

AGENDA

Lake Park Town Commission
Town of Lake Park, Florida
Regular Commission Meeting
Wednesday, December 1, 2004 at 7:30 p.m.
Lake Park Town Hall
535 Park Avenue

Paul Castro	—	Mayor
G. Chuck Balius	—	Vice Mayor
Paul Garretson	—	Commissioner
Jeff Carey	—	Commissioner
Edward Daly	—	Commissioner
<hr/>		
Paul Carlisle	—	Interim Town Manager
Thomas J. Baird, Esq.	—	Town Attorney
Stephanie Thomas	—	Town Clerk

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. PRESENTATIONS
 - Fire Inspector Diane Weibert of Palm Beach County Fire & Rescue, to provide a presentation on Holiday Safety.
 - Proclamations for the Hurricane Volunteers.

G. 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.

- H. CONSENT AGENDA** All matters listed under this item are considered to be 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 in the rear of the Chambers and give it to the Town Clerk. Cards must be submitted before the item is discussed.

For Approval:

1. Commission Meeting Minutes from November 3, 2004.
2. Commission Meeting Minutes from August 25, 2004.

TAB 1

I. ORDINANCES ON FIRST READING

3. **ORDINANCE NO. 26-2004-Special Magistrate determination of Code Compliance Cases.**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK, TO EXPRESSLY PROVIDE FOR SPECIAL MAGISTRATE DETERMINATION OF CODE COMPLIANCE CASES; CHAPTER 2, ARTICLE IV, DIVISION 4, AMENDING SECTION 2-78 ENTITLED "DECLARATION OF LEGISLATIVE INTENT;" AMENDING SECTION 2-79 ENTITLED "APPLICABILITY;" AMENDING SECTION 2-80 ENTITLED "DEFINITIONS;" AMENDING SECTION 2-81 ENTITLED "QUALIFICATIONS, TERMS OF OFFICE OF BOARD;" AMENDING SECTION 2-81.01 ENTITLED "SPECIAL MASTERS;" AMENDING SECTION 2-82 ENTITLED "COMPLIANCE PROCEDURE;" AMENDING SECTION 2-83 ENTITLED "CONDUCT OF HEARING;" AMENDING SECTION 2-84 ENTITLED "POWERS OF THE COMPLIANCE BOARD GENERALLY;" AMENDING SECTION 2-85 ENTITLED "FINES, COST OF REPAIR AND LIENS;" AMENDING SECTION 2-86 ENTITLED "DURATION OF LIEN;" AMENDING SECTION 2-87 ENTITLED "APPEALS;" AMENDING SECTION 2-88 ENTITLED "NOTICES;" PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 2

J. ORDINANCES ON SECOND READING

PUBLIC HEARINGS:

4. **Ordinance 25-2004-Maintenance Standards for private swimming pools.** AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK, CHAPTER 27, ARTICLE I, TO CREATE

SECTION 27-5 ENTITLED "MAINTENANCE OF SWIMMING POOLS" REQUIRING THE MAINTENANCE OF SWIMMING POOLS ON PRIVATE PROPERTY WITHIN THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 3

K. RESOLUTIONS

Resolution 53-12-04

5. RESOLUTION NO. 56-11-04-Requesting Investigation FPL practices.
A RESOLUTION OF THE TOWN OF LAKE PARK, FLORIDA, PALM BEACH COUNTY, FLORIDA REQUESTING THE STATE OF FLORIDA TO CONDUCT A FULL INVESTIGATION OF FLORIDA POWER AND LIGHT'S PRACTICES.

TAB 4

QUASI-JUDICIAL PUBLIC HEARING(S): RESOLUTIONS

Declarations of ex-parte communications

6. RESOLUTION 54-12-04-One Park Place

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AMENDING RESOLUTION 11-03-04 AND APPROVING A MODIFIED SITE PLAN FOR A MIXED-USE DEVELOPMENT KNOWN AS ONE PARK PLACE LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF PARK AVENUE AND 9TH STREET; AND ESTABLISHING AT EFFECTIVE DATE.

TAB 5

L. DISCUSSION AND POSSIBLE ACTION

7. Consensus on Employee Holiday Luncheon Proposal.

TAB 6

8. Auditor General's Report

TAB 7

M. COMMENTS BY COMMISSION, TOWN MANAGER, TOWN ATTORNEY

N. ADJOURNMENT

Happy Thanksgiving!



*From the Office of the
Town Clerk*

Presentations

Town of Lake Park Town Commission
Agenda Request Form

Meeting Date: December 1, 2004

Agenda Item No.

- PUBLIC HEARING
 Ordinance on Second Reading
 Public Hearing

RESOLUTION

DISCUSSION

ORDINANCE ON FIRST READING

BID/RFP AWARD

GENERAL APPROVAL OF ITEM

CONSENT AGENDA

Other:

SUBJECT: Presentation on Fire Safety during the Holiday.

RECOMMENDED MOTION/ACTION: N/A.

Approved by Town Clerk

Stephanie Thomas

Date:

11/23/04

Originating Department: Clerks Office	Costs: \$ n/a Funding Source: Acct. #	Attachments: N/A
Department Review: <input checked="" 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 _____ <input type="checkbox"/> Town Manager _____
Advertised: Date: _____ N/A _____ 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 _____; Please initial one.

Summary Explanation/Background: N/A

MEMORANDUM
Nov. 9, 2004

TO: Paul Carlisle, Interim Town Manager

FROM: Diane Weibert, Fire Inspector *DW*

I would like to be on the Dec. 1, 2004 Commission Agenda, to make a brief presentation on holiday fire safety. The presentation will be similar to the one made last holiday season, presenting the residents of the Town with information on achieving a fire safe season.

If you have any questions please contact me at 616-7023.

Proclamations
are in the process of being prepared. A draft
proclamation will be provided under separate
cover.

Consent Agenda

Tab 1

Town of Lake Park Town Commission
Agenda Request Form

Meeting Date: 12-01-04

Agenda Item No.

- PUBLIC HEARING
- Ordinance on Second Reading
- Public Hearing

- RESOLUTION
- DISCUSSION

ORDINANCE ON FIRST READING

BID/RFP AWARD

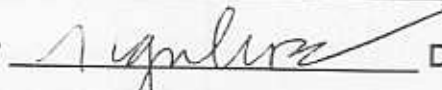
GENERAL APPROVAL OF ITEM

CONSENT AGENDA

Other:

SUBJECT: Regular Commission Meeting Minutes of November 3, 2003.&
Regular Commission Meeting Minutes of August 25, 2004.

RECOMMENDED MOTION/ACTION: Approval Regular Commission Meeting Minutes of August 25, 2004 and the Regular Commission Meeting of November 3, 2004 with corrections and/or deletions to the transcribed text.

Approved by Town Manager  Date: 11/24/04

Originating Department: Clerks Office	Costs: \$ n/a Funding Source: Acct. #	Attachments: Minutes
Department Review: <input checked="" 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 _____ <input type="checkbox"/> Town Manager _____
Advertised: Date: _____ N/A _____ 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 <input checked="" type="checkbox"/> OR Not applicable in this case _____: Please initial one.

Summary Explanation/Background:

Minutes
Town of Lake Park, Florida
Regular Commission Meeting
November 3, 2004 7:30 p.m.
Town Commission Chambers, 535 Park Avenue

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday November 3, 2004 at 7:30 PM. Present were Mayor Castro, Vice Mayor Balius, Commissioners Carey, Daly and Garretson, Interim Town Manager Paul Carlisle and Town Clerk Stephanie Thomas.

Paul Castro led the Invocation.
 Commissioner Garretson led the Pledge of Allegiance.
 Town Clerk Stephanie Thomas performed the Roll Call.

ADDITIONS/DELETIONS

Motion: A motion was made by Commissioner Garretson to approve the November 3, 2004 Agenda. Vice Mayor Balius made the second.

Vote on Motion:

Commission Member	Yes	No	Other
Commissioner Garretson	X		
Commissioner Daly	X		
Commissioner Carey	X		
Vice-Mayor Balius	X		
Mayor Castro	X		

Motion passed 5-0.

PRESENTATIONS:

Proclamation Recognizing November as National Epilepsy Awareness Month

Motion: A motion was made by Vice Mayor Balius to approve the Proclamation Recognizing November as National Epilepsy Awareness Month. Commissioner Carey made the second.

Vote on Motion:

Commission Member	Yes	No	Other
Commissioner Garretson	X		
Commissioner Daly	X		
Commissioner Carey	X		
Vice-Mayor Balias	X		
Mayor Castro	X		

Motion passed 5-0.

The Kiwanis Club to present a check to the Lake Park Library for \$8,400.00 for Teen Achieve Project.

Edie McConville, West Kalmia Drive indicated that the Kiwanis Club has donated \$8,400.00 to the Lake Park Library for the Teen Achieve Project. Jeff Baumer, President of the Kiwanis Club expressed his gratitude toward the Town for their longtime support of the Kiwanis Club. Mayor Castro and the Town Commission thanked the Kiwanis Club for the many contributions that they have afforded the Town of Lake Park.

Presentation by Mr. Dean Lavelle on the Park Avenue Barbeque and Grille Restaurant.

Dean Lavelle, Park Avenue Barbeque, communicated to the Commission that he had planned to develop a project that was consistent with the new redevelopment of Park Avenue and Town projects. Mr. Lavelle stated that he feels that wall in the alley way is both the commercial and residential property owners responsibility in that the residents that reside behind the wall played a part in the current condition of the wall.(see exhibit A) He stated that he has not been able to proceed with the project due to parking issues.

Mayor Castro requested to know why Mr. Lavelle invested so much into the project when he was aware of the parking issue that the PADD were faced with. Mayor Castro suggested that Mr. Lavelle put together a proposal and a timeline for parking and meet with Interim Town Manager Paul Carlisle to discuss it. Once it has been reviewed by the Town Manager, the proposal will be considered by the Town's Planning and Zoning Board. Mayor Castro stated that the Town will look into possibly helping with some of the expenses of repairing the alley way and the wall. Commissioner Garretson concluded the discussion by assuring Mr. Lavelle that he appreciates the business that he is bringing to Town and that the problems can be resolved.

PUBLIC COMMENTS

The following person(s) addressed the Commission:

None.

CONSENT AGENDA

Regular Commission Meeting Minutes of October 20, 2004.

Motion: A motion was made by Vice Mayor Balius to approve the Regular Commission Meeting Minutes of October 20, 2004. Commissioner Daly made the second.

Vote on Motion:

Commission Member	Yes	No	Other
Commissioner Garretson	X		
Commissioner Daly	X		
Commissioner Carey	X		
Vice-Mayor Balius	X		
Mayor Castro	X		

Motion passed 5-0.

DISCUSSION AND POSSIBLE ACTION:

Community Development Block Grant for storm water drainage improvements

Interim Town Manager Paul Carlisle informed the Commission that the purpose of the extension of the CDBG program was for the completion of Bayberry Drive.

Motion: A motion was made by Vice Mayor Balius to approve the Community Development Block Grant for storm water drainage improvements. Commissioner Garretson made the second.

Vote on Motion:

Commission Member	Yes	No	Other
Commissioner Garretson	X		
Commissioner Daly	X		
Commissioner Carey	X		
Vice-Mayor Balius	X		
Mayor Castro	X		

Motion passed 5-0.

Purchase of two (2) 2004 Mack/Heil Front Loader Sanitation Vehicles

Motion: A motion was made by Commissioner Daly to approve the purchase of two (2) 2004 Mack/Heil Front Loader Sanitation Vehicles. Commissioner Carey made the second.

Vote on Motion:

Commission Member	Yes	No	Other
Commissioner Garretson	X		
Commissioner Daly	X		
Commissioner Carey	X		
Vice-Mayor Balias	X		
Mayor Castro	X		

Motion passed 5-0.

Consensus to increase the salary range for the Town Manager

The general view of the Commission was to attract qualified applicants to the position of the Town Manager. They feel that the cost of living in this area and surrounding areas need to be considered when the salary is set.

Motion: A motion was made by Vice Mayor Balias to approve the raise the Town Manager's annual salary to \$80,000.00- \$100,000.00. Commissioner Daly made the second.

Vote on Motion:

Commission Member	Yes	No	Other
Commissioner Garretson		X	
Commissioner Daly	X		
Commissioner Carey	X		
Vice-Mayor Balias	X		
Mayor Castro		X	

Motion passed 3-2.

Change Order from Charles S. Whiteside Inc. for \$70,251.50

The Charles S. Whiteside is the contractor that is completing on the site work at the Marina.

Motion: A motion was made by Vice Mayor Balius to approve the change order from Charles S. Whiteside Inc. in the amount of \$70,251.50. Commissioner Garretson made the second.

Vote on Motion:

Commission Member	Yes	No	Other
Commissioner Garretson	X		
Commissioner Daly	X		
Commissioner Carey	X		
Vice-Mayor Balius	X		
Mayor Castro	X		

Motion passed 5-0.

COMMENTS BY COMMISSION, TOWN MANAGER AND TOWN ATTORNEY

Mayor Castro

Mayor Castro directed Captain Doug Reese to patrol the alleys ways more often. Mayor Castro requested the citizens to contact the Public Works Department if they notice any streets lights that are not working. Mayor Castro thanked staff and residents for looking out for one another, encouraged civility among one another.

Vice-Mayor Balius

Vice Mayor Balius thanked all of the residents for making this November 2, 2004 election such a success. Vice Mayor Balius also indicated that he would like to arrange for Mr. Earl Stewart of Stewart Toyota to address the Commission regarding the address that he used in his advertisements.

Commissioner Carey

Commissioner Carey recommended that the Town request the use of Palm Beach County's Fire engine's for a few hours to parade Santa Claus throughout the Town for the holidays. Commissioner Carey also feels that the Town should present each Town employee with a gift certificate and a special holiday luncheon to boost morale. There was consensus among the Town Commission to allow staff to contact Palm Beach County Fire and Rescue for the use of a fire engine, and to prepare a proposal to present to the Town Commission at the next meeting.

Commissioner Daly

Commissioner Daly made the recommendation to direct staff to remove the trees on top of drainage ditch. There was general consensus among the Commission to direct staff to remove the damaged trees at the Marina. There was also consensus to meet for a Commission Workshop on the Marina.

Commissioner Garretson

Commissioner Garretson suggested performing a traffic study to justify a need for a four way stop in the 500-600 block of Northlake Boulevard and Jasmine Drive. The Commission also suggested that if the intersection does show a need for a stop sign, they would also like to encourage the use of flags in addition to the signs. Interim Town Manager Paul Carlisle stated that the intersection has to meet certain criteria before a stop sign can be installed there.

Interim Town Manager

No comment.

Town Attorney

No comment

ADJOURNMENT

There being no further business to come before the Commission and after a motion to adjourn by Vice-Mayor Balius and seconded by Commissioner Daly, and by unanimous vote, the meeting adjourned at 8:47 p.m.

Mayor Paul Castro

Town Clerk Stephanie Thomas

Approved on this 1st day of December 2004.

Minutes
Town of Lake Park, Florida
Town Commission Budget Workshop
August 25, 2004, 7:30 p.m.
Town Commission Chambers, 535 Park Avenue

The Town Commission met for the purpose of a Town Commission Budget Workshop on Wednesday, August 25, 2004 at 7:35 PM. Present were Mayor Castro, Vice Mayor Balias, Commissioners Carey, Daly and Garretson, Town Manager Doug Drymon, Town Attorney Tom Baird and Interim Town Clerk Stephanie Thomas.

Mayor Castro led the Pledge of Allegiance.
Interim Town Clerk Stephanie Thomas performed the Roll Call.

DISCUSSION AND POSSIBLE ACTION:

Town Manager Drymon provided a brief synopsis of the 2004-2005 fiscal budget year. He indicated that there were small capital changes that were made. Town Manager Drymon stated that a Code Enforcement Officer has been added to the budget around mid-year, a part time Community Affairs Assistant will be hired and a security system will be installed at the Lake Park Public Library. He stated that monies have also been set aside for the Town's Martin Luther King Celebration. (see Exhibit A) Finance Director Cindy Sementelli added that the estimated reserves at the fiscal year end will be \$350,000.00. Finance Director Cindy Sementelli informed the Commission that she and Town Manager Drymon are currently working on a five year plan for the Town.

Town Manager Drymon stated that based on the analysis, the current millage rate 8.3500 and a taxable value of \$428,324,602.00; the Town is expected to collect \$3,397,685.00 in ad valorem taxes this year. He concluded by stating that the monies that were not allocated for can be used to fund the Park Avenue project. Town Manager Drymon stated that if the project is prolonged the project a few months, it will save the Town money.

Mayor Castro stated that he does not support lowering the millage rate at this time. He would like to save as much money as possible in that it will be available in the event the Town suffers from a natural disaster, litigations and other emergencies. The Commission agreed to set aside \$125,000.00 in restricted reserves.

Sanitation

Public Works Director stated that he would like to implement a seven year program for the Public Works vehicles. He requested to finance two vehicles and out right purchase a front loader truck (approximately \$153,000.00) in that the ones that are currently in stock are nearly inoperative and are no longer manufactured. In response to a question posed by Commissioner Garretson, Public Works Director Paul Carlisle indicated that it would not affect his departmental budget; the funds will be taken out of the Sanitation Fund Revenues. The Commission expressed their support of the Sanitation Department's Budget.

Commissioners Salaries

Commissioner Garretson requested the opinion of the Commission as it pertains to their salaries. Commissioner Garretson stated that there should be 1 percent increase added each year until the Commission reaches a fair amount of compensation that is comparable to a population of 9,000-10,000.

Mayor Castro indicated that he supports the 10% increase for the Commission.

Commissioner Daly inquired about the employee salary caps. He feels that they are on the lower part. The Commission agreed that a salary survey will be obtained and it will be reviewed within the next fiscal year.

Public Comment opened.

No Speakers.

Public Comment closed.

ADJOURNMENT

There being no further business to come before the Commission and after a motion to adjourn by Vice-Mayor Balius and seconded by Commissioner Daly, and by unanimous vote, the meeting adjourned at 8:00 PM.

Mayor Paul Castro

Interim Town Clerk Stephanie Thomas

Approved on this

Minutes
Town of Lake Park, Florida
Town Commission Budget Workshop
August 25, 2004, 7:30 p.m.
Town Commission Chambers, 535 Park Avenue

The Town Commission met for the purpose of a Town Commission Budget Workshop on Wednesday, August 25, 2004 at 7:35 PM. Present were Mayor Castro, Vice Mayor Balius, Commissioners Carey, Daly and Garretson, Town Manager Doug Drymon, Town Attorney Tom Baird and Interim Town Clerk Stephanie Thomas.

Mayor Castro led the Pledge of Allegiance.
Interim Town Clerk Stephanie Thomas performed the Roll Call.

DISCUSSION AND POSSIBLE ACTION:

Town Manager Drymon provided a brief synopsis of the 2004-2005 fiscal budget year. He indicated that there were small capital changes that were made. Town Manager Drymon stated that a Code Enforcement Officer has been added to the budget around mid-year, a part time Community Affairs Assistant will be hired and a security system will be installed at the Lake Park Public Library. He stated that monies have also been set aside for the Town's Martin Luther King Celebration. (see Exhibit A) Finance Director Cindy Sementelli added that the estimated reserves at the fiscal year end will be \$350,000.00. Finance Director Cindy Sementelli informed the Commission that she and Town Manager Drymon are currently working on a five year plan for the Town.

Town Manager Drymon stated that based on the analysis, the current millage rate 8.3500 and a taxable value of \$428,324,602.00; the Town is expected to collect \$3,397,685.00 in ad valorem taxes this year. He concluded by stating that the monies that were not allocated for can be used to fund the Park Avenue project. Town Manager Drymon stated that if the project is prolonged the project a few months, it will save the Town money.

Mayor Castro stated that he does not support lowering the millage rate at this time. He would like to save as much money as possible in that it will be available in the event the Town suffers from a natural disaster, litigations and other emergencies. The Commission agreed to set aside \$125,000.00 in restricted reserves.

Sanitation

Public Works Director stated that he would like to implement a seven year program for the Public Works vehicles. He requested to finance two vehicles and out right purchase a front loader truck (approximately \$153,000.00) in that the ones that are currently in stock are nearly inoperative and are no longer manufactured. In response to a question posed by Commissioner Garretson, Public Works Director Paul Carlisle indicated that it would not affect his departmental budget; the funds will be taken out of the Sanitation Fund Revenues. The Commission expressed their support of the Sanitation Department's Budget.

Commissioners Salaries

Commissioner Garretson requested the opinion of the Commission as it pertains to their salaries. Commissioner Garretson stated that there should be 1 percent increase added each year until the Commission reaches a fair amount of compensation that is comparable to a population of 9,000-10,000.

Mayor Castro indicated that he supports the 10% increase for the Commission.

Commissioner Daly inquired about the employee salary caps. He feels that they are on the lower part. The Commission agreed that a salary survey will be obtained and it will be reviewed within the next fiscal year.

Public Comment opened.

No Speakers.

Public Comment closed.

ADJOURNMENT

There being no further business to come before the Commission and after a motion to adjourn by Vice-Mayor Balius and seconded by Commissioner Daly, and by unanimous vote, the meeting adjourned at 8:00 PM.

Mayor Paul Castro

Interim Town Clerk Stephanie Thomas

Approved on this day of 2004.

Tab 2

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

Meeting Date: December 1, 2004

Agenda Item No.

- | | |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING | <input checked="" 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 checked="" type="checkbox"/> ORDINANCE ON FIRST READING | <input type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM | |
| <input type="checkbox"/> Other: | |

SUBJECT: Ordinance for First Reading providing additional references to allow the Special Magistrate to conduct hearings of all code compliance cases.

RECOMMENDED MOTION/ACTION: Staff is recommending adoption of this Ordinance.

Approved by Town Manager [Signature] Date: 11/24/04

Originating Department:	Costs: \$ Funding Source: Acct. #	Attachments: Memo dated 10/13/04
Department Review: <input checked="" type="checkbox"/> City Attorney <u>[Signature]</u> <input type="checkbox"/> Community Affairs <input checked="" type="checkbox"/> Community Development <u>[Signature]</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 _____
Advertised: 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>yes</u> OR Not applicable in this case _____ Please Initial one.

Summary Explanation/Background: The staff (Memo attached) and the Town Attorney recommended suspension of Code Compliance Board Meetings because the Board is not properly or legally constituted. After discussion and public input at a regular meeting, the Town Commission suspended the Code Compliance Board Meetings, and directed staff to present all code compliance cases to the Special Magistrate until further notice. This Ordinance amends the Town Code to accomplish the Commission's directive.



The Town of Lake Park

Community Development Department

DATE: October 13, 2004
TO: Mayor and Town Commissioners
FROM: Larry Szykowski, Community Development Director
SUBJECT: Code Compliance Board

ISSUE

The purpose of this memo is to request direction in the resolution of the following administrative matter regarding the Town's Code Compliance Board:

HISTORY

Two recent monthly sessions of the Code Compliance Board hearings were canceled due to lack of sufficient quorum. Of the five (5) member Board with no alternates, three (3) members attended each of the two hearings scheduled on July 15, 2004 and September 16, 2004.

The Code Compliance Board membership currently stands at four (4) with no alternates. Recruitment attempts by the Town Clerk over the past year have produced no prospective additions to the Board.

At present, Florida State statute requires a seven (7) member Board based on the Town's population.

RECOMMENDATION

The Town's interests are best served by presenting all Code Compliance cases before the Special Magistrate in order to render the most efficient, economical, and impartial interpretation of codes, evidence and the dispensing of justice.

The Community Development Department requests the Town Commission's decision 1) to amend its ordinance to increase the Board membership, and continue with recruitment or 2) to repeal that portion and continue with the Special Magistrate.

ORDINANCE NO. 26-2004

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK, TO EXPRESSLY PROVIDE FOR SPECIAL MAGISTRATE DETERMINATION OF CODE COMPLIANCE CASES; CHAPTER 2, ARTICLE IV, DIVISION 4, AMENDING SECTION 2-78 ENTITLED "DECLARATION OF LEGISLATIVE INTENT;" AMENDING SECTION 2-79 ENTITLED "APPLICABILITY;" AMENDING SECTION 2-80 ENTITLED "DEFINITIONS;" AMENDING SECTION 2-81 ENTITLED "QUALIFICATIONS, TERMS OF OFFICE OF BOARD;" AMENDING SECTION 2-81.01 ENTITLED "SPECIAL MASTERS;" AMENDING SECTION 2-82 ENTITLED "COMPLIANCE PROCEDURE;" AMENDING SECTION 2-83 ENTITLED "CONDUCT OF HEARING;" AMENDING SECTION 2-84 ENTITLED "POWERS OF THE COMPLIANCE BOARD GENERALLY;" AMENDING SECTION 2-85 ENTITLED "FINES, COST OF REPAIR AND LIENS;" AMENDING SECTION 2-86 ENTITLED "DURATION OF LIEN;" AMENDING SECTION 2-87 ENTITLED "APPEALS;" AMENDING SECTION 2-88 ENTITLED "NOTICES;" 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 such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has adopted general provisions pertaining to the Town's Code Compliance Board and qualifications, requirements, terms of office of Board members of Code Enforcement, procedures, the imposition of fines and notices of violations of the Town's Code of Ordinances, which has been codified at Chapter 2 of the Code of Ordinances; and

WHEREAS, the Town staff have determined that having code enforcement cases heard by a Special Magistrate is more expedient and cost effective, and that the Town and its residents and citizens would be better served by utilizing a Special Magistrate for all code compliance cases; and

WHEREAS, the Town staff has recommended to the Town Commission that Sections 2-78, 2-79 2-80, 2-81, 2-81.01, 2-82, 2-83, 2-84, 2-85, 2-86, 2-87, 2-88 of Chapter 2, Article IV, Division 4 of the Town's Code be amended; and

WHEREAS, the Town Commission has reviewed the recommendations of Town staff, and has determined that amending Sections 2-78, 2-79 2-80, 2-81, 2-81.01, 2-82, 2-83, 2-84, 2-85, 2-86, 2-87, 2-88 of Chapter 2, Article IV, Division 4 of the Town's Code of Ordinances is necessary to further the public's health, safety and welfare.

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 true and correct and as the findings of the Town Commission.

Section 2. Chapter 2, Article IV, Division 4, of the Code of Ordinances of the Town of Lake Park, Florida is hereby amended to read as follows:

Sec. 2-78. Declaration of legislative intent.

1. It is the intent of this division to promote, protect and improve the health, safety and welfare of the citizens of Lake Park by appointing either a compliance board, or creating an administrative board and special masters magistrates, or both with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing the codes and ordinances of the town.

Sec. 2-79. Applicability.

The ~~code~~ compliance board and special magistrate shall have jurisdiction to enforce the codes and ordinances of the town, except as otherwise provided by statute, town charter, the Code of Ordinances or other law. The ~~code~~ compliance board and special magistrates shall have the authority to hold hearings and assess fines against violators of the town code.

Sec. 2-80. Definitions.

As used in this division, the following words and terms shall have the meanings ascribed to them in this section:

Code inspector compliance official means those authorized agents or employees of the town, whose duty it is to ensure code compliance.

Commission means the town commission of the Town of Lake Park, Florida.

Compliance board ~~or board~~ means the ~~code~~ compliance board ~~and special masters~~ appointed by the town commission as provided herein. ~~Both the compliance board and the special master shall have the same duties and functions. References to the code compliance board or compliance board shall apply to any special master as well.~~

Repeat violation means a violation of a provision of the code by a person whom the compliance board and/or special magistrate has previously found to have violated the same provision within five (5) years prior to the violation.

Town attorney means the ~~legal counselor for~~ attorney appointed by the town commission as its chief legal officer.

Sec. 2-81. Qualifications, terms of office of board.

The town commission may appoint a seven-member ~~code~~ compliance board and legal counsel for the compliance board. The commission may appoint up to two (2) alternate members for the ~~code~~ compliance board to serve on the board in the absence of board members. The members shall have the following qualifications and terms of office:

(1) Appointments; residence requirements. Members of the compliance board shall be residents of the town. ~~Appointments shall be made by the commission on the basis of experience or interest in the fields of zoning and building control and shall be in the sole discretion of the town commission.~~ The membership of the compliance board shall, whenever possible, be as follows:

- a. An architect;
- b. A businessman;

- c. An engineer;
- d. A general contractor;
- e. A subcontractor;
- f. A realtor;
- g. A general member.

(2) Terms of office; initial appointments; reappointment; vacancies; suspension or removal. In order that the terms of office of all members will not expire at the same time, the initial appointments to the enforcement compliance board shall be as follows:

- a. Two (2) members shall be appointed for a term of one year; seats to be identified as A and C;
- b. Three (3) members shall be appointed for a term of two (2) years; seats to be identified as B, D and E;
- c. Two (2) members shall be appointed for a term of three (3) years; seats to be identified as F and G;

Thereafter, all appointments shall be made for a term of three (3) years. Any member may be reappointed upon approval of the town commission. An appointment to fill any vacancy on the compliance board shall be for the remainder of the unexpired term of office. If any member fails to attend two (2) out of three (3) successive meetings without cause and without prior approval of the chairman, the ~~compliance board shall~~ town commission declare the member's office vacant and ~~the commission shall promptly~~ fill such vacancy. Members shall serve in accordance with provisions of the town code and may be suspended and/or removed for cause as provided in section 2-57 of the Town Code.

(3) Chairman; quorum; compensation and expenses. The compliance board shall elect a chairman, who shall be a voting member, from among its members. The presence of four (4) or more members shall constitute a quorum of the compliance board. Members shall serve without compensation, but may be reimbursed for such travel expenses, mileage expenses, and per diem expenses as may be authorized by the commission or as otherwise provided by law.

(4) Duties of town's attorney. The town's attorney shall either be counsel to the compliance board or shall represent the town by presenting cases before the compliance board, but in no case shall the town's attorney serve in both capacities.

Sec. 2-81.01. Special masters magistrates.

(a) Designation of special masters magistrates. ~~The special masters~~ Special magistrates shall be selected by the town commission from a list of candidates recommended by the town attorney. A special master may be either a professional planner, architect, engineer, lawyer, or certified contractor. More than one special master magistrate may be used. A special master magistrate shall serve for a one year term, at the pleasure of the town commission. The special master magistrate may be reappointed by the commission at the end of said the term.

(b) Duties, responsibilities and powers. Special masters magistrates shall have all the duties, responsibilities and powers, and shall carry out the same functions and procedures as set forth herein ~~the code compliance board~~.

~~(c) [Special masters ruling; recourse.] Violators' cases heard by a special master and ruled upon by a special master, in the case of a finding of guilt, shall be precluded from arguing the same case to the full code compliance board.~~

Sec. 2-82. Compliance procedure.

(a) Initiation of proceedings. It shall be the duty of the code inspector compliance official to initiate code compliance proceedings ~~of the various chapters and codes;~~ however, no member of the board shall have the power to initiate such compliance proceedings.

(b) Notification of violator: Except as provided in paragraph (d), if a code violation ~~of the chapters and codes~~ is found, the code inspector compliance official shall notify the violator and give the violator a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector compliance official shall notify the director of the community development department, the compliance board and request a hearing before a special magistrate or the compliance board. ~~The compliance board, through its clerical staff, The community development department~~ shall schedule a hearing and written notice of such hearing shall be hand delivered or mailed as provided in section 2-88 to the violator. ~~At the option of the code compliance board, Notice~~ may additionally be served by publication or posting as provided in section 2-88. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the code inspector compliance official, the case may be presented to the special magistrate or compliance board. A violation may be presented to the special magistrate or compliance board even if the violation has been corrected prior to the special magistrate or compliance board hearing, and the notice to the violator shall so state indicate the same.

(b) Repeat violation. If a repeat violation is found, the code inspector compliance official shall notify the violator of the finding of a repeat violation. The code compliance

official but is not required to give the violator a reasonable time to correct the violation. The code inspector compliance official, upon notifying the violator of a repeat violation, shall notify the community development department compliance board and request a hearing. The community development department code compliance board, through its clerical staff, shall schedule a hearing and shall provide notice to the violator pursuant to section 2-88. The case may be presented to the special magistrate or the compliance board even if the repeat violation has been corrected prior to the board hearing, and the notice shall ~~so state~~ indicate the same. If the repeat violation has been corrected, the town may code compliance board retains the right to schedule a hearing to determine costs and the special magistrate or the compliance board may impose the payment of reasonable compliance fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay such the costs as determined by the special magistrate or the code compliance board.

- (c) Notification of life safety or irreversible violation ~~compliance board~~; hearing request. If the code inspector compliance official has reason to believe that a violation or the condition causing the violation, presents a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the code inspector compliance official shall make a reasonable effort to notify the violator and may immediately ~~notify the compliance board and~~ request a hearing pursuant to the procedure in section 2-83.

Sec. 2-83. Conduct of hearing.

- (a) Minutes; clerical and administrative personnel. Upon request of the code inspector compliance official, or at such other times as may be deemed necessary by the town manager, the community development department chairman of the compliance board may call a special magistrate or compliance board hearing of the compliance board; a hearing also may be called by written notice signed by at least three (3) members of the compliance board. Minutes shall be kept of all hearings of the special magistrate and the by the compliance board and all hearings and proceedings shall be open to the public. The ~~commission town~~ shall provide clerical and administrative personnel as may be reasonable required by the special magistrate and the compliance board for the proper performance of its their duties.
- (b) Presentation of cases. Each case before the special magistrate or the compliance board shall be presented by either the town attorney, the code compliance official, or by a member of the town's administrative staff, or by another individual designated by the town manager.
- (c) Collection of costs. If the town ~~commission~~ prevails in prosecuting a case before the special magistrate or the compliance board, it shall be entitled to recover all costs incurred in prosecuting the case ~~before the board~~. Costs which are assessed pursuant

to this section must be paid within ten (10) days of issuance of the order of the special magistrate or the compliance board, unless another date is specified in the order of the special magistrate or compliance board. If the costs are not paid within ten (10) days, or other time specified, such costs ~~may~~ shall be included in the lien authorized under section 2-85, to be filed by the town. If the ~~property owner~~ violator is found in violation under subsection 2-83(e) and costs are assessed, but a fine is not imposed pursuant to section 2-85, a code compliance lien may be recorded against the property, owned by the violator, for the amount of the costs. ~~Such lien shall be superior to all other liens and shall bear interest at the rate of ten (10) percent per annum from the date the order is entered by the board.~~

(d) Agenda; testimony; rules of evidence. The special magistrate or the compliance board shall proceed to hear the cases scheduled on the agenda for that day. All testimony shall be under oath and shall be recorded. The special magistrate or the compliance board shall take testimony from the code inspector compliance official, the and alleged violator, and any other witnesses presented by the town and the violator. Formal rules of evidence shall not apply; however, fundamental due process shall be observed and govern the proceedings.

(e) Findings of fact; issuance of order ~~affording relief.~~ At the conclusion of the hearing, the special magistrate or the compliance board shall issue an order with findings of fact and conclusions of law based upon the record evidence. ~~issue findings of fact, based on evidence of record and conclusions of law and shall issue an order affording the proper relief consistent with powers granted herein. In cases heard by the compliance board, the findings and conclusions shall be by motion approved by a majority of those present and voting, except that at least four (4) members of the compliance board must vote for the action to be official. The order may include a notice that it violation(s) must be complied with be corrected by a specified date and that a fine may be imposed and, under the conditions specified in subsection 2-85(b), the costs of repairs may be included with the fine if the order is not complied with by such date. A certified copy of such the order may be recorded in the public records of the county Palm Beach County and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors-in-interest or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the compliance board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.~~

Sec. 2-84. Powers of the special magistrate and the compliance board generally.

The special magistrate(s) and the compliance board shall have the power to:

- (1) Adopt rules for the conduct of its hearings;
- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the Palm Beach County Sheriff's Office; ~~county, or the town's police department;~~
- (3) Subpoena evidence;
- (4) Take testimony under oath;
- (5) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.

Editor's note: The rules for conduct of special magistrate and the code compliance board hearings, referred to in § 2-84(1), are not printed herein, but are on file in the offices of the town.

Sec. 2-85. Fines, cost of repair and liens.

(a) Fines for violations. The special magistrate or the compliance board, upon notification by the code ~~inspector~~ compliance official that an order of the special magistrate or compliance board has not been complied with by the set time or, upon finding that a repeat violation has been committed, may order the violator to pay a fine ~~in an amount specified in this section~~ for each day the violation continues past the date set by ~~the compliance board~~ for compliance. ~~ef, in the case of a repeat violation, the special magistrate or the compliance board may order the violator to pay a fine for each day the repeat violation continues beginning with the date the repeat violation is found to have occurred by the code inspector compliance official.~~ In addition, if ~~the violation is a violation described in subsection 2-82(c), the special magistrate or the compliance board shall~~ may notify the town commission of the violation, and upon a majority vote of the town commission, the town which may make all reasonable repairs which are required to bring the property into compliance, and charge the violator with the reasonable cost of the repairs along together with the fine imposed pursuant to this section. ~~If a finding of a violation or a repeat violation has been made as provided in this section, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, a code compliance board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in paragraph (b).~~

(b) Maximum fine. A fine imposed pursuant to this section shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation, and in addition, may include all costs of repairs pursuant to subsection (a). However, if the special magistrate or the a-code compliance board finds the violation to be irreparable or irreversible in nature, the special magistrate or compliance board it may impose a fine not to exceed five thousand dollars (\$5,000.00) per violation.

(c) Determining amount of fine. In determining the amount of the fine, ~~if any,~~ the special magistrate or the compliance board shall consider the following factors:

- (1) The gravity of the violations;
- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator.

(d) Fine reduction. The special magistrate or the compliance board may reduce and/or abate a fine imposed pursuant to this section.

(e) Filing of lien; foreclosure. A ~~certified~~ copy of an order imposing a fine may be recorded in the public records of Palm Beach County and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Such lien shall be superior to all other liens and shall bear interest at the rate of ten (10) percent per annum from the date the order is entered by the ~~board~~ special magistrate or the compliance board. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this ~~part~~ section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed ~~pursuant to this division~~, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the town, ~~commission and the~~ Upon payment of the fine and costs or settlement of the lien, the town manager ~~commission~~ may execute a satisfaction or release of lien, ~~entered pursuant to this section~~. After three (3) months from the filing of any such lien which remains unpaid, the ~~town commission~~ compliance board may authorize the town attorney to foreclose on the lien. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under section 4, Article X of the State Constitution.

Sec. 2-86. Duration of lien.

No lien provided by the Local Government Code Enforcement Boards Act shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the foreclosure. The town ~~commission~~ shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Sec. 2-87. Appeals.

An aggrieved party, including the local governing body, may appeal a final administrative order of the special magistrate or the compliance board, in accordance with the Florida Rules of Appellate Procedure, to the circuit court. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the special magistrate or compliance board. ~~An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.~~

Sec. 2-88. Notices.

(a) Methods of providing. All notices required by this division shall be provided to the alleged violator by certified mail, return receipt requested, or by hand delivery by a law enforcement officer, ~~code inspector~~ compliance official or other person designated by the town; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age, and informing such person of the contents of the notice.

(b) Service of notice by publication or posting. In addition to providing notice as set forth in subsection (a), ~~at the option of the code compliance board,~~ notice may also be served by publication or posting as follows:

(1) Publication. Such notice shall be published once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under Chapter 50 of the Florida Statutes for legal and official advertisements. Proof of publication shall be made as in sections 50.041 and 50.051, Florida Statutes.

(2) Posting. In lieu of publication as described in paragraph (b)(1), such notice may be posted for at least ten (10) days in at least two (2) locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at the Lake Park Town Hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(c) [More than one (1) method.] Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail, as required under subsection (a).

(d) Evidence of attempts to serve notice. Evidence that an attempt has been made to hand-deliver or mail notice as provided under subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the alleged violator actually received such notice.

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 made a part of the Town Code of Laws and Ordinances and may be renumbered or relettered 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.

Upon First Reading this _____ day of _____, 2004, the foregoing ORDINANCE was offered by _____ who moved its approval. The motion was seconded by _____, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	_____	_____
VICE MAYOR CHUCK BALIUS	_____	_____
COMMISSIONER PAUL GARRETSON	_____	_____
COMMISSIONER ED DALY	_____	_____
COMMISSIONER JEFF CAREY	_____	_____

Upon Second Reading this _____ day of _____, 2004, the foregoing ORDINANCE was offered by _____ who moved its adoption. The motion was seconded by _____, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	_____	_____
VICE MAYOR CHUCK BALIUS	_____	_____
COMMISSIONER PAUL GARRETSON	_____	_____
COMMISSIONER ED DALY	_____	_____
COMMISSIONER JEFF CAREY	_____	_____

The Mayor thereupon declared Ordinance No. _____ duly passed and adopted this _____ day of _____, 2004.

TOWN OF LAKE PARK, FLORIDA

BY: _____
Mayor Paul Castro

ATTEST:

Stephanie Thomas
Town Clerk

Approved as to form and legal sufficiency:

Thomas J. Baird, Town Attorney

(Town Seal)

Tab 3

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

Meeting Date: November 17, 2004

Agenda Item No.

- | | |
|---|---|
| <input checked="" type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> RESOLUTION |
| <input checked="" 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 type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM | |
| <input type="checkbox"/> Other: | |

SUBJECT: Maintenance Standards for private swimming pools

RECOMMENDED MOTION/ACTION: Staff Recommends that the Commission make a motion to adopt Ordinance No. 25-2004 on Second Reading.

Approved by Town Manager [Signature]

Date: 11/21/04

Originating Department:	Costs: \$ Funding Source: Acct. #	Attachments: Ordinance
Department Review: <input checked="" type="checkbox"/> City Attorney <u>[Signature]</u> <input type="checkbox"/> Community Affairs <input checked="" type="checkbox"/> Community Development <u>[Signature]</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 checked="" type="checkbox"/> Town Clerk <u>[Signature]</u> <input type="checkbox"/> Town Manager _____
Advertised: 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>x</u> _____ or Not applicable in this case _____ Please Initial one.

Summary Explanation/Background: Recommended by Community Development Department and reviewed by Town Attorney

ORDINANCE NO. 25-2004

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK, CHAPTER 27, ARTICLE I, TO CREATE SECTION 27-5 ENTITLED "MAINTENANCE STANDARDS FOR PRIVATE SWIMMING POOLS" REQUIRING THE MAINTENANCE OF SWIMMING POOLS ON PRIVATE PROPERTY WITHIN THE TOWN; 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 such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has adopted general provisions pertaining to swimming pools on private property, which have been codified in Chapter 27 of the Code of Ordinances; and

WHEREAS, the Town's code enforcement division has identified a need for the adoption of maintenance standards for swimming pools on private property; and

WHEREAS, the Town's code enforcement division has observed numerous swimming pools on private properties within the Town, which are poorly maintained, and have been allowed by the property owner and/or occupant to accumulate dirt, algae, and scum thereby resulting in unsanitary conditions; and

WHEREAS, the Town's code enforcement division has recommended to the Town Commission that Section 27-5 of Chapter 27, Article I, of the Town's Code be created to provide swimming pool maintenance standards on private property in order to facilitate sanitary conditions, and further the public health, safety, and general welfare; and

WHEREAS, the Town Commission has reviewed the recommendations of the Town's code enforcement division and staff, and has determined that creating Section 27-5 of Chapter 27, Article I of the Town's Code of Ordinances is necessary to further the public's health, safety and welfare.

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 true and correct and as the findings of the Town Commission.

Section 2. Chapter 27, Article I, Section 27-5 of the Code of Ordinances of the Town of Lake Park, Florida is hereby created to read as follows:

Sec. 27-5. Maintenance standards for private swimming pools.

All swimming pools, located on private property within the town, shall be maintained so as not to constitute a nuisance. For purposes of this section, a nuisance may include, but not be limited to, the existence or accumulation of dirt, algae, scum, or other materials and debris, which would render a swimming pool generally unusable for recreational purposes. It shall be the duty of every person or entity owning, leasing, or having an interest in any real property located in the town, upon which a swimming pool is installed, erected or constructed, to maintain the swimming pool in a clean and sanitary condition. Dirt, algae, scum, and other materials and debris shall be removed as often as necessary to maintain good, clean, and sanitary conditions. Swimming pools shall be thoroughly cleansed at least once each week by the use of disinfectant agents, chemicals and/or proper pool cleansing materials, and the water in the pool shall be clear and completely circulated at least twice each week.

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 made a part of the Town Code of Laws and Ordinances and may be renumbered or relettered 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.

Upon First Reading this _____ day of _____, 2004, the foregoing ORDINANCE was offered by _____ who moved its approval. The motion was seconded by _____, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	_____	_____
VICE MAYOR CHUCK BALIUS	_____	_____
COMMISSIONER PAUL GARRETSON	_____	_____
COMMISSIONER ED DALY	_____	_____
COMMISSIONER JEFF CAREY	_____	_____

Upon Second Reading this _____ day of _____, 2004, the foregoing ORDINANCE was offered by _____ who moved its adoption. The motion was seconded by _____, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	_____	_____
VICE MAYOR CHUCK BALIUS	_____	_____
COMMISSIONER PAUL GARRETSON	_____	_____
COMMISSIONER ED DALY	_____	_____
COMMISSIONER JEFF CAREY	_____	_____

The Mayor thereupon declared Ordinance No. _____ duly passed and adopted this _____ day of _____, 2004.

TOWN OF LAKE PARK, FLORIDA

BY: _____
Mayor Paul Castro

ATTEST:

Stephanie Thomas
Town Clerk

Approved as to form and legal sufficiency:

Thomas J. Baird, Town Attorney

(Town Seal)

Tab 4

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

Meeting Date: October 20, 2004

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 type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other: | |

SUBJECT: Resolution 56-11-04-The Town of Lake Park, Florida requesting the State of Florida to conduct a full investigation of Florida Power and Light practices.

RECOMMENDED MOTION/ACTION: Staff recommends that the Commission make a motion to approve Resolution 56-11-04.

Approved by Town Manager *[Signature]* Date: 11/23/04

Originating Department: Clerks Office	Costs: \$ Funding Source: Acct. #	Attachments: Draft Resolution
Department Review: <input checked="" type="checkbox"/> City Attorney <u><i>[Signature]</i></u> <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>ST</u> <u><i>[Signature]</i></u> <input type="checkbox"/> Town Manager _____
Advertised: 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>X</u> _____ Please initial one.

Summary Explanation/Background:

At its November 17, 2004 Regular Commission Meeting, staff requested direction from the Town Commission to request the State of Florida to conduct an investigation of Florida Power and Light Practices. Staff has prepared Resolution 56-11-04 to present to the Town Commission, and recommends approval.



TOWN OF PALM BEACH

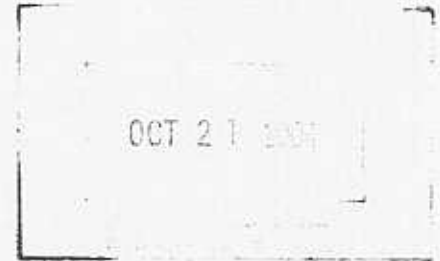
Office of Mayor and Town Council

MAYOR LESLY S. SMITH

COUNCIL

ALLEN S. WYETT, PRESIDENT
SAMUEL C. McLENDON, PRESIDENT PRO-TEM
WILLIAM J. BROOKS
NORMAN P. GOLDBLUM
JACK McDONALD

October 18, 2004



The Honorable Paul Castro
Town of Lake Park
535 Park Avenue
Lake Park, FL 33403

RE: Resolution Requesting the State of Florida to Conduct a Full Investigation of FPL Practices

Dear Mayor Castro: *Paul*

As you may recall, at the coastal communities luncheon held in Palm Beach on October 6, 2004, there was some discussion relative to the reliability of our existing electrical distribution system and its continued vulnerability when operating above ground versus underground service. Additionally, the adequacy of FPL's response in restoring power to our communities was discussed.

The Palm Beach County Commission, at their meeting on October 19, 2004, is giving consideration to a resolution that requests the State of Florida to conduct a full investigation of FPL practices. The Town of Palm Beach Town Council will give consideration to a similar resolution at their meeting on November 9, 2004. In light of our discussions on October 6th, I thought it might be helpful to distribute a copy of the Town's proposed resolution for your community's elected body to also give consideration to.

By continuing to communicate and work together on important issues such as this we greatly improve the likelihood of success in our efforts to improve the quality of life for the residents of the communities that we represent. Should you have any questions in regard to this resolution, please feel free to contact me.

Sincerely,

LSS
Lesly S. Smith
Mayor

LSS:TGB/ab

cc: Town Council
Peter B. Elwell, Town Manager
Thomas G. Bradford, Assistant Town Manager
H. Paul Brazil, Director of Public Works
Robert L. Moore, Director of Planning, Zoning and Building

H:\mcc\smith\letters\2004\coastal mayors FPL resolution

RESOLUTION NO. 56-11-04
A RESOLUTION OF THE TOWN COMMISSION OF THE
TOWN OF LAKE PARK, FLORIDA, REQUESTING THAT
THE STATE OF FLORIDA CONDUCT AN INVESTIGATION
OF FLORIDA POWER AND LIGHT'S PRACTICES.

WHEREAS, 600,000 Florida Power and Light (FPL) customers experienced power outages during Hurricane Frances and 591,000.00 FPL customers experienced power outages during Hurricane Jeanne; and

WHEREAS, the size and magnitude of both storms affected nearly all of FPL's 27,000 square mile utility service area; and

WHEREAS, more than two-thirds of FPL's customers were without power at one time during one or both hurricanes; and

WHEREAS, FPL's resources available to assist it in restoring power were not adequate, in part, due to the impacts of Hurricanes Charley and Ivan; and

WHEREAS, the slow restoration of power to many essential services such as nursing homes and utility lift stations made conditions difficult for many of the County's residents including the residents of the Town of Lake Park, Florida; and

WHEREAS, information on the estimated times for restoration of electrical power to neighborhoods and communities was vague, making it difficult for emergency managers to plan recovery efforts.

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

Section 1: The foregoing recitals are hereby ratified and confirmed.

Section 2: The State of Florida is requested to conduct a full investigation including public hearings into FPL practices. The investigation should include: the billing procedure implemented by FPL to establish an estimated bill for the months of September and October for FPL customers that were without power during and after Hurricanes Frances and Jeanne; the costs and benefits associated with burying electrical distribution and transmission lines; the prioritization of services to essential facilities; and the dissemination of information regarding estimated power restoration in the event of service disruption. Additionally, the State of Florida is requested to investigate FPL's maintenance practices, including but, not limited to, line clearing, the clearing of easements, and the regular maintenance of power lines and light poles.

Section 3. The Town Clerk, is hereby directed to provide a copy of this resolution to Governor Bush, each member of the Palm Beach County Legislative Delegation, the Palm Beach County League of Cities, and the Palm Beach Board of County Commissioners.

Section 4. The State of Florida to investigate the work that was performed on the poles and power lines throughout the disaster areas in the State of Florida.

Section 5. This resolution shall take effect immediately upon adoption.

(THIS SPACE WAS INTENTIONALLY LEFT BLANK)

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:

MAYOR PAUL W. CASTRO

AYE

NAY

VICE-MAYOR G. CHUCK BALIUS

COMMISSIONER PAUL GARRETSON

COMMISSIONER JEFF CAREY

COMMISSIONER ED DALY

The Mayor thereupon declared the foregoing Resolution NO.56-11-04 duly passed and adopted this 1ST day of December, 2004.

TOWN OF LAKE PARK, FLORIDA

BY: _____
PAUL W. CASTRO
MAYOR

ATTEST:

STEPHANIE THOMAS
TOWN CLERK

Approved as to form and legal sufficiency:

BY: _____
THOMAS J. BAIRD
TOWN ATTORNEY

(TOWN SEAL)

Tab 5

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

Meeting Date: December 1, 2004

Agenda Item No.

- | | |
|--|---|
| <input type="checkbox"/> PUBLIC HEARING | <input checked="" 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 type="checkbox"/> GENERAL APPROVAL OF ITEM |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM | <input type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other: | |

SUBJECT: Site Plan for One Park Place

RECOMMENDED MOTION/ACTION: Passage of the Resolution that adopts the Site Plan for One Park Place for submittal to parties in the Court Stipulation.

Approved by Town Manager *[Signature]* Date: 11/23/2004

Originating Department:	Costs: \$ Funding Source: Acct. #	Attachments: Memo dated November 19, 2004
Department Review: <input checked="" type="checkbox"/> City Attorney <i>[Signature]</i> <input type="checkbox"/> Community Affairs <input type="checkbox"/> Community Development <i>[Signature]</i>	<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
Advertised: 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>yes</u> OR Not applicable in this case _____ Please Initial one.

Summary Explanation/Background: This item was continued from November 17, 2004. The Stipulation states that the applicant can request waivers for four physical aspects of the Site Plan. Other than the specific items granted in the Stipulation, Town Code applies under Required Plans and Documents for Submittal and the PADD Regulations. The Resolution was reviewed for items that were submitted and completed by the applicant and legal aspects. The approved Resolution will be sent to the Plaintiff's attorney as well as the Applicant. One Park Place consist of 40 dwelling units and 20,232 square feet of office/commercial and 44,716 square feet of residential.

RESOLUTION 54-12-04

**A RESOLUTION OF THE TOWN COMMISSION
OF THE TOWN OF LAKE PARK, FLORIDA
AMENDING AND SUPERSEDING RESOLUTION
11-03-04 APPROVING A SITE PLAN AND
CONDITIONAL USE FOR A MIXED-USE
DEVELOPMENT KNOWN AS ONE PARK PLACE;
AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Park Avenue, LLC ("Owner"), owns property generally located at the northeast corner of the intersection of Park Avenue and 9th Street ("subject property"); and

WHEREAS, the subject property is bounded by Park Avenue to the south, 9th Street to the west, 8th Street to the east, and an alley right-of-way to the north and also includes the westernmost parcel north of the alley on the same Block more particularly described in Exhibit "A," attached hereto and incorporated by reference; and

WHEREAS, the subject property is zoned Park Avenue Downtown District (PADD); and

WHEREAS, on March 17, 2004, the Town Commission previously approved a Site Plan for the subject property subject to conditions as set forth in Resolution 11-03-04; and

WHEREAS, a neighboring property owner challenged the approval of the Site Plan by filing two (2) lawsuits (the "lawsuits"), styled;

- A. Joanna Kelly Arline v. Town of Lake Park, Florida
and One Park Avenue, LLC
Case No. 502004CA004027XXXXMB AY, and
- B. Joanna Kelly Arline v. Town of Lake Park
Case No. 502004CA004033XXXXMB AE; and

WHEREAS, as part of the settlement of the lawsuits, the Town agreed to process modified site plan and conditional use applications, and to conduct a public hearing regarding same; and

WHEREAS, the Owner has submitted a modified Site Plan for a mixed use project consisting of 40 residential units together with offices, a restaurant, and retail uses (the "Project"); and

WHEREAS, the Owner has proposed, as part of the Project, the conditional uses of a restaurant and residential units (with home occupations); and

WHEREAS, at a quasi-judicial hearing, the Commission considered the evidence presented by staff, the Owner, other interested parties, and members of the public regarding the Project's consistency with the Town's Comprehensive Plan, and whether it meets the Town's Land Development Regulations;

NOW THEREFORE,

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

Section 2. The Town Commission hereby approves the Site Plan application of Park Avenue, LLC, and conditional uses of residential units (including home occupation), and a restaurant for the subject property.

Section 3. The approval of the Site Plan and the conditional use, is subject to the following conditions:

1. Prior to the issuance of the first building permit, the Site Plan shall incorporate thereon all conditions of approval.
2. The Owner, its successors and assigns, shall be responsible for complying with and maintaining all conditions of this approval.
3. Prior to the issuance of the first building permit, the Owner shall submit final plans for the Project, which provide for compliance with all conditions stated herein. The final plans shall be subject to the Department of Community Development's review and approval.
4. Prior to the issuance of the first building permit the Owner shall submit a Unity of Title, which shall be subject to the review and approval of the Town Attorney. Once approved by the Town Attorney, the Owner shall record the unity of title and cause a copy of the recorded instrument to be returned to the Town.
5. The subject property shall be built in one (1) phase.
6. The Owner shall have (1) year to secure a building permit from the Department. If the Owner fails to secure a building permit in that time, all previous approvals shall become null and void.

7. No signs shall be permitted on the northern, eastern and western elevations of the building.
8. Any conditional uses (other than those which are approved herein), shall be subject to a separate review of the Planning and Zoning Board and the approval of the Town Commission.
9. All mechanical equipment on top of or around the exterior of the building shall be screened from view.
10. The building height shall be limited to three stories with no portion of the building to exceed 38 feet (measured from ground level grade to the bottom of the eave of all roofs). The air conditioning equipment, stairwells, and elevators shall not exceed 45 feet (measured from the ground level grade).
11. Only residential condominium units shall be permitted on the third floor (not to exceed 20 condominium units). The Owner may develop residential and/or commercial offices on the second floor. If residential units are incorporated into the second floor, there shall be a maximum of 20 residential units. In any event, the Project shall not exceed 40 residential units. The Owner shall provide for a mixture of commercial offices/retail and a restaurant uses (with limited outdoor seating) on the ground floor.
12. The Owner may exchange up to 5% of the above allocated uses for the Project subject to the review and approval of the Department. Any proposed changes to the mix of uses, which exceeds 5%, shall be subject to review by the Planning and Zoning Board and approval by Town Commission. Any proposed conditional use shall be subject to further review (see condition 8).
13. The Owner is prohibited from assigning any parking places to businesses or residents of the Project along public streets.
14. Prior to the issuance of the first building permit, the Owner shall revise the Site Plan so that the minimum loading space dimensions are met.
15. The Project's gated ingress and egress shall only be closed to the general public during the hours of 12:01 AM to 6:00 AM. Prior to issuance of the first building permit the Owner shall provide additional detail on the Site Plan showing the entry and exit features that permit drivers (such as employees arriving early or

departing late), destined to the site within these hours to access the site.

16. Prior to the first building permit, the Owner shall revise the Site Plan to provide a six (6) foot metal picket fence along the east, west and north elevations of the site.
17. Prior to the issuance of the first building permit, the Owner shall revise the Site Plan to provide details and elevations for the proposed covered parking structures, and shall indicate the color specifications (and color chips) and material listings for the vehicle canopy along the northern property line.
18. Prior to issuance of the first building permit, the Owner shall provide on both the Landscaping and the Signing and Pavement Marking plans sight distance triangles at the access connection(s) to 9th Street and 8th Street, per FDOT Index 546.
19. Prior to the issuance of the first building permit, the Owner shall revise the photometric plan to provide complete light fixture details, pole and mounting details, fixture specifications for all proposed light fixture types, and adjust the lighting layout and photometric plan to achieve one footcandle maintained.
20. Prior to the issuance of the first building permit, the Owner shall provide detailed, colored, dimensioned site signage, and shall indicate the signage locations on the final plans.
21. Prior to the first building permit, the Owner shall revise the proposed dumpster detail to show gates constructed of pressure treated wood, IPEA wood, or recycled plastic lumber painted to match the structure.
22. Prior to the issuance of the first building permit, the Owner shall submit a final landscape plan certified by the landscape architect of record that the plans are in accordance with all applicable Town Codes.
23. Prior to the issuance of the first certificate of occupancy, the Owner shall provide certification by the Project's landscape architect of record that the landscape installation complies with approved landscape plans on- and off-site and as to Lot F.
24. Prior to the issuance of the first building permit, the Owner shall provide irrigation shop drawings indicating the capability of

meeting the required 70 gpm by the irrigation contractor, well driller and approved by the Landscape Architect.

25. Prior to the issuance of the first building permit, the Owner shall revise the site data on the Site Plan, to indicate the required setbacks for the east and west boundaries of the property.
26. Prior to the issuance of the first building permit, the Owner shall:
 - a) Demonstrate that there is adequate water quality and storage to serve the Project, and shall submit such additional calculations as may be required to verify same.
 - b) Resolve any and all conflicts between water and storm, and storm and sewer.
 - c) Submit as-builts, which reflect that the minimum calculated exfiltration is provided less the breaks.
 - d) Provide existing information for outfall structure located on 9th Street, and show the pipe size and length from the detention area to this structure.
 - e) Provide elevations of the mitered end sections shown as 10.0', and shall resolve inconsistencies in the elevations shown for the dry detention area.
 - f) Verify the location of section B-B on the drainage plan sheet (sheet 103).
 - g) Resolve any and all utility conflicts in the alley.
27. Prior to the issuance of the first building permit, the Owner shall provide a traffic equivalency statement indicating that the number of trips generated by the revised Project is equal to or less than the traffic generated by the previously approved project. Further, the Owner shall provide documentation from Palm Beach County Traffic Division approving the equivalency statement, and confirming that the Project complies with the County's Traffic Performance Standards.
28. Prior to the issuance of the first building permit, the driveway offset (connecting to 9th Street) shall be redesigned to utilize a radius to gradually transition into the offset, rather than use a sharp angular change in alignment. A note shall be provided on the Site Plan identifying the radius used to transition into the horizontal alignment change.
29. Prior to the issuance of the first building permit, the Owner shall revise the Site Plan such that the two-way driveway connection, along the east side of the site, complies with the Town Code.

30. Prior to the issuance of the first building permit, the Owner shall submit a queuing study, signed and sealed by a registered professional engineer in the State of Florida, for each driveway connection detailing the anticipated queue length during the AM and PM peak hour of operation, and demonstrating that adequate vehicular storage can be provided without impacting internal traffic operations, or external traffic operations on 8th Street and 9th Street. The study shall be subject to the review and approval of the Town's consulting engineer.
31. Prior to the issuance of the first building permit, the Owner shall revise the Site Plan to detail the proposed pavement markings for a typical handicap parking space per the 2004 FDOT Index 17346.
32. Prior to the issuance of the first building permit, the Owner shall revise its plans to demonstrate that the handicap parking signs meet the standards established in the 2004 FDOT Index 17355, specifically FTP-21-04 (the larger sign) and FTP-22-04. These sign specifications should be explicitly shown in a detail.
33. In the event that a water main or alleyway improvements are required to service the Project, the costs of any such requirement shall be borne by the Owner.

Section 5. The Town Commission hereby approves the following waivers:

1. A reduction of the side-corner setback to zero feet (the code requires five feet).
2. A reduction of the minimum stall width to nine feet (the Code requires a minimum of ten feet).
3. A waiver permitting the develop of 40 residential units, provided, however, 20 units shall be limited residential with home office use provisions, or office use only.
4. A waiver eliminating the required eight foot high alley screening wall at the northern, (back) portion of the property. Instead, the Owner shall buffer the portion of the alleyway abutting its boundary line with landscaping and a six foot metal picket fence. Additionally, the Owner shall provide for a twelve inch compacted sub-base of the alley, sod the alley with flortam sod, and install irrigation.

Section 6: This Resolution is effective upon adoption.

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

AYE

NAY

MAYOR PAUL W. CASTRO

VICE MAYOR G. CHUCK BALIUS

COMMISSIONER JEFF CARY

COMMISSIONER ED DALY

COMMISSIONER PAUL GARRETSON

The Mayor there upon declared the foregoing Resolution No.11-03-04 duly passed and adopted this ___ day of _____, 2004.

TOWN OF LAKE PARK,

By: _____
Mayor Paul Castro

Approved as to form and legal
sufficiency:

ATTEST:

By: _____
Stephanie Thomas,
Town Clerk

By: _____
Thomas J. Baird, Esq.,
Town Attorney

EXHIBIT A
Legal Description of Subject Property

Lots 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, and 46, Block 7, Kelsey City, now know as Lake Park, according to the map of plat thereof as recorded in Plat Book 8, page 34, Public Records of Palm Beach, County, Florida.

Together with:

Lot 23, Block 7, Kelsey City, now known as Lake Park, according to the map of plat thereof as recorded in Plat Book 8, page 34, Public Records of Palm Beach County, Florida, for Detention Area

EXHIBIT B
Site Development Plan

EXHIBIT C
Stipulation Agreement

Tab 6

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

Meeting Date: December 1, 2004 Agenda Item No.

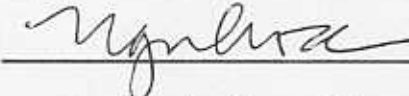
- | | |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> RESOLUTION |
| <input type="checkbox"/> Ordinance on Second Reading | |
| <input type="checkbox"/> Public Hearing | <input checked="" type="checkbox"/> DISCUSSION |
| <input type="checkbox"/> ORDINANCE ON FIRST READING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

SUBJECT:

Employee Holiday Luncheon including Employee Gift Certificates.

RECOMMENDED MOTION/ACTION:

Consensus on the proposed Employee Holiday Luncheon event, as submitted.

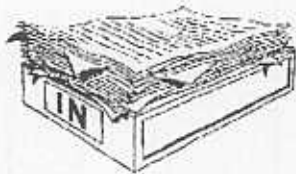
Approved by Town Manager  Date: 11/23/04

*If item was submitted after the applicable deadline of the office of the Town Clerk please sign and date here.

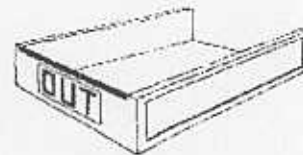
Name/Title _____ Date of Actual Submittal _____

Originating Department: Recreation	Costs: \$ 4,190.00 Funding Source: Various Departments Acct. # Various Accounts	Attachments: A two page Interoffice Memorandum outlining the event.
Department Review: <input type="checkbox"/> City Attorney _____ <input checked="" type="checkbox"/> Recreation <u></u> <input type="checkbox"/> Community Development _____	<input checked="" type="checkbox"/> Finance <u></u> <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 _____
Advertised: 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 Not applicable in this case _____: Please initial one.

Summary Explanation/Background:



INTEROFFICE MEMORANDUM



date: November 17, 2004

to: Paul Carlisle, Interim Town Manager

from: Dale Dougherty, Director of Parks & Recreation

re: Employee Holiday Luncheon

DATE:

After speaking with numerous employees, it seems that Friday, December 17, 2004, would be the most suitable day to host the employee holiday luncheon. We especially chose the 17th, because since Christmas falls on the following Saturday, the following Friday would be Christmas Eve. Presently, we plan to utilize the Mirror Ballroom for the luncheon.

NUMBER OF ATTENDEES:

The approximate number of employees (full and part-time), including the Town Commissioners, would be just over 60 people. For the sake of having enough food, I would recommend that we prepare for no less than 65 attendees.

CATERING

Over the years, we have generally utilized the same caterers. The list would include CR Chicks, Park Avenue BBQ, El Colonial Cuban Cuisine, and, of course, our own Public Works BBQ. It was suggested for this year to employ something different. Although we are still reviewing potential caterers, the approximate cost will be between \$14.00 and \$16.00 per person. As far as miscellaneous supplies is concerned, plates, utensils, table cloths, etc., will cost approximately \$100.00.

ENTERTAINMENT:

Besides playing music on the town's regular sound system, I recommend that we also provide for some outside entertainment. During the past couple of summers, I presented an outstanding magician by the name of Karl Koppertop. Karl's show is not just a "kiddie show", but he also does adult skits. Karl's fee is \$300 for a 45 minute show. Following lunch, I believe it would be an outstanding idea to allow the employees to sit back and enjoy a show of comedy and illusion.

GIFT CERTIFICATES:

Listed in the breakdown for the costs of the event is the purchase of Publix Gift Certificates for the holiday. Per the Town Commission's direction, all employees will receive a \$50 certificate.

THE GENERAL COSTS WOULD BE:

\$1,040.00	Catering for 65 people @ \$16.00
\$ 300.00	Entertainment
\$ 100.00	Supplies
\$2,750.00	Gift Certificates (55 x \$50)
<hr/>	
\$4,190.00	

*** All costs and number of attendees is approximate.*

Tab 7

Town of Lake Park Town Commission
Agenda Request Form

Meeting Date: December 1, 2004

Agenda Item No.

- | | |
|---|--|
| <input type="checkbox"/> PUBLIC HEARING
<input type="checkbox"/> Ordinance on Second Reading
<input type="checkbox"/> Public Hearing

<input type="checkbox"/> ORDINANCE ON FIRST READING

<input type="checkbox"/> GENERAL APPROVAL OF ITEM

<input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION

<input checked="" type="checkbox"/> DISCUSSION

<input type="checkbox"/> BID/RFP AWARD

<input type="checkbox"/> CONSENT AGENDA |
|---|--|

SUBJECT: Auditor General Report

RECOMMENDED MOTION/ACTION: Approve responses for the Auditor General Report.

Approved by Town Manager



Date:

11/19/04

Originating Department: Finance	Costs: \$ N/A Funding Source: Acct. #	Attachments:
Department Review: <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 type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
Advertised: 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: Staff is recommending approval of the written responses to the Auditor General Report.

Finding # 1**Finance Director Response:**

We feel that this has been adequately addressed. In the latest audit for the fiscal year 2003 there were only nine infractions compared to the nineteen from the previous fiscal year. Of the remaining nine infractions, there are only two that have not been addressed.

Finding #2**Finance Director Response:**

We agree that we have partially addressed this finding. We have made progress in the area of writing policies and procedures and we will be continuing to strive to complete this task. Once all policies and procedures are complete they will be brought to the Commission for approval.

Finding #3**Finance Director Response:**

We feel that the Town has adequately addressed this finding. With limited staff, we have segregated duties to the best of our ability. Additional staff would be required to further segregate duties within the department.

Finding #4**Finance Director Response:**

We feel that the Town has adequately addressed this finding. Our 2003 report was filed eleven days past the September 30, 2004 deadline due to the fact that our Auditors were waiting for the Auditor General report and south Florida suffered two hurricanes during the month of September.

Finding #5**Finance Director Response:**

We feel that the Town has adequately addressed this finding. The Town's financial situation during the past few years has improved dramatically.

Finding #6**Finance Director Response:**

We agree with this finding. The three funds that were not budgeted for were:
Special Revenue-this had never been budgeted for and we will amend the 2004-2005 budget to reflect this fund.

Capitol Project Fund: Was not in use

Marina Fund: We had discussed this with our auditors and it was decided that a budget wasn't necessary since expenses would be construction in progress. Fiscal year 2004-2005 has an adopted operating budget.

Finding #7**Finance Director Response:**

Finding resolved. See Auditor Report

Finding #8**Finance Director Response:**

We feel that the Town has adequately addressed this finding. For fiscal year 2003-2004 all accounts were flagged to prevent overspending. If an account needed additional money, a budget transfer was completed before expenses could be paid. All department heads receive monthly reports to monitor their accounts.

Finding #9**Finance Director Response**

We feel that the Town has adequately addressed this finding. All bank reconciliations are completed in a timely manner and signed by both the preparer and the Finance Director. Once reviewed, copies are given to the Commissioners.

Finding #10**Finance Director Response:**

We feel that the Town has adequately addressed this finding. Yearly we review the stale dated checks and submit the money to the state. Unfortunately, the voided checks in question were result of the previous finance director and we weren't able to find proper backup to explain why they had not been submitted to the state.

Finding #11**Finance Director Response:**

We feel that the Town has partially addressed this finding. With limited staff we segregate duties to the best of our ability. The issue with the three signatures is in our code and in order to change this requirement our code would have to be amended.

Finding #12**Finance Director Response:**

We feel that the Town has adequately addressed this finding. We recently entered into a banking agreement with Fidelity Federal concerning electronic transfers which was approved October 6, 2004 by the commission. The SBA signature cards were changed in March 2004.

Finding #13**Finance Director Response:**

We feel that the Town has adequately addressed this finding. We monitor cash closely and any excess gets invested at the SBA.

Finding #14**Finance Director Response:**

We agree that our tangible personal property records need additional work. Currently we are updating all tangible property records with make, model and serial numbers. New policies have been implemented to track transfers and dispositions.

Finding #15**Finance Director Response:**

We agree that additional work needs to be done to get property records up to date and that the transfer of property to the PBSO was handled incorrectly. Unfortunately we are unable to correct the transfer of property to the PBSO. Going forward we are taking a yearly physical inventory and updating our records with all pertinent information such as make, model and serial numbers. New fixed assets are being tagged when purchased.

Finding #16**Finance Director Response:**

Finding Resolved. See Auditors report

Finding #17**Finance Director Response**

We agree with the Auditor General's finding. We were unable to locate any documentation that suggested that other financing resources were considered.

Finding #18**Finance Director Response:**

We agree with the Auditor General finding that this has been partially addressed. We will look into separating the expenditures that go with each fuel tax. This will be very labor intense for both Public Works and Finance.

Finding #19**Finance Director Response:**

We feel that this has been adequately addressed. The Public Works Department has implemented new work orders to show hours worked, manpower needed, description of work and materials needed. This allows us to track expenses for the Local Option Fuel Tax.

Finding #20**Finance Director Response**

Finding Resolved. See Auditors report

Finding #21**Finance Director Response:**

We agree that that this has been partially addressed. We have implemented the use of receipt logs from remote sites but feel that it would be labor intense for someone to log in checks that we received in the mail.

Finding #22**Finance Director Response**

We agree that this has been partially addressed. Policies have been written to ensure collections and will be brought before the Commission for approval.

Finding #23

Finance Director Response

We agree that this has been partially addressed. Future hiring will be conducted as stated in the Towns handbook.

Finding #24

Finance Director Response

We feel that this has been adequately addressed. Executive leave was removed by resolution and removed from the handbook in one place but was referenced in another. The Town does not have executive leave.

Finding #25

Finance Director Response

We feel that this has been addressed adequately. Invoices are reviewed monthly and the insurance carriers are notified of any changes.

Finding #26

Finance Director Response

We agree that this has been partially addressed. Policies have been written and will be going to the commission for approval.

Finding #27

Finance Director Response

Finding Resolved. See Auditors report.

Finding #28

Finance Director Response

We feel that this has been adequately addressed. The expenditure in question was for a volunteer dinner which is done once a year and costs are minimal. The Town feels that this is important to thank our volunteers

Finding #29

Finance Director Response

We agree that we have not addressed this finding. The Master Service Agreement was approved by the commission in 1998 but we were unable to locate the document.

Finding #30

Finance Director Response

We feel that we have partially addressed this finding. The Town did use a competitive selection for engineering services, but we could not produce the document. The Town has switched engineering firms for the Marina project that was selected by a competitive selection process.

Finding #31

Finance Director Response

We agree that this has not been addressed. We will review our review process for invoices and make sure that adequate backup is attached.

Finding #32

Finance Director Response

We agree that has not been addressed. The contract for the PBSO is up at the end of this fiscal year and the new contract will be reviewed closely.

Finding #33

Finance Director Response:

We agree that this has not been addressed. This will need to be looked into.

Finding #34

Finance Director Response

We feel that the Town has addressed this finding. The Engineer of record approved all disbursements and the required retention is held until the project is complete.

Finding #35

Finance Director Response

Finding Resolved. See Auditors Report

Finding #36

Finance Director Response

We feel that this has been adequately addressed. We will amend the approved travel policy to incorporate a deduction for meals provided.

Finding #37

Finance Director Response

We feel that this has been adequately addressed. The travel allowance in question is actually a car allowance. We currently have two employees who receive this allowance. The Town Manager which was negotiated in his contract and the Recreation Director which was approved in 1999 by the Town Manager.

Finding #38

Finance Director Response

Finding Resolved. See Auditors Report

Finding #39

Finance Director Response

We agree that this has not been addressed. Finance is currently writing a policy that will address this issue and should be in effective by January 1, 2005.

Finding #40

Finance Director Response

We feel that this has been adequately addressed. We notified all telecommunication vendors that we are tax exempt unfortunately we were not able to receive a refund.

Finding #41

Finance Director Response

Finding Resolved. See Auditors report.

Finding #42

Finance Director Response

We agree that this has not been addressed. This will be addressed during fiscal year 2004-2005.

Finding #43

Finance Director Response

Finding Resolved. See Auditors Report.

Finding #44

Finance Director Response:

We feel that this has been adequately addressed. During the reception in question, all Commissioners were and are aware of the Sunshine Law and Town business was not discussed between them.



WILLIAM O. MONROE, CPA
AUDITOR GENERAL

AUDITOR GENERAL STATE OF FLORIDA

G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450



850/488-5534/SC 278-5534
Fax: 488-6975/SC 278-6975

October 20, 2004

Honorable Paul Castro, Mayor
Town of Lake Park
535 Park Avenue
Lake Park, Florida 33403

Dear Mayor Castro:

Attached is a draft report that presents the results of our follow-up procedures to determine the Town's progress in addressing the findings and recommendations included in our report No. 03-041 – Operational Audit of the Town of Lake Park, for the period October 1, 2000, through January 31, 2002, and selected actions taken prior and subsequent thereto.

Please review the draft report and provide us your written comments, including any additional information that you believe would affect our determination, by November 19, 2004. If you have any questions or desire further discussion on the status of the findings, please contact Jim Dwyer at (850) 487-9031.

Sincerely,

William O. Monroe

WOM/vb

Attachment

cc: G. Chuck Balus, Vice Mayor
Jeff Carey, Town Commissioner
Edward Daly, Town Commissioner
Paul Garretson, Town Commissioner

DRAFT



AUDITOR GENERAL WILLIAM O. MONROE, CPA



TOWN OF LAKE PARK, FLORIDA

Follow-Up on Operational Audit Report No. 03-041

SUMMARY

This report provides the results of our follow-up procedures for the findings included in report No. 03-041, and the Town's response thereto. Our follow-up procedures disclosed that the Town, as of the completion of our follow-up procedures in September 2004, had adequately addressed 7 of the 44 findings included in that report. The Town had partially addressed 23 findings, and had taken no action regarding the remaining 14 findings.

BACKGROUND

The Auditor General is authorized by State law to perform audits of governmental entities in Florida. As directed by the Legislative Auditing Committee, we conducted an operational audit of the Town of Lake Park, Florida, for the period October 1, 2000, through January 31, 2002, and selected actions taken prior and subsequent thereto. Pursuant to Section 11.45(2)(k), Florida Statutes, the Auditor General, no later than 18 months after the release of report No. 03-041 (issued October 28, 2002), must perform such appropriate follow-up procedures as deemed necessary to determine the Town of Lake Park's progress in addressing the findings and recommendations contained within that report.

STATUS OF REPORT NO. 03-041 FINDINGS

Finding No. 1: Prior Audit Findings

Previously reported

Several findings included in the Town's 1999-2000 fiscal year annual financial audit report had been reported for many years without correction.

We recommended that the Town ensure that audit findings are addressed in a timely manner.

Results of follow-up procedures

The Town has partially addressed this finding. We noted that 8 of the 20 findings included in the Town's 2001-2002 annual financial audit report, dated June 23, 2003, were also included in the Town's 2002-2003 fiscal year audit report, dated May 6, 2004. The average number of consecutive years the findings had been reported was five years and included one finding, relating to lack of a written disaster recovery plan that had been reported for ten consecutive years. Further, as discussed in this report, the Town, in many instances, had not fully addressed findings and recommendations included in report No. 03-041.

Finding No. 2: Written Policies and Procedures

Previously reported

The Town had not established written policies and procedures necessary to assure the efficient and consistent conduct of accounting and other business-

DRAFT

related functions and the proper safeguarding of assets.

We recommended that the Town Commission adopt comprehensive written policies and procedures consistent with applicable laws, ordinances, and other guidelines. In doing so, the Town Commission should ensure that the written policies and procedures address the instances of noncompliance and management control deficiencies discussed in this report.

Results of follow-up procedures

The Town has partially addressed this finding.

Adequate written policies and procedures were not available to document controls over budgets, revenues, fixed assets, or payroll processing. Although adequate written procedures were available to document controls over petty cash, the Town Commission had not, of record, adopted policies and procedures related to petty cash.

Finding No. 3: Separation of Duties

Previously reported

The Town had not provided for an adequate separation of duties, or established adequate compensating controls, in certain areas of its business operations.

We recommended that the Town, to the extent practical, separate duties so that one employee does not have control of all aspects of a transaction (i.e., both recording responsibility and custody of assets). The Town should also ensure that adequate compensating controls are implemented to help mitigate circumstances in which adequate separation of duties is not possible.

Results of follow-up procedures

The Town has partially addressed this finding.

Our review disclosed that inadequate separation of duties continue to exist with respect to cash collections and payroll processing. The Town had implemented some controls to compensate for its limited staff regarding decentralized cash collections;

however, other compensating controls were lacking (see Finding No. 21). For payroll processing, the Town implemented a procedure whereby either the Finance Director or Assistant to the Finance Director reviews payroll registers prior to issuing paychecks. However, since both of these employees also have the ability to add, modify, and delete employee records within the payroll system, unauthorized payroll transactions can still occur without being timely detected.

Finding No. 4: Audit Report

Previously reported

Contrary to law, the Town's 1999-2000 fiscal year audit was not completed, and a copy of the audit report filed with the Auditor General, until August 12, 2002, after the September 30, 2001, deadline.

We recommended that the Town ensure that annual audits are completed, and copies of audit reports filed with the Auditor General, within the statutorily mandated time frame.

Results of follow-up procedures

The Town has partially addressed this finding.

The Town's 2000-2001 fiscal year audit report was not timely filed with the Auditor General (filed 203 days late). Although the Town's 2001-2002 fiscal year audit report was timely filed, the Town's 2002-2003 fiscal year audit report was not filed with the Auditor General until October 11, 2004 (11 days late).

Finding No. 5: Financial Condition

Previously reported

The Town's overall financial condition showed signs of deterioration which, if not corrected, could result in a future financial emergency. In addition to the effects of control deficiencies, as discussed throughout report No. 03-041, factors that contributed to this condition included a lack of targeted fund equity levels, periodic cash analysis and forecast, and financial plans.

DRAFT

We recommended that the Town take appropriate corrective actions as discussed in Finding Nos. 8, 9, 13, 16, 22, and 27, and develop short-term and long-term financial plans that include steps to strengthen the Town's financial condition. The financial plans should include: (1) a review of spending needs; (2) a system for monitoring revenues and expenditures; (3) budget reserves to provide for future capital needs and unexpected costs; and (4) projected revenues sufficient to cover projected costs. Town management should analyze existing rate structures for proprietary operations to determine their sufficiency in covering expenses, and should explore all available options to increase its revenues or decrease expenditures. In addition, Town finance personnel should provide interim financial information to the Commission, including key summary financial information for monitoring the overall financial condition of the Town.

Results of follow-up procedures

The Town has partially addressed this finding. We updated our assessment of the Town's financial condition to include the 2002-2003 fiscal year. Our assessment consisted of evaluating 18 key financial indicators, of which 7 indicated a favorable rating and 6 indicated an unfavorable rating (5 indicators were inconclusive), indicating improvement in the Town's financial condition as a result of the 2002-2003 fiscal year operations.

Although the Town has not implemented all of our recommendations included in report No. 03-041, it reportedly has taken other actions to improve its financial condition. For example, according to the Finance Director, interim financial statements were presented to the Town Commission beginning in April 2004 and were to continue on a monthly basis. The Finance Director also indicated that the Town is currently working on a five-year capital plan.

Finding No. 6: Budget Preparation

Previously reported

Contrary to Section 166.241(3), Florida Statutes, the Town's 2000-2001 and 2001-2002 fiscal year budgets did not include appropriations for some funds, and the 2001-2002 fiscal year budget did not include beginning fund equities available from the prior fiscal year.

We recommended that the Town, pursuant to Section 166.241(3), Florida Statutes, ensure that future annual budgets consider all beginning fund equities and include appropriations for all funds.

Results of follow-up procedures

The Town has not addressed this finding. Our review of the Town's procedures for preparing its 2003-2004 fiscal year budget disclosed the following:

- Contrary to Section 166.241(3), Florida Statutes, the Town's 2003-2004 fiscal year budget excluded one special revenue fund, one capital projects fund, and one enterprise fund.
- Although the Town's audited financial statements for the 2002-2003 fiscal year showed total ending fund equities of \$1,954,830 (excluding contributed capital), for all governmental and proprietary fund types for which a budget was prepared, the Town's 2003-2004 fiscal year budget, contrary to Section 166.241(3), Florida Statutes, did not include any beginning fund equities.

Finding No. 7: Budget Adoption

Previously reported

Contrary to Section 166.241(3), Florida Statutes, the 2000-2001 and 2001-2002 fiscal year budgets and a budget amendment for the 2000-2001 fiscal year were not adopted by ordinance.

We recommended that the Town Commission either adopt the budget and budget amendments by

DRAFT

ordinance as required by Section 166.241(3), Florida Statutes, or amend the Town Charter to establish alternative procedures for the adoption of the budget and budget amendments.

Results of follow-up procedures

The Town has adequately addressed this finding. Our review of the Town's adoption of the 2002-2003 and 2003-2004 fiscal year budgets, and one budget amendment for the 2002-2003 fiscal year, disclosed that the budgets and the amendment were adopted by ordinance in accordance with Section 166.241(3), Florida Statutes.

Finding No. 8: Budget Overexpenditures

Previously reported

Contrary to Section 166.241(3), Florida Statutes, actual 1999-2000 fiscal year expenditures exceeded amounts budgeted for certain expenditure categories in the general fund by \$1,076,836, and expenditures in the debt service fund exceeded budgeted amounts by \$38,107. For the 2000-2001 fiscal year, the Town's financial records disclosed budget overexpenditures totaling \$500,910 in various departments in the general fund, and \$41,155 in three proprietary funds.

Although the Town had available resources for the 1999-2000 and 2000-2001 fiscal years to offset the above-noted overexpenditures, we recommended that the Town, in accordance with Section 166.241(3), Florida Statutes, ensure that future expenditures do not exceed budgetary authority.

Results of follow-up procedures

The Town has not addressed this finding. The Town's 2001-2002 fiscal year annual financial audit report disclosed three departmental budget overexpenditures totaling \$200,131 in the general fund and \$4,246 in the debt service fund. Similarly, the Town's 2002-2003 fiscal year annual financial audit report disclosed five departmental budget overexpenditures totaling \$50,958 in the general fund, overexpenditures in two special revenue funds totaling

\$78,635, and overexpenditures in two capital projects funds totaling \$387,981.

Finding No. 9: Bank Reconciliations

Previously reported

The Town's bank reconciliation procedures were not sufficient to ensure that bank accounts were adequately and promptly reconciled.

We recommended that the Town ensure that proper bank reconciliations are performed timely. Additionally, reconciling items should be promptly resolved and prompt adjustments made to the accounting records to correct check information discrepancies such as those disclosed by our audit. Further, the unexplained/unsupported reconciling items should be investigated by Town personnel.

Results of follow-up procedures

The Town has partially addressed this finding. Our review disclosed that current bank reconciliations were accurate and did not disclose any check information discrepancies. While on site, we observed that the January and February 2004 bank reconciliations were timely prepared, and we determined, for those reconciliations signed by the preparer or reviewer, that such reconciliations were performed and reviewed timely. However, for 42 of 60 bank reconciliations for the months of October 2002 through January 2004, the preparer or reviewer did not sign or date the reconciliations and, consequently, we could not determine whether they were performed or reviewed timely.

Finding No. 10: Stale-Dated Checks

Previously reported

Contrary to Chapter 717, Florida Statutes, checks totaling \$7,764 that had been outstanding for over a year, thus constituting unclaimed property as contemplated by Chapter 717, Florida Statutes, had not been reported or remitted to Florida Department of Banking and Finance (FDBF).

DRAFT

We recommended that the Town take appropriate action to file the required report and deliver any unclaimed property to the FDBF.

Results of follow-up procedures

The Town has partially addressed this finding.

On April 25, 2003, and March 26, 2004, the Town reported and remitted \$877 and \$7,528, respectively, to the Florida Department of Financial Services (FDFS) (formally the Florida Department of Banking and Finance) for checks that were unclaimed in excess of one year after issuance. In our review, we noted additional amounts totaling \$2,822 for voided checks issued between July 1996 and December 2001 that had not been remitted to the FDFS. Although requested, Town personnel could not provide explanations as to why the checks had been voided and, therefore, we could not determine whether these amounts constituted unclaimed property as contemplated by Chapter 717, Florida Statutes. If any of these amounts are determined to be unclaimed property pursuant to Chapter 717, Florida Statutes, the Town may be subject to as much as \$500 in penalties for failing to timely report and remit unclaimed property to the FDFS.-

Finding No. 11: Check Signing

Previously reported

The Town had not established adequate controls over signature stamps and it was not apparent why the Town required three signatures for all check disbursements.

We recommended that the Town Commission consider limiting the number of required signatures, perhaps requiring three signatures only for large or unusual disbursements. The Town should also ensure that at least one signature stamp is in the custody of, and utilized by, an employee outside of the finance department, and that no one employee is allowed access to all signature stamps.

Results of follow-up procedures

The Town has not addressed this finding. The Town still requires three signatures (Mayor, Vice-Mayor, and Finance Director) on all checks, although the Town recently changed from signature stamps to computer-generated signatures. Similar control issues regarding segregation of duties for the signature stamps also relate to the new computerized signatures. The Finance Director and Assistant to the Finance Director have access capabilities, including the ability to print checks, while also being assigned the duties of preparing and approving monthly bank reconciliations.

Finding No. 12: Electronic Transfer of Funds

Previously reported

The Town did not enter into written banking agreements regarding electronic transfers of funds. Such agreements should specify the location and accounts to which transfers can be made, amounts that can be transferred, and the employees authorized to make such transfers and make changes in locations where funds can be transferred.

We recommended that the Town enter into written electronic funds transfer agreements with all financial institutions with which it does business. Such agreements should specify the responsibilities of the Town and the banks, the location and accounts where funds can be transferred, limits on amounts that can be transferred, and persons authorized to make transfers and to make changes in locations and accounts to which funds can be transferred.

Results of follow-up procedures

The Town has not addressed this finding. The Town has not entered into written agreements regarding electronic funds transfer with the local financial institutions with which it does business. Additionally, we noted that the Florida State Board of Administration (SBA) wire transfer information was not timely updated for the change in finance directors. The former Finance Director was placed on

DRAFT

administrative leave on April 22, 2003, and resigned effective May 30, 2003, and the new Finance Director started on September 8, 2003; however, the SBA wire transfer information was not updated for the change until March 18, 2004.

Finding No. 13: Investment Earnings

Previously reported

The Town could have earned additional interest earnings of approximately \$25,000 had more surplus moneys been invested with the Florida State Board of Administration (SBA).

We recommended that to maximize interest earnings on surplus Town funds, the Town, when appropriate, make investments through the SBA or in other authorized investments offering competitive returns consistent with safety and liquidity requirements.

Results of follow-up procedures

The Town has partially addressed this finding. During the period April 2003 through March 2004, the Town held average monthly balances in its checking account ranging from \$190,005 to \$1,060,059, with interest rates ranging from .16 to .91 percent. Although the Town routinely invests surplus funds with the SBA, the Town could have earned additional interest of approximately \$4,500 had it invested more of its surplus moneys with the SBA, which offered interest rates ranging from 1.19 to 1.50 percent during the same period. For the months of October 2002 through March 2003, we were unable to perform an interest rate analysis because the bank did not credit interest to the Town for these months. The bank subsequently credited the Town interest for these months in April 2003, but a monthly breakdown of interest rates used to calculate this lump-sum interest payment was not provided.

Finding No. 14: Tangible Personal Property Records

Previously reported

The Town's tangible personal property records did not provide adequate accountability over tangible personal property as they did not contain all necessary information and all property items. Further, some items could not be located or were not properly tagged.

We recommended that the Town implement procedures to ensure that the tangible personal property records include all information necessary to properly identify property items. The Town should also ensure that all tangible personal property is tagged or marked with an identifying number. Further, the Town should report the missing property items disclosed by our tests to the police department for investigation.

Results of follow-up procedures

The Town has partially addressed this finding. Our current testing of 31 items revealed the following deficiencies:

- Twenty-five items on the property list were lacking complete information, such as: the serial number (or vehicle identification number); original cost or fair value at the time of purchase or donation; purchasing information, such as purchase order number or check number; or manufacturer, make, or model information.
- Two items costing a total of \$6,290 could not be located. They consisted of a \$1,549 personal computer and a \$4,741 turf truck.

For our follow-up on the six missing property items noted in report No. 03-041, one item (CRT terminal) was subsequently located by the Town, and the other five items were reported to the Palm Beach County Sheriff's Office (PBSO) for investigation. Subsequently, the Town located one additional item

DRAFT

(external optical drive) and the PBSO concluded that the remaining items were either traded-in for upgrades or sold at auction without being noted in the Town's property records. The four items that are believed to have been sold or traded-in (two computers, network server, and a copier) were noted as disposed in the Town property records on March 5, 2004, subsequent to our inquiries regarding these items. In addition, one of the missing items subsequently located by the Town (CRT terminal) was still not tagged or otherwise marked as property of the Town as of March 8, 2004.

Finding No. 15: Tangible Personal Property Inventory

Previously reported

The Town did not perform a complete inventory of tangible personal property during the 2000-2001 fiscal year. In addition, the Town did not perform a complete equipment inventory of its police department prior to outsourcing police services to the Palm Beach County Sheriff's Office (PBSO), although title to such property was transferred to the PBSO.-

We recommended that the Town ensure that a complete physical inventory of tangible personal property is taken annually, and whenever a change of custodians occurs, and the results promptly reconciled to the Town's property records.

Results of follow-up procedures

The Town has partially addressed this finding. During June 2002 and March through May 2003, the Town conducted inventories of its tangible personal property; however, discrepancies noted on the inventory count sheets were not reconciled to the property records. For example, notations on the June 2002 count sheets regarding untagged and incorrectly tagged sanitation vehicles (noted in Finding No. 14 above) were still uncorrected during February 2004 when we conducted a physical inspection of 29 pieces of tangible personal property.

The Town removed equipment formerly located at its police department from its property records

subsequent to outsourcing its law enforcement function to the PBSO. The Town indicated that some of these items were sold at auction, while other items were transferred to the PBSO; however, the Town did not separately list the items auctioned versus the items transferred to the PBSO. Additionally, the Town did not attempt to reconcile equipment transferred to the PBSO to the equipment listing in the outsourcing contract (see Finding No. 32).

Finding No. 16: 1997 and 1998 Bond Issues

Previously reported

The Town had not established adequate controls over the administration of proceeds from its 1997 and 1998 bond issues totaling \$9,800,000. Deficiencies related to the administration of these bond issues, and the projects funded there from, included failure to: (1) separately account for sources of financing (i.e., grants and bond proceeds); (2) document the basis for estimated project costs and needed financing; (3) establish specific project completion dates; (4) document that expenditures of bond proceeds were necessary and incidental to the projects; and (5) fully utilize available grant moneys.

We recommended that prior to undertaking significant capital projects in the future, the Town adequately plan such undertakings by documenting estimated project costs and establishing estimated completion dates. Additionally, the Town should clearly document the use of all restricted bond moneys and monitor the usage of the moneys to ensure that they are only expended for allowable purposes. Further, the Town should ensure that construction costs are timely incurred to allow the Town to efficiently use available grant financing.

Results of follow-up procedures

The Town has adequately addressed this finding. We reviewed the Town's administration of a Marina construction project for which expenditures were incurred during the period November 2002 through January 2004. In connection with this project, the

DRAFT

Town obtained a \$4,810,000 loan from the Florida Municipal Loan Council (see Finding No. 17). The Town hired a consultant to estimate the amount of debt financing needed for the project, and the loan documents established a completion date for the project. The Town recorded the loan proceeds along with grant funding restricted for Marina construction in a separate fund restricted for Marina construction. We tested ten expenditures from the loan and grant proceeds, and all expenditures appeared to be necessary and incidental for the Marina construction project. In addition, we did not note any grants that expired without being used.

Finding No. 17: Property Renovation Loan

Previously reported

The Town entered into a property renovation loan agreement with a term length contrary to that approved by the Town Commission. In addition, contrary to good business practice, the Town did not use a competitive selection process to obtain financing for the renovations.

We recommended that the Town ensure that future financings are done in accordance with applicable Resolutions. In addition, the Town should use a competitive selection process when obtaining financing.

Results of follow-up procedures

The Town has partially addressed this finding. The Town sold the properties renovated under the \$700,000 loan agreement and used the proceeds to pay off the balance of the loan. Subsequently, pursuant to Resolution No. 07-03-03, the Town signed a \$4,810,000 loan agreement with the Florida Municipal Loan Council (FMLC) on May 12, 2003, for the purpose of completing construction on the Town Marina. The amount and terms of the loan were consistent with the authorizing resolution; however, contrary to good business practice, the Town did not use a competitive selection process to obtain the financing. Although Town staff indicated that the

Town elected to pursue a negotiated loan with the FMLC because of the low issuance costs associated with the FMLC loan and concern over whether other financing would be available due to the untimely completion of the Town's audits (see Finding No. 4) and references to the Town's deteriorating financial condition in the most recently available audit report (see Finding No. 5), there was no documentation available to indicate whether other financing sources were considered.

Finding No. 18: Accountability for Restricted Revenues

Previously reported

Contrary to Section 218.33(2), Florida Statutes, the Town did not separately account for motor fuel tax revenues in the manner required by the Florida Department of Banking and Finance's *Uniform Accounting System Manual*.

We recommended that the Town establish accountability for each restricted revenue source through the use of a separate special revenue fund in accordance with the *FDBF Manual*. To the extent practical, the Town should review balances on hand and recent transactions to ensure that all restricted moneys have been used for authorized purposes.

Results of follow-up procedures

The Town has partially addressed this finding. From October 2002 to January 2004, the Town received various types of fuel tax revenues pursuant to Sections 206.41 and 336.025, Florida Statutes, which were legally restricted to expenditures for specified purposes. The Town separately accounted for these fuel tax revenues and associated expenditures within one special revenue fund and separated the different types of fuel tax revenues using unique revenue codes; however, the expenditures were not identified within the fund in such a way as to associate expenditures with the specific fuel tax that funded them.

DRAFT

Finding No. 19: Local Option Fuel Tax

Previously reported

The Town's comprehensive plan did not provide for the specific uses of the additional \$0.05 Local Option Fuel Tax. Further, the Town's use of these moneys included expenditures that did not appear to be consistent with the restrictions imposed by Section 336.025(1)(b)3., Florida Statutes.

We recommended that the Town amend its comprehensive plan to provide for specific uses of the additional \$0.05 Local Option Fuel Tax. Also, to the extent that the additional \$0.05 Local Option Fuel Tax proceeds received between October 2000 and January 2002 were not used for allowable transportation expenditures, such revenues should be restored from available unrestricted resources to the special revenue fund and used for authorized purposes.

Results of follow-up procedures

The Town has not addressed this finding. The Town did not restore fuel tax moneys improperly expended during the period October 2000 through January 2002. In addition, the Town may have improperly expended additional fuel taxes. According to Town records, the Town, during the period October 2002 through January 2004, incurred a total \$470,674 in expenditures using fuel taxes received pursuant to Sections 206.41, 336.025(1)(a), and 336.025(1)(b), Florida Statutes. The majority of these expenditures were salaries and benefits of five public works department employees whose job descriptions indicate that they perform nontransportation-related functions. Although requested, we were not provided work logs or equivalent documentation showing the actual percentage of time that these five employees spent on transportation-related functions. As such, the Town has not documented, of record, that the use of the fuel taxes for salary and benefits of the five public works department employees was an authorized use of fuel taxes.

Finding No. 20: Grant Reimbursements

Previously reported

The Town did not always timely request reimbursement for expenditures incurred under grant agreements.

We recommended that to efficiently manage cash flow, the Town continue its recent efforts to monitor grant activity, and ensure that it requests grant moneys promptly after the Town becomes eligible to receive those moneys.

Results of follow-up procedures

The Town has adequately addressed this finding. Our review of five grants indicates that the Town is timely requesting reimbursement for expenditures incurred under grant agreements.

Finding No. 21: Responsibility for Collections

Previously reported

Collections received through the mail were not documented at the initial point of collection. In addition, collections were transferred between employees without the use of a transfer document.

We recommended that the Town establish procedures that require all collections to be recorded at the initial point of collection and provide for evidence of transfers of collections among employees.

Results of follow-up procedures

The Town has partially addressed this finding. The Town has implemented the use of receipts logs and transfer documentation for collections occurring at decentralized collection points, such as the library and recreation department. However, receipts received through the mail at the Town Hall (i.e., centralized collections) are still delivered unopened to the staff accountant, who posts collections to the accounting records, prepares bank deposits, reconciles collections of record to validated deposit slips, and updates customer accounts for payments received.

DRAFT

Finding No. 22: Sanitation Fee Collections

Previously reported

The Town lacked adequate procedures to monitor and collect unpaid sanitation fees.

We recommended that the Town implement procedures for collecting unpaid sanitation fees. Such procedures should include monitoring uncollected amounts, providing written notification of delinquency to customers, and use of collection agencies, liens on property, or other legal action.

Results of follow-up procedures

The Town has partially addressed this finding.

We reviewed all accounts over \$500 included in the \$63,479 balance of uncollected sanitation fees outstanding for more than 60 days (as of May 28, 2002) discussed in report No. 03-041, Finding No. 22. As of June 30, 2004, nine accounts totaling \$20,854 were fully collected, two accounts totaling \$3,021 were settled for lesser amounts, two accounts totaling \$5,291 entered into payment plans with the Town, one account totaling \$552 was turned over to the Town Attorney for action, a lien was filed for one account totaling \$2,883, and six accounts totaling \$15,512 were written-off.

The Town has developed written procedures for the collection of delinquent sanitation fees; however, as of September 2004, the Town Commission had not officially adopted these procedures.

Finding No. 23: Hiring Practices

Previously reported

The Town had not established adequate controls to ensure that only qualified applicants were hired. One employee was hired under a conditional employment arrangement although the Town lacked procedures for granting conditional employment and following up on conditional employment requirements.

We recommended that the Town require applicants for positions with specific education requirements to

request that the educational institution send official transcripts to the Town evidencing that minimum educational requirements were met. Consistent with the Town Commission's intentions, the Town should develop procedures for granting conditional employment specifying the conditions in which conditional employment can be granted, the individuals authorized to grant the conditional employment, and the individuals responsible for verifying that conditional employment requirements are subsequently met. Further, the Town should require that job applications be completed for all job applicants and that the applications be retained on file for all employees.

Results of follow-up procedures

The Town has partially addressed this finding.

The Town has made improvements regarding hiring practices. Of ten new hires tested, complete applications were on file for all ten employees. However, for two employees hired into positions requiring college degrees, the Town did not, of record, verify these employees' minimum educational requirements directly with the educational institution. These employees' personnel files included only photocopies of unofficial transcripts. Subsequent to our inquiry, the Town obtained official transcripts directly from the educational institutions, and both employees were found to meet the minimum educational requirements established by the applicable position descriptions.

The employee conditionally hired, as discussed in report No. 03-041, Finding No. 23, is currently enrolled in courses required to meet the bachelor's degree required for his position. However, the Town's hiring policies still do not appear to permit conditional employment.

DRAFT

Finding No. 24: Compensatory Leave

Previously reported

The Town had not established adequate records of compensatory and executive leave earned, used, and available for employees.

We recommended that the Town keep detailed centralized records of all compensatory and executive leave earned, used, and available for all employees.

Results of follow-up procedures

The Town has partially addressed this finding.

The Town now centrally tracks compensatory leave earned, used, and available within its computerized payroll system for "nonexempt" employees as defined by the Fair Labor Standards Act. Town staff have indicated that the Town no longer provides executive leave for "exempt" employees as defined by the Fair Labor Standards Act; however, the Town's Employee Policy/Handbook still references executive leave in that it provides that "exempt employees may take Executive Time off with the concurrence of their supervisor to accommodate their extra hours worked."

Finding No. 25: Insurance Overpayments

Previously reported

The Town did not timely notify employee benefit providers of employee terminations, resulting in insurance overpayments of \$163,951 during the audit period, including \$40,694 that was unrecoverable.

We recommended that the Town promptly notify all employee benefit providers of employee terminations. In addition, all invoices from benefit providers should be promptly reconciled to listings of active employees and differences timely resolved.

Results of follow-up procedures

The Town has partially addressed this finding.

While insurance overpayments have declined significantly, we did note instances in which the Town did not timely notify providers of employee benefits

terminations resulting in overpayments for two terminated employees totaling \$2,194 during the period September 2003 through January 2004. Of this amount, the Town subsequently recovered \$1,842, but was unable to recover the remaining \$352.

Finding No. 26: Credit Cards

Previously reported

The Town Commission had not adopted an ordinance or resolution, or otherwise provided guidance, as to the assignment and proper use of Town credit cards. Nor did the Town require users of the credit cards to sign written agreements specifying acceptable uses of credit cards.

We recommended that the Town Commission enact written policies and procedures governing the control and use of credit cards. Such policies should specify appropriate credit card uses, require that credit cards be used only for public purpose, and require all employees receiving credit cards to sign a written agreement evidencing their understanding of, and agreement with, the Town's credit card policies and procedures.

Results of follow-up procedures

The Town has partially addressed this finding.

The Finance Director has drafted adequate policies and procedures for use of Town credit cards; however, the Town Commission had not, as of September 2004, approved these policies and procedures. Currently, seven Town employees are assigned credit cards with a total aggregate credit limit of \$21,000, and on March 10, 2004, these seven Town employees signed statements indicating that they understand and agree with the policies and procedures.

Finding No. 27: Disbursement Processing

Previously reported

Deficiencies in the Town's disbursement processing procedures included a lack of properly signed purchase

DRAFT

requisitions or purchase orders and signatures indicating the receipt of goods or services.

We recommended that Town personnel ensure that all voucher packages include purchase requisitions and purchase orders with all required signatures, and evidence that goods and services were received by authorized employees.

Results of follow-up procedures

The Town has adequately addressed this finding.

Our examination of 30 expenditure items for the period November 2002 through January 2004 disclosed that all 30 expenditures tested were supported by signed purchase requisitions and purchase orders, and, as applicable, supporting documentation contained signatures indicating that the goods and services were received by authorized Town employees.

Finding No. 28: Inadequately Documented/ Unauthorized Expenditures

Previously reported

Our audit disclosed expenditures totaling \$939 for which the Town's records did not clearly demonstrate that a public purpose was served.

We recommended that the Town, in the future, clearly document in its public records that expenditures serve a public purpose, are reasonable, and necessarily benefit the Town.

Results of follow-up procedures

The Town has partially addressed this finding.

Our test of general expenditures indicated that all expenditures were supported by detailed invoices or other supporting documentation; however, expenditures of \$1,833 to pay for a dinner for approximately 100 volunteers did not clearly demonstrate that a public purpose was served.

Finding No. 29: Written Agreements

Previously reported

Contrary to good business practice, the Town did not maintain copies of written agreements for several contractors.

We recommended that the Town ensure that future payments for contractual services are made pursuant to a written agreement documenting the nature of services to be performed and the compensation for such services.

Results of follow-up procedures

The Town has not addressed this finding. Our review disclosed the following instances in which the Town acquired contractual services subsequent to November 2002 without benefit of a written agreement:

- During calendar year 2003, the Town paid \$140,937 to a consulting firm based upon three "Work Authorizations" pursuant to a 1998 Master Services Agreement (also see discussion in Finding 30 under the subheadings Engineering and Consulting Services). However, the Town has been unable to locate a copy of the 1998 Master Services Agreement.
- The Town procured legal services and made payments of \$34,188 from November 2002 through December 2003 without benefit of a written agreement specifying the exact nature of the legal services to be provided or the basis for payment.

Finding No. 30: Competitive Selection Process

Previously reported

Contrary to good business practices or State law, the Town did not, of record, use a competitive selection process to find a replacement bank and to hire an architect in connection with Town Hall renovations.

DRAFT

We recommended that the Town comply with the competitive selection provisions of Section 2-105(g) of the Municipal Code and Section 287.055, Florida Statutes, when acquiring professional architectural services for the Town.

Results of follow-up procedures

The Town has not addressed this finding. In response to report No. 03-041, Finding No. 30, the Town indicated that management was preparing a request for proposal for banking services; however, as of June 30, 2004, the Town has yet to do so. In addition, our review of the Town's acquisition and payment for selected contractual services for the period November 2002 through January 2004 disclosed several instances in which the Town did not procure such services in accordance with State law or good business practices as follows:

- Auditing Services. The Town contracted with an independent certified public accounting firm to conduct the Town's annual financial audit for the fiscal years September 30, 2003, 2004, and 2005. The Town did not solicit proposals and, contrary to Section 218.391(2), Florida Statutes, the Town did not, of record, establish an auditor selection committee and auditor selection procedures regarding the Town's required annual audit.
- Engineering Services. The Town paid a total of \$66,453 to an engineering/consulting firm for engineering services in connection with the Town Marina construction project, which had a total contracted cost of \$2,235,460. The Town did not select the firm for this project using the competitive selection and negotiation process required by Section 287.055, Florida Statutes. Instead, payments to the firm were made pursuant to "Work Authorizations," signed in November 2002 and May 2003, that referenced a 1998 Master Services Agreement characterized by the Town as a continuing contract. Section 287.055(2)(g), Florida

Statutes, stipulates that continuing contracts for professional services are only applicable for projects in which construction costs do not exceed \$1,000,000 and engineering costs do not exceed \$50,000. As such, the Town should have solicited new proposals for engineering services on its Marina project.

- Consulting Services. The Town paid a total of \$60,337 to an engineering/consulting firm (the same firm that provided engineering services as discussed above) for consulting services in connection with the Town Marina construction project. The Town did not select the firm in the manner required by Section 2-105(f) of the Municipal Code, which states that the Town shall use a sealed bid or sealed proposal process for all consulting services exceeding \$25,000. Instead, payments to the firm were made pursuant to "Work Authorization" No. 11, signed in December 2002 that referenced the 1998 Master Services Agreement. Section 2-105(f) of the Municipal Code does not provide for the use of a continuing contract in lieu of a competitive selection process. As such, the Town should have selected a firm to provide the consulting services using the competitive selection process prescribed by Section 2-105(f) of the Municipal Code.

Finding No. 31: Inadequate Support for Contractual Expenditures

Previously reported

Payments totaling \$83,077 for contractual services were not adequately supported by detailed invoices.-

We recommended that the Town, prior to making future payments for contractual services, require contractors to provide documentation sufficient for the Town to determine exactly what services were provided and whether the services were billed in accordance with agreed upon terms.

DRAFT

Results of follow-up procedures

The Town has not addressed this finding. Our test of contractual services for the period October 29, 2002, through February 19, 2004, disclosed deficiencies relating to payments for contractual services as follows:

- Invoices for auditing and consulting services did not include hourly breakdowns of services performed.
- Invoices for engineering services did not include receipts or other documentation supporting reimbursable expenses.
- The Town paid a contractor \$59,900 associated with excavating and surfacing the ballfields at a cost per cubic yard set forth in a bid awarded to the vendor by the Village of Wellington. Pursuant to the Wellington bid, the Town should have paid \$2.50 per cubic yard of excavation; however, the Town paid \$3.50 per cubic yard for 7,900 cubic yards of excavation, resulting in an overpayment of \$7,900.

Finding No. 32: Contract for Police Services

Previously reported

We noted several deficiencies regarding a contract between the Town and the Palm Beach County Sheriff's Office (PBSO) governing the transfer of law enforcement functions from the Town to the PBSO, including the lack of a documented comprehensive cost/benefit analysis demonstrating that outsourcing the law enforcement functions was economically beneficial to the Town.

We recommended that the Town perform a comprehensive cost/benefit analysis regarding the contract for police services to ensure that the Town entered into an economically advantageous agreement and, if appropriate, seek to amend the terms of the agreement.

Results of follow-up procedures

The Town has not addressed this finding. The Town did not perform a comprehensive cost/benefit analysis regarding its contract with PBSO. In addition, the Town had not sought to amend the contract to address other deficiencies relating to confusing contract language.

Finding No. 33: Contract for Fire and Emergency Services

Previously reported

The Town's contract with Palm Beach County, whereby the County agreed to provide fire and emergency services to the Town's citizenry may be contrary to Article VIII, Section 4 of the State Constitution, which requires a voter referendum to transfer ultimate responsibility for such services to the County.

We recommended that the Town review this arrangement with its legal counsel to determine if referenda are required or whether its contractual arrangement should be revised to clearly indicate that the Town retains ultimate supervisory control over fire and emergency services.

Results of follow-up procedures

The Town has not addressed this finding. The Town has not sought further legal clarification regarding whether a transfer of powers occurred.

Finding No. 34: Contract for Construction Services

Previously reported

The retainage withholding percentage on a construction contract was reduced without written approval from Town personnel or the Town Commission. In addition, invoices supporting payments totaling \$16,076 to a contractor in connection with the Town Hall renovations were not, of record, subjected to architect approval or to retainage withholding.

DRAFT

We recommended that the Town, in the future, document all changes to written agreements in writing signed by all parties to the contract. In addition, the Town Commission should approve, of record, any changes to contracts that were originally Commission-approved. Also, invoices from construction contractors should be processed in the proper manner to ensure adequate review by architects and withholding of required retainage.

Results of follow-up procedures

The Town has not addressed this finding. The Town continued to retain amounts on the construction contract based on change order totals rather than the revised total contract amounts. For example, as of April 24, 2003, the total contract amount, including the first three change orders, was \$1,772,029, and all work through the first three change orders had been completed. Based on the contract, the retainage held by the Town should have been \$177,203 (10 percent of \$1,772,029); however, contrary to the contract, the Town held retainage of only \$61,502 (or 10 percent of the amount of Change Order No. 3). No written approval, of record, from the Town Commission, was available to document the Commission's approval to release the retainage in stages prior to the completion of Phase I of the Marina construction project.

Finding No. 35: Investment Advisory Services

Previously reported

The Town utilized an investment advisor for the Town's Police Officers' and Firefighters' Pension Plans. We were unable to determine how much was paid to the investment advisor during the audit period and, as such, whether fees were paid in accordance with the terms of the agreement.

We recommended that the Town ensure that the investment advisor is paid the appropriate amount of fees for services rendered.

Results of follow-up procedures

The Town has adequately addressed this finding. The investment agreement for the Police Pension Fund was terminated in January 2003 upon dissolution of the Police Pension Plan. A new Pension Board was subsequently formed to administer remaining assets that will be used to pay seven retirees that were receiving benefits prior to the outsourcing of police services (see Finding No. 32), and a new trustee was contracted with in June 2004. The Firefighters' Pension Plan is currently in litigation against the Town. Pending the outcome of the litigation, all debt and equity securities of the Firefighters' Pension Plan were exchanged for cash, and no investment advisor fees have been incurred subsequent to December 2002.

Finding No. 36: Travel Policies

Previously reported

The Town Commission established an Employee Handbook that included allowances for subsistence expenses that differed from those provided for in Section 112.061(6)(b), Florida Statutes. However, because the Handbook was adopted by resolution rather than by ordinance or charter amendment, Town employees and officials traveling on official business were only entitled to the subsistence allowances prescribed in Section 112.061(6)(b), Florida Statutes. In addition, the Handbook was not specific regarding application of certain provisions relating to subsistence reimbursements.

We recommended that the Town Commission enact an ordinance to the extent that it desires to adopt travel policies that differ from Section 112.061, Florida Statutes. The Commission should also revise the Handbook as necessary to clarify the issues discussed above.

Results of follow-up procedures

The Town has partially addressed this finding. Pursuant to Chapter 2003-125, Laws of Florida, a

DRAFT

municipality that provides any per diem and travel expense policy pursuant to Section 166.021(10)(b), Florida Statutes, shall be deemed to be exempt from all provisions of Section 112.061, Florida Statutes. Any municipality that does not provide a per diem and travel expense policy remains subject to all provisions of Section 112.061, Florida Statutes. Although the Law was approved by the Governor on June 10, 2003, the section of the Law applicable to Section 166.021, Florida Statutes, applies retroactively to January 1, 2003.

The Town has established travel policies and procedures in Section 7 of its Employee Handbook (Handbook), which has been adopted and periodically amended by resolution of the Town Commission. Our review of the Town's travel policies disclosed the following:

- The Town's travel expense policies include no provisions addressing documentation requirements to substantiate travel allowances and two Town employees receive monthly travel allowances (See Finding No. 37).
- The Town's policies provide for \$35 per diem for travel involving an overnight stay except that when meals are included in a registration fee or paid by another party, the allowable cost of that meal will be deducted from the per diem allowance. However, the Town's policies do not provide per meal dollar allowances that would be used in calculating amounts to be deducted in such case.

Finding No. 37: Travel Allowance

Previously reported

Contrary to Section 112.061(7)(f), Florida Statutes, two Town employees were granted monthly travel allowances without signed statements showing places and distances for a typical month's travel. One of these employees was also assigned a Town vehicle on a full-time basis for no apparent reason.

We recommended that the Town, for monthly travel allowances, obtain a signed statement from the traveler showing the places and distances for a typical month's travel on official business as required by Section 112.061(7)(f), Florida Statutes.

Results of follow-up procedures

The Town has not addressed this finding. Currently, the Town Manager and Parks and Recreation Director receive monthly travel allowances of \$300 and \$200, respectively. As noted in Finding No. 36, the Town's travel policies contain no provisions regarding travel allowances. Consequently, it is unclear as to who is authorized to grant travel allowances or how such amounts are to be determined. No documentation of record was available showing how the monthly travel allowance amounts were determined.

Finding No. 38: Travel Reimbursements

Previously reported

The Town had not established adequate controls to ensure that travel expenditures are adequately supported and in accordance with Section 112.061, Florida Statutes.

We recommended that the Town, in the future, require all Town employees to provide adequate supporting documentation, including conference/convention agendas and airline tickets, for any travel expense claims. In addition, the Town's finance department personnel should review all travel-related expenditures for compliance with Section 112.061, Florida Statutes, and applicable Town policies prior to making payment.

Results of follow-up procedures

The Town has adequately addressed this finding. Our test of travel expenditures paid from July 2003 through February 2004 indicated that all travel expenditures were properly signed, authorized, and approved, were properly supported by conference agendas and receipts, were reviewed by finance

DRAFT

department staff prior to payment, and were generally in accord with Town policy.

Finding No. 39: Taxable Meal Allowance

Previously reported

Contrary to Federal regulations, payments for nondeductible travel expenditures (Class C meal allowances) were not subjected to withholding for payment of Federal income tax and other employment taxes.

We recommended that the Town begin reporting Class C meal allowances to the Internal Revenue Service. In addition, the Town should determine the extent to which Class C meal allowances paid to employees were not reported as wages or other compensation and contact the Internal Revenue Service to determine what corrective action should be taken regarding the unreported amounts.

Results of follow-up procedures

The Town has not addressed this finding. Our current review disclosed that the Town is still not reporting Class C meal allowances to the Internal Revenue Service. In addition, the Town has not contacted the Internal Revenue Service to determine corrective action regarding unreported amounts from prior years.

Finding No. 40: Telecommunication Taxes

Previously reported

The Town paid \$6,243 in Federal, State, and local telecommunication taxes from which it is exempt.

We recommended that the Town notify all of its telecommunication vendors of the Town's exempt status to ensure that no future taxes of this nature are billed to the Town, and attempt to obtain a refund for exempt taxes previously paid.

Results of follow-up procedures

The Town has partially addressed this finding. Our review of telephone bills indicated that the Town

paid State and local taxes to which it is exempt totaling \$321; however, subsequent to July 2003, the Town was not billed for any further telecommunications taxes. According to the Finance Director, the Town contacted the telecommunication providers regarding the prior tax payments of \$6,243 noted in report No. 03-041, but the telecommunications providers would not refund this amount. The Town did not, of record, take further action to recover this amount or the \$321 of exempt taxes paid as disclosed by our current review.

Finding No. 41: Telecommunication Charges

Previously reported

Contrary to good business practice, the Town incurred \$1,706 of telecommunication charges that appeared to be avoidable, including late fees and associated interest, directory assistance calls, call-return fees, fees associated with making long distance calls without having a designated long distance carrier, and fees for calling "900" numbers.

We recommended that the Town implement a procedure whereby an individual, other than the Town official or employee placing the call, reviews telephone billings to ensure that all calls made serve a public purpose. The Town should also promptly pay all telecommunications bills to avoid late charges and interest charges on unpaid balances, ensure that directory assistance calls are limited, prohibit the use of call-return features and 900 numbers, and ensure that all lines either have designated long distance carriers or have long distance call block.

Results of follow-up procedures

The Town has adequately addressed this finding. Our review of telecommunication provider bills indicated that the Town has not incurred any avoidable charges subsequent to August 2003.

DRAFT

Finding No. 42: Vehicle Utilization Records

Previously reported

The Town assigned vehicles to employees on a 24-hour basis without demonstrating that the vehicles were used primarily for a public purpose and used only incidentally for the personal benefit of the employee assigned the vehicle. Vehicle usage logs were not maintained and the personal use of the vehicles was not included in the employees' gross compensation reported to the Internal Revenue Service.

We recommended that the Town maintain vehicle usage logs documenting personal use mileage, and begin reporting the value of such usage to the Internal Revenue Service. In addition, the Town should contact the Internal Revenue Service to determine what corrective action should be taken regarding the unreported value of personal use of vehicles assigned on a 24-hour basis.

Results of follow-up procedures

The Town has not addressed this finding. Two Town employees currently have a vehicle assigned on a 24-hour basis, the Public Works Director and the Assistant Town Manager. Vehicle logs were not maintained and no personnel usage amounts were included in the employees' gross compensation reported to the Internal Revenue Service.

Finding No. 43: Conflict of Interest

Previously reported

Contrary to the Town's Code of Ordinances, the Town's Senior Engineer authorized payments to his wife as an independent contractor during the 1999-2000 and 2000-2001 fiscal years. In addition, during the 1997-1998 fiscal year, the Town purchased engineering services from a firm owned by the Town's Senior Engineer while he was a Town employee.

We recommended that the Town implement procedures to ensure compliance with the conflict of interest provisions of the Code of Ordinances. To

facilitate such compliance, the Town should clearly communicate to all employees the requirements of Section 2-110.1 of the Town's Code of Ordinances.

Results of follow-up procedures

The Town has adequately addressed this finding. Our review did not disclose any payments involving conflicts of interest.

Finding No. 44: Sunshine Law

Previously reported

Four Commission members attended a reception, the purpose of which was to obtain information as to the qualifications of candidates for the Town Manager position. As such, the possibility existed that two or more Commissioners may have had discussions regarding this matter at the reception, which would appear to be a violation of the Sunshine Law (Section 286.011(1), Florida Statutes). In addition, several Commission meeting minutes were either not timely approved by the Commission or not approved at all of record.

We recommended that to avoid potential violations of the Sunshine Law, future events such as the reception be avoided, or structured in such a manner to ensure compliance with the Sunshine Law. All meeting minutes should be promptly transcribed and presented to the Commission for approval.

Results of follow-up procedures

The Town has partially addressed this finding. Meetings were advertised, and minutes kept, for committee meetings held during the period October 2002 through December 2003. However, the Town held another reception at the Evergreen House on May 9, 2003, which was attended by four Commission members and three candidates for the position of Town Manager. The reception followed a Town Manager Selection Workshop meeting in which the Town Commission publicly interviewed the candidates.

END OF DRAFT REPORT