have with their neighbor and the picture that showed the five or six cars parked across the street at a time was probably an incident that did happen but not on a regular basis. He stated that he attended a County Commission Meeting where they brought up the point that if the people who were in sober facilities did not have a place to go for recovery they would be out on the streets committing crimes. He stated that the Town should help not hinder those in recovery.

*Vincent Terazino, 718 Magnolia Dr.* – stated that he was a resident manager of one of the sober houses in Town. He stated that he did not have the luxury of attending a treatment center but got sober through living at a sober house facility. He stated that the quality of his life has improved dramatically and sober houses provide a safe place with a high accountability level. He stated that the sober house he currently works at is well maintained.

*Priscilla Chase, 2<sup>nd</sup> Ct.* – asked if the sober houses in Town were segregated or co-mingled.

Attorney Baird stated that the only sober house he was aware of that was co-mingled was the "Women of Dignity" house on Foresteria Dr.

Ms. Chase asked if the sober house on Laurel Drive was segregated.

Attorney Baird stated that he did not know but the operators of the sober houses were present if

she would like to ask them.

Mayor DuBois stated that for privacy purposes she did not want to publicly announce all of the different addresses of the sober houses.

Ms. Chase stated that she appreciated what was said by those who came to speak. She stated that she supported the Town's efforts and hoped that they find a specified area for sober houses that was not residential.

*Lori Hoffman, 233 Greenbriar Dr.* - asked what the Town was doing to regulate sober houses and how many more sober houses the Town would allow.

Attorney Baird stated that he would address that topic later in the meeting.

*Alison Francis, 831 Northern Dr.* – stated that she thought it was great that everyone came to the meeting to share their different views. She stated that the Town and residents needed to come to a common solution. She stated that it was interesting to note that there were halfway houses in the Town that the Town was not aware of and those halfway houses have not been straightforward in their responses as to whether they were or were not a halfway house.

*An unidentified woman* -stated that she supported both sides of the halfway house issue. She stated that she had a brother in recovery at a halfway house that was not located in an R1 Zoning District. She wanted to know how the Town was going to enforce Ordinance No. 12-2009.

*Jason Wallace, E. Jasmine Dr.* – stated that he received a letter in early October concerning the house across the street from him becoming a sober house and he was curious as to how many people received that letter. He asked if it was just his neighborhood that received the letter and if so, why not the entire Town.

Community Development Director Patrick Sullivan explained that the Town sends out certified mail to notify residents who are within 300 feet of the subject property; otherwise it would be advertised in the newspaper.

Mr. Wallace asked if the residents have been notified about the halfway houses that were mentioned at the meeting.

Attorney Baird explained that the notification was done pursuant to an application for a Reasonable Accommodation and the Ordinance requires anyone that applies to use a house for handicapped individuals living together to make an application to the Town and for the Town to give notice to those properties within 300 feet that there will be a hearing wherein the Town's magistrate considers whether or not to grant that Reasonable Accommodation. He explained that anyone else that makes those applications such as some of the sober homes there tonight and admitting in a public forum that they are operating a sober home, they are obligated to make an application to the Town to request a Reasonable Accommodation. He stated that he would expect to be contacting those individuals to ask them to submit an application; otherwise they would be in violation of existing law.

*Rachel Wallace, 123 E. Jasmine* – stated that she grew up in Lake Park and she and her husband Jason recently bought a home in the Town unbeknownst to them that there were sober house



facilities operating in the residential areas of Town. She expressed her concerns regarding having the sober facilities in the residential district of the Town.

*Sarah Mosley, 227 Foresteria Dr.* – stated that a halfway house moved in three doors down from her home. She stated that she has not seen or heard of any problems since they've moved in. She stated that the Town should work with residents and neighbors to address their issues with sober houses.

*Gifford Dean, North Palm Beach* – stated that he has had the opportunity to be involved with the "Women of Dignity" house. He stated that he has a lot of recovery and has been 40 years sober. He stated that the need for halfway houses was very important. He stated that treatment facilities were very expensive and when people leave the treatment facilities it is important for them to have a structured place to go to. He stated that there was high accountability in the halfway houses. He stated that he has been around the Foresteria Dr. sober house at different times of the day and has not witnessed any traffic issues.

*James Sullivan, 348 Flagler Blvd.* – stated that he belongs to Community Watch and regularly rides his bike around Town. He stated that he rides along E. Jasmine Dr. and Australia Cr. every day and has never seen any problems at the sober house facilities. He stated that the Town should look at correcting the abuses of those places and the impact of the Community should be considered. He stated that registered sex offenders pose a bigger problem in the Town than the halfway houses and sober house facilities.

*Randi Aberns* – stated that she was the owner of the sober residence at 306 Foresteria Dr and was also in the process of license pending for a sober residence at 118 E. Jasmine Dr. She stated that she was a recovering alcoholic and drug addict and has not had a drink or used drugs in over 10 years. She stated that she has lived in Lake Park for approximately 15 years. She stated that she rented a home 12 years ago on Foresteria Drive where she was selling drugs and alcohol to those living in the home and to those who lived in the neighborhood. She stated that God saved her and there was hope and another way of living life and in an attempt to give back to the Community she started a sober house facility. She gave a brief history of her background and the health issues she deals with today because of her drug use. She gave examples of instances where residents of her sober home had relapsed into addiction because of other addicts who were using and living in the neighborhood that had pushed drugs on them. One of those people who pushed those drugs and lived in that drug house eventually came to her facility for recovery. She explained that she was not wealthy from running the halfway houses. She stated that she has had thousands of dollars in back rent from people who come through her facility. She stated that she doesn't mind because she is there to help. She agreed that sober facilities should have regulations. She stated that when the Town requested that she receive a license and a lawsuit was involved she spent \$50,000 in legal fees to receive her occupational license to have a sober house with 10 occupants. She stated that she had a license pending for 118 E. Jasmine Dr.

Attorney Baird interrupted and wanted to clarify that Ms. Aberns did not have a license pending but an application for a Reasonable Accommodation which was what she also received for her sober facility on Foresteria. He explained that there was not licensing in the State of Florida for halfway houses.

*Donna, Lake Park* – stated that she was a retired nurse of 20 years and has two grown kids and four grandkids and was a good neighbor. She stated that she used to be extremely drunk driving

through the neighborhoods of Lake Park. She stated that none of her neighbors knew and that you really don't know what your neighbors are doing. She stated that she stayed at a sober house for 15 months and received the help she needed. While she stayed there she did not drive around drunk or throw trash on the sidewalk because she was working a recovery program. She did those things when she was drunk. She stated that treatment centers were expensive and if the sober facilities were required to get licensing it would be expensive or unaffordable. She gave reasons why licensing for sober facilities would be detrimental.

*Daniella* – stated that she has owned a couple of halfway houses, one in Lake Worth and one in Palm Beach Gardens for six years. She explained that because of the halfway houses many women have recovered from their addictions and are now productive members of society. She explained that she was a secretary for SCRA (South County Residence Association) and her houses were based on their guidelines and standards. She stated that she has known the “Women of Dignity” house and their standards meet or are better than what SCRA requires. She stated that there was a high level of structure and neighbors should feel safe.

*Ms. Reed, Foresteria Dr.* – stated that what Mr. Kasher said about the traffic at the sober house on Foresteria Dr. was true. She gave examples of the noise and traffic issues she has experienced from the sober facility.

*Shawn Ryan, 3133 Capris Rd, Palm Beach Gardens, FL* - stated that he was a Certified Addictions Counselor in the State of Florida and was currently pursuing his Masters in Social Work at Barry University. He stated that when he decided to enter the field of addiction treatment he knew that he had to be credentialed and there was an ethical standard of doing no harm to the patient when they come in for treatment. He stated that he is also a recovering alcoholic and addict and attended an unlicensed and unregulated treatment center in North Palm Beach. He stated that he was on both sides and believed in a continuum of care where transitional living is available for the clients he services, but when people do not have the proper training to provide the services that are needed for these people, it creates a danger. He stated that untrained individuals do not know how to care for people in sobriety. He gave more examples of issues that could arise from individuals being treated by those who do not have the proper training.

*Sue Ellen Mosler, 201 Foresteria Dr.* – stated that there was a halfway house close to her and she has more trouble with dogs on her street than she's had with any of the women at the halfway house. She stated that there were a lot of cars on the street because of the rental properties.

*Holly Driscoll* – stated that she was also a Certified Addictions Counselor and fully supported halfway houses and sober facilities where the patients have rights. She stated that she also believed that those who live in a residential area have rights and deserve to raise their families in a safe environment and if traffic safety is an issue it should be addressed.

*Chris O'Brian, North Palm Beach* – stated that he's been sober 25 years and has associated with the residents of the halfway houses. He stated that the homes were beautiful and clean and he has seen young women get sober because of the living environment. He believed the sober houses to be an asset to the community.

**Public Comment Closed.**

Mayor DuBois introduced State Representative Mack Bernard.

State Representative Mack Bernard stated that since he received a letter from Mayor DuBois regarding the sober house licensing issue, he decided he needed to be at the meeting to hear both sides. He stated that he would work with the Town and its residents and follow the developments as a legislator in representing the issue.

Attorney Thomas Baird stated that he wanted to address a couple of things and respond directly to some of the speakers and also address the perception that has existed that the Town has not done enough or anything to address the sober house and halfway house issue. He stated that it was not true that the Town has not addressed the issue and he wanted to give a history of what has happened since 2002 when he was first appointed as the Town's attorney. He began with explaining that the Town was not a licensing authority. The State does not license what are called halfway or sober houses. At one time they did license these homes as part of their licensing program for recovery centers. That legislation was repealed in 2004. He explained the reasons for the repeal. The Town does not have the authority to regulate patient care whether it is in a licensed recovery center or a halfway or sober house. Patient care is regulated by the State of Florida through the Department of Children and Families. He stated that there was a comment made stating that the Town only recognizes one sober house. The Town has only received one application for a Reasonable Accommodation so far. He stated that the Town would enforce Ordinance No. 12-2009 just as it enforces all other Ordinances in the Town. Most Ordinances and Codes are driven by complaints. The Town generally does not go out searching for code violations because there are probably more code violations in any municipality than a municipality can administer at any given time. If there is a violation of the code of which a person is aware, that complaint should be given to the proper channels such as the Community Development Department and the Town would investigate the complaint. There are complaints that are made that do not violate the Town code. He stated that back in 2002 and 2004 there were complaints that came in regarding two recovery programs in the Town. The complaints stated that the facilities were not operating in accordance with licenses and the Towns zoning code. After an investigation by the Town it was found that those facilities were licensed facilities and were operating in the proper zoning district. However, because the complaints continued, the Town took action in 2003 or 2004 by changing the Town zoning code such that licensed recovery centers had to operate within commercial zoning districts and not residential districts. Licensed recovery centers are not sober houses or halfway houses. In 2004 there was also an issue with respect to group homes which was a whole other category of residential facilities. The Town addressed those group homes by passing Ordinances that brought the Town into compliance with another State Statute which regulates group homes which are also different from sober houses or recover treatment centers. In 2002 the City of Boca Raton who had experienced similar problems as Lake Park in relation to sober houses, enacted ordinances that prohibited halfway houses or sober houses from being located in any residential district of the city. They were limited to commercial districts and medical districts. He stated that Delray Beach also enacted an ordinance prohibiting sober houses from operating in residential districts. The United States Justice Department intervened in both of those cases. Attorneys for the United States wrote both cities and warned them if they continued to pursue that litigation then the United States would take the position that those cities were infringing upon the rights of individuals protected by the Fair Housing Act and the Americans for Disability Act. They indicated that their Civil Rights Division would pursue litigation with those cities. They did not have to pursue the litigation because an operator of a residential treatment center in Boca Raton pursued the litigation. A judgment was rendered against the city and the judgment essentially

said that you could not restrict sober houses only to commercial or medical zoning districts and that the city had to have in place Reasonable Accommodation procedures that would allow someone that had a disability to pursue if they chose to, to live in a residential zoning district. Meanwhile, other litigation was in the process in the City of Treasure Island. Treasure Island was attempting to restrict sober houses or halfway houses to zoning districts other than single family residential zoning districts. He stated that they attempted to do that by classifying those facilities as transitional housing. Transitional housing would also be known as time shares. He stated that there were similar arguments made by residents wherein there were traffic and garbage issues. In that case, the trial court decided those regulations treated handicapped individuals the same as non-handicapped individuals and the trial court essentially said that the regulation was alright. The litigation did not stop there but went to the 11<sup>th</sup> Circuit Court of Appeals which concluded that notwithstanding the fact that your treating handicapped and non-handicapped people the same way, you still have to provide the handicapped individuals with the opportunity to seek a "Reasonable Accommodation" of their handicap such that if they do want to live in a single family neighborhood they apply for the Reasonable Accommodation and they may or may not be granted that Accommodation.

Mr. Baird continued to explain that that litigation was probably not over with, but it is the teaching of what happened with the sister cities of Boca Raton, Delray Beach, and Treasure Island which has led the Town of Lake Park's Commission to adopt the most progressive kinds of ordinances in Florida with its Reasonable Accommodations Ordinance and Ordinance No. 12-2009 which is the ordinance which limits transitional housing to multi-family areas and commercial housing areas. He stated that the Commission has done all they could legally do to try to regulate what some people consider to be an impact on the Town. One of the things the Town has done to address the quality of care issue, is that in the Reasonable Accommodation Ordinance it has defined a qualifying entity as an entity that is licensed by the State of Florida. The purpose of that is to ensure that someone who's operating a halfway house or sober house is in some way affiliated with a licensed recovery program so that there is some responsibility in place in the event that something goes wrong. He stated that he did not know what would happen should the Town's Ordinances be challenged because the litigation of the sober housing issue is so new and unresolved that he cannot predict whether or not the Town's Ordinances would be upheld by the Federal Courts in the United States. He stated that the point was that what the Town Commission has done all they could do to try and improve the situation for residents and the recovery community. He stated that the Commission has contacted their Representatives, the Senator and the entire Legislative Delegation of Palm Beach County and have asked for their assistance. He stated that if there would be licensing of sober houses or halfway houses it would be the Legislature that would have to step in and do that. He stated that it was up to the community to respond to the legislators and implore them to license the facilities should that be their position on the matter. He stated that there was a lot more to learn about the sober house facilities, the licensing, the individuals who run them, and the individuals who attend the facilities. He asked if there was a way for the community to come together and sit down in the same room at the same table with Randy Aberns and others who have an interest in helping people and ensuring they hear what the communities concerns are and they could assist in making sure that the issues could be worked out. He stated that the main thing he wanted the community to take away with them is the fact that State Representative Bernard was not shirking his responsibilities regarding the sober housing issues. He stated that Ms. Aberns' application would be considered by a Special Magistrate and decided upon at a Special Hearing on a later date.

Attorney Baird assured the community that the Town would do what it's required to do in terms of enforcing its code.

**Mayor DuBois recessed the meeting for a short restroom break at 7:45 p.m.**

**Mayor DuBois reconvened the meeting at 7:53 p.m.**

### **COMMISSIONER FORUM**

**Commissioner Rumsey** stated that he wanted to address residents and those who were presently in treatment in sober facilities. He wanted to make it clear that the Commission wants them to get the treatment they deserve and he applauded those who were putting in the hard work to live a sober life. He stated that the Town of Lake Park wanted to do everything they could to ensure those in treatment continue to live a sober life. He also wanted to thank the community for coming out on the issue. He thanked Mr. Bandy and Mr. Kasher for speaking with and coordinating with the residents on the issue. He stated that that was the kind community involvement needed to help solve the problems in the community. He stated that the entire Commission has been working long and hard on the sober house issue along with the Mayor and Town staff. He wanted everyone to know that it was an issue that the entire Town was working on to resolve.

Commissioner Rumsey continued and thanked Ms. Abers for saying that she thought that sober houses should be licensed. He stated that he looked forward to her being a part of getting that licensing taken care of by joining with the Commission in finding a solution. He stated that the Commission has taken the issue as far as it can and it was time for the community to join in finding a solution for sober homes. He stated that he told State Representative Bernard before he left that the Town would be calling him. He told the community to get the numbers for the legislature and their representatives and to call them regarding the issue. He continued to speak about Town issues and community involvement.

**Vice-Mayor Carey** thanked those who attended the meeting for their patience, cooperation and orderliness. He stated that the Commission wanted to hear from the public and work with the community to find solutions to Town issues.

**Commissioner Daly** thanked everyone who came to the meeting. He stated that he was overly impressed by those who represented the sober houses and that they brought up good points that he did not realize before. He stated that everyone has a lot to learn and believed that the Town and its residents could come to a common ground and an agreement that would be satisfactory to everybody.

**Commissioner Osterman** stated that she was also impressed by the outcome of the meeting. She requested that the ordinances and codes addressed that night particularly those that pertain to occupancy be placed on the Town's website with a direct link that can be easily accessible to the public. She also requested that the link be e-mailed to each of the Commissioners in case a resident requests the information from them. She stated that good points were brought up at the meeting such as the fact that the sober houses have improved and brought value to the community. She stated that she felt the R1 District residents have a reasonable expectation of stability in a community and there shouldn't be the same level of turnover as there may be in other districts. She stated that the Town needed to address those issues and find the best

solution. She stated that it would take time and the community would need to be patient in finding the solution.

**Mayor DuBois** stated that she appreciated a community that comes together with different views and perceptions to exchange. She stated that sometimes there is a lot of fear of the unknown and it was incredible to see the community come out with and express their views and be respectful of others. She stated that the Town needed to figure out how to move forward and find a solution for everyone. She stated that Attorney Baird would be available to answer specific questions after the adjournment of the meeting.

## ADJOURNMENT

There being no further business to come before the Commission and after a motion to adjourn by Commissioner Osterman and seconded by Commissioner Carey, and by unanimous vote, the meeting adjourned at 8:05 p.m.

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Mayor DuBois

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Deputy Clerk Jessica Shepherd

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Town Clerk Vivian Lemley

Town Seal

Approved on this \_\_\_ of \_\_\_\_\_, 2009.

# TAB 3



**Town of Lake Park Town Commission  
Agenda Request Form**


Meeting Date: November 18, 2009


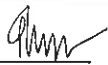
Agenda Item No. 3

- |  |  |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING              | <input checked="" type="checkbox"/> RESOLUTION     |
| <input type="checkbox"/> Ordinance on Second Reading |  |
| <input type="checkbox"/> Public Hearing              | <input type="checkbox"/> DISCUSSION                |
| <input type="checkbox"/> ORDINANCE ON FIRST READING  | <input type="checkbox"/> BID/RFP AWARD             |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM    | <input checked="" type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other:                      |  |

**SUBJECT:** A resolution to provide for the Mayor to sign an amended contract with the Town's Building Official, Hy-Bryd, Inc.

**RECOMMENDED MOTION/ACTION:** Approval

Approved by Town Manager  Date: 11/12/09

<b>Originating Department:</b> Community Development	Costs: \$ N/A Funding Source: Acct. #	Attachments:
<b>Department Review:</b> <input checked="" type="checkbox"/> Town Attorney <u>ITB</u> <input type="checkbox"/> Community Affairs _____ <input checked="" type="checkbox"/> Community Development <u></u>	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone <u></u> Or 11/12/2009 Not applicable in this case _____: Please initial one.

**Summary Explanation/Background:** Hy-Bryd has offered to amend their present three year contract (ends in 2011) to reduce the annual cost from \$110,000 to \$90,000 starting with fiscal year 2009-2010. The amendment would extend the contract period through 2012. The annual fee would increase by 3% each year. This adjustment is due the slowdown in the number of inspections that are being conducted by the Building Official. To protect Hy-Bryd from a rapid escalation in inspections the Town agrees to a monthly cap of the number of inspections at 125 for the first year, 135 for the second year and 145 for the third year. For every month that inspections exceed the cap, Hy-Bryd will charge an additional \$10 per inspection. Staff has calculated the potential impact of this system and is confident that the Town will still receive significant savings even if the number of inspections rise substantially. Last year's inspections averaged 110 per month. In 2007 before the crash the Town averaged 142 inspections per month. If this happened this year (which is unlikely) it would cost the Town an additional \$2,100 or a total of \$92,100 which is still \$17,900 less than what the present contract calls for. Staff recommends approval of this contract.

**RESOLUTION NO. 55-11-09**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A CONTRACT WITH HY-BYRD INC., FOR BUILDING INSPECTION, PERMITTING AND OTHER SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park, Florida (“Town”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town is empowered to enter into contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

**WHEREAS**, the Town Commission has previously entered into a contract with Hy-Byrd, Inc. for building inspection and permitting services; and

**WHEREAS**, the Town and Hy-Bryd Inc., wish to continue with their contractual arrangement, and the parties have agreed to enter into a new Contract for a three year term; and

**WHEREAS**, the Town has budgeted funds in its current fiscal year budget which are available for the funding of this Contract; and

**WHEREAS**, Town staff is recommending that the Town Commission approve this Contract.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:**

**Section 1.** The whereas clauses are hereby incorporated herein as true and correct.

**Section 2.** The Mayor is hereby authorized and directed to execute the Contract between the Town of Lake Park and Hy-Bryd Inc., a copy of which is attached hereto and incorporated herein as **Exhibit "A"**.

**Section 3.** This Resolution shall take effect immediately upon its adoption.

**TOWN OF LAKE PARK  
BUILDING OFFICIAL SERVICES AGREEMENT**

This Agreement entered into this \_\_\_ day of \_\_\_\_\_, by and between HY-BYRD, INC., a Florida corporation with offices located at 511 South East Coast Street, Lake Worth, Florida 33460, and THE TOWN OF LAKE PARK, a municipal corporation, with offices located at 535 Park Avenue, Lake Park, Florida, 33403.

**WITNESSETH**

**WHEREAS**, the Town of Lake Park, Florida ("TOWN ") is a municipality and given those powers and responsibilities enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

**WHEREAS**, the TOWN is empowered to enter into contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

**WHEREAS**, the TOWN required the services of an outside consultant to serve as the TOWN's Building Official, and therefore in or about 2005, the TOWN solicited competitive proposals for the required services through a Request For Proposals issued by the Town, and HY-BYRD, INC., a Florida corporation; and

**WHEREAS**, HY-BYRD, INC., submitted the successful Proposal to the Town Commission, and was awarded the Contract by the Town Commission; and

**WHEREAS**, the TOWN and HY-BYRD, INC., ("BUILDING OFFICIAL"), wish to continue with their contractual arrangement, and the parties have agreed to enter into a new Contract for up to a three year term; and

**WHEREAS**, the TOWN has budgeted funds in its current fiscal year budget which are available for the funding of this Contract; and

**NOW THEREFORE**, the TOWN and the BUILDING OFFICIAL in consideration of the benefits flowing from each to the other do hereby agree as follows:

**1. STATEMENT OF WORK**

- 1.1 The BUILDING OFFICIAL, by and through its President, Joseph A. Crisafulle, and/or his employees or agents shall perform all Building Official duties for the TOWN. The BUILDING OFFICIAL shall be responsible for direct regulatory administration and supervision of plans review, enforcement, and inspection of all phases of building construction within the Town, any construction, erection, alteration, demolition, or substantial improvement of, or addition to, any structure for which permitting is required. In so doing, the BUILDING OFFICIAL shall indicate in writing, compliance or non-compliance with all applicable codes. The

BUILDING OFFICIAL shall, to the satisfaction of the TOWN, fully and timely provide all duties, services, functions, obligations, and all other functions, which are typically performed by an in-house local government building official, including but not limited to, building and construction plans review for compliance with the Florida Building Code and other applicable codes the provision of written notice of deficiencies to the applicant; attend meetings with applicants, developers, engineers, design and other professionals; pre-construction plan review; building and other types of permit review and issuance; construction site inspections; processing and issuance of certificates of occupancy and certificates of completion; issuance of stop work orders; condemnation of unsafe buildings; processing of alarm permit applications; issuance of interpretations of the Florida Building Code and all local technical and other amendments, preparation of forms used in connection with Building Department functions and maintenance of the records of the TOWN Building Department; make recommendations regarding fee and rate structures for building department and related fees; testify on behalf of the TOWN in code enforcement proceedings, administrative appeals, and other administrative and/or judicial proceedings at the request of the TOWN Manager and/or TOWN Attorney; work with Palm Beach County Fire Rescue as needed with respect to fire inspection and other matters; determine compliance with Florida Building Code with respect to modifications of approved products based upon documentary evidence, such as certifications; prosecute appeals to the Florida Building Commission if authorized by the Town Commission; and other duties as may be reasonably required by the TOWN as a regular and routine duty of the BUILDING OFFICIAL. BUILDING OFFICIAL shall be responsible for all plan review and written reports for all building permits issued. All reports shall be filed in the TOWN'S Community Development Department. The BUILDING OFFICIAL shall also perform such other tasks as may be requested by the TOWN as are reasonable and customary for a Building Official, including direct communications with the applicants and their representatives.

- 1.2 The BUILDING OFFICIAL shall maintain fully staffed business hours equal to, but not less, than the TOWN's business hours of 8 AM to 5 PM, Monday through Friday, with TOWN holidays excepted.
- 1.3 The BUILDING OFFICIAL shall have discretionary approval over utilization of employees and agents who may be called upon to assist in performing field inspections for the TOWN. Each employee or agent of the BUILDING OFFICIAL who performs field inspections is required to inform the TOWN of any conflicts of interest which may exist or could exist in the future as a result of work done elsewhere or for others which could hinder proper performance in accordance with the terms of this Agreement. BUILDING OFFICIAL shall only utilize personnel who are State Certified for the functions they are performing.

- 1.4 All rights in data, drawings, specifications, sketches, maps, as-built drawings, designs, models, photographs, computer CADD discs, surveys, reports and other data developed or provided in connection with this Contract, shall be the sole and exclusive property of the TOWN, and the TOWN shall have the full right to use such data for any official purpose permitted by law, including making it available to the public. Such use shall be without additional payment to or approval by the BUILDING OFFICIAL. The TOWN shall have unrestricted authority to publish, disclose, distribute, and other wise use, in whole or in part, any data developer or prepared pursuant to this Contract.
- 1.5 The TOWN agrees to provide the necessary administrative materials for BUILDING OFFICIAL, including desk space, filing cabinets, business cards, in-house clerical assistance, and building code related materials, i.e., code books, plan review materials.

**2. TERM**

- 2.1 The term of this Contract is for a period of three one-year terms, commencing on the date that the Contract is executed by the TOWN (Mayor) ("Commencement Date"). At the end of each contract year, either party may terminate this contract provided notice is given, in writing, not less than 90 days prior to the last date of the contract year. TIME IS OF THE ESSENCE OF THIS AGREEMENT.

**3. CONSIDERATION AND EXPENSES**

- 3.1 The annual compensation paid to the BUILDING OFFICIAL for fiscal year 2009-2010 shall be \$90,000 to include up to a maximum of 125 inspections per month, with an increase to \$92,700 for fiscal year 2010-2011 to include up to a maximum of 135 inspections per month, and an increase to \$95,481, for fiscal year 2011-2012 to include up to a maximum of 145 inspections per month. All plan reviews with a total valuation of \$300,000.00 to \$400,000.00 will require a minimum review fee of \$250.00.
- 3.2 An additional inspection fee of \$10 shall be paid by the TOWN to the BUILDING OFFICIAL for each inspection that exceeds the monthly maximum allocation according to the following schedule:

<u>Fiscal Year</u>	<u>Maximum Allotted inspections per month</u>
2009-2010	125
2010-2011	135
2011-2012	145

- 3.3 The plans review fee for the review of plans where the total estimated cost of construction costs or valuation is \$300,000.00 to \$400,000.00 shall be a minimum review fee of \$250.00; The plans review fee for the review of

plans where the total estimated cost of construction costs or valuation is \$400,001.00 or more, shall be \$1.25 per thousand dollars or a fraction thereof.

- 3.4 The BUILDING OFFICIAL shall conduct building inspections to verify the use of properties in conjunction with requests for zoning confirmation and the TOWN's processing of applications for business tax receipts, and the BUILDING OFFICIAL shall charge the TOWN a fee of \$20.00 per each such inspection. For all inspections conducted by the BUILDING OFFICIAL in connection with building permits, no fee shall be charged by the BUILDING OFFICIAL to the TOWN of any initial inspection or for the first re-inspection; however, the charge for any subsequent re-inspections shall be \$25.00 per each re-inspection. The costs for these inspections shall be billed by the BUILDING OFFICIAL to the TOWN on a monthly basis.
- 3.5 The BUILDING OFFICIAL represents and warrants to the TOWN that these rates are the actual direct wage rates paid to BUILDING OFFICIAL's employees and the rates shall remain in effect for a period of one year from the date of Contract execution. Under no circumstances shall the BUILDING OFFICIAL be paid for travel to and from the TOWN.
- 3.6 Pursuant to Section 287.055(5)(a), Florida Statutes, signature of this Contract by BUILDING OFFICIAL shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the consideration are accurate, complete, and current at the time of contracting. The BUILDING OFFICIAL agrees that the TOWN may adjust the consideration for this Contract to exclude any significant sums by which the consideration was increased due to inaccurate, incomplete, or non-current wage rates and other actual unit costs. The TOWN shall make any such adjustment within one (1) year following the termination of this Contract.
- 3.7 Requests for Additional Services. The undertaking by BUILDING OFFICIAL to perform professional services defined within this Agreement extends only to those services specifically described herein. If upon the request of the TOWN, BUILDING OFFICIAL agrees to perform additional services hereunder, the TOWN shall pay BUILDING OFFICIAL for the performance of such additional services an amount (in addition to all other amounts payable under this Agreement) based on the hourly fees established herein, plus reimbursable expenses incurred by BUILDING OFFICIAL, unless a lump sum addendum to this Agreement is executed by the parties to this Agreement addressing the additional services.

<u>Position</u>	<u>Hourly Rate</u>
Building Official	\$65.00

4. **EQUAL OPPORTUNITY**

4.1 The BUILDING OFFICIAL hereby assures that no person shall be discriminated against on the grounds of race, color, creed, national origin, handicap, age, or sex, in any activity under this Contract. The BUILDING OFFICIAL shall take all measures necessary to effectuate these assurances.

5. **INVOICING AND PAYMENT**

5.1 The BUILDING OFFICIAL'S invoices shall be sent to the following address:

Town of Lake Park  
Town Manager  
535 Park Avenue  
Lake Park, FL 33403

5.2 The BUILDING OFFICIAL shall bill the TOWN on a monthly basis. The TOWN shall pay the full amount of the invoice within 30 days of receipt and acceptance of the work by the TOWN, and provided the BUILDING OFFICIAL has performed the work according to the terms and conditions of this Contract to the satisfaction of the TOWN.

6. **INDEMNIFICATION AND INSURANCE**

6.1 For \$100.00 consideration, the sufficiency of which is acknowledged, payable as part of and included in the first payment hereunder, the BUILDING OFFICIAL shall defend, indemnify, save, and hold the TOWN, including the Town Commission, and the Town's agents, elected and appointed officials, representatives, and employees, harmless from any and all claims or causes of action, including without limitation, all damages, losses, liabilities, expenses, costs, and attorney's fees related to such claims, resulting from any negligent or intentional act or omission, or the violation of any federal, state, or local law or regulation, by the BUILDING OFFICIAL, its subcontractors, agents, assigns, invitees, or employees in connection with this Contract. The BUILDING OFFICIAL further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, agents, assigns, invitees and employees with the terms of this Contract.

6.2 The BUILDING OFFICIAL shall maintain, or cause to be maintained, the following specified insurance coverages in the amounts set forth hereafter during the full period of the Contract, which must include the following coverages and minimum limits of liability:

a. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE for all employees of the BUILDING OFFICIAL for Statutory



Limits in compliance with the applicable state and federal laws. Notwithstanding the number of employees or any other statutory provisions to the contrary, coverage shall extend to all employees of the BUILDING OFFICIAL and all sub-contractors.

b. COMPREHENSIVE GENERAL LIABILITY with the minimum limits of \$1,000,000.00, Per Occurrence, Combined Single Limit for Bodily Injury Liability, Property Damage Liability, Premises and Operations, Independent contractors, Products and Completed Operations, Broad Form Property / Personal Injury, XCU coverage, and a contractual Liability Endorsement.

c. BUSINESS AUTO LIABILITY with minimum limits of \$1,000,000.00, Per Occurrence, Combined Single Limit for Bodily Injury and Property Damage Liability. This shall be an "any-auto" policy including Owned, Hired, Non-Owned, and Employee Non-Ownership Coverage.

d. PROFESSIONAL LIABILITY (malpractice and professional negligence) coverage with minimum limits of \$1,000,000.00 for all agents and employees of BUILDING OFFICIAL.

- 6.3 The TOWN shall be included as an Additional Named Insured under the General Liability and Automobile Liability policies. Current valid insurance policies meeting the requirements herein identified shall be maintained during the duration of the BUILDING OFFICIAL. There shall be a 30 day notification to the TOWN, in the event of cancellation or modification of any stipulated insurance policy. It shall be the responsibility of the BUILDING OFFICIAL to ensure that any sub-contractors' are adequately insured or covered under their policies.
- 6.4 All Certificates of Insurance shall be kept on file with the TOWN, and approved by the TOWN prior to the commencement of any work activities. The TOWN may at its discretion, require the BUILDING OFFICIAL to provide a complete certified copy of the insurance policy(s). If this Contract includes the installation of machinery and/or equipment into an existing structure, the Comprehensive General Liability policy must include an endorsement covering same, including installation and transit.
- 6.5 The required insurance coverage shall be issued by an insurance company duly authorized and licensed to do business in the State of Florida with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability: B+ to A+.
- 6.6 All required insurance shall preclude any underwriter's rights of recovery or subrogation against the TOWN with the express intention of the parties being that the required coverages protect both parties as the primary

insurance for any and all losses covered by the above described insurance.

- 6.7 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as they appear in any policy of insurance in which the TOWN is named as an additional named insured shall not apply to TOWN.
- 6.8 Violation of the terms of this Paragraph 6 and its sub-parts shall constitute a material breach of the Contract by the BUILDING OFFICIAL and the TOWN, at its sole discretion, may cancel the Contract and all rights, title and interest of the BUILDING OFFICIAL shall thereupon cease and terminate.

## **7. TERMINATION/REMEDIES**

- 7.1 If either party fails to fulfill its obligations under this Contract in a timely and proper manner, the other party shall have the right to terminate this Contract by giving written notice of any deficiency. The party in default shall then have seven calendar days from receipt of notice to correct the deficiency. If the defaulting party fails to correct the deficiency within this time, this Contract shall terminate at the expiration of the seven day time period.
- 7.2 Early termination. The Town Manager shall provide written notice to the BUILDING OFFICIAL if the Town is dissatisfied with the services performed by the BUILDING OFFICIAL. Such written notice shall specify what areas of performance sought by the Town to be improved. The BUILDING OFFICIAL shall be given 30 days in which to remedy the situation. If the situation is not remedied within that time, the Town, upon the recommendation of the Town Manager, by motion and vote, shall have the option of terminating the Contract with three days written notice after the expiration of the thirty-day period.
- 7.3 Termination for the convenience of the Town. Upon seven calendar days written notice, delivered by certified mail, return receipt requested to the, the TOWN may, without cause and without prejudice to any other right or remedy, terminate the Contract for the TOWN'S convenience whenever the TOWN determines that such termination is in the best interest of the TOWN. Where the Contract is terminated for the convenience of the TOWN, the notice of termination must state that the Contract is being terminated for the convenience of the TOWN under the termination clause and the extent of the termination. Upon receipt of the notice of termination, the BUILDING OFFICIAL shall promptly discontinue all work at the time.

## **8. STANDARDS OF COMPLIANCE**

- 8.1 The BUILDING OFFICIAL, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulation relating to the performance of this Contract. The TOWN undertakes no duty to ensure such compliance, but will attempt to advise the BUILDING OFFICIAL, upon request, as to any such laws of which it has present knowledge.
- 8.2 The BUILDING OFFICIAL, by its execution of this Contract, acknowledges and attests that, neither he nor any of his suppliers, sub-contractor or affiliates who shall perform work which is intended to benefit the TOWN, has been convicted of any public entity crime pursuant to Section 287.133, Florida Statutes, or, if any such person, entity or affiliate was convicted of a public entity crime, a period longer than thirty-six (36) months has passed since any such person, entity or affiliate was placed on a convicted vendor list. The BUILDING OFFICIAL further understands and acknowledges by its execution of this Contract, that this Contract shall be null and void, and/or that this Contract is subject to immediate termination by the TOWN, for any misstatement or lack of compliance with the mandates of said statute. The TOWN, in the event of such termination, shall not incur any liability to the BUILDING OFFICIAL for any work or materials furnished.
- 8.3 The BUILDING OFFICIAL shall not be exempted from paying Florida Sales and Use taxes to the appropriate governmental agencies or for payment by the BUILDING OFFICIAL to suppliers for taxes on materials used to fulfill its contractual obligations with the TOWN. The BUILDING OFFICIAL shall be responsible and liable for the payment of all of its FICA/Social Security and other taxes resulting from this Contract.
- 8.4 Pursuant to Section 287.055(6), Florida Statutes, the BUILDING OFFICIAL warrants that it has not employed or retained any person, other than a bona fide employee working solely for the BUILDING OFFICIAL, to solicit or secure this Contract. Further, the BUILDING OFFICIAL warrants that he has not paid or agreed to pay any person, other than a bona fide employee working solely for the BUILDING OFFICIAL, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the awarding or making of this Contract. For breach of this provision, the TOWN may terminate this Contract without liability and, at its discretion, deduct or otherwise recover the full amount of such fee, commission, percentage, gift, or other consideration.

## **9. RELATIONSHIP BETWEEN THE PARTIES**

- 9.1 The BUILDING OFFICIAL is an independent BUILDING OFFICIAL and is not an employee or agent of the TOWN. The BUILDING OFFICIAL will perform required services on an independent BUILDING OFFICIAL basis and shall be solely responsible for all employees' payroll taxes to include, but not limited to Federal Income Withholding Tax, Workers'

Compensation, FICA, and Federal and State Unemployment taxes. Nothing in this Contract shall be interpreted to establish any relationship other than that of an independent contractor, between the TOWN and the BUILDING OFFICIAL, its employees, agents, sub-contractors, or assigns, during or after the performance of this Contract. The BUILDING OFFICIAL is free to provide similar services for others.

- 9.2 The BUILDING OFFICIAL shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this Contract without the prior written consent of the TOWN. Any attempted assignment in violation of this provision shall be void.
- 9.3 The BUILDING OFFICIAL shall not pledge the TOWN'S credit or make the TOWN a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness.

## **10. RECORDS RETENTION/OWNERSHIP/AUDIT**

- 10.1 The BUILDING OFFICIAL understands that all documents produced by BUILDING OFFICIAL pursuant to this Contract are public records and BUILDING OFFICIAL must permit the inspection and copying of all public records and must maintain all public records pursuant to Chapter 119, Florida Statutes. The BUILDING OFFICIAL shall indemnify and hold the TOWN harmless from any demands, claims, actions or lawsuits of any kind regarding the BUILDING OFFICIAL's failure to comply with Chapter 119, F.S. related to public records. The BUILDING OFFICIAL shall permit the TOWN or its designated agent to inspect all records maintained by BUILDING OFFICIAL that are associated with this Contract at the location where they are kept upon reasonable notice.
- 10.2 The TOWN has not performed a pre-audit of the BUILDING OFFICIAL'S financial and/or accounting records to verify actual or average direct labor payroll rates or verify the general overhead factor and profit margin. However, the BUILDING OFFICIAL shall permit the TOWN or its designated agent to inspect such records at the location where they are kept upon reasonable notice. Furthermore, the TOWN shall have the right to audit the BUILDING OFFICIAL's financial and accounting records, in accordance with generally accepted governmental auditing standards, within a period of one year after completion of this Contract. This audit may be performed by the TOWN or a designated agency.
- 10.3 All documents, including, but not limited to, technical reports, research notes, scientific data and computer programs in draft and final form including the source code and object code, which are developed by the BUILDING OFFICIAL in connection with this Contract, may be utilized by the TOWN in its normal course of business. TOWN use may include, but shall not be limited to, reproduction, distribution and preparation of

derivative works. The TOWN will not hold the BUILDING OFFICIAL responsible if documents are used for other purposes than intended.

**11. CONFLICTS**

11.1 The TOWN recognizes and acknowledges that the BUILDING OFFICIAL is engaged in a business that provides consulting services to multiple clients including other governmental entities. Further, the TOWN, recognizes and acknowledges that the BUILDING OFFICIAL may presently, or may in the future, represent clients who are or may be doing business in or with the TOWN. The TOWN agrees that the BUILDING OFFICIAL may perform services for clients who are or may have matters before the Town Commission, provided BUILDING OFFICIAL discloses any and all clients it represents who may have any matters which are now or may reasonably be expected to come before the Town Commission for its consideration and, provided further, that the Town Commission waives the actual or potential conflict of interest created by the BUILDING OFFICIAL'S representation.

**12. NON-EXCLUSIVITY**

12.1 The Award of this Contract shall not impose any obligation on the TOWN to utilize the BUILDING OFFICIAL for all work of this type, which may develop during the contract period. The TOWN specifically reserves the right to concurrently contract with other companies for similar work if it deems such action to be in the TOWN'S best interest.

**13. FUNDING**

13.1 In the event that sufficient budgeted funds are not available for a new fiscal period, the TOWN shall notify the BUILDING OFFICIAL of such occurrence and the Contract shall terminate on the last day of the current fiscal period without penalty or expense to the TOWN.

**14. RIGHT TO AUDIT**

14.1 The TOWN reserves the right to audit the BUILDING OFFICIAL'S records as such records relate to the services and the Contract between the TOWN and the BUILDING OFFICIAL. All records shall kept in a way so as to permit inspection pursuant to Chapter 119, Florida Statutes. The records of the BUILDING OFFICIAL shall be retained for three years from the date of final payment.

**15. ATTORNEY'S FEES**

15.1 In the event that legal action is taken to enforce this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees, including attorney's fees at all appellate levels, and other costs and

disbursements, in addition to any other relief to which the prevailing party is entitled.

**16. FORCE MAJEURE**

16.1 Should the performance of this Agreement by either party be prevented or delayed by act of God, war, terrorist act, civil insurrection, fire, flood, storms, strikes, lock-outs, or any order of federal, state, county or local authority. That party's performance shall be excused to the extent it is prevented or delayed. Each party shall promptly give notice of any event it claims to be an event of force majeure.

**17. MISCELLANEOUS PROVISIONS**

17.1 The validity, construction and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of this Agreement shall be litigated in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

17.2 Should any part, term or provision of this Agreement be by the courts decided to be invalid, illegal or in conflict with any law of the State, the validity of the remaining portion or provision shall not be affected thereby. In the event any provisions of this Contract shall conflict, or appear to conflict, the Contract, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.

17.3 BUILDING OFFICIAL shall not assign or transfer the Contract or its rights, title or interests therein without TOWN'S prior written approval. The obligations undertaken by BUILDING OFFICIAL pursuant to the Contract shall not be delegated or assigned to any other person or firm unless TOWN shall first consent in writing to the assignment. Violation of the terms of this Paragraph shall constitute a breach of Contract by BUILDING OFFICIAL and the TOWN may, at its discretion, cancel the Contract and all rights, title and interest of BUILDING OFFICIAL shall thereupon cease and terminate.

17.4 Notwithstanding any provisions of this Contract to the contrary, the parties shall not be held liable for any failure or delay in the performance of this Contract that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. Failure to perform shall be excused during the continuance of such circumstances, but this Contract shall otherwise remain in effect.

- 17.5 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this Contract by the parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this Contract. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of this Contract specifically referred to therein and shall be not deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.
- 17.6 This Contract may be amended, extended, or renewed only with the written approval of the parties.
- 17.7 This Contract states the entire understanding and agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the parties with respect to the subject matter of this Contract. The BUILDING OFFICIAL recognizes that any representations, statements or negotiations made by TOWN staff do not suffice to legally bind the TOWN in a contractual relationship unless they have been reduced to writing and signed by an authorized TOWN representative. This Contract shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.
- 17.8 Upon acceptance of this Agreement the Town of Lake Park agrees not to solicit nor accept employment of any Hy-Byrd employee throughout the term of employment with Hy-Byrd and for one (1) year following separation from Hy-Byrd for any reason whatsoever.

**IN WITNESS WHEREOF**, the parties or their duly authorized representatives hereby execute this Contract in triplicate.

This Contract shall be effective on the \_\_\_\_\_ day of November 2009

TOWN OF LAKE PARK, FLORIDA

\_\_\_\_\_  
Desca Dubois, Mayor

ATTEST:

\_\_\_\_\_  
Vivian Mendez Lemley, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Thomas J. Baird,  
Town Attorney

WITNESS:

**HY-BYRD, INC.**

By: \_\_\_\_\_

State of Florida  
County of Palm Beach

On this the \_\_\_\_ day of \_\_\_\_\_ 2009, before me, the undersigned Notary Public of the State of Florida, the foregoing instrument was acknowledged by (name of corporate officer), \_\_\_\_\_ (title), of \_\_\_\_\_ Hy-Byrd, Inc, a Florida corporation, on behalf of the corporation.

WITNESS my hand  
and official seal

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

- Personally known to me, or
- Produced identification:

\_\_\_\_\_  
(type of identification produced)



# TAB 4

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: November 18, 2009

Agenda Item No.

- |   |   |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> Ordinance on Second Reading<br><input type="checkbox"/> Public Hearing<br><br><input type="checkbox"/> ORDINANCE ON FIRST READING<br><br><input type="checkbox"/> GENERAL APPROVAL OF ITEM<br><br><input type="checkbox"/> Other: | <input checked="" type="checkbox"/> <b>RESOLUTION</b><br><br><input type="checkbox"/> DISCUSSION<br><br><input type="checkbox"/> BID/RFP AWARD<br><br><input checked="" type="checkbox"/> <b>CONSENT AGENDA</b> |
|---|---|

**SUBJECT:** Final budget amendment for Fiscal Year 2008/2009.

**RECOMMENDED MOTION/ACTION:** Approve resolution.

Approved by Town Manager *[Signature]* Date: 11/12/09  
*Anne M. Costello* 11/10/09  
 Name/Title Finance Director Date of Actual Submittal

<b>Originating Department:</b>  Finance	Costs: \$ _____  <b>Funding Source:</b> Acct. # _____	<b>Attachments:</b> Resolution and backup
<b>Department Review:</b> <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____	<input checked="" type="checkbox"/> Finance <u>AYNC</u> <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case _____:  Please initial one.

**Summary Explanation/Background:** This resolution will amend the adopted revenues and expenditures for Fiscal Year 2008/2009. The purpose of this amendment is "housekeeping" for the proper presentation of financial statements in the audit. For example, revenues have been received that were not anticipated during the budget process along with corresponding expenditures.

**RESOLUTION NO. 57-11-09**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN BUDGET FOR FISCAL YEAR 2008-2009 AS PREVIOUSLY ADOPTED BY RESOLUTION NO. 49-09-08; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.**

**WHEREAS**, the Town Commission has previously established the budget for the Town of Lake Park for the fiscal year beginning October 1, 2008 and ending September 30, 2009; and

**WHEREAS**, at the time of its adoption, the budget properly reflected expected revenues and appropriations; and

**WHEREAS**, to implement this budget, the Town Commission adopted and levied by Resolution No. 48-09-08 a final millage rate for the fiscal year 2008-2009; and

**WHEREAS**, the Town Commission deems it necessary and advisable to amend the budget for the Town of Lake Park for Fiscal Year 2008-2009; which was adopted by Resolution No. 49-09-08.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK FLORIDA:**

**Section 1.** An amended final budget of the Town of Lake Park General Fund is hereby approved and adopted as set out in Attachment "A".

**Section 2.** The Town Manager is hereby authorized to amend/transfer authorization between departmental accounts provided; however, that total appropriated expenditures by fund do not exceed Commission authorized amounts.

**Section 3.** If any section, subsection, sentence, clause, phase or portion of the Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 4.** This resolution shall take effect immediately upon adoption.

## Attachement "A" - General Fund Appropriations

Revenue:	Amount	Expenditures	Amount
001-322.900 Cost Recovery	36,700	500-34200 Contract. Svcs. - Cost Rec.	36,700
001-354.115 Code Violations - Foreclosure	85,000	108-31200 Prof. Svcs. - Foreclosure	85,000
001-354.210 Code Violations - CIB fund	12,100	500-49900 Community Beaut. Imp.	12,100
001-366.300 Donations - Event Sponsor.	1,250	600-57235 Sponsored Event Expense	1,250
001-38.9000 Balance Brought Forward	81,200	900-91110 Transfers	81,200
001-384.100 Loan Proceeds	1,209,450	410-64100 Machinery & Equipment	60,000
		450-46500 Spare Parts	3,725
		450-52000 Operating Supplies	3,675
		450-63450 Improvements	90,175
		450-64100 Machinery & Equipment	25,975
		900-73100 Debt issuance Costs	4,225
		900-99907 Reserve - Fund Balance	1,021,675
001-389.700 Donations - Library	2,450	700-52010 Oper. Exp. - Child. Prog.	1,200
		700-59700 Supplies - Donations	1,250
Total Appropriations	<u>1,428,150</u>		<u>1,428,150</u>

# TAB 5

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: November 18, 2009

Agenda Item No.

- |  |  |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING              | <input checked="" type="checkbox"/> RESOLUTION     |
| <input type="checkbox"/> Public Hearing              | <input type="checkbox"/> DISCUSSION                |
| <input type="checkbox"/> ORDINANCE ON FIRST READING  | <input type="checkbox"/> BID/RFP AWARD             |
| <input type="checkbox"/> ORDINANCE ON SECOND READING | <input checked="" type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM    | <input type="checkbox"/> Other:                    |

SUBJECT: FIND grant – Phase II Breakwater Project

RECOMMENDED MOTION/ACTION: Sign Grant Agreement

Approved by Town Manager \_\_\_\_\_

*Virginia Martin*

Date: 11/12/09

Virginia Martin, Grants Writer  
Name/Title

November 12, 2009  
Date of Actual Submittal

<b>Originating Department:</b> Grants	Costs: \$ 698,585 Funding Source: FIND: \$349,292 FWC: \$149,292 DEP: \$200,000 Acct. #	<b>Attachments:</b> Resolution Grant Agreement
<b>Department Review:</b> <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____ <input checked="" type="checkbox"/> Finance <u>AME 11/12/09</u>	<input type="checkbox"/> Fire Dept _____ <input checked="" type="checkbox"/> Grants <u>GM</u> <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____	<input type="checkbox"/> PBSO _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Town Clerk _____ <input checked="" type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case <u>GM</u> :  Please initial one.

**Summary Explanation/Background:** Phase I was completed on the Marina Breakwater Project, for the engineering, design and permitting. We are currently ready to pursue funding for Phase II, Construction, which will install the new NS Breakwater, the EW Breakwater, move the fuel dock, install 8 new slips, and install a training wall to quiet the wave energy in the basin and increase the number of transient slips available in the Marina. The total cost of this project is \$698,585. FIND has agreed to

cover \$349,292 of that amount, and the Town must match that amount in order to qualify for the FIND funding.

The Town submitted an application to the Florida Department of Environmental Protection Land and Water Conservation Fund for \$200,000 to use for the project, using \$200,000 of the FIND grant to match the amount required portion. That leaves \$149,292 left to match for the FIND grant. We submitted an application to the Florida Boating Improvement Program on 4/3/09 to fund this remaining amount. We have the US Department of Agriculture's Rural Business Enterprise Grant as fallback funding if these grants are unsuccessful. This project is qualified for this funding, and we can request 100% grant from this source for whatever the balance is.

All parties/agencies are aware of the use of other grant funds as match as opposed to local funds, and to paraphrase the words of the FIND Commissioner and Executive Director, 'We applaud your creative use of resources and in bringing in other public agencies to support our efforts.'

**RESOLUTION NO. 58-11-09**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING THE TOWN MANAGER TO SIGN A GRANT AGREEMENT FOR THE LAKE PARK HARBOR MARINA BREAKWATER PROJECT PHASE II WITH THE FLORIDA INLAND NAVIGATION DISTRICT.**

**WHEREAS**, the Town of Lake Park ("Town") is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town is interested in carrying out the following described project for the enjoyment of the citizens of Lake Park and the State of Florida:

**Project Title:** Lake Park Harbor Marina Breakwater Project – Phase II

**Total Estimated Cost:** \$698,585

**Brief Description of Project:** Phase II consists of the construction and installation of new breakwater sections that will help calm the wave action in the entry to the basin, and in the marina proper.

**WHEREAS**, the Florida Inland Navigation District has agreed to fund this project in the amount of \$349,292.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Commission of the Town of Lake Park, Florida that the grant agreement for the project described above be authorized:

AND, be it further resolved by the Town of Lake Park that it certifies to the following:

1. That it accepts the terms and conditions that are part of the Project Agreement for assistance awarded under the attached grant agreement.
2. That it will carry out the Project in the manner described in the proposal and any plans and specifications attached thereto



3. That it has the ability and intention to fund its share of the cost of the project with grants from other sources, and that the project will be operated and maintained at the expense of said Town of Lake Park for public use.
4. That it will not discriminate against any person on the basis of race, color or national origin in the use of any property or facility acquired or developed pursuant to this proposal, and shall comply with the terms and intent of Title VI of the Civil Rights Act of 1964, BI 88.352 (1964) and design and construct all facilities to comply fully with statutes relating to accessibility by handicapped persons as well as other federal, state and local laws, rules and requirements.
5. That it will maintain adequate financial records on the proposed project to substantiate claims for reimbursement.
6. That it will make available to the Florida Inland Navigation District if requested, a post-audit of expenses incurred on the project prior to, or in conjunction with, request for the final funding reimbursement.

This is to certify that the foregoing is a true and correct copy of a resolution duly and legally adopted by the Town of Lake Park at a legal meeting held on the 18th day of November, 2009.

**FLORIDA INLAND NAVIGATION DISTRICT  
PROJECT AGREEMENT**

PROJECT NO. PB-LP-09-138

This PROJECT AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Florida Inland Navigation District (hereinafter the "DISTRICT"), and the Town of Lake Park, (hereinafter the "PROJECT SPONSOR").

In consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **PROJECT** - Subject to the provisions of this Agreement and Rule 66B-2 of the Florida Administrative Code (Exhibit "A"), the DISTRICT has determined to provide assistance funding to the PROJECT SPONSOR in furtherance of an approved project ("PROJECT") consisting of the Lake Park Harbor Marina Breakwater Project, Ph. II. Said project is more specifically described in the PROJECT SPONSOR'S Waterways Assistance Application, which is on file at DISTRICT headquarters.

Any modifications to the PROJECT shall require advance notice to and the prior written approval of the DISTRICT.

2. **TERM** - The PROJECT SPONSOR shall not commence work on the PROJECT prior to the execution of this Agreement unless specifically authorized by the DISTRICT Board and **shall complete the PROJECT and submit all required payment reimbursement information on or before September 1, 2011**, unless the PROJECT period has been extended with the prior written approval of the DISTRICT. In no event, however, shall the PROJECT period extend beyond three (3) years from October 1, 2009. The PROJECT SPONSOR acknowledges there are no provisions to carry over the DISTRICT assistance funding under this Agreement beyond September 30, 2011, and that any extension of funding beyond this date shall be at the sole discretion of the DISTRICT.

Any request for extension of funding beyond the date set forth in the preceding paragraph shall require submittal by the PROJECT SPONSOR of a request for extension to the DISTRICT

no later than July 1, 2011. This request will then be considered by the DISTRICT Board, whose decision shall be final.

3. **ASSISTANCE AMOUNT** - The DISTRICT shall contribute no more than Fifty percent (50%) of the PROJECT SPONSOR'S out-of-pocket costs for completion of this PROJECT ("PROJECT AMOUNT"). Payment of funds by the DISTRICT to the PROJECT SPONSOR (the "ASSISTANCE AMOUNT") will be on a reimbursement basis only, and only for those authorized PROJECT COSTS as shown in Exhibit B and meeting the requirements of Paragraph 5 below and shall not, in any event, exceed \$349,295.00.

4. **MATCHING FUNDS** - The PROJECT SPONSOR warrants and represents that it has the PROJECT SPONSOR Match Amount (the PROJECT AMOUNT less the ASSISTANCE AMOUNT) available for the completion of the PROJECT and shall, prior to the execution of this Agreement, have provided the DISTRICT with suitable evidence of the availability of such funds using DISTRICT Form #95-01 (Exhibit C), and including upon request, providing the DISTRICT with access to applicable books and records, financial statements, and bank statements.

5. **PROJECT COSTS** - To be eligible for reimbursement under the Project Agreement, PROJECT COSTS must be necessary and reasonable for the effective and efficient accomplishment of the PROJECT and must be directly allocable thereto. PROJECT COSTS are generally described in Exhibit B. PROJECT COSTS must be incurred and work performed within the PROJECT period, with the exception of pre-agreement costs, if any specifically identified in Paragraph 6 below, which are also eligible for reimbursement by the DISTRICT.

6. **PRE-AGREEMENT COSTS** - The DISTRICT and the PROJECT SPONSOR fully understand and agree that there shall be no reimbursement of funds by the DISTRICT for any obligation or expenditure made prior to the execution of this Project Agreement, unless approved by the District Board.

7. **REIMBURSEMENT PROCEDURES** - PROJECT COSTS shall be reported to the DISTRICT and summarized on the Payment Reimbursement Request Form (Form #90-14) attached as Exhibit D. Supporting documentation including bills and canceled payment vouchers for expenditures shall be provided to the DISTRICT by the PROJECT SPONSOR or LIAISON AGENT with any payment request. All records in support of the PROJECT COSTS included in

payment requests shall be subject to review and approval by the DISTRICT or by an auditor selected by the DISTRICT. Audit expenses shall be borne by the PROJECT SPONSOR.

Project funds may be released in installments, at the discretion of the DISTRICT, upon submittal of a payment request by the PROJECT SPONSOR or LIAISON AGENT. The DISTRICT shall retain ten percent (10%) of each installment payment until the completion of the PROJECT.

The following costs, if authorized in the attached Exhibit B shall be reimbursed only upon completion of the PROJECT to the reasonable satisfaction of the DISTRICT and in accordance with Exhibit A: personnel, equipment, project management, administration, inspection, and design, permitting, planning, engineering, and/or surveying costs.

The DISTRICT shall have the right to withhold any payment hereunder, either in whole or part, for non-compliance with the terms of this Agreement.

8. **FINAL REIMBURSEMENT** - The PROJECT SPONSOR, upon completion of the PROJECT, shall submit to the DISTRICT a request for final reimbursement of the PROJECT AMOUNT less any prior installment payments. The Payment amounts previously retained by the DISTRICT shall be paid upon (1) receipt of the Final Audit report of expenses incurred on the PROJECT by the DISTRICT, (2) full completion of the PROJECT to the reasonable satisfaction of the DISTRICT, (3) submission of Project Completion Certification Form No. 90-13 (Exhibit E), and (4) submission of a photograph of the PROJECT showing the sign required by Paragraph 17. Unless otherwise determined by the DISTRICT, the final reimbursement check shall be presented by a DISTRICT representative to the PROJECT SPONSOR during a public commission meeting or public dedication ceremony for the PROJECT facility.

9. **RECORDS RETENTION** - The PROJECT SPONSOR shall retain all records supporting the PROJECT COSTS for three (3) years after the end of the fiscal year in which the Final Payment is released by the DISTRICT, except that such records shall be retained by the PROJECT SPONSOR until final resolution of matters resulting from any litigation, claim, or special audit that starts prior to the expiration of the three-year retention period.

10. **NONCOMPLIANCE** - The DISTRICT shall have the right to reimbursement, either in whole or part as it may determine, of the funds provided hereunder for noncompliance by the PROJECT SPONSOR with any of the terms of this Project Agreement. Upon notification

from the DISTRICT, the PROJECT SPONSOR shall reimburse such funds directly to the DISTRICT. The provisions of this paragraph shall survive completion of the PROJECT.

11. **DISTRICT PROJECT MANAGER** - The Executive Director, or his designee, is hereby designated as the DISTRICT's Project Manager for the purpose of this Project Agreement and shall be responsible for monitoring performance of its terms and conditions and for approving all reimbursement requests prior to payment.

12. **SPONSOR'S LIAISON AGENT** - The PROJECT SPONSOR shall appoint a LIAISON AGENT, whose name and title shall be submitted to the DISTRICT upon execution of the Project Agreement, to act on behalf of the PROJECT SPONSOR relative to the provisions of the Project Agreement.

13. **STATUS REPORTS** - The PROJECT SPONSOR'S LIAISON AGENT shall submit to the DISTRICT project status reports during the PROJECT term. These Quarterly Reports are to be on Form #95-02 (Exhibit F). Project design drawings, engineering drawings, and a copy of the Project bid award construction item cost list will be submitted as available. Photographs shall be submitted when appropriate to reflect the work accomplished. NON-COMPLIANCE by the PROJECT SPONSOR with the reporting schedule in Exhibit G may result in revocation of this Agreement.

14. **LAWS** - The PROJECT SPONSOR agrees to obtain and to abide by all federal, state and local permits and all applicable laws and regulations in the development of the PROJECT. The PROJECT SPONSOR agrees that all PROJECT facilities shall be designed and constructed in compliance with state and federal statutory requirements for accessibility by handicapped persons as well as all other federal, state and local laws, rules and requirements.

15. **NON-DISCRIMINATION** - The PROJECT SPONSOR agrees that when completed, the PROJECT shall be readily accessible, on a non-exclusive basis, to the general public without regard to age, sex, race, physical handicap, or other condition, and without regard to residency of the user in another political subdivision. When such is required, adequate parking shall be made available by the PROJECT SPONSOR to accommodate vehicles for the number of persons for which the PROJECT is being developed.

16. **SITE DEDICATION** - The PROJECT SPONSOR also agrees that the PROJECT site shall be dedicated for the public use for a minimum period of twenty-five (25) years after completion of the PROJECT, such dedication to be in the form of a deed, lease,

management agreement or other legally binding document. Any change in such dedication shall require the prior approval of the DISTRICT. The PROJECT SPONSOR shall record evidence of such dedication within the Public Records of the County in which the PROJECT is located.

17. **ACKNOWLEDGMENT** – For construction projects, the PROJECT SPONSOR shall erect a permanent sign, approved by the DISTRICT, in a prominent location at the completed project which shall indicate that the DISTRICT contributed funds for the PROJECT. The wording of the sign required by this paragraph shall be approved by the DISTRICT's staff before construction and installation of said sign. This sign shall contain the DISTRICT logo (Exhibit H) unless otherwise stipulated by the DISTRICT. In the event that the PROJECT SPONSOR erects a temporary construction sign, it shall also indicate the DISTRICT's participation. For all other type projects, the PROJECT SPONSOR shall acknowledge the DISTRICT where feasible, in concurrence with the DISTRICT staff's recommendations.

18. **PROJECT MAINTENANCE** - When and where applicable, the PROJECT SPONSOR agrees to operate, maintain, and manage the PROJECT for the life of the PROJECT improvements and will pay all expenses required for such purposes. The PROJECT improvements shall be maintained in accordance with the standards of maintenance for other local facilities owned and operated by project sponsor, and in accordance with applicable health standards. PROJECT facilities and improvements shall be kept reasonably safe and in reasonable repair to prevent undue deterioration and to encourage public use. The PROJECT SPONSOR warrants and represents that it has full legal authority and financial ability to operate and maintain said PROJECT facilities and improvements.

19. **SOVEREIGN IMMUNITY** - Each party hereto agrees that it shall be solely responsible for the wrongful acts of its employees, contractors and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity under Section 768.28, Florida Statutes. The PROJECT SPONSOR acknowledges that the DISTRICT, its employees, commissioners and agents are solely providing funding assistance for the PROJECT and are not involved in the design, construction, operation or maintenance of the PROJECT.

20. **INSPECTIONS** - The DISTRICT reserves the right, upon reasonable request, to inspect said PROJECT and any and all records related thereto at any time.

21. **RIGHTS AND DUTIES** - The rights and duties arising under this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors

and assigns, and shall, unless the context clearly requires otherwise, survive completion of the PROJECT. The PROJECT SPONSOR may not assign this Agreement nor any interest hereunder without the express prior written consent of the DISTRICT.

22. **WAIVERS** - Waiver of a breach of any provision of this Agreement shall not be deemed a waiver of any other breach of the same or different provision.

23. **NOTICE** - Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing, postage paid, and shall be sent by certified mail, return receipt requested, to the DISTRICT or PROJECT SPONSOR at the addresses below. The notice shall be effective on the date indicated on the return receipt.

To the DISTRICT at:

Florida Inland Navigation District  
1314 Marcinski Road  
Jupiter, Florida 33477-9498

To the PROJECT SPONSOR at:

Town of Lake Park  
Attention: Town Manager,  
535 Park Avenue  
Lake Park, FL 33403

24. **NO JOINT VENTURE** - The DISTRICT's role with respect to the PROJECT is that of a funding assistance authority only and the DISTRICT is not, and shall not be considered to be, an agent, partner, or joint venturer with the PROJECT SPONSOR.

25. **GOVERNING LAW** - The validity, interpretation and performance of this Agreement shall be controlled and construed according to the laws of the State of Florida.

26. **TRANSFERENCE** - It is the intent of the DISTRICT to issue this funding assistance to the PROJECT SPONSOR who has made application for this assistance. In the event the PROJECT SPONSOR transfers ownership or management of the PROJECT to a party or parties not now a part of this document, other than another governmental entity that agrees to assume, in writing, PROJECTS SPONSOR'S obligation hereunder, the DISTRICT retains the right to full reimbursement from the PROJECT SPONSOR to the full extent of the funding assistance provided by the DISTRICT, including but not limited to any costs and reasonable

attorney's fees (regardless of whether litigation ensues) incurred by the DISTRICT in collecting said reimbursement.

27. **ENTIRE UNDERSTANDING** - This Agreement, including any exhibits made a part hereof, embodies the entire Agreement and understanding of the parties and supersedes all prior oral and written communications between them. The terms hereof may be modified only by a written amendment signed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day, month and year aforesaid.

WITNESSES:

\_\_\_\_\_

\_\_\_\_\_

FLORIDA INLAND NAVIGATION DISTRICT

By: \_\_\_\_\_  
Director

DATE: \_\_\_\_\_

WITNESSES:

\_\_\_\_\_

\_\_\_\_\_

PROJECT SPONSOR

By: \_\_\_\_\_

Title: \_\_\_\_\_

DATE: \_\_\_\_\_



## EXHIBIT A

### CHAPTER 66B-2 — WATERWAYS ASSISTANCE PROGRAM (2009)

66B-2.001	Purpose.
66B-2.002	Forms.
66B-2.003	Definitions.
66B-2.004	Policy.
66B-2.005	Funds Allocation.
66B-2.006	Application Process.
66B-2.0061	Disaster Relief Applications.
66B-2.007	Application Form. (Repealed)
66B-2.008	Project Eligibility.
66B-2.009	Project Administration.
66B-2.010	Project Agreement. (Repealed)
66B-2.011	Reimbursement.
66B-2.012	Accountability.
66B-2.013	Acknowledgement.
66B-2.014	Small-Scale Spoil Island Restoration and Enhancement Projects.
66B-2.015	Small-Scale Derelict Vessel Removal Projects.

#### **66B-2.001 - Purpose.**

Recognizing the importance and benefits of inland navigation channels and waterways, as well as noting problems associated with the construction, continued maintenance and use of these waterways, the Florida Legislature created s. 374.976, Florida Statutes. This law authorizes and empowers each inland navigation district to undertake programs intended to alleviate the problems associated with its waterways. The purpose of this rule is to set forth the District's policy and procedures for the implementation of an assistance program under s. 374.976, F.S., for local governments, member counties and navigation related districts within the District. This program will be known hereafter as the Florida Inland Navigation District's Waterways Assistance Program.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 12-17-90, Formerly 16T-2.001.*

#### **66B-2.002 - Forms.**

All forms for the administration of this program are available from the District office located at 1314 Marcinski Road, Jupiter, Florida 33477.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 12-17-90, Formerly 16T-2.002.*

#### **66B-2.003 - Definitions.**

The basic terms utilized in this rule are defined as follows:

(1) "APPLICANT" means an eligible governmental agency submitting an application through this program.

(2) "APPLICATION" means a project proposal with the required documentation.

## EXHIBIT A

(3) "AUTHORIZED SUBMISSION PERIOD" means the established period for submitting applications to the District.

(4) "BEACH RENOURISHMENT" means the placement of sand on a beach for the nourishment, renourishment or restoration of a beach.

(5) "BOARD" means the Board of Commissioners of the Florida Inland Navigation District.

(6) "DISTRICT" means the Florida Inland Navigation District (FIND).

(7) "ELIGIBLE GOVERNMENTAL AGENCY" means member counties, local governments and navigation related districts within the taxing boundaries of the District.

(8) "ENVIRONMENTAL PERMITS" means those permits, proprietary authorizations, exemptions, or general permits for construction below mean high water line of a navigable waterway required and issued by or on behalf of the U.S. Army Corps of Engineers, the Florida Department of Environmental Protection, and the South Florida or the St. Johns River Water Management Districts or their successors.

(9) "EXECUTIVE DIRECTOR" means the Executive Director of the Florida Inland Navigation District.

(10) "LIAISON AGENT" means the contact person officially designated to act on behalf of the applicant or the project sponsor.

(11) "LOCAL GOVERNMENTS" means municipalities, cities, or consolidated county governments, which are located within the member counties.

(12) "MATCHING FUNDS" means those funds provided by the local sponsor to the project.

(13) "MEMBER COUNTY" means a county located within the taxing boundaries of the District which includes Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Martin, Palm Beach, Broward and Miami-Dade Counties.

(14) "NAVIGATION RELATED DISTRICTS" means port authorities, inlet districts or any other agency having legally authorized navigation related duties in waterways of the District.

(15) "PRE-AGREEMENT COSTS" means project costs approved by the District Board which have occurred prior to the execution of the project agreement.

(16) "PROGRAM" means the Florida Inland Navigation District Waterways Assistance Program.

(17) "PROGRAM FUNDS" means financial assistance awarded by the Board to a project for release to the project sponsor pursuant to the terms of the project agreement.

(18) "PROJECT" means a planned undertaking consisting of eligible program facilities, improvements or expenses for the use and benefit of the general public.

(19) "PROJECT AGREEMENT" means an executed contract between the District and a project sponsor setting forth mutual obligations regarding an approved project.

(20) "PROJECT MAINTENANCE" means any usual action, activity, expense, replacement, adjustment or repair taken to retain a project or grant item in a serviceable, operational or normal condition, or the routine efforts and expenses necessary to restore it to serviceable or normal condition, including the routine recurring work required to keep the project or grant item in such condition that it may be continuously used at its original or designed capacity and efficiency for its intended purpose.

## EXHIBIT A

(21) "PROJECT MANAGER" means the District employee who is responsible for monitoring the performance of the Project and compliance with the project agreement.

(22) "PROJECT PERIOD" means the approved time during which costs may be incurred and charged to the funded project.

(23) "PROJECT SPONSOR" means an eligible governmental agency receiving program funds pursuant to an approved application.

(24) "PUBLIC BUILDING" means a building or facility on government owned property that is owned or operated by a governmental entity, or operated by a third party operator. The building or facility must provide waterway related information, public meeting space, or educational services and be open to members of the public on a continual basis without discrimination.

(25) "PUBLIC MARINA" means a harbor complex used primarily for recreational boat mooring or storage, the services of which are open to the general public on a first come, first served basis without any qualifying requirements such as club membership, stock ownership, or differential in price.

(26) "PUBLICLY OWNED COMMERCIAL OR INDUSTRIAL WATERWAY ACCESS" means any publicly owned area specifically designed to be used for staging, launching, or off-loading by commercial or industrial waterway users on a first come, first served, short-term basis, to gain entry to or from the District's waterways to serve the infrastructure needs of the District's waterway users.

(27) "TRIM HEARING" means a public hearing required by Chapter 200, F.S., concerning the tax and budget of the District.

(28) "WATERWAYS" means the Atlantic Intracoastal Waterway, the Okeechobee Waterway, the Barge Canal in Brevard County west of the Port Canaveral Locks, those portions of the Dania Cut-Off Canal and the Hillsboro Canal east of the water control structures, all navigable natural rivers, bays, creeks or lagoons intersected by said waterways and all navigable natural creeks, rivers, bays or lagoons entering or extending from said waterways.

(29) "WATERWAY RELATED ENVIRONMENTAL EDUCATION" means an interdisciplinary holistic process by which the learner: develops an awareness of the natural and manmade environments of waterways; develops knowledge about how the environment of the waterways works; acquires knowledge about the technological, social, cultural, political, and economic relationships occurring in waterway related environmental issues; and, becomes motivated to apply action strategies to maintain balance between quality of life and quality of the environment of waterways.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 12-17-90, Amended 9-2-92, 2-6-97, Formerly 16T-2.003, Amended 5-17-98, 3-21-01, 3-20-03, 3-3-04, 4-21-05, 4-24-06, 4-15-07, 3-25-08.*

### **66B-2.004 - Policy.**

The following constitutes the policy of the District regarding the administration of the program:

## EXHIBIT A

(1) **Financial Assistance Eligibility:** Financial assistance, support and cooperation may be provided to eligible governmental agencies for approved projects as follows:

(a) Member counties may be provided financial assistance, support or cooperation in planning, acquisition, development, construction, reconstruction, extension, improvement, operation or the maintenance of public navigation, local and regional anchorage management, beach renourishment, public recreation, inlet management, environmental education, and boating safety projects directly related to the waterways.

(b) Eligible local governments may also be provided financial assistance, support and cooperation in planning and carrying out public navigation, local and regional anchorage management, beach renourishment,, public recreation, inlet management, environmental education, law enforcement and boating safety projects directly related to the waterways.

(c) Navigation related districts may be provided with financial assistance to pay part of the costs of the planning and acquisition of dredge material management sites if the Board finds that the site is required for the long-range maintenance of the Atlantic Intracoastal Waterway channel. All such sites must meet the development and operational criteria established by the District through a long-range dredge material management plan for that county. Navigation related districts may also be provided with assistance for waterway related access projects, environmental mitigation projects associated with waterway improvement related activities, and inlet management projects if the Board finds that the project benefits public navigation in the Atlantic Intracoastal Waterway. All navigation related districts shall contribute at least equal matching funds to any District financial assistance provided. Seaports may also be furnished assistance and support in planning and carrying out environmental mitigation projects. All seaport projects shall benefit publicly maintained channels and harbors. Each seaport shall contribute matching funds for funded projects.

(d) Eligible projects shall include the acquisition and development of public boat ramps, launching facilities, and public boat docking and mooring facilities, including those in man-made, navigable waterways contiguous to "waterways" as defined in Rule 66B-2.003, F.A.C.

(2) **Notification:** The District will notify by direct mail and/or advertised public notice all eligible governmental agencies of the program and the upcoming authorized submission period. Funding allocations to navigation related districts, member counties and local governments shall be based upon the proportional share of the District's ad valorem tax collections from each county.

(3) **Project Approval:** Approval of projects by the District shall be in accordance with these rules.

(4) **Project Accessibility:** Facilities or programs funded in whole or in part by program funds shall be made available to the general public of all of the member counties on a non-exclusive basis without regard to race, color, religion, age, sex or similar condition. Additionally, facilities funded in whole or in part by program funds, shall not require a paid membership for the general public of all of the member counties as a condition to use the facilities. User or entrance fees may be charged for the use of facilities funded in whole or in part by program funds, however such fees shall be reasonable and shall be the same for the general public of all of the member counties.

## EXHIBIT A

(5) **Waterway Impacts:** All development projects must be designed so as not to impact navigation along the District's waterways through the placement of structures, attendant uses, or the necessity of a boating speed zone for safety purposes. Before applying for boating speed zone designation in District waterways because of a project funded by this program, the sponsor shall first receive approval from the Board. The Board will use the criteria found in Section 327.46(1), F.S., in determining whether to approve the proposed boating speed zone.

(6) **Project Maintenance:** The project sponsor shall be responsible for the operation, maintenance, and management of the project for the anticipated life of the project and shall be responsible for all expenses required for such purposes. The project shall be maintained in accordance with the standards of maintenance for other similar local facilities and in accordance with applicable health standards. Project facilities and improvements shall be kept reasonably safe and in reasonable repair to prevent undue deterioration and to encourage public use. The project sponsor shall have full legal authority and financial ability to operate and maintain the project facilities.

(7) **Public Information Availability:** Public information produced with assistance from this program shall not be copyrighted and shall be provided free of cost, except for the cost of reproduction, to the public.

(8) **Third-Party Project Operators:** Projects that are being operated by a third party shall have sufficient oversight by the eligible project sponsor as determined by the Board. Such oversight, at a minimum, will include a project liaison that is a staff member of the eligible project sponsor, and oversight of the operating hours and admission fees of the facility by the eligible project sponsor through a legal agreement. All third party projects shall be open to the public in accordance with this rule.

(9) **Non-compliance:** The District shall terminate a project agreement and demand return of program funds disbursed to the project sponsor for non-compliance with any of the terms of the project agreement or this rule, if such non-compliance calls into question the ability of the applicant to complete the project. Failure of a project sponsor to comply with the provisions of this rule or the project agreement shall result in the District declaring the project sponsor ineligible for further participation in the program until such time as compliance has been met to the satisfaction of the District.

(10) **Fees:** Any public project eligible for District program funds that charges a fee or will charge a fee must demonstrate that the facility will utilize 50% or greater of the collected funds for project maintenance and improvements throughout the anticipated 25-year life of a development project or the design life of other project types, as applicable.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1), (2) FS.*

*History — New 12-17-90, Amended 2-3-94, 2-6-97, Formerly 16T-2.004, Amended 5-18-98, 3-31-99, 5-25-00, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-1-09.*

### **66B-2.005 - Funds Allocation.**

The Board will allocate funding for this program based upon the District's overall goals, management policies, fiscal responsibilities and operational needs for the upcoming year. If funds are determined to be available for the program, the District will notify potential eligible governmental agencies of the availability of program funding. Applications will be reviewed by the Board utilizing District Forms No. 91-25 and 91-25

## EXHIBIT A

(a thru f) Waterways Assistance Program Application Evaluation and Rating Worksheet (effective date 4-24-06); and 93-25 and 93-25 (a, b and c) Waterways Assistance Program Navigation Districts Application Evaluation and Rating Worksheet (effective date 4-24-06), hereby incorporated by reference and available from the District office.

(1) **Funding Assistance Availability:** In as much as the District has other fiscal responsibilities and operational needs, financial assistance to eligible government agencies shall not exceed an amount equal to eighty (80) percent of the proportional share of the District's ad valorem tax collections from each county in which such agencies are located. The District may make an exception to this funding limitation, if funds are determined to be available based upon the District's overall goals, management policies, fiscal responsibilities and operational needs, or in counties that are recovering from a state of emergency declared under Chapter 252, F.S.

(2) **Project Funding Ratio:** All financial assistance and support to eligible governmental agencies shall require, at a minimum, equal matching funds from the project sponsor, with the exception of public navigation projects that meet the provisions of subsection 66B-2.005(7), F.A.C., land acquisition projects in accordance with subsection 66B-2.005(8) and Rule 66B-2.008, F.A.C., and small-scale spoil island restoration and enhancement projects that meet the provisions of Rule 66B-2.014, F.A.C. Applicant's in-house costs are limited pursuant to paragraph 66B-2.008(1)(c), F.A.C. All financial assistance to seaports shall require equal matching funds. The District shall contribute no more than fifty percent (50%) of the local share of the cost of an inlet management or beach renourishment project. The District shall not contribute funding to both the state and local shares of an inlet management or beach renourishment project.

(3) **Pre-agreement Expenses:** The project sponsor shall not commence work on an approved project element prior to the execution of the project agreement unless authorized by the Board during the review and funding approval process. Board authorization of pre-agreement expenses will be given for the commencement of work prior to the execution of a project agreement if the Board determines that there is a benefit to the District, its waterways or its constituents. All project costs must be incurred and work performed within the project period as stipulated in the project agreement unless pre-agreement costs are approved by the Board. Pre-agreement expenses will be approved if they are consistent with the provisions of Rule 66B-2.008, F.A.C., and occur within the fiscal year of the grant application submission (October 1st to September 30th). Pre-agreement expenses, except for projects approved by the Board as multi-year projects, will be limited to fifty percent (50%) of the project's total cost and if the expenses are eligible project expenses in accordance with this rule. Only one-half (1/2) or less of the approved pre-agreement expenses will be eligible for reimbursement funding from the District, except for projects approved by the Board as multi-year projects. The Board shall consider a waiver of the limitation on pre-agreement expenses for Small-Scale Derelict Vessel grants and land acquisition projects when the applicant demonstrates a direct need and benefit and the project is in accordance with the applicable provisions of Chapter 66B-2, F.A.C.

(4) **Multi-Year Funding:** The construction phase of projects that are large scale, involve multiple phases, have a construction time line of one year or longer, or are requesting a significant amount of assistance funding in relation to the total assistance available for the county where the project is located, will be reviewed and approved by

## EXHIBIT A

the District Board for a multiple year period subject to budgeting and allocation pursuant to the provisions of Chapter 200, F.S. The determination by the Board to provide assistance funding on a multi-year basis can be made at any time during the application review process.

(5) **Seaport Funding Eligibility:** Financial assistance to seaports may exceed the proportional share of the District's ad valorem tax collections as set forth in subsection 66B-2.005(1), F.A.C., from the county in which such seaport is located if the seaport can demonstrate that a regional benefit occurs from the port's activities. Financial assistance to a seaport project that demonstrates a regional benefit shall not exceed an amount equal to (i) the proportional share of the District's ad valorem tax collections as set forth in subsection 66B-2.005(1), F.A.C., from the counties where the benefit is demonstrated less (ii) funding allocated in the same fiscal year to all other local government projects funded in those counties.

(6) **Inlet Management and Beach Renourishment:** Projects and project elements in the categories of inlet management and beach renourishment shall be subject to the following provisions. The District shall contribute no more than fifty percent of the local share of the cost of the project. The District shall not contribute funding to both the state and local shares of an inlet management or beach renourishment project. Funding for the construction phase of an inlet management or beach renourishment project may be approved by the District Board for a multiple year period subject to budgeting and allocation pursuant to the provisions of Chapter 200, F.S. Additionally the following provisions shall be met for inlet management or beach renourishment projects:

(a) **Inlet Management:** Inlet management projects shall benefit public navigation within the District and shall be consistent with Department of Environmental Protection approved inlet management plans and the statewide beach management plan pursuant to Section 161.161, F.S. Inlet management projects that are determined to be consistent with Department of Environmental Protection approved inlet management plans are declared to be a benefit to public navigation.

(b) **Beach Renourishment:** All projects in this category shall be consistent with the statewide beach management plan. Beach renourishment projects shall only include those beaches that have been adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project. The determination of beach areas that are adversely impacted by navigation for the purposes of this program shall be made by Department of Environmental Protection approved inlet management plans. If state funding is not provided for a beach project, public access with adequate parking must be available in accordance with Chapter 161, F.S.

(7) **Public Navigation:** Projects or project elements in the category of public navigation that will qualify for up to seventy-five percent (75%) program funds must provide public navigation channel access to public launching, mooring or docking facilities. In addition, the following shall apply:

(a) **Navigation channel dredging:** The project sponsor must demonstrate that the source of channel sedimentation has been identified and is in the process of, or has been controlled, or that the frequency and amount of shoaling is such that dredging will provide an improvement to the channel that will last for twenty (20) years or more and therefore is more cost effective than identifying and correcting the cause of shoaling, or

## EXHIBIT A

that the cost of identifying the source of channel sedimentation exceeds the cost of the dredging project.

(b) Navigation channel lighting and markers must be located on primary or secondary public navigation channels.

All other public navigation projects or project elements will only qualify for up to fifty percent (50%) program funding. Dredging that is associated or ancillary to another use (such as a boat ramp, marina or pier) will be prioritized according to the associated use.

(8) Land Acquisition: All land acquisition projects shall qualify for a maximum of twenty-five (25) percent program funding. All pre-agreement expenses for land acquisition must be completed within one-year of the date of application for funding.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1), (3) FS.*

*History — New 12-17-90, Amended 6-24-93, 9-5-96, 2-6-97, Formerly 16T-2.005, Amended 5-17-98, 8-26-99, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-24-06, 4-15-07, 3-25-08, 4-1-09.*

### **66B-2.006 - Application Process.**

(1) Application Period: With the exception of eligible Disaster Relief Projects, eligible Small-Scale Spoil Island Restoration and Enhancement Project and eligible Small-Scale Derelict Vessel Applications, all applications for assistance through this program will be submitted during the authorized submission period that shall be established by vote of the Board at a scheduled meeting.

(2) Application Forms: Florida Inland Navigation District Waterways Assistance Program Project Application FIND Form Number 90-22 (effective date 4-24-06) and 93-22a, Project Information - Navigation Related Districts (effective date 4-24-06) are hereby incorporated by reference and available from the District office. With the exception of projects eligible under the Small-Scale Spoil Island Restoration and Enhancement program, and the Small-Scale Derelict Vessel program, all applications for financial assistance and support through this program from member counties and local governments shall be made on Form Number FIND 90-22 and shall include a detailed cost estimate submitted on FIND Form No. 90-25, Florida Inland Navigation District Assistance Program Project Cost Estimate, (effective date 4-24-06), hereby incorporated by reference and available from the District office. All applications for financial assistance and support through this program from navigation related districts shall be made on FIND Form Number 93-22 (effective date 4-24-06), hereby incorporated by reference and available from the District office, and shall include a detailed cost estimate submitted on FIND Form No. 90-25. In addition, all applicants shall submit a complete and detailed Project Timeline (FIND FORM No. 96-10) (effective date 4-15-07).

(3) Sponsor Resolution: The project sponsor shall approve the submission of an application by official resolution from its governing board or commission. Said resolution shall be made on FIND Form No. 90-21, Resolution for Assistance Under the Florida Inland Navigation District Waterways Assistance Program (effective date 10-14-92), hereby incorporated by reference and available from the District office.

(4) Attorney's Certification: If the application is for a project that is a land based development project the applicant shall submit an Attorney's Certification of Title, FIND Form Number 94-26 (effective date 5-25-00), hereby incorporated by reference and available from the District office.



## EXHIBIT A

(5) **Application Review:** Applications will be reviewed by the local FIND Commissioner before being submitted to the District office. Upon receipt in the District office, staff will review the applications for completeness of the informational requirements identified in the Application Checklist, FIND Form Number 90-26 (effective date 7-30-02) and for compliance with the eligibility requirements of this rule. When an application is determined by staff to be incomplete or ineligible, staff will immediately inform the applicant by mail. The applicant will then have until the date established by the Board in the application package to bring the application into compliance. If the applicant fails to provide a complete application in compliance with these rules, the application will not be considered for funding. In order to have a complete application, the applicant shall not only submit the forms required under Rule 66B-2.006, F.A.C., and any other information requirements identified in the Application Checklist (FIND Form Number 90-26), but such forms and other submitted information must be completely filled out, executed as applicable, and also establish compliance with Chapter 66B-2, F.A.C.

(6) **Interlocal Agreements:** Applications that the Board determines will directly benefit the maintenance of the Atlantic Intracoastal Waterway channel as documented by the District's long range dredged material management plans, will directly benefit the maintenance of the Okeechobee Waterway channel as documented by the District's long range dredged material management plan, will directly benefit the maintenance or improvement of District property, right-of-way or navigation interests, or have multiple funding partners including the Corps of Engineers as the project manager can qualify for project assistance through an interlocal agreement pursuant to Chapter 163, F.S., or Section 374.984(6)(a), F.S. District staff will identify these applications and present them to the Board for their determination as to funding. Interlocal agreement projects shall comply with all other provisions of this rule, except for pre-agreement expenses, permitting and property control requirements.

(7) **Application Presentations:** Applications determined to be complete and in compliance with this rule will be forwarded to the Board for review and then scheduled for presentation to the Board at a scheduled meeting of the Board. Applicants can decline to make a presentation to the Board by submitting a written request.

(8) **Application Evaluation and Rating Score:** Following the presentations, the Board will review the applications and evaluate them using the Waterways Assistance Program Application Evaluation and Rating Worksheets No. 91-25 (a thru f) for Waterways Assistance Program applications, and 93-25 (a, b and c) Waterways Assistance Program Navigation Related Districts applications. The total points awarded to each application by the Commissioners will be averaged to determine an application's final rating score. The final rating score for each application must equal or exceed 35 points for the application to be considered for funding assistance. Reconsideration of any application with a final rating score of less than 35 points will only occur if the majority of the Commissioners evaluating the project rated the project equal to or exceeding 35 points and two-thirds of the Commissioners vote for reconsideration of the application. Only Applicants that are eligible under Rule 66B-2.0061, F.A.C., "Disaster Relief Applications", shall complete FIND Form No. 91-25F Emergency Re-Construction (effective date 4-24-06).

## EXHIBIT A

(9) **Funding Determination:** The Board will hold a funding allocation meeting at which time the Board will determine the allocation of funds, if any, to each project and the projects will be ranked by overall average score to facilitate final funding decisions by the Board. Allocations will be based in part upon the cumulative score of the applications as calculated from the Project Evaluation and Rating Form. Allocations will also be based upon the specific needs of the individual counties.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 12-17-90, Amended 9-2-92, 6-24-93, 4-12-95, Formerly 16T-2.006, Amended 5-25-00, 3-21-01, 7-30-02, 3-20-03, 4-21-05, 4-24-06, 4-15-07, 3-25-08.*

### **66B-2.0061 - Disaster Relief Applications.**

Disaster Relief applications may be submitted to the District and considered by the Board at any time during the year to provide assistance to an eligible applicant for the removal of navigation obstructions and repair or replacement of waterway facilities damaged by a declared natural disaster. The District shall consider these applications in accordance with these rules.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 6-24-93, Amended 2-6-97, Formerly 16T-2.0061, Amended 4-24-06.*

### **66B-2.008 — Project Eligibility.**

(1) **Eligible Projects:** Financial assistance and support through this program shall be used to plan or carry out public navigation and anchor age management, public recreation, environmental education, boating safety, acquisition and development of spoil sites and publicly owned commercial/industrial waterway access directly related to the waterways, acquisition and development of public boat ramps, launching facilities and boat docking and mooring facilities, inlet management, environmental mitigation and beach renourishment.

(a) Program funds may be used for projects such as acquisition, planning, development, construction, reconstruction, extension, or improvement, of the following types of projects for public use on land and water. These project types will be arranged into a priority list each year by vote of the Board. The priority list will be distributed to applicants with the project application.

1. Public navigation channel dredging;
2. Public navigation aids and markers;
3. Inlet management projects that are a benefit to public navigation in the District;
4. Public shoreline stabilization directly benefiting the District's waterway channels;
5. Acquisition and development of publicly owned spoil disposal sites and public commercial/industrial waterway access;
6. Waterway signs and buoys for safety, regulation or information;
7. Acquisition, dredging, shoreline stabilization and development of public boat ramps and launching facilities;
8. Acquisition, dredging, shoreline stabilization and development of public boat docking and mooring facilities;
9. Derelict vessel removal;

## EXHIBIT A

10. Waterways related environmental education programs and facilities;
11. Public fishing and viewing piers;
12. Public waterfront parks and boardwalks and associated improvements;
13. Waterways boating safety programs and equipment;
14. Beach renourishment on beaches adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project; and
15. Other waterway related projects.

(b) Ineligible Projects or Project Elements: Project costs ineligible for program funding or matching funds will include: contingencies, miscellaneous, reoccurring personnel related costs, irrigation equipment, ball-courts, park and playground equipment, and any extraneous recreational amenities not directly related to the waterway such as the following:

1. Landscaping that does not provide shoreline stabilization or aquatic habitat;
2. Restrooms for non-waterway users;
3. Roadways providing access to non-waterway users;
4. Parking areas for non-waterway users;
5. Utilities for non-waterway related facilities;
6. Lighting for non-waterway related facilities;
7. Maintenance equipment;
8. Picnic shelters and furniture;
9. Vehicles to transport vessels;
10. Operational items such as fuel, oil, etc.;
11. Office space that is not incidental and necessary to the operation of the main eligible public building; and
12. Conceptual project planning, including: public surveys, opinion polls, public meetings, and organizational conferences.

(c) Project Elements with Eligibility Limits: Subject to approval by the Board of an itemized expense list:

1. The following project costs will be eligible for program funding or as matching funding if they are performed by an independent contractor:
  - a. Project management, administration and inspection;
  - b. Design, permitting, planning, engineering or surveying costs for completed construction project;
  - c. Restoration of sites disturbed during the construction of an approved project;
  - d. Equipment costs.

Before reimbursement is made by the District on any of the costs listed in subparagraph 1. above, a construction contract for the project, approved and executed by the project sponsor and project contractor must be submitted to the District.

2. Marine law enforcement and other vessels are eligible for a maximum of \$30,000 in initial District funding. All future replacement and maintenance costs of the vessel and related equipment will be the responsibility of the applicant.

3. Waterway related environmental education facility funding will be limited to those project elements directly related to the District's waterways.

(d) Phasing of Projects: Applications for eligible waterway projects may be submitted as a phased project where Phase I will include the design, engineering and permitting elements and Phase II will include the construction of the project. A

## EXHIBIT A

description and cost estimate of the Phase II work shall be submitted along with the Phase I application for Board review.

(2) **Property Control:** The site of a new proposed land-based development project, with the exception of those projects requesting Small-Scale Spoil Island Restoration and Enhancement funding, shall be dedicated for the public use for which the project was intended for a minimum period of 25 years after project completion. Such dedication shall be in the form of a deed, lease, management agreement or other legally binding document and shall be recorded in the public property records of the county in which the property is located. This property control requirement also applies to a project site owned by another governmental entity. The governmental entity that owns the project site may be joined as a co-applicant to meet this property control requirement. Existing land based development projects that are being repaired, replaced or modified must demonstrate that the project site has been dedicated for public use for at least 25 years with at least 10 years remaining on the dedication document. Property shall also be deemed dedicated for public use if:

(a) The property has been designated for the use for which the project is intended (even though there may have been no formal dedication) in a plat or map recorded prior to 1940, or

(b) The project sponsor demonstrates that it has had exclusive control over the property for the public use for which the project is intended for a period of at least 30 years prior to submission of the application, or

(c) There is no ongoing litigation challenging the designated use of the property as shown on the plat or map, nor has there been any judicial determination contrary to the use by the public for the use shown on the plat or map.

(3) **Permits:** The project sponsor is responsible for obtaining and abiding by any and all federal, state and local permits, laws, proprietary authorizations and regulations in the development and operation of the project. Applicants for construction projects that include elements that require state or federal environmental permits will demonstrate that all required environmental permitting and proprietary authorizations will be completed by the District's final TRIM hearing. This demonstration will be by the submission of the required environmental permit(s) or by the submission of a letter from the agency(s) stating that a permit is not required. Should the environmental permitting element of an application that has construction elements that require state or federal environmental permits not be completed by the District's final TRIM hearing, the construction portion of the project will not be considered for funding. The District will not deviate from the funding schedule, whereby funding decisions are completed at the final TRIM hearing, to accommodate any application deficiency.

(4) **Public Marina Qualifications:** All public marina projects funded through this program shall include sewage pumpout facilities for vessels, unless the applicant can demonstrate that inclusion of such a facility is physically, operationally or economically impracticable. All public marina projects funded through this program shall have at least ten percent (10%) of their slips or mooring areas available for transient vessels. Public marina dockage rates shall be within market comparison of the dockage rates of other area marinas. Program funds to public marina projects shall not be utilized for replacement of the facilities if revenues generated by the facility are not allocated to the operation, maintenance and improvement of the public marina facility in accordance with

## EXHIBIT A

s. Rule 66B-2.004(10). Certification that revenues generated by a marina facility are exclusively allocated to the operation, maintenance and improvement of the public marine facility will be required to be submitted with the application and, if approved, thereafter on an annual basis using form No. FIND 03-01 (effective date 3-3-04), hereby incorporated by reference and available from the District office.

(5) Final Decisions: The Board will make all final decisions on the eligibility of a Project or specific project costs.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) — (3) FS.*

*History — New 12-17-90, Amended 9-2-92, 6-24-93, 2-3-94, 4-12-95, 9-5-96, 2-6-97, Formerly 16T-2.008, Amended 5-17-98, 3-31-99, 5-25-00, 3-21-01, 7-30-02, 3-20-03, 3-3-04, 4-15-07, 3-25-08, 4-1-09.*

### **66B-2.009 — Project Administration.**

The District will appoint a project manager who shall be responsible for monitoring the project and the project agreement. The project manager shall also be responsible for approving all reimbursement requests. The project sponsor shall appoint a liaison agent, who will be a member of the eligible applicant's staff, to act on its behalf in carrying out the terms of the project agreement. Administration of the project will be as follows:

(1) Project Agreement: For each funded project, the District and the project sponsor will enter into a project agreement, prior to the release of program funds, setting forth the mutual obligations of the parties concerning the project. The project agreement shall incorporate the applicable policies and procedures of the program as outlined in this rule. Project agreements will be for a two-year period with the possibility for one, one-year extension. Any request for a one-year extension of funding shall require submittal by the PROJECT SPONSOR of a request for extension to the DISTRICT no later than July of fiscal year two of the approved project. This request will then be considered by the DISTRICT Board, whose decision shall be final. In review of these requests, the Board will take into consideration the current status and progress of the project and the ability of the applicant to complete the project within one additional year.

(2) Matching Funds: The project sponsor shall clearly identify and enumerate the amount and source of the matching funds it will be using to match the program funds supplied by the District for an approved project. The project sponsor shall provide suitable evidence that it has the matching funds available at the time the project agreement is executed.

(3) Agreement Modification: All proposed changes to the project agreement must be submitted to the District in writing by the project sponsor accompanied by a statement of justification for the proposed changes. All project agreement amendments shall be approved by the District Board, except that the Executive Director may approve a minor project agreement amendment for a project within a county with the local District commissioner's concurrence. A minor project amendment shall not change the approved project's category nor result in a reallocation of more than 35% of the approved funding of the project among project elements. Project agreement amendments will not include a change to the approved project's location or a change in the approved project's purpose or project type. Agreed changes shall be evidenced by a formal amendment to the project agreement and shall be in compliance with these rules.

## EXHIBIT A

(4) **Project Reporting:** The liaison agent will submit quarterly reports to the project manager summarizing the work accomplished since the last report, problems encountered, percentage of project completion and other appropriate information. These reports shall continue throughout the length of the project period until completion of the project. The report shall be submitted on Form 95-02, "Assistance Program Project Quarterly Status Report", dated 7-30-02, hereby incorporated by reference and available at the District office.

(5) **Reimbursement Requests:** The liaison agent may submit periodic reimbursement requests during the project period in accordance with Rule 66B-2.011, F.A.C. The project manager will approve or disapprove all reimbursement requests. The final payment of program funds will be made upon certified completion of the project by the District.

(6) **Project Inspection:** Upon reasonable request, the project manager shall have the right to inspect the project and any and all records relating to the project.

(7) **Project Completion:** The project shall be completed within three (3) years of the date of the beginning of the District's first fiscal year for which the project was approved. If the completion of a project is impacted by a declared state of emergency and the Board waives this rule section, the extension of time granted shall not exceed one additional three (3) year period.

(8) **Project Completion Requirements:** Upon completion of the project, the liaison agent shall provide the following to the project manager:

(a) A Project Completion Certificate, FIND Form No. 90-13 (effective date 7-30-02), hereby incorporated by reference and available from the District office, which certifies that the project was completed in accordance with the project agreement and the final project plans.

(b) A final reimbursement request accompanied by all required billing statements and vouchers.

(c) Photograph(s) showing the installation of the sign required by Rule 66B-2.013, F.A.C.

(d) Photograph(s) of the completed project clearly showing the program improvements.

(9) **Project Completion Review:** The project manager will review the project completion package and will authorize or reject the final reimbursement payment which will include all retained funds from previous requests.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 12-17-90, Formerly 16T-2.009, Amended 3-21-01, 7-30-02.*

### **66B-2.011 - Reimbursement.**

The District shall release program funds in accordance with the terms and conditions set forth in the project agreement. This release of program funds shall be on a reimbursement only basis. The District shall reimburse the project sponsor for project costs expended on the project in accordance with the project agreement. Project funds to be reimbursed will require the submission of a Reimbursement Request Form and required supporting documents, FIND Form No. 90-14 (effective date 7-30-02), hereby incorporated by reference and available from the District office.

## EXHIBIT A

(1) **Authorized Expenditures:** Project funds shall not be spent except as consistent with the project agreement cost estimate that was approved by the Board, which shall be an attachment to the project agreement. This cost estimate will establish the maximum funding assistance provided by the District and the percentage of funding provided by each party to the project. The District will pay the lesser of (a) the percentage total of project funding that the Board has agreed to fund, or (b) the maximum application funding assistance amount.

(2) **Phase I Reimbursement:** In accordance with these rules, reimbursement cannot be made on a Phase I application until a construction contract is executed by the applicant for the construction phase of the project. If the Phase I project is completed but a construction contract is not executed by the three (3) year project deadline, then the District shall only allow one (1) year from the Phase I project deadline to enter into the required construction contract before the Phase I funding is cancelled.

(3) **Reimbursement Requests:** All project costs shall be reported to the District and summarized on the Reimbursement Request Form. All requests for reimbursement shall include supporting documentation such as billing statements for work performed and cancelled payment vouchers for expenditures made.

(4) **Retainage:** The District shall retain ten percent (10%) of all reimbursement payments until final certification of completion of the project. The District shall withhold any reimbursement payment, either in whole or part, for non-compliance with the terms of this agreement.

(5) **Check Presentations:** A District representative shall present the final reimbursement check to the project sponsor during a public commission meeting or public dedication ceremony for the project facility.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 12-17-90, Amended 6-24-93, Formerly 16T-2.011, Amended 3-31-99, 7-30-02.*

### **66B-2.012 - Accountability.**

The following procedures shall govern the accountability of program funds:

(1) **Accounting:** Each project sponsor is responsible for maintaining an accounting system which meets generally accepted accounting principles and for maintaining such financial records as necessary to properly account for all program funds.

(2) **Quarterly Reports:** The project sponsor shall submit quarterly project status reports to FIND in accordance with subsection 66B-2.009(4), F.A.C.

(3) **Completion Certification:** All required final completion certification documents and materials as outlined in subsection 66B-2.009(8), F.A.C., of this rule shall be submitted to the District prior to final reimbursement of program funds.

(4) **Auditing:** All project records including project costs shall be available for review by the District or by an auditor selected by the District for 3 years after completion of the project. Any such audit expenses incurred shall be borne entirely by the project sponsor.

(5) **Project Records:** The project sponsor shall retain all records supporting project costs for three years after either the completion of the project or the final reimbursement payment, whichever is later, except that should any litigation, claim, or special audit arise before the expiration of the three year period, the project sponsor shall retain all records until the final resolution of such matters.

## EXHIBIT A

(6) **Repayment:** If it is found by any State, County, FIND, or independent audit that program funds have not been used in accordance with this rule and applicable laws, the project sponsor shall repay the misused program funds to the District.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 12-17-90, Formerly 16T-2.012, Amended 7-30-02.*

### **66B-2.013 - Acknowledgement.**

The project sponsor shall erect a permanent sign, approved by the District, in a prominent location at the completed project which indicates the District's participation in the project. This sign shall contain the FIND logo. In the event that the project sponsor erects a temporary construction sign, this sign shall also recognize the District's participation. If the final product of the project is a report, study or other publication, the District's sponsorship of that publication shall be prominently indicated at the beginning of the publication. If the project results in an educational display, the District's logo and a statement of the District's participation in the project shall be contained in the display.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 12-17-90, Formerly 16T-2.013.*

### **66B-2.014 - Small-Scale Spoil Island Restoration and Enhancement Projects.**

Proposals shall be accepted for the restoration or enhancement of spoil islands and natural islands within the District's waterways for recreational, navigational, educational, and environmental purposes. The applicable provisions of this rule apply to these applications with the following additions or exceptions:

(1) **Application Procedure** — A Request for Proposals procedure will be used to request proposals for consideration. Proposals shall follow the format described in FIND Document #03-02, Call for Proposals — Small-Scale Spoil Island Restoration and Enhancement Program (effective date 7-30-02), hereby incorporated by reference and available from the District office. Proposals may be submitted to the District and considered by the Board at any time during the year.

(2) **Matching Funds:** Small-scale spoil island restoration and enhancement may qualify for up to ninety percent (90%) program funds. The applicant's ten percent (10%) matching funds may include in-kind contribution pursuant to paragraph 66B-2.014(4)(b), F.A.C.

(3) **Eligibility:** All proposals must meet the following eligibility criteria to be considered for funding.

(a) **Management Plan Compliance:** Projects shall be in compliance with the provisions of any Spoil Island Management Plans or other management plans that govern the Project site.

(b) **Property Control:** The Project Sponsor must have written property rights on the Project site to construct and maintain the Project for a minimum of five years. Such property rights can be in the form of a lease, interlocal agreement, use agreement or other legal form approved by the District.

(4) **Funds Allocation:** Funds shall be allocated pursuant to Rule 66B-2.005, F.A.C., subject to the exceptions identified in this rule, and with the following additions:



## EXHIBIT A

(a) The District shall fund a maximum of up to \$7,500 per project, not to exceed \$22,500 per County, per fiscal year.

(b) The Project Sponsor may contribute in-kind construction labor; such in-kind construction labor costs will not be counted by the District as exceeding \$10.00 per hour. No administrative costs can be incorporated into the Project as Project costs.

(c) The funding provided by the District shall only be allocated for specific Project expenses such as construction materials, plant materials, herbicides, etc. The funding provided by the District shall not be allocated for parties, food or beverages.

(5) Hold Harmless Waiver: All volunteers, who are not government employees, shall sign a hold harmless waiver Form No. 02-01 (New 7-30-02) as approved by the District and hereby incorporated by reference and available from the District office.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 7-30-02, Amended 4-24-06.*

### **66B-2.015 - Small-Scale Derelict Vessel Removal Projects.**

Proposals shall be accepted for financial assistance for the removal of derelict vessels within the District's waterways. The applicable provisions of this rule apply to these applications with the following additions or exceptions:

(1) Application Procedure — Applications shall be submitted on a completed FIND Form No. 05-01 (Small-Scale Derelict Vessel Removal Program) (effective date 4-24-06), and FIND Form No. 01-06 (Small-Scale Derelict Vessel Removal Program — Project Cost Estimate), (effective date 4-24-06), hereby incorporated by reference and available from the District office. Applications may be submitted to the District and considered by the Board at any time during the year.

(2) The District shall only fund applicants that have identified derelict vessels to be removed and have a current bid for removal for such vessels, or have completed the removal of such vessels within the 6 months preceding the application, subject to eligibility under these program rules.

(3) The program must be sponsored by an eligible government agency or not-for-profit organization.

(4) District funding shall be limited to \$20,000 per county, per year, provided on a reimbursement basis only. The limitation on pre-agreement expenses may be waived by the Board in accordance with subsection 66B-2.005(3), F.A.C.

(5) The eligible applicant must provide the remaining matching funds for project completion. In no case shall the District's cost-share contribution exceed 75% of the total project costs. In-house project management or administration costs are not eligible costs or matching costs.

(6) The derelict vessel must be located in the District's Waterways, as defined in Rule 66B-2.003, F.A.C.

(7) The District shall be recognized when possible in all written, audio or video advertising and promotions as a participating sponsor of the program.

(8) The funding provided by the District shall only be allocated for removal of derelict vessels. The District is providing program reimbursement funds only and shall be held harmless with regards to the activities initiated by the applicant.

(9) The applicant shall be responsible for all maintenance, management, disposal and operating expenses associated with the program.

## EXHIBIT A

(10) Funds derived from the sale of any derelict vessels or vessel parts removed through this grant program must be reinvested into the applicant's derelict vessel removal program.

(11) The District Board shall make all final decisions concerning the provision of funding for this program.

*Specific Authority 374.976(2) FS.*

*Law Implemented 374.976(1) FS.*

*History — New 4-24-06, Amended 4-15-07, 3-25-08.*

**FLORIDA INLAND NAVIGATION DISTRICT  
ASSISTANCE PROGRAM**

**PROJECT COST ESTIMATE**

(See Rule Section 66B-2.005 & 2.008 for eligibility and funding ratios)

**PROJECT TITLE:** Lake Park Harbor Marina Breakwater Project – Phase II

**APPLICANT:** Town of Lake Park

<b>Project Elements</b> <i>(Please list the MAJOR project elements and provide a general cost break out for each one. For Phase I Projects, please list the major elements and products expected)</i>	<b>Quantity Estimated Cost</b> <b>(Number and/or Footage)</b>	<b>Applicant's Cost</b> <b>(Other Grants)</b>	<b>FIND Cost</b>
<b><u>PHASE II – Construction</u></b>			
<ul style="list-style-type: none"> <li>• Element 1 – Detached Breakwater</li> </ul>	194,350	97,175	97,175
<ul style="list-style-type: none"> <li>• Element 2 --NS Breakwater Addition</li> </ul>	288,880	144,440	144,440
<ul style="list-style-type: none"> <li>• Element 3 – Additional Finger Piers/100 Amp Service</li> </ul>	<u>215,355</u>	<u>107,678</u>	<u>107,677</u>
<b>TOTAL</b>	698,585	349,293	349,292

EXHIBIT C

FLORIDA INLAND NAVIGATION DISTRICT  
ASSISTANCE PROGRAM

Matching Funds Certification

Sponsor: Town of Lake Park

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Project Title: Lake Park Harbor Marina Project Phase II Project #: PB-LP-09-138

I hereby certify that the above referenced project Sponsor, as of October 01, 2009, has applied for the required matching funds for the accomplishment of the referenced project in accordance with the Waterways Assistance Program Project Agreement between the Florida Inland Navigation District and the Sponsor, dated October 2008.\*

Project Liaison Name: Maria V. Davis

Project Liaison Signature: \_\_\_\_\_

Date: November \_\_, 2009

\*S. 837.06 Florida Statutes, False official statements. - Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 F.S.

EXHIBIT D

FLORIDA INLAND NAVIGATION DISTRICT  
ASSISTANCE PROGRAM  
PAYMENT REIMBURSEMENT REQUEST FORM

PROJECT NAME: \_\_\_\_\_ PROJECT #: \_\_\_\_\_

PROJECT SPONSOR: \_\_\_\_\_ BILLING #: \_\_\_\_\_

Amount of Assistance		_____
All Funds Previously Requested	✂	_____
Balance Available	=	_____
Funds Requested		_____
Less Retainage (-10% unless final)	✂	_____
Check Amount	=	_____
Balance Available		_____
Less Check Amount	✂	_____
Balance Remaining	=	_____

SCHEDULE OF EXPENDITURES

Expense Description (Should correspond to Cost Estimate Sheet Categories in Exhibit "B")	Check No. Vendor Name and Date	Total Cost	Applicant Cost	FIND Cost
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**EXHIBIT D (CONTINUED)**  
**SCHEDULE OF EXPENDITURES**

Expense Description (Should correspond to Cost Estimate Sheet Categories in Exhibit "B")	Vendor Name	Check No. and Date	Total Cost	Applicant Cost	FIND Cost
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Certification for Reimbursement: I certify that the above expenses were necessary and reasonable for the accomplishment of the approved project and that these expenses are in accordance with Exhibit "B" of the Project Agreement. \*

\_\_\_\_\_  
Project Liaison

\_\_\_\_\_  
Date

\*S. 837.06 Florida Statutes, False official statements. - Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 F.S.

**EXHIBIT E**

**FLORIDA INLAND NAVIGATION DISTRICT  
ASSISTANCE PROGRAM**

**Project Completion Certification**

Sponsor: \_\_\_\_\_

Project Title: \_\_\_\_\_ Project #: \_\_\_\_\_

I hereby certify that the above referenced project was completed in accordance with the Assistance Program Project Agreement between the Florida Inland Navigation District and \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_, and that all funds were expended in accordance with Exhibit "B" and Paragraph 1 of the Project Agreement. \*

Project Liaison Name: \_\_\_\_\_

Project Liaison Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\*S. 837.06 Florida Statutes, False official statements. - Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 F.S.

**EXHIBIT F**

**ASSISTANCE PROGRAM PROJECT  
QUARTERLY STATUS REPORT**

<http://www.aicw.org/wap/wap.htm>

**PROJECT NO.** \_\_\_\_\_

**PROJECT TITLE:** \_\_\_\_\_

**PROJECT SPONSOR:** \_\_\_\_\_

**REPORT PERIOD**

Oct 1-DEC 15\_\_\_\_; Dec 15-Mar 1\_\_\_\_; Mar 1-June 15\_\_\_\_; June 15-Sep 1\_\_\_\_  
**Report Due:** (Dec 30) (March 15) (June 30) (Sep 15)

**WORK ACCOMPLISHED:**

**PROBLEMS ENCOUNTERED:**

**PERCENTAGE COMPLETION:**

**OTHER NOTABLE ITEMS:**



## EXHIBIT G

### WATERWAYS ASSISTANCE PROJECT SCHEDULE

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- OCTOBER 2009 - Project Agreement Executed, Project Initiates.
- DECEMBER 30, 2009 - First Quarterly Report Due.
- MARCH 15, 2010 - Second Quarterly Report Due.
- JUNE 30, 2010 - Third Quarterly Report Due.
- SEPTEMBER 15, 2010 - Fourth Quarterly Report Due.
- DECEMBER 30, 2010 - Fifth Quarterly Report Due.
- MARCH 15, 2011 - Sixth Quarterly Report Due.
- JUNE 30, 2011 - Seventh Quarterly Report Due.
- NOTE: If the project will not be completed and all close out paperwork submitted by September 1<sup>st</sup>, a request for a 1-year extension of the completion date of the project should be submitted with the quarterly report.*
- SEPTEMBER 01, 2011 - Closeout paperwork due.
- SEPTEMBER 30, 2011 - District finishes processing closeout paperwork, performs project inspection and submits final reimbursement check to sponsor.

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***NOTE: ANY MODIFICATIONS** to the PROJECT shall require advance notice and prior written approval of the District. The appropriate timing for modifications to the project cost estimate, Exhibit B, would be after receipt of bids.*

**\*NON-COMPLIANCE** by the PROJECT SPONSOR with the reporting schedule in Exhibit B may result in revocation of this agreement pursuant to Paragraph 13 of the project agreement.

*Pursuant to Rule 66B-2.008(4), if your project is a public marina project, please complete and execute this form (Form #03-01) and return to the District office.*

FIND FORM NO. 03-01

CERTIFICATION OF REVENUE USE FOR PUBLIC MARINA

This will certify that the revenues generated by \_\_\_\_\_  
[name of marina], owned by \_\_\_\_\_ [name of Project  
Sponsor] are exclusively allocated to the operation, maintenance and improvement of the public  
marina facility.

Date: \_\_\_\_\_, 200\_\_

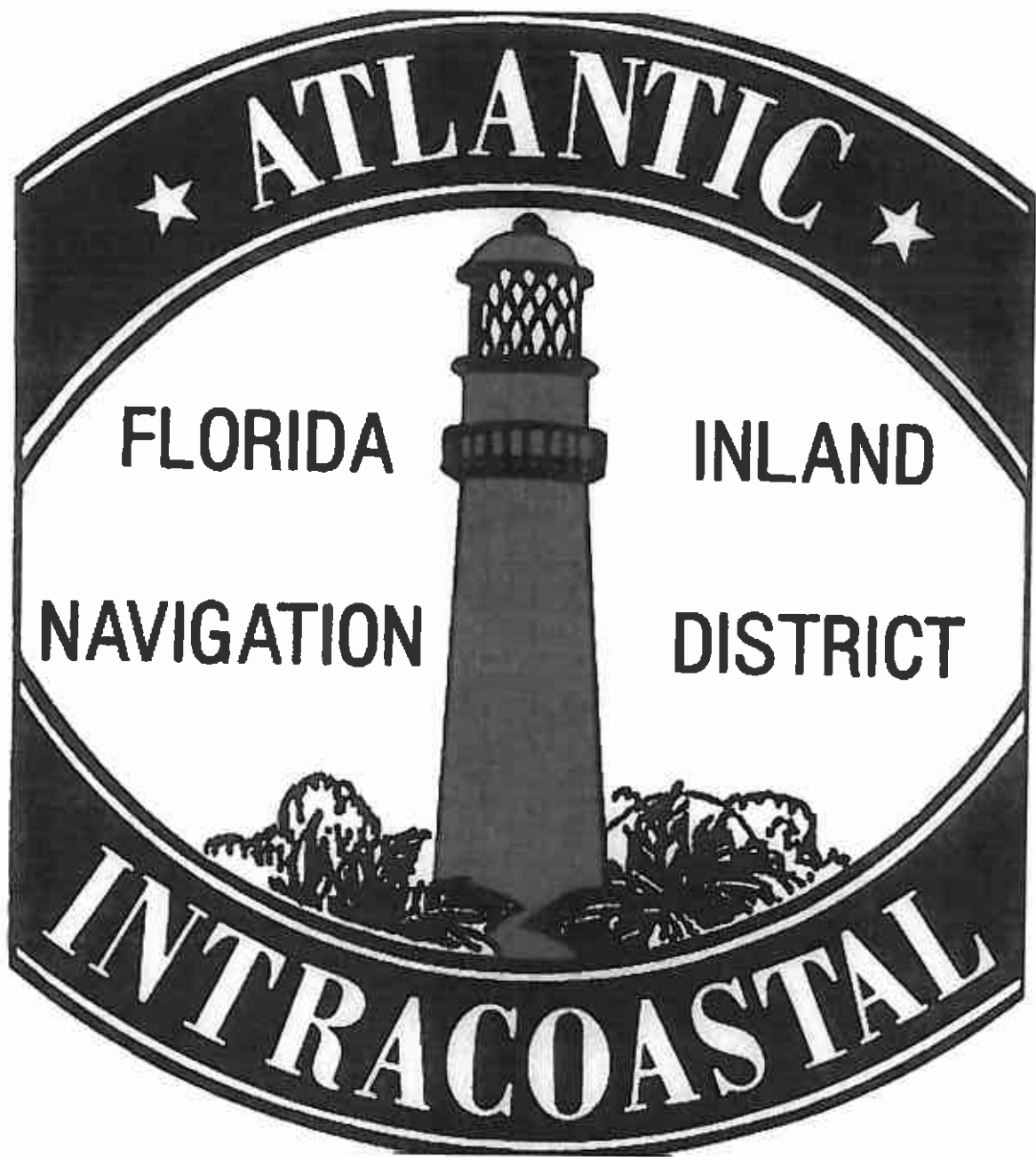
\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

**[This form must be signed by the Chair of the County Commission or the County  
Administrator, if County owned, or by the Mayor or City Administrator, if owned by a  
municipality.]**

\*S. 837.06 Florida Statutes, False official statements. - Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 F.S.

**EXHIBIT H**



# TAB 6

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: 11/18/09

Agenda Item No. \_\_\_\_\_

- |  |  |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING              | <input checked="" type="checkbox"/> RESOLUTION     |
| <input type="checkbox"/> Ordinance on Second Reading |  |
| <input type="checkbox"/> Public Hearing              | <input type="checkbox"/> DISCUSSION                |
| <input type="checkbox"/> ORDINANCE ON FIRST READING  | <input type="checkbox"/> BID/RFP AWARD             |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM    | <input checked="" type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other: _____                |  |

**SUBJECT:** The purpose of this item is to revise the Town of Lake Park Uniform Classification System to add the position of Administrative Assistant to the Community Development Director.

**RECOMMENDED MOTION/ACTION:** Approval of Resolution

Approved by Town Manager [Signature] Date: 11/12/09  
[Signature] 11/12/09  
 Name/Title HR Director Date of Actual Submittal \_\_\_\_\_

<b>Originating Department:</b> Human Resources	Costs: \$ -0- Funding Source: Acct. #	<b>Attachments: Resolution and Copy of Job Description</b>
<b>Department Review:</b> <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____	<input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case <u>BMT</u> :  Please initial one.

**Summary Explanation/Background:**

Currently, a job description exists in the Town of Lake Park Uniform Classification System entitled Administrative Secretary. The purpose of this agenda item is to create in the Classification Plan the new position of Administrative Assistant to the Community Development Director to more accurately reflect the duties of the staff person currently occupying the position of Administrative Secretary within the Community Development Department. The proposed annual salary range for this position will be the same as the current salary range for the Administrative Assistant position, which is \$29,214.53 to \$48,580.56. There will be no additional financial burden on the budget of the Town of Lake Park as a result of this action as the staff person occupying the position of Administrative Secretary will be reclassified as Administrative Assistant to the Community Development Director with no change in salary.

**RESOLUTION 59-11-09**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REVISING THE TOWN UNIFORM CLASSIFICATION SYSTEM TO ADD THE POSITION OF ADMINISTRATIVE ASSISTANT TO THE COMMUNITY DEVELOPMENT DIRECTOR; PROVIDING FOR THE PUBLICATION OF AN UPDATED UNIFORM CLASSIFICATION SYSTEM; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park is a duly constituted municipality organized and existing under the laws of the State of Florida and Chapter 166, Fla. Stat; and

**WHEREAS**, the Uniform Classification System is based upon similarity of duties performed and responsibilities assumed, so that the same qualifications are reasonably required for the same schedule of pay, and are equally applied to all positions in the same class; and

**WHEREAS**, it is necessary to provide an updated listing of certain current titles and classifications within the Town service,

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, AS FOLLOWS:**

**Section 1.** The foregoing recitals are hereby incorporated as if fully set forth herein.

**Section 2.** The Uniform Classification System is revised to add the position of Administrative Assistant to the Community Development Director. A copy of the job description for this position is attached hereto as Exhibit A.

**Section 3.** This Resolution shall become effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_, and upon being put to a roll call vote, the vote was as follows:

<b>ADMINISTRATIVE ASSISTANT TO THE COMMUNITY DEVELOPMENT DIRECTOR</b>
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**JOB CODE:** 322  
**PAY GRADE:**  
**DEPARTMENT:** COMMUNITY DEVELOPMENT DEPARTMENT

**CHARACTERISTICS OF THE CLASS:**

Under the direct supervision of the Director of the Community Development, performs administrative work under by assisting in the research and development of varied projects, as well as functioning in a secretarial capacity. Provides technical assistance to other personnel and oversees the efficient running of an administrative office. Compiles information relating to department where assigned, as well as for other departments and the Town in general. Interacts with the general public on the phone and in person. Performs other work as requested. This is a non-exempt position.

**EXAMPLES OF ESSENTIAL FUNCTIONS:**

The list of essential functions, as outlined herein, is intended to be representative of the tasks performed within this classification. It is not necessarily descriptive of anyone position in the class. The omission of an essential function does not preclude management from assigning duties not listed herein if such functions are a logical assignment to the Administrative Assistant to the Community Development Director position.

- Prepares, composes, processes and maintains departmental letters, memos, reports, records, files and statistical data; sorts and distributes Department mail.
- Performs all administrative functions of the Code Compliance Division.
- Performs all duties relating to Special Magistrate Hearings and Planning and Zoning Board, including preparation and distribution of agenda, as well as distribution of Orders Finding Violation to property owners.
- Attends Special Magistrate hearings and Planning and Zoning Board hearings; takes notes and records meetings for the Town Clerk's Office
- Prepares minutes of the Special Magistrate hearings and Planning and Zoning board hearings.
- Attends specific meetings as deemed necessary by the Director of Community Development.
- Records code compliance liens with the Palm Beach County Clerk of the Court.
- Maintains Town of Lake Park lien files for all outstanding code compliance cases.
- Responsible for bi-weekly preparation of the Department of Community Development payroll for approval by the Director of Community Development.
- Performs customer service duties including answering telephone calls and assisting visitors to the Department; provides appropriate information regarding code compliance



# ADMINISTRATIVE ASSISTANT TO THE COMMUNITY DEVELOPMENT DIRECTOR

## TOWN OF LAKE PARK

### JOB DESCRIPTION

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procedures, building permits, and business tax receipts; handles all incoming calls and makes calls to other departments, agencies, and the public, as required.

- Fulfills Public Records Requests in a timely manner.
- Assists in the processing of applications for building permits.
- Performs records management and retention pursuant to *Florida Statutes* of all code compliance and Planning and Zoning case files.
- Maintains and orders office supplies for the Department of Community Development; prepares Purchase Order for Director of Community Development approval.
- Updates and maintains databases for Department.
- Undertakes special projects or other assignments as directed.
- Assist other departmental personnel as needed.

#### REQUIREMENTS:

##### A, Education and Experience:

- High School Diploma or equivalent, supplemented by a minimum of three (3) years of experience in responsible secretarial work in an administrative capacity which included supervision, organization and coordination of multiple tasks.

##### B. Knowledge, Skills and Abilities:

- Ability to maintain professional confidentiality in the performance of assigned tasks.
- Ability to set up necessary materials/equipment for Special Magistrate Hearings and Planning and Zoning Board Hearings.
- Excellent knowledge of composition and grammar, business English, mathematics, and modern office practices and procedures
- Excellent public relations skills.
- Thorough knowledge and experience with computers, business machines, and have accurate data entry abilities.
- Knowledge of the operation, function and scope of authority of Town Departments and offices.
- Knowledge of techniques in research and report preparation.
- Ability to respond to requests for information, complaints and administrative details and to interpret and apply Town's policies, procedures and regulations.
- Ability to make decisions in accordance with laws, Town ordinances, regulations, departmental policies and procedures.
- Ability to establish and maintain effective and courteous working relationships with elected officials, co-workers and the general public.
- Ability to maintain professional confidentiality in the performance of assigned tasks.
- Ability to communicate effectively both orally and in writing.

# ADMINISTRATIVE ASSISTANT TO THE COMMUNITY DEVELOPMENT DIRECTOR

## TOWN OF LAKE PARK

### JOB DESCRIPTION

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- Ability to maintain accurate records.
- Ability to work a diverse schedule.
- Ability to understand and carry out verbal and written instructions
- Ability to manage and effectively complete a heavy workload under pressure and within changing deadline situations.
- Ability to accept responsibility for actions and/or accomplishments.

#### **PHYSICAL REQUIREMENTS:**

While performing the duties of this job, the employee is frequently required to sit and talk or hear, use hands to finger; manipulate, handle or feel objects, tools, or controls with arms and hands; and, to reach with hands and arms. The employee is frequently required to walk, climb, stand or balance, stoop, kneel or crouch. The employee must occasionally lift and/or move up to 20 pounds. Tasks may involve extended periods of time at a computer keyboard.

#### **SENSORY REQUIREMENTS:**

Tasks require close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus, and sound perception and discrimination.

It is the policy of the Town of Lake Park to prohibit discrimination on the basis of race, color, religion, gender, national origin, age, political affiliation, physical or mental disability (where the disabled persons are able to perform the work they are seeking with reasonable accommodation), marital status, familial status, or sexual orientation, or any other form of unlawful discrimination, except when such condition is a bona fide occupational qualification. Such employment practices include, but are not limited to, the recruitment, hiring, compensation, assignment, training, promotion, demotion, discipline or dismissal of employees.

# TAB 7

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: November 18, 2009

Agenda Item No.

- |  |  |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING              | <input type="checkbox"/> RESOLUTION                |
| <input type="checkbox"/> Ordinance on Second Reading | <input type="checkbox"/> DISCUSSION                |
| <input type="checkbox"/> Public Hearing              | <input type="checkbox"/> BID/RFP AWARD             |
| <input type="checkbox"/> ORDINANCE ON FIRST READING  | <input checked="" type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM    |  |
| <input type="checkbox"/> Other:                      |  |

**SUBJECT:** Letter from Mayor Desca DuBois for the Lake Park Street Map and Resource Guide

**RECOMMENDED MOTION/ACTION:** Approval of Letter

Approved by Town Manager *[Signature]* Date: 11/12/09  
*Bambi McMillon-Lewis* 11/12/09  
 Name/Title HR Director Date of Actual Submittal

<b>Originating Department:</b> Town Manager	Costs: \$ -0- Funding Source: Acct. #	<b>Attachments:</b> Copy of Letter
<b>Department Review:</b> <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____	<input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case <u>BMT</u> : Please initial one.

**Summary Explanation/Background:** The purpose of this item is to request approval by the Town Commission of the letter from Mayor Desca Dubois to be inserted in the Lake Park Street Map and Resource Guide which is being developed by Dolph Map LLC. There will be no financial burden on the budget of the Town of Lake Park as a result of this project as it is being funded through the sale of ads.

Letter from Mayor Desca DuBois

If it's all about location, location, location... well, the Town of Lake Park is really on the map!

Not only are we centrally located to all the good things life has to offer, our recent improvements and innovative programs – the newly established bio-science industrial area, the enhanced downtown area that is fostering a growing arts enclave, the top-of-the-line improvements to our waterfront parks and Marina, and the establishment of a very active and effective Community Redevelopment Agency – have put Lake Park in the spotlight... and on everyone's map.

Lake Park is the perfect example of why small towns can and should be very attractive to businesses and new residents. So use this map as a resource and reference and you will soon find that Lake Park offers many of the amenities found only in urban areas, while maintaining a very distinctive hometown flavor.

Discover Lake Park and you will discover a very special place that residents love to call home and businesses know is truly open for business!

Copies of this map are available at Town Hall, 535 Park Avenue; Lake Park Harbor Marina, 105 Lake Shore Drive; and the Economic Development Office in the heart of our Downtown Arts District at 921 Park Avenue.

We thank our sponsors for making this map possible and urge you to patronize them.

Desca DuBois  
Mayor

# TAB 8

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: November 18, 2009

Agenda Item No.

PUBLIC HEARING

RESOLUTION

Public Hearing

DISCUSSION

ORDINANCE ON FIRST READING

BID/RFP AWARD

GENERAL APPROVAL OF ITEM

CONSENT AGENDA

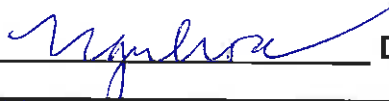
Other:

**SUBJECT:**

An Ordinance Amending Chapter 2 of the Town Code to Change the time regular Town Commission meetings begin

**RECOMMENDED MOTION/ACTION:** Approval

Approved by Town Manager



Date: 11/12/09

<b>Originating Department:</b> Administration	Costs: \$ N/A  Funding Source:  Acct. #	Attachments:
<b>Department Review:</b> <input checked="" type="checkbox"/> Town Attorney <i>TJB</i> <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case _____:  Please initial one.

**Summary:** This Ordinance changes the Town Code to specify that the Regular Town Commission meetings are the first and third Wednesday of the month at 7 pm instead of 7:30 pm. It also amends the Code to provide that in the event a Special or Workshop meeting of the Town Commission has been noticed to begin at an earlier time on the day of a regular meeting of the Commission, the Commission may begin its regular meeting immediately following the adjournment of the Special or Workshop meeting. Staff recommends the approval of the Ordinance amending the Town Code.



**ORDINANCE No. 17-2009**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 2, DIVISION 2, SECTION 2-51, OF THE TOWN CODE ENTITLED "MEETINGS" TO CHANGE THE TIME REGULAR MEETINGS OF THE TOWN COMMISSION BEGIN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park, Florida is a duly constituted municipality having the power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town Commission has adopted a municipal Code of Ordinances, which contains among other matters, provisions pertaining to officials elected to the office of Town Commission and to the meetings of those officials; and

**WHEREAS**, the Town Commission has determined it is in the best interests of the Commission and the residents, businesses and property owners of the Town to change the regular meeting time of the Town Commission from 7:30 pm to 7:00 pm on the first and third Wednesday of the month.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:**

**Section 1.** The whereas clauses are incorporated herein as the legislative findings of the Town Commission.

**Section 2.** Article II, Division 2, Section 2-51, entitled "Schedule" of the Town Code is hereby amended to read as follows:

DIVISION 2. MEETINGS\*

Sec. 2-51. Schedule.

All meetings of the town commission shall be scheduled as follows:

- (1) Regular meetings of the town commission shall be conducted on the first and third Wednesdays of each month commencing at ~~7:30~~ 7:00 p.m.
- (2) The regular and special meetings and workshops of the town commission shall be adjourned on or before 11:00 p.m. on the date when the meeting convened.
- (3) Special meetings of the town commission shall be scheduled, with at least 48 hours' public notice, upon majority vote of its members at any regular meeting.
- (4) Emergency meetings of the town commission shall be conducted on the call of the mayor, the vice-mayor in the mayor's absence, or a majority of its members upon, whenever practical, not less than 12 hours' written notice to each member, the town manager, the town clerk, the town attorney and the public. Said notice shall contain a brief description of the nature and necessity of the emergency meeting and shall be undersigned by the official calling for same. The first order of business at any emergency meeting shall be a restatement and detailed explanation of the nature and necessity of the meeting, for the record, by the presiding official. Such meetings shall be called only in response to a matter requiring commission action which, if unaddressed prior to the next regularly scheduled meeting, is likely to result in serious harm or loss to the town.
- (5) Workshop meetings of the town commission shall be scheduled upon majority vote of its members at any regular or special meeting for the purpose of planning, discussion and study. No official action shall be taken by the town commission at such meetings.
- (6) The town commission may, by resolution adopted at any regular meeting, cancel or reschedule any subsequent regular meeting.
- (7) In the event a special or workshop meeting of the Commission is scheduled on the Commission's regular meeting date, the Commission may begin its regular meeting immediately following the adjournment of the special or workshop meeting or as soon thereafter as the Commission deems appropriate provided the notice of the special or workshop meeting has stated the Commission's intention to do so.

**Section 3. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 4. Repeal of Laws in Conflict.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5. Codification.** The Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "section", "article", or any other appropriate word.

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