



# AGENDA

Lake Park Town Commission  
Town of Lake Park, Florida  
Regular Commission Meeting  
Wednesday, February 17, 2010,  
Immediately Following the  
CRA Board Meeting,  
Lake Park Town Hall  
535 Park Avenue

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

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

- A. **CALL TO ORDER**
- B. **INVOCATION**
- C. **PLEDGE OF ALLEGIANCE**
- D. **ROLL CALL**
- E. **ADDITIONS/DELETIONS - APPROVAL OF AGENDA**
- F. **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.

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

**For Approval:**

1. Regular Commission Meeting Minutes of January 20, 2010 Tab 1
2. Special Call Commission Meeting Minutes of January 28, 2010 Tab 2
3. Resolution No. 11-02-10 Resolution to Reimburse the Town for Costs Incurred in the Event of a General Obligation Bond Issue Tab 3
4. Resolution No. 12-02-10 Extension of Waste Management Contract for 90 Days Tab 4
5. Authorization for the Mayor to Send a Letter to the Bioscience Board Tab 5

H. **ORDINANCE(S) ON FIRST READING**

6. ORDINANCE NO. 03-2010 Moratorium on Pain Management Clinics Tab 6  
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, DECLARING ZONING IN PROGRESS AND A MORATORIUM AS TO THE FILING AND/OR RECEIVING OF ANY PETITION FOR THE ESTABLISHMENT OF PAIN MANAGEMENT CLINICS AS DEFINED HEREIN; PROVIDING THAT ZONING IN PROGRESS AND THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD WHICH SHALL TERMINATE ON THE EFFECTIVE DATE OF THE TOWN'S ADOPTION OF LAND DEVELOPMENT REGULATIONS TO REGULATE PAIN MANAGEMENT CLINICS; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT AND PURPOSE; PROVIDING FOR A DEFINITION OF PAIN MANAGEMENT CLINIC; PROVIDING FOR THE BOUNDARIES SUBJECT TO THE MORATORIUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

I. **PUBLIC HEARING(S)**

**ORDINANCE ON SECOND READING:**

7. ORDINANCE NO. 02-2010 Amending Chapter 34 and 78 Landscape and Vegetation Standards Tab 7  
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 34 ENTITLED "VEGETATION", ARTICLE I; SECTION 34-1 ENTITLED "INTENT"; SECTION 34-2 ENTITLED "DEFINITIONS"; SECTION 34-3 ENTITLED "PUBLIC TREE CARE"; SECTION 34-4 ENTITLED "REMOVAL OF TREES ON TOWN PROPERTY – REPLACEMENT BY ANOTHER TREE OR BUSH"; SECTION 35-5 ENTITLED "PLANTING ON CERTAIN DRAINAGE EASEMENTS"; SECTION 34-6 ENTITLED "TREE TOPPING"; SECTION 34-7 ENTITLED "PRUNING, CORNER CLEARANCE"; SECTION 34-8 ENTITLED "DEAD OR DISEASED TREE

REMOVAL ON PRIVATE PROPERTY”; SECTION 34-9 ENTITLED “TREE REMOVAL STANDARDS”; SECTION 34-10 ENTITLED “ARBORISTS LICENSE AND BOND”; SECTION 34-11 ENTITLED “REGULATIONS FOR TREE PLANTINGS AND IMPROVEMENTS IN SWALES AND OTHER TOWN OWNED OR CONTROLLED PROPERTY OR RIGHTS OF WAY”; AMENDING CHAPTER 78, ARTICLE VIII, SECTION 78-252 ENTITLED “LANDSCAPING GENERALLY”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**J. PUBLIC HEARING(S):**

**RESOLUTION:**

8. RESOLUTION NO. 10-02-10 -Adoption of the CRA Plan Tab 8  
A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, ADOPTING PROPOSED AMENDMENTS TO THE COMMUNITY REDEVELOPMENT AGENCY PLAN PURSUANT TO SECTION 163.360, FLORIDA STATUTES; PROVIDING FOR AN EFFECTIVE DATE.

**K. DISCUSSION AND POSSIBLE ACTION:**

9. Authorization to Install a Tree and Bronze Plaque at Kelsey Park in Memory of Alexandra Mary Spilos Tab 9

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

**M. ADJOURNMENT:**

# Consent Agenda

# TAB 1

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

Meeting Date: **February 17, 2010**

Agenda Item No. **1**

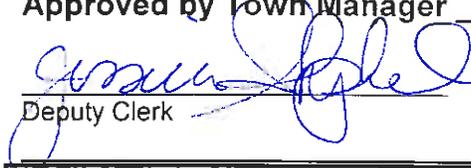
- |   |   |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> Ordinance on Second Reading<br><input type="checkbox"/> Public Hearing<br><br><input type="checkbox"/> ORDINANCE ON FIRST READING<br><br><input type="checkbox"/> GENERAL APPROVAL OF ITEM<br><br><input type="checkbox"/>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

**SUBJECT:** Regular Commission Meeting Minutes of January 20, 2010.

**RECOMMENDED MOTION/ACTION:** Approve the Regular Commission Meeting Minutes of January 20, 2010.

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

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

  
Deputy Clerk

2/9/10  
Date of Actual Submittal

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

**Summary Explanation/Background:**



**Minutes  
Town of Lake Park, Florida  
Regular Commission Meeting  
January 20, 2010 8:23 p.m.**

**Town Commission Chambers, 535 Park Avenue**

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, January 20, 2010 at 8:23 p.m. Present were Mayor DuBois, Vice-Mayor Carey, Commissioners Rumsey, and Osterman, Attorney Thomas Baird, Town Manager Maria Davis and Town Clerk Vivian Lemley. Commissioner Daly was absent.

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

**ADDITIONS/DELETIONS/APPROVAL OF AGENDA**

None

**Motion: A motion was made by Commissioner Rumsey to approve the Agenda; Commissioner Osterman made the second.**

Vote on Motion:

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

Motion passed 4-0.

**PUBLIC and OTHER COMMENT**

*Captain Douglas Reece, Palm Beach County Sheriff's Office* – thanked the Commission for allowing him to come up and speak. He announced that the PBSO would be sponsoring their fourth season of Police Athletic League Basketball. Children participating in the program cannot turn 15 before June 1, 2010. Tryouts would be held on January 30, 2010 at the Lake Park basketball courts located at 7<sup>th</sup> St. and Bayberry Drive. Anyone interested could call the

Sheriff's department for sign up information. He stated that they were also looking for business sponsorships for the program.

*Richard Ahrens, 1461 Kinetic Rd.* – gave an update on the One Park Place building. He stated that CRA Development Director Jennifer Spicer was doing a great job and was a great asset to the Town. He stated that he was looking forward to the Town's Art Festival in March.

*Steve Hockman, 638 Flagler Dr.* – expressed his concerns regarding the Town's Employee Handbook. He asked why the project was given to a good friend of Town Manager Davis. He asked if it was a conflict of interest and against Town policy. He asked why the Town's Attorney could not create the handbook with the help of the Town's HR Department. He asked "Is the Town Attorney not qualified to do it? That is what he is paid for." He stated that he has asked the Town questions regarding the Employee Handbook and he claimed that the Commission does not answer or respond.

### **Public Comment Closed.**

Commissioner Rumsey stated "Mr. Hockman, I'm not afraid to speak up... I'll go ahead and answer your question, Mr. Hockman. First of all, I wasn't in office when the handbook was done so I don't know about the handbook, however, let me answer your question as to why I don't respond to you when you ask questions. The night that you stood here at this podium and accused the people sitting at this dias of being criminals, that's the night I quit responding to anything you ask. The people who are sitting at this dias, we are working our tails off for the best of this city and sir you get three minutes. Every Commission meeting you can come up here and say whatever you want to and we have to sit here and listen to it, but when you sit there and you call me a criminal, you have no right to do that, and at that point, that is when I stopped responding to anything you have to say, sir, thank you very much.

Mr. Hockman stated "I didn't call anybody a criminal."

Commissioner Rumsey stated "Mr. Hockman go back and pull the records, you stood at the podium and called every one of us a criminal. Mr. Hockman you may want to go back and review it. Pull a public records request on it. You know how to do that."

Commissioner Osterman stated "Mr. Hockman, I plan on addressing many of your questions and I planned on doing that tonight, however the dias is not full tonight and I will do it at the next meeting, saying that I will also let you know that I am very suspect of the "facts" that you present. I don't know how you can look at the information that you were given and conclude that the quotes were in any way similar. Our human resources director, could you please come to the podium. This misinformation campaign that you're working is going to stop because every time you spill a bunch of falsehoods, they are going to be corrected from here on out."

Commissioner Osterman asked Human Resources Director Bambi McKibbon-Turner "When we went to bid, when you were asked to solicit bids for the employee handbook, I would like you to give us a little background on why it was necessary to make changes to the employee handbook, I'd like you to give the quotes for the attorneys, the hourly fees, and I would also like to know

why it was that the scope of work had to be significantly expanded. That is what I would like to know.”

HR Director Bambi McKibbon-Turner stated “Okay, certainly, the reason that the employee handbook that was in existence when Ms. Davis came aboard as the Town Manager was that it was originally adopted in 1996, it happened to be a cut and paste job of a handbook from another municipality, the provisions in it were not coherent and did not represent a comprehensive compilation of the policies and procedures affecting employees of the Town of Lake Park. It had been updated since 1996 on a subsequent basis. It included policies that were contradictory and were really difficult from my experience as a HR Director to follow. There were policies that had laws that had been updated and changed and not included in the handbook and overall this really put the Town in a vulnerable position legally and it was because of that and ...the Town Manager and I agreed that the handbook needed to be updated. She took a look at it and she saw that it needed to be updated. It was one of my primary priorities on my departmental action plan that I presented to her when she came on board was to update the employee handbook and for this reason, we set about indentifying someone to update the handbook. At that time the purchasing procedure required that we go out for three phone quotes because of the anticipated scope of the project. At that time I did talk with Mr. Baird. He provided me with the names of a couple of attorneys who possibly had expertise in this area. I had the name of an attorney as well at the same law firm as that Attorney Baird recommended. The law firms were Glen Torcivia and Associates and their quote came in at an hourly rate of \$190. Attorney James Lynd of Luis, Logman and Walker of Tallahassee, we obtained a quote from them, their hourly rate was \$245 per hour for Mr. Lynd taking the lead role in that assignment, \$195 per hour for Attorney Glen Thomas for doing the bulk of the work and \$110 per hour for the assistance of a paralegal. We solicited a quote from Attorney Patricia Bass she responded that her hourly rate was \$175 per hour which she agreed to discount to \$100 per hour. We also requested a quote from Mr. Bob Norton of Norton, Alan, and Blue in Miami but we did not receive a response, but we did receive the three quotes and it was determined that Ms. Bass’ hourly rate was the most reasonable and cost effective for the Town.”

Commissioner Osterman stated “Before you move forward on the scope of work, I just wanted to state again clearly, and this is where Mr. Hockman I have a problem with your math. I don’t know how you can see the difference between \$100 per hour and \$195 to \$245 per hour as being the same. It is more than double. Thank you if you would continue please.”

HR Director Bambi McKibbon-Turner continued and stated “We entered into the contract with Attorney Bass. She commenced working on the handbook and completed the first rewrite in August 2007. At that point, we sat down and we had work sessions between myself, the Town Manager, and Finance Director Anne Costello and we realized that there were policies and procedures that were not previously contemplated in the first scope of work. There were provisions that were not even included in the first handbook that needed to be included so as a result of that it was determined that the scope of work needed to be increased to include language such as a new employee complaint review process which replaced what was previously referred to as the grievance process in the old handbook. We needed to write in that language to also take into account the fact that the merit board had been repealed. We needed to factor in language to cover managerial exempt employees. We needed to check to make sure that there were any

other provisions required by statute that weren't originally included in the original handbook. We also separated out what was formerly referred to in the old handbook as just one bank of annual leave. We separated out vacation leave, sick leave and personal leave. We redid the Town's evaluation system. We redid the Town's merit pay system and compensation plan, which prior to that...the classification plan was a separate document which was not included in the original handbook so we combined all of that together. It was then determined that some additional work needed to be done in negotiating the union contract that was due to expire September 30, 2008. It was also determined that once we had the new handbook in place, the employees needed to be trained on the provision of the handbook, so the increased scope of work included that and also included comprehensive full day training sessions for general employees on the new handbook provisions. It was also determined that the scope of work needed to be increased to include legal review at a very large volume of new employee forms which needed to be revised to make it consistent with the new handbook provisions. Such forms and processes included new disciplinary forms because we rewrote the disciplinary section of the handbook and completely new evaluation forms. Prior to the new handbook going into effect we had a total of four evaluation forms. That was because of the comprehensive work that was done on a rewrite of the evaluation system. We ended up with two. One for managerial exempt employees and another one for general employees which made much more sense, it was much more easier to follow. New payroll procedures, new payroll timesheet forms were developed. Numerous new policies that were then required by law...our new domestic victims violence provisions had to be included and new processes had to be developed so as a result of all of that is the outcome of all of this work is that we have a brand new comprehensive employee handbook that makes sense and we have a whole range of forms that tie directly in to the handbook and the new provisions that have been incorporated into the handbook have now been reflected in a union contract so everything ties together where previously it did not."

Commissioner Osterman stated "And we were on legally shaky ground?"

HR Director Bambi McKibbon-Turner stated "Absolutely, absolutely."

Commissioner Osterman stated "There were huge problems before with a cut and paste job from another municipality. Do you even know when our prior handbook had been done prior to the cut and paste?"

HR Director Bambi-McKibbon- Turner stated "No, I do not. The last update I had prior to our work on the handbook was 1996."

Commissioner Osterman stated "1996?"

HR Director Bambi McKibbon-Turner stated "Right"

Commissioner Osterman "1996 to 2010?"

HR Director Bambi McKibbon-Turner stated "Right"

Commissioner Osterman stated "I will add to that an additional anecdotal story, and that its,

when it came time to look at the issues, there were issues going on with some employees that required consideration of policies and procedures and the Town Manager actually sought my counsel in regards to Attorney Bass. She called me up and said "I have a former co-worker who worked with me at the School Board and did employee law and I know that because she is retired she would be willing to do this at a reduced rate, however, she is a friend of mine and I certainly don't want to have any kind of situation where it would in any way look improper."

Commissioner Osterman stated "Mr. Hockman, I am answering you and you are rolling your eyes, I thought you wanted an answer."

Mayor DuBois stated "What's the answer that you want to hear? Is what the unfortunate problem is if it is not the answer that you want you don't want to hear it. Sorry."

Commissioner Osterman stated "I said to her ...stay out of it... give it to the HR Director and let her manage the entire process. It's up to her to manager her department and whatever decision she makes without you being involved in it is not on you then and has nothing to do with your relationship, and I will add to that my own opinion that if we have a manager who has years of experience and we do not take advantage of the experience and the connections that she has in the business world. We would be foolish. Why would we not take advantage of the experience that she's had? Is that not what we are paying her for? You have consistently tried to imply that there are inappropriate things going on and you're looking in the wrong direction."

**CONSENT AGENDA:**

1. Regular Commission Meeting Minutes of December 16, 2009
2. Resolution No. 03-01-10 Establishing a General Election
3. Resolution No. 04-10-10 Assigning Poll Workers for the General Election
4. Notification of Confirmation of Expenditures for Street Lighting Demonstration Project, Bayberry Drive
5. Resolution No. 05-10-10 Supporting My Choice Community Development, Inc.
6. Resolution No. 06-10-10 Contract Renewal for Tennis Pro

Mayor DuBois pulled item number 4 from the Consent Agenda for discussion.

Commissioner Rumsey asked the item number 5 be pulled from the Consent Agenda for discussion.

**Motion: A motion was made by Vice-Mayor Carey to approve items 1, 2, 3, and 6 of the Consent Agenda; Commissioner Osterman made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		

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

Motion passed 4-0.

Mayor DuBois explained that she pulled item number 4 from the Consent Agenda because she had a comment card from Mr. Hockman regarding the expenditures for the Street Lighting Demonstration Project.

**Public Comment Open.**

*Steven Hockman, 638 Flagler Blvd.* – stated that the Town needed to look back over the proposed expenditure for the street lighting demonstration project. He stated that at the November 2009 Commission Meeting, Nazie stated that a mockup block could be done for \$5000 but the current proposal was for \$13,000. He stated that the Town was still awaiting a quote from Casper Electric for the installation of the electricity which would cost an additional \$4000. He stated that conservatively the Town would spend approximately \$15,000 per block. He stated that he was not against street lighting. He stated that he has driven the streets and seen many lights out that FPL would need to come out and replace the bulbs. He stated that if the Town was going to install street lighting they needed to do it correctly meaning that the \$2 million budget based on everything he’s seen the budgets have come in too low. He stated that the light poles alone would cost more than \$5000. He asked the Commission to refer back to the street lighting presentation at the November 2009 Commission Meeting. He stated that his concern was the expenditures were already three times what was originally stated and his concern that it would increase even more.

**Public Comment Closed.**

Commissioner Rumsey asked Town Manager Davis if the item was scheduled to be a referendum item on the ballot for the March 2010 election.

Town Manager Davis stated that that was correct.

Commissioner Rumsey asked if the referendum item would allow residents to vote on whether or not to implement the new street lighting program or keep the current one.

Town Manager Davis stated that that was also correct.

Commissioner Rumsey asked how much money was placed in the current year’s budget for a street lighting program.

Town Manager Davis explained that \$15,000 was placed in the budget for a street lighting program for the first year and there was also contingency placed in the street lighting and roads budget.

Commissioner Osterman stated she did not recall Mr. Hockmans \$5000 comment at the November 2009 meeting nor would she go back to review the meeting. She stated that she questioned Mr. Hockman's numbers regularly because her recollection of his budget was to save \$300,000 by removing employee benefits and retirement funds which would be illegal. In addition he liked to throw out numbers regarding the parking meters that are made up and saying that the quotes the Town used were three times the amount of the quotes he obtained but they were actually comparing apples to oranges.

Town Manager Davis explained that the \$5,000 estimate was for the design of the block. An estimate was never given for the installation. She stated that the Commission would receive another notification of confirmation of expenditures. She stated that they received the estimate from Casper Electric. She explained that at the February 3, 2010 Commission Meeting there would be another agenda item that would waive the competitive bid process in the interest of time. The estimate for the underground electrical installation would cost \$27,000. She stated that what the Commission had before them was the estimate for the poles and the arms. The fixtures were given to the Town by the LED manufacturer on loan to see what they would look like on that block. She stated that she would be happy to provide the facts to anyone who wishes.

Commissioner Rumsey asked if the new lighting program would include underground wiring and when was the projected date of the completion of the lighting demonstration block.

Town Manager Davis stated that the new lighting program would include underground wiring and demonstration block would be ready by the end of February.

Commissioner Osterman asked what the projected monthly cost would be on the tax bill for the new lighting program.

Commissioner Rumsey stated that the bill for the new lighting demonstration would cost approximately \$50 annually.

Town Manager Davis stated that the cost for the new lighting program would be billed over a 20 year period and there would be educational information to notify and inform the public on the new lighting system and the referendum question that would be on the ballot for the March election.

Commissioner Rumsey stated that he had a question on item number 5 of the Consent Agenda which was regarding the "My Choice" Community Development Program.

Town Manager Davis introduced Ms. Kendrick which was an applicant for the program.

Ms. Kendrick explained that the program moved from Lake Park to Riviera Beach in October but that they would like to move back to Lake Park. She stated that she was a licensed child care provider and needed a 5000 square foot facility for 90 students and had a window of a few weeks to have it done. She was unable to find such a place in Lake Park. The move was temporary until she could find a place in Lake Park.

Commissioner Rumsey stated that the program was a wonderful program and he commended Ms. Kendrick for her work on the program.

Ms. Kendrick explained that her husband Mr. Kendrick was applying to build a green building in Lake Park.

**Motion: A motion was made by Commissioner Rumsey to approve items 4 and 5 of the Consent Agenda; Commissioner Osterman made the second.**

Vote on Motion:

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

Motion passed 4-0.

**PUBLIC HEARING:**

**ORDINANCES ON 2nd READING**

**ORDINANCE NO. 1-2010 – Department of Justice Consent Decree with Town Limited Voting Method**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CHARTER TO COMPLY WITH A CONSENT DECREE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA; AMENDING OF ARTICLE IV, SECTION 1, ENTITLED “ELECTED OFFICERS”; AMENDING ARTICLE XVI, SECTION 17, ENTITLED “RUN-OFF”; AMENDING ARTICLE XVI, SECTION 22, ENTITLED “FORM OF BALLOT”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Motion: A motion was made by Commissioner Rumsey to approve the Ordinance No. 01-2010 upon 2nd reading; Commissioner Osterman made the second.**

Vote on Motion:

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

Motion passed 4-0.

Attorney Thomas Baird read Ordinance No. 01-2010 by caption-only.

### **DISCUSSION AND POSSIBLE ACTION**

#### **Street Closings**

Commissioner Osterman gave a brief history of prior street closings in Lake Park. She expressed her concerns and the concerns of other residents over safety issues in the community. She stated that traffic issues have arisen over the past few years. She stated that there was an opportunity to make positive changes in the traffic flow through Town. She asked for the Commission's support in moving the issue towards referendum.

Mayor DuBois stated that she would like Community Development Director Patrick Sullivan and Captain Douglas Reece to bring information to the Commission regarding the possibility of street closings.

Vice-Mayor Carey stated that he believed that the issue was discussed in the past.

Commissioner Osterman stated that they had the numbers for traffic counts in their packets. She asked Community Development Director Patrick Sullivan if he was ready to speak on the matter.

Community Development Director Patrick Sullivan stated that he could answer questions but did

not have any presentation prepared.

Commissioner Osterman stated that traffic flow of trucks in the downtown area needed to be addressed.

Vice-Mayor Carey stated that fire and police traffic needed to be considered.

Town Manager Davis stated that fire and police did not have any issues and they informed the Town that they would work with anything that the Town would do with regards to street closings.

Commissioner Rumsey recommended a workshop for the street closings issue.

Town Manager Davis stated that there were street closings in prior cities that she has worked in and there were positive results. She stated that Community Development Director Patrick Sullivan would work toward developing some options and the referendum question would be done by special election.

Town Clerk Vivian Lemley explained that the Town would have to have a special election in November since there was not a municipal election scheduled and the Town would have to cover the cost of the special election.

Discussion ensued among the Commissioners regarding the street closing issues and the cost of a special election for a referendum question.

### **Donations for Haiti**

HR Director Bambi McKibbon–Turner explained the earthquake that took place in Haiti. She stated that there were donation boxes placed in various locations throughout Town. She named the listed items that could be donated. She stated that the Town was in need of volunteers to prepare donated items for shipment and that there were volunteer applications available in her office and she or her receptionist Janet Miller could be contacted at 881-3300 for questions. She stated that the request for volunteers and the list of items for donation was on the Town's website, newsletter, Channel 18 and E-blast.

Commissioner Rumsey asked if the announcement could be made in Creole.

HR Director Bambi McKibbon–Turner stated that she would be happy to check into it.

### **COMMENTS BY COMMISSION, TOWN MANAGER, TOWN ATTORNEY**

#### **Commissioner Daly**

Absent

**Commissioner Rumsey** congratulated Recreation Director Greg Dowling and Mr. John Lineweaver for a successful baseball clinic. He asked for the status of the installation of security cameras on Park Avenue.

**Town Manager Davis** stated that specifications needed to be completed and sent to the Department of Justice for review and then the project can go out for bid and be installed.

**Commissioner Rumsey** announced the "Contemporary Art Perspective, A Gathering to Explore Color and Images III" presented by the Friends of the Lake Park Public Library taking place on January 20, 2010 through February 26, 2010.

**Vice-Mayor Carey** stated that he did not understand why he receives copies of applications of employment for the Town. He stated that it was a waste of time and money.

**Town Manager Davis** stated that she would honor the Commission's request on what information they want and do not want to receive.

Discussion ensued among the Commissioners regarding the best way to receive information and save money in doing so.

**Commissioner Osterman** congratulated Recreation Director Greg Dowling and Mr. John Lineweaver for a successful baseball clinic.

#### **Mayor DuBois**

None

**Town Attorney Thomas Baird** stated that he wanted to remark on comments made earlier. He stated that he has been a municipal attorney for 20 years and has experience in creating employee handbooks. He stated that he has created handbooks for the City of Palm Beach Gardens and the Town of Jupiter. He stated that he recommended to Town Manager Davis hiring someone who specialized in that area because it would be more cost effective and they could devote their full attention to the employee handbook. He stated that if he had done the handbook, it would have taken longer and been more expensive.

**Town Manager Davis** announced that H1N1 Flu Shots would be open to the public on Tuesday, January 26, 2010 from 10 a.m. to 2 p.m. in the Mirror Ballroom. The Marina Sunset Party would be taking place on Friday, January 29, 2010 from 5 p.m. to 7 p.m. The Town had submitted an item to regulate sober houses to the Palm Beach Delegation that had been placed on the docket for hearing on January 27, 2010 at the West Palm Beach City Hall from 2 p.m. to 5 p.m. She stated that she, the Town Attorney and Town's lobbyist would be attending and she invited any Commissioners who would like to attend. She announced that March 2<sup>nd</sup> and 3<sup>rd</sup> was Palm Beach County Day where the Town can go to Tallahassee and bring their sober house item. She recommended seeing the exhibit of the Artist of the Palm Beaches at the Town's Library. The U.S. Census was continuing to offer pre-employment exams at the Town Library. The next exam would take place on Tuesday, January 26, 2010 at 2 p.m. Future dates are posted on Library's website, Channel 18, and posted at the Library. She announced a pre-school story time

event at the Library on January 21, 2010 at 3:30 p.m. in the Skylar Room featuring the book “The pig who went home on Sunday” an Appalachian folk tale by Donald Davis and performed by the Town’s Library staff.

## ADJOURNMENT

There being no further business to come before the Commission and after a motion to adjourn by Commissioner Rumsey and seconded by Commissioner Osterman, and by unanimous vote, the meeting adjourned at 9:35 p.m.

---

Mayor DuBois

---

Deputy Clerk Jessica Shepherd

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Town Clerk Vivian Lemley

Town Seal

Approved on this \_\_\_ of \_\_\_\_\_, 2010.

# TAB 2

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

Meeting Date: February 17, 2010      Agenda Item No. 2

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

**SUBJECT:** Special Call Commission Meeting Minutes of January 28, 2010

**RECOMMENDED MOTION/ACTION:** Approval

Approved by Town Manager \_\_\_\_\_ Date: \_\_\_\_\_

Vivian Lemley  
Name/Title

2/3/10  
Date of Actual Submittal

<b>Originating Department:</b>  <p style="text-align: center;"><b>Town Clerk</b></p>	Costs: \$ _____  Funding Source: _____  Acct. # _____	<b>Attachments:</b>  <p style="text-align: center;"><b>Minutes</b></p>
<b>Department Review:</b> <input type="checkbox"/> Attorney _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____	<input type="checkbox"/> Grants _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Public Works _____ <input type="checkbox"/> Recreation _____ <input checked="" type="checkbox"/> <b>Town Clerk <u>V.M.L.</u></b> <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> <b>Not Required</b>	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>n/a</u>  <b>Please initial one.</b>

**Summary Explanation/Background:**



**Minutes**  
**Town of Lake Park, Florida**  
**Special Call Commission Meeting**  
**Thursday, January 28, 2010, 7:00 p.m.**  
**Town Commission Chamber, 535 Park Avenue**

The Town Commission met for the purpose of a Special Call Commission Meeting on Thursday, January 28, 2010 at 7:00 p.m. Present were Mayor DuBois, Vice-Mayor Carey, Commissioners Daly and Rumsey, Town Manger Maria Davis, Attorney William Capko, and Town Clerk Vivian Lemley. Commissioner Osterman was absent.

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

**ADDITIONS/DELETIONS/APPROVAL OF AGENDA**

None.

**Motion: A motion was made by Commissioner Rumsey to approve the agenda; Vice-Mayor Carey made the second.**

Vote on Motion:

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

Motion passed 5-0

**Public and Other Comments:**

*Steve Hockman, 638 Flagler Blvd* – stated that he was requested to make a public apology for something he supposedly said. He stated that he was sorry the Commission thinks and feels that he has called them criminals. He stated that he has never called a Commissioner or staff member a criminal or any other name. However, he stated that he had said that he hoped that there were no criminal type of activity going on. Mr. Hockman went on to state that his questions were never answered as it pertains to the employee handbook and parking meters. If the Commission has nothing to hide then why is the information about how much has been made from the parking meters never been discussed during a meeting.

Mr. Hockman stated that at the last meeting Commissioner Osterman had stated that he was making up numbers and trying to find problems. He said that "for the record, the numbers he received were from the Clerk's office. Is the Commissioner trying to say that the number he is receiving are not correct. If that is true then is she trying to say that the Town is providing him with false information." He stated that all he has done is apply basic math, but the Commission has not taken the time to review it. He concluded by saying that no one has been able to prove that his numbers are wrong.

**Public Comment Closed.**

**Public Hearing(s):**

**Resolution No. 07-01-10 Revise Cost Estimate for Street Lighting Referendum**

**Public Comment Open.**

*Steve Hockman, 638 Flagler Blvd.* - stated that he is consistently being told that he does not know what he is looking at or what the number mean, yet this evenings meeting is regarding something he brought to the Commission's attention, which is that the Street Lighting Program for the town will cost a lot more than two million dollars. He expressed his concern with the Town continuing with the referendum. He suggested receiving true numbers and the Town taking its time to move forward with this program. He stated that the Town should look towards getting historic lighting instead of only looking at the LED lighting. Lastly he expressed his concerns regarding the mock-up street being done on Bayberry Drive for residents to see what LED lighting will look like. He stated that he has reviewed the minutes of past meeting and was unable to find any authorization given by the Commission for the mock-up street to be done. He suggested having the street lighting referendum placed on the November election.

*Jeanine Longtin, 324 Flagler Blvd.* - expressed her concern with the Street Lighting Referendum and suggested the Commission go out for bid on this project and not place it on the March ballot.

**Public Comment Closed.**

Commissioner Rumsey stated that he ran on the platform of placing more lighting in the Town and has pushed to honor this promised. He expressed how appalled, embarrassed, and angry he is that the Town is in this position. Commissioner Rumsey asked the Town Manager to explain how and why this happened and to educate the residents on this issue.

Vice-Mayor Carey asked if the Town had picked a contractor for this project.

Town Manager Davis stated that no contractor has been chosen for this project. She stated that it had been misinformation by the former speaker that a contractor had been chosen.

Town Manager Davis began by saying that Commissioner Rumsey was correct that the reason this project came about was due to his platform. She explained that the project was first initiated with Florida Power and Light (FPL) and when they reviewed the figures of

Mr. Hockman stated that at the last meeting Commissioner Osterman had stated that he was making up numbers and trying to find problems. He said that "for the record, the numbers he received were from the Clerk's office. Is the Commissioner trying to say that the number he is receiving not correct. If that is true then is she trying to say that the Town is providing him with false information." He stated that all he has done is apply basic math, but the Commission has not taken the time to review it. He concluded by saying that no one has been able to prove that his numbers are wrong.

**Public Comment Closed.**

**Public Hearing(s):**

**Resolution No. 07-01-10 Revise Cost Estimate for Street Lighting Referendum**

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Town Manager Davis stated that no contractor has been chosen for this project. She stated that it had been misinformation by the former speaker that a contractor had been chosen.

Town Manager Davis began by saying that Commissioner Rumsey was correct that the reason this project came about was due to his platform. She explained that the project was first initiated with Florida Power and Light (FPL) and when they reviewed the figures of

leasing the lights over a twenty (20) year period, it became apparent that it would be cost prohibitive. At that point staff started looking at alternatives as it pertains to the Town owning their own system and suggested a "green" alternative, which LED is and it is extremely efficient. She stated that a lighting consultant was hired to review the Town and provide an analysis on LED lighting versus what the Town currently has with FPL. The consultant analyzed the Town and provided a presentation to the Commission in November. The consultant did an analysis on how many lights would be needed in order to provide the Commission with an estimate for a referendum question. Unfortunately there was a mistake with the estimate.

Town Manager Davis stated that she recognizes that the Commission and the residents of the Town depend on the Town Manager to provide accurate information and she takes full responsibility that the estimate was wrong and it was not picked up on until late. She apologized to the Commission, especially Commissioner Rumsey and the residents of the Town. She stated that again she takes full responsibility and apologizes for the error.

Commissioner Rumsey stated that a mistake was done and it needs to be reviewed. He stated that he was not going to support putting a referendum question on the ballot in March that he was not comfortable with a 4.5 million estimate. He announced to Mr. Hockman that he publicly agreed with him on this topic. He recommended that the Town defer the referendum on street lighting to the November election. He requested that between now and the first meeting in April staff provide the Commission with full pricing on every element regarding a new street lighting program for the Town. He would also like to receive a list of options that FPL can provide.

Commissioner Rumsey made a motion to defer the referendum on the street lighting and have staff provide pricing and options by the first of April on a street lighting program. He recommended the installation of the mock-up on Bayberry Drive of the LED street lighting continue as scheduled so residents can see what the new lighting would look like.

Town Manager Davis requested additional time to hire a firm that can provide the analysis for the Commission.

Commissioner Rumsey and Town Manager Davis agreed to have the analysis to the Commission by the second meeting in May.

Vice-Mayor Carey asked how much was the current firm paid for the services.

Town Manager Davis stated that the firm was very interested in working with the Town and charged a minimal amount. She stated that this is a top level firm in Palm Beach County that came highly recommended. She stated that the total amount charged for the analysis, presentation and design was \$700.

Vice-Mayor Carey asked how much would an analysis like the one given to the Town cost.

Town Manager Davis stated that it would have cost in the thousands.

Vice-Mayor Carey asked how much would it cost the Town if another firm did the analysis.

Town Manager Davis asked CRA Project Manager Richard Pittman to assist with responding to the question.

CRA Project Manager Richard Pittman stated that he was not sure how much a firm would charge for the analysis. It is possible that a firm could charge anywhere from 5 – 10% of the estimated project.

Vice-Mayor Carey suggested getting an RFP so other firms can bid on the project and the Town could find out how much this service will cost.

Town Manager Davis asked the Town Attorney to advise the Commission that a bid could not go out for professional services with engineers. She advised that the Town could go out for an RFP, but not out for bids.

Town Attorney Capko explained that the Town would be required and could go out for bid on the construction project. To select a consultant the Town would need to go through the RFP process.

Mayor DuBois wanted to make sure that everyone was being understood and recapped what Commissioner Rumsey had requested.

Commissioner Daly expressed his concern with moving forward without providing the residents with the exact figures of how much this project is going to cost. He stated that it is understood that mistakes are made and now there is an opportunity to go back and get exact figures. He suggested getting the figures to the residents so everyone understands where the funds are coming from and what they will cover. He stated that the residents should be made aware of what the total debt to the Town will be if this project continues.

Commissioner Rumsey agreed that the residents need to be educated. He recapped the situation for the public. He stated that the consultant quoted a price for 300 poles at around \$2.2 million, but the Town needed 600 poles which will cost around \$4.4 million.

Commissioner Rumsey withdrew his original motion and decided to split his motion into two separate items.

**Motion: A motion was made by Commissioner Rumsey to withdraw any referendum question from the March ballot regarding street lighting for the Town; Vice-Mayor Carey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Daly	X		
Commissioner			

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

Motion passed 4-0

**Motion:** A motion was made by Commissioner Rumsey that between now and the middle of May staff would bring to the Commission pricing on how much it will cost the Town for a comprehensive lighting program, one proposal being from FPL and then looking at other options for street lighting in the Town. Additionally he stated that the Commissioners have the responsibility to the residents of the Town for what the finances of the Town are so that if the residents accept this additional burden that they clearly know how much the Town's deficit is now and what it will be in the future; Commissioner Daly seconded the motion.

Vote on Motion:

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

Motion passed 4-0

Town Manager Davis recapped for the Commission that staff was going to need to engage a consultant to do this project. She stated that she just wanted to make sure that everyone's understanding was the same as to what was expected because staff is not qualified, which is why a consultant was hired.

Commissioner Rumsey asked if an RFP would be put out.

Town Manager Davis said yes, but had requested additional time to do so.

Commissioner Rumsey suggested that an RFP go out by March.

Town Manager Davis stated that it would be tight to do it in that timeframe, but that she would try.

**Motion: A motion was made by Commissioner Rumsey that an RFP go out by the middle of April for the purpose of a consultant for street lighting for the Town; Vice-Mayor Carey made the second.**

Vote on Motion:

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

Motion passed 4-0

Mayor DuBois invited everyone to the Safety Walk taking place on Friday, January 29<sup>th</sup> beginning at 6:00 p.m. at the corner of Seminole and Crescent Drive.

Commissioner Rumsey reminded everyone that the Sunset Party at the Marina would begin also on Friday, January 29<sup>th</sup> at 5:00 p.m.

**ADJOURNMENT**

There being no further business to come before the Commission and after a motion to adjourn by Commissioner Rumsey and seconded by Commissioner Daly, and by unanimous vote, the meeting adjourned at 7:35 p.m.

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

\_\_\_\_\_  
Town Clerk, Vivian M. Lemley

Town Seal

Approved on this \_\_\_\_\_ of \_\_\_\_\_, 2010

# TAB 3

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

Meeting Date: February 17, 2010

Agenda Item No. 3

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

**SUBJECT: REIMBURSEMENT RESOLUTION**

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

Approved by Town Manager *[Signature]* Date: 2/9/10  
*Ann M. Costello* Finance Director 2/8/10  
 Name/Title Date of Actual Submittal

<b>Originating Department:</b> Finance	Costs: \$ N/A  Funding Source: Acct. #	<b>Attachments:</b> Resolution
<b>Department Reviews</b> <input checked="" type="checkbox"/> Town Attorney <u><i>[Signature]</i></u> <input type="checkbox"/> Community Affairs <input type="checkbox"/> Community Development	<input checked="" type="checkbox"/> Finance <u>AMC</u> <input type="checkbox"/> Fire Dept <input type="checkbox"/> Library <input type="checkbox"/> Marina <input type="checkbox"/> PBSO	<input type="checkbox"/> Personnel <input type="checkbox"/> Public Works <input type="checkbox"/> Town Clerk <input type="checkbox"/> Town Manager
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified 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>N/A</u> : Please initial one.

**Summary Explanation/Background:** At the direction of the Town Commission, the Town Manager is soliciting proposals for a consultant to prepare a comprehensive cost proposal for the installation of street lights throughout the Town with the intent to place a referendum question on the ballot at a later date for a possible General Obligation bond issue. Upon the advice of bond counsel, this resolution is being put in place in the event that the Town wishes to reimburse itself, for related costs incurred, from future bond proceeds. This does NOT obligate the Town to issue any bonds or reimburse itself for these expenditures, but merely preserves the Town's right to so in the future.

**RESOLUTION NO. 11- 02-10**

**A RESOLUTION OF THE TOWN COMMISSION OF TOWN OF LAKE PARK, FLORIDA, DECLARING THE TOWN COMMISSION'S INTENT TO SEEK REIMBURSEMENT FOR EXPENDITURES MADE OR TO BE MADE WITH RESPECT TO A STREET LIGHTING PROJECT TO BE PAID FOR FROM THE PROCEEDS OF GENERAL OBLIGATION BONDS NOT TO EXCEED \$5,000,000 PRINCIPAL AMOUNT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Commission (the "Town Commission") of the Town of Lake Park, Florida (the "Town") hereby finds that there is a need to provide for and finance new street lighting throughout the Town ( the "Project") to further the health, safety and general welfare of the Town residents; and

**WHEREAS**, the Town Commission proposes to issue general obligation bonds in the aggregate principal amount not to exceed \$5,000,000 (the "Bonds") to finance the costs of the Project; and

**WHEREAS**, it is intended by the Town Commission that the interest on the Bonds, if and when issued, will be excludable from gross income for Federal income tax purposes; and

**WHEREAS**, the Town has incurred and anticipates that it will incur certain capital expenditures and preliminary expenditures relating to the Project prior to the issuance of the Bonds; and

**WHEREAS**, such expenditures were paid and will be paid from legally available General Fund and Capital Projects Fund moneys of the Town; and

**WHEREAS**, the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations (the "Regulations") require the Town Commission to declare its official intent in connection with incurring certain capital expenditures in connection with the Project prior to the issuance of the Bonds in order to allow the Town to be reimbursed for such expenditures from a portion of the proceeds of the Bonds; and

**WHEREAS**, it is intended by the Town Commission that this Resolution constitutes such official intent with respect to the reimbursement of the certain capital expenditures incurred or to be incurred prior to the issuance of the Bonds.

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

**SECTION 1.** The recitals set forth above are adopted by the Town Commission as the findings of the Town and are incorporated herein.

**SECTION 2.** The statements contained in this Resolution with respect to the reimbursement of the capital expenditures referred to in this Resolution are intended to be statements of official intent as required by, and in conformance with, the provisions of Section 1.150-2(e) of the Regulations.

**SECTION 3.** The expenditures (other than allowable preliminary expenditures) to be reimbursed pursuant to this Resolution have been incurred within 60 days prior to the date hereof or will be incurred after the date hereof in connection with the Project.

**SECTION 4.** The maximum principal amount of Bonds expected to be issued for the Project is \$5,000,000.

**SECTION 5.** The Town reasonably expects to reimburse the expenditures contemplated under this Resolution with a portion of the proceeds of the Bonds of the Town subsequent to the date hereof, and no funds from sources other than the "reimbursement bond issue" (as such term has the meaning assigned to it under the Regulations) portion of the Bonds are, or are reasonably expected to be, reserved, allocated on a long term basis, or otherwise set aside by the Town pursuant to the Town's budget or financial policies to pay for such expenditures.

**SECTION 6.** The Town will, upon receipt of the proceeds of the Bonds (or within 30 days thereof), allocate in writing the amount of proceeds of the Bonds (i.e., the reimbursement bond issue) used to reimburse the prior capital expenditures incurred in connection with the Project (herein, the "Prior Expenditures"). Such allocation will be accomplished not later than 18 months from the later of (a) the earliest date such Prior Expenditures were incurred or (b) the date the Project is placed in service (but in no event later than 3 years after the first Prior Expenditure was made).

**SECTION 7.** This Resolution shall be effective immediately upon its adoption.

# TAB 4

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

Meeting Date: February 17, 2010

Agenda Item No. 4

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

**SUBJECT: EXTENSION OF FRANCHISE AGREEMENT**

**RECOMMENDED MOTION/ACTION: ADOPT RESOLUTION.**

Approved by Town Manager *W. Davis* Date: *2/10/10*  
*Ann M. Costello* *2/9/10*  
 Name/Title Finance Director Date of Actual Submittal

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

**Summary Explanation/Background:** On March 3, 2010 the franchise agreement with Waste Management, Inc. of Florida is due to expire. It is recommended that the Town approve a three month renewal period for this agreement. This renewal will allow services to continue, uninterrupted, to the businesses and residents of the Town that require roll-off container and compactor services while the Town reviews options available for these services and makes a determination which direction to take that will be in the best interest of the Town and its' citizenry for these services.

**RESOLUTION NO. 12-02-10**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A SECOND AMENDMENT TO THE FRANCHISE AGREEMENT BETWEEN THE TOWN OF LAKE PARK AND WASTE MANAGEMENT OF FLORIDA, INC. FOR ROLL-OFF CONTAINER COLLECTION SERVICES; AND PROVIDING AN EFFECTIVE DATE.**

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

**WHEREAS**, the Town and Waste Management of Florida, Inc. ("Contractor") have previously executed a Franchise Agreement whereby Contractor is providing Roll-Off Container Collection services (the "Agreement"), and;

**WHEREAS**, pursuant to paragraph 1.3 of the Agreement the term of the Agreement expires March 3, 2010; and

**WHEREAS**, pursuant to paragraph 1.4 of the Agreement the term may be renewed for terms upon mutual agreements of the parties; and

**WHEREAS**, the Town has proposed to renew the Agreement for an additional three month term and the Contractor agrees with the Town's proposal ; and

**WHEREAS**, the Town Commission has determined that it is in the best interest of the citizens of the Town to renew the Agreement with the Contractor for an additional three month term.

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

**SECTION 1.**

The Whereas clauses are incorporated herein and are true and correct.

**SECTION 2.**

The Mayor is hereby authorized and directed to execute the Second Amendment to the Agreement with the Contractor.

**SECTION 3.**

This Resolution shall take effect immediately upon its adoption.

**SECOND AMENDMENT TO FRANCHISE AGREEMENT FOR ROLL-OFF  
CONTAINER COLLECTION SERVICES WITHIN THE TOWN OF LAKE PARK**

THIS SECOND AMENDMENT is entered into this \_\_\_ day of \_\_\_\_\_ 2010, effective March 4, 2010, by and between the Town of Lake park, a municipal corporation organized, with a business address of 535 Park Avenue, Lake Park, Florida 33403 (Town), and Waste Management Inc. of Florida, a Florida corporation, with a business address at 2700 NW 48<sup>th</sup> Street, Pompano Beach, Florida 33073 ("Contractor").

WITNESSETH:

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

WHEREAS, the Town and Contractor have previously executed an Agreement whereby Contractor is providing Roll-Off Container Collection services (the "Agreement"), and;

WHEREAS, pursuant to paragraph 1.3 of the Agreement the term of the Agreement expires March 3, 2010; and

WHEREAS, pursuant to paragraph 1.4 of the Agreement may be renewed for terms upon the mutual agreement of the parties; and

WHEREAS, the Town has proposed to renew the Agreement for an additional three month term and the Contractor has agreed to said proposal; and

WHEREAS, the Town Commission has determined that it is in the best interest of the citizens of the Town to renew the Agreement with the Contractor for an additional three month term.

NOW THEREFORE, for and in consideration of the mutual promises and covenants hereinafter contained to be kept and performed by the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals: The foregoing recitals are true and correct and are incorporated herein.
2. Term: Section 1.3 is amended to provide that the term shall be renewed for an additional three months and shall terminate on June 3, 2010.
3. Roll-off Collection Rates: Section 3.2 is amended to provide that the rates for all Collection services shall not be adjusted for the renewal period.

4. Except as amended herein, the Agreement shall remain in full force and effect through the term as hereby amended.

IN WITNESS WHEREOF, the Town and the Contractor have executed this amendment to the Agreement this \_\_\_\_ day of \_\_\_\_\_ 2010.

ATTEST:

TOWN OF LAKE PARK, FLORIDA  
(TOWN)

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

\_\_\_\_\_  
Desca DuBois, Mayor

ATTEST:

WASTE MANAGEMENT OF FLORIDA, INC.  
(CONTRACTOR)

\_\_\_\_\_

\_\_\_\_\_

# TAB 5

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

Meeting Date: **2-17-2010**

Agenda Item No. **5**

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

**SUBJECT:** Letter to bioscience board seeking support to prevent the US Army from building a reserve center on Congress Ave.

**RECOMMENDED MOTION/ACTION:** Approval to have Mayor sign the letter

**Approved by Town Manager** \_\_\_\_\_ **Date:** \_\_\_\_\_

<b>Originating Department:</b> Community Development	Costs: \$ N/A  Funding Source:  Acct. #	<b>Attachments:</b> Letter
<b>Department Review:</b> <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Community Affairs _____ <input checked="" type="checkbox"/> Community Development <i>AWM</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 _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ <i>AWM</i> Or _____ 2/10/2010 Not applicable in this case _____:  Please initial one.

**Summary Explanation/Background:** The US Army Corps of Engineers has requested approval for an Army Reserve Center to be built on the northeast corner of Congress Ave and Silver Beach Road. This is an 18+ acre site. If the Army were to build a center on this site the Town would lose out on any potential ad valorem tax dollars. Also, the site is in the Bioscience Overlay District and this action would remove the 18+ acres from the bioscience inventory. It is our understanding that the US Army can build on this site without approvals from the Town if it so chooses. This letter is a request to present the Army's proposal to the Bioscience Board so that they might help the Town in opposing this potential use.

February 10, 2010

Commissioner Karen Marcus, Chair  
Bioscience Land Protection Advisory Board  
301 North Olive Ave. Suite 1201  
West Palm Beach, FL 33401

Dear Commissioner Marcus:

The Town of Lake Park has recently been approached by the US Army Corps of Engineers requesting approval to build an Army Reserve Center on an 18+ acre parcel generally located at the northeast corner of Congress Avenue and Silver Beach Road. The facility would be comprised of three buildings with the largest being 50,000+ sq ft. There would be approximately 25 full time army employees and the site would host 500+ Army Reservists for four days each month. The site would also have equipment and vehicle storage. At the present time it is our understanding that the US Army is negotiating with the McCraney Property Company for the purchase of the land. It is also our understanding that once the federal government has purchased the property they will be able to proceed regardless of whether we approve or disapprove of the proposed use. The project is funded for FY2010 and they would like to break ground by October 2010.

The Town of Lake Park is not in favor of this project for a variety of reasons, one of which is the fact that the site is in the Town's Bioscience Overlay and the proposed use of a reserve center is not a bioscience compatible use. At 18+ acres, this parcel is our largest vacant parcel within the Bioscience Overlay. We do not feel it is appropriate to permanently remove this land from the Overlay inventory.

The Town would request that this issue be placed on the March Bioscience Land Protection Advisory Board (BLPAB) meeting in order that the BLPAB can discuss the US Army's proposal and provide the Town with appropriate feedback and support.

Thank you for your consideration.

Sincerely,

Desca Dubois, Mayor  
Town of Lake Park

Cc: Greg Hales, US Army Corps of Engineers  
Steve McCraney, McCraney Property Company

# TAB 6

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

Meeting Date: February 17, 2010

Agenda Item No. 6

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

**SUBJECT:** Ordinance to formalize zoning in progress and a impose moratorium on the establishment of Pain Management Clinics until such time as staff can review its land development regulations to specifically address the proliferation of Pain Management clinics within the boundaries of the Town of Lake Park.

RECOMMENDED MOTION/ACTION: Approval

Approved by Town Manager *[Signature]* Date: 2/9/10

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

**Summary:** This Ordinance imposes both Zoning in Progress and a Moratorium on Pain Management Clinics which might propose to open for business within the Town of Lake Park. Palm Beach County has already adopted a Moratorium for the unincorporated areas of the County and many municipalities are also adopting moratoriums. It would be prudent for the Town to also impose a moratorium so that the operators of these facilities do not locate within the Town while the County, the Town and other municipalities develop legislation to better manage this use.

**ORDINANCE NO. 03-2010**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, DECLARING ZONING IN PROGRESS AND A MORATORIUM AS TO THE FILING AND/OR RECEIVING OF ANY PETITION FOR THE ESTABLISHMENT OF PAIN MANAGEMENT CLINICS AS DEFINED HEREIN; PROVIDING THAT ZONING IN PROGRESS AND THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD WHICH SHALL TERMINATE ON THE EFFECTIVE DATE OF THE TOWN'S ADOPTION OF LAND DEVELOPMENT REGULATIONS TO REGULATE PAIN MANAGEMENT CLINICS; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT AND PURPOSE; PROVIDING FOR A DEFINITION OF PAIN MANAGEMENT CLINIC; PROVIDING FOR THE BOUNDARIES SUBJECT TO THE MORATORIUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in the Spring of 2009, the State Attorney's Office for the 17<sup>th</sup> Judicial Circuit in Broward County, Florida, issued an interim report entitled the "The Proliferation of Pain Clinics in South Florida" which established the following facts: (i) from August 2008 to November 2009, one new pain clinic is opened in Broward and Palm Beach counties every three days; (ii) doctors in Palm Beach County dispensed the second highest volume of Oxycodone units in the United States; (iii) in 2008, prescription drugs were attributed to an average of 13.5 deaths per day in Florida; and (iv) pain clinics are migrating north from Broward County; and

**WHEREAS**, the Town Commission has recently been made aware by news reports that a pattern of illegal drug use and distribution has been associated with some pain management clinics in south Florida, which dispense narcotic drugs on-site; and

**WHEREAS**, the *Miami Herald*, the *Sun Sentinel*, and the *Palm Beach Post* have published numerous newspaper articles in recent months describing the "pipeline" trafficking drugs from some south Florida pain management clinics to users from other states such as Kentucky, West Virginia and Ohio; and

**WHEREAS**, the threat of illegal narcotic activity and increased crime associated with pain management clinics is significant and could undermine the economic health of the Town's development and redevelopment efforts; and

**WHEREAS**, the Town Commission hereby directs its staff to analyze the effects of pain management clinics in the Town, to analyze whether additional standards should be incorporated into the Town's land development regulations and to evaluate the process for the issuance of development permits, business tax receipts, or other approvals regulating the location of pain management clinics within the Town which would further and promote the public health, safety, morals and general welfare; and

**WHEREAS**, Palm Beach County has enacted a moratorium pertaining pain management clinics in the unincorporated areas of the County, and as a result, the Town could become a target for the location of pain management clinics in northern Palm Beach County because the unincorporated areas in the northern portion of Palm Beach County are not available for these uses during the moratorium period; and

**WHEREAS**, to provide the Town staff with sufficient time to undertake its analysis during the period of the County's moratorium, it is necessary to establish a Town moratorium which prohibits the granting of development permits, business tax receipts, or other approvals; and

**WHEREAS**, it is not the intent of this moratorium to interfere with legitimate medical clinics nor the legal use of controlled substances; and

**WHEREAS**, the Town Commission finds and declares a need to temporarily suspend the further issuance of development permits, business tax receipts, or other approvals for new pain management clinics seeking to develop or open for business within the Town until such time as the Town can review its land development regulations to specifically address the proliferation of pain management clinics;

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

**SECTION 1: Legislative Findings, Intent and Purpose.** The Whereas clauses are incorporated herein, are true and correct, and represent the legislative findings of the Town Commission. It is the purpose and intent of this Ordinance to promote the health and general welfare of the residents and businesses of the Town through the analysis of any impacts from pain management clinics and through consideration of criteria for the location of pain management clinic uses within the Town.

**SECTION 2: Definition.** For purposes of this Ordinance, "Pain management clinic" is defined as a privately owned pain-management clinic, facility or office, which advertises in any medium for any type of pain-management services, or employs a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and is required to register with the Florida Department of Health pursuant to Sec. 458.309 or Sec. 459.005, Fla. Stat. (2009). A physician is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Chronic nonmalignant pain is pain unrelated to cancer which persists beyond the usual course of the disease of the injury that is the cause of the pain for more than 90 days after surgery.

**SECTION 3: Boundaries.** This Ordinance shall apply to all properties located within the boundaries of the Town of Lake Park.

**SECTION 4: Zoning in Progress and Moratorium Declared.** The Town Commission hereby imposes zoning in progress and a moratorium upon the application of any development permits, business tax receipts, or other approvals which might facilitate the opening or development of new pain management clinics, in whole or in part within the Town.

**SECTION 5. Repeal of laws in conflict.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 6. 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 7. Effective Date.** This Ordinance shall take effect immediately upon adoption.

# TAB 7

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

Meeting Date: 2/17/2010

Agenda Item No. 7

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|---|---|
| <input checked="" type="checkbox"/> <b>PUBLIC HEARING</b><br><input checked="" type="checkbox"/> <b>Ordinance on Second Reading</b><br><input type="checkbox"/> Public Hearing<br><br><input type="checkbox"/> ORDINANCE ON FIRST READING<br><br><input type="checkbox"/> GENERAL APPROVAL OF ITEM<br><br><input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION<br><br><input type="checkbox"/> DISCUSSION<br><br><input type="checkbox"/> BID/RFP AWARD<br><br><input type="checkbox"/> CONSENT AGENDA |
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**SUBJECT:** Amending Chapter 34 and 78 landscape and vegetation standards

**RECOMMENDED MOTION/ACTION:** Adoption

**Approved by Town Manager** *[Signature]* **Date:** 2/8/10

<b>Originating Department:</b> Community Development	Costs: \$ N/A  Funding Source:  Acct. #	Attachments: <b>Ordinance Staff Report</b>
<b>Department Review:</b> <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Community Affairs _____ <input checked="" type="checkbox"/> Community Development <u><i>[Signature]</i></u>	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ <u><i>[Signature]</i></u> Or <span style="float: right;">2/4/2010</span> Not applicable in this case _____:  Please initial one.

**Summary Explanation/Background:** Second Reading. Much of the standards for vegetation and the nonconforming section of the landscape code are outdated and require updating. This is mainly housekeeping and provides for very few substantive changes. Please review the staff report for a more detailed discussion of the changes.

**ORDINANCE NO. 02-2010**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 34 ENTITLED "VEGETATION", ARTICLE I; SECTION 34-1 ENTITLED "INTENT"; SECTION 34-2 ENTITLED "DEFINITIONS"; SECTION 34-3 ENTITLED "PUBLIC TREE CARE"; SECTION 34-4 ENTITLED "REMOVAL OF TREES ON TOWN PROPERTY - REPLACEMENT BY ANOTHER TREE OR BUSH"; SECTION 34-5 ENTITLED "PLANTING ON CERTAIN DRAINAGE EASEMENTS"; SECTION 34-6 ENTITLED "TREE TOPPING"; SECTION 34-7 ENTITLED "PRUNING, CORNER CLEARANCE"; SECTION 34-8 ENTITLED "DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY"; SECTION 34-9 ENTITLED "TREE REMOVAL STANDARDS"; SECTION 34-10 ENTITLED "ARBORISTS LICENSE AND BOND"; SECTION 34-11 ENTITLED "REGULATIONS FOR TREE PLANTINGS AND IMPROVEMENTS IN SWALES AND OTHER TOWN OWNED OR CONTROLLED PROPERTY OR RIGHTS OF WAY"; AMENDING CHAPTER 78, ARTICLE VIII, SECTION 78-252 ENTITLED "LANDSCAPING GENERALLY"; 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 ("Town") 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 vegetation and tree plantings and other improvements in swale areas within the Town which, among other provisions, have been codified in Chapter 34 of the Code of Ordinances of the Town of Lake Park; and

**WHEREAS**, Town staff has recommended to the Town Commission that certain Sections of Chapter 34 be amended to provide additional guidelines, controls, and standards for the planting, maintenance, removal and protection of trees within the Town; and

**WHEREAS**, the amendments to Town Code Chapter 34, would preserve and protect the Town's trees in general, and provide for clear standards for planting, maintaining, removing and preserving trees, and preserve and enhance property values within the Town; and

**WHEREAS**, the Town Commission has also adopted additional provisions pertaining to landscaping and vegetation protection which have been codified in the Town's Zoning Code as set forth in Chapter 78, Article VIII of the Code of Ordinances of the Town; and

**WHEREAS**, Town staff has recommended to the Town Commission that certain amendments be made to Chapter 78, Article VIII, Section 78-252 entitled "Landscaping generally" which provides for additional landscaping regulations within the Town's Zoning Code, and which may contain certain potential internal conflicts and inconsistencies relative to landscape requirements of the Town, particularly relating to parcels of real property which fail to conform to the existing minimum landscape requirements of the Town, and which should have come into compliance with the Town's current minimum landscape regulations by the present time based on prior legislation of the Town Commission; and

**WHEREAS**, the Town Commission, after due notice and public hearings deems it to be in the interest of the public health, safety and general welfare to amend the Town's Code as detailed herein above, to provide for these amendments.

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

**Section 1.** The whereas clauses are hereby incorporated as true and correct findings of fact of the Town Commission.

**Section 2.** Chapter 34, Article I, Sections 34-1, 34-2, 34-3, 34-4, 34-5, 34-6, 34-7, 34-8, 34-9, 34-10; and 34-11 of the Code of Ordinances of Town of Lake Park, Florida are hereby amended to read as follows:

**Sec. 34-1. Intent.**

It is the intent of these regulations ~~contained herein~~ to provide guidelines, controls, and standards for the planting, maintenance, removal and protection of trees and other permissible plant materials within the Town of Lake Park. The goals of these regulations ~~are~~ is to enhance and insure the ~~continued~~ ~~continuance~~ growth of the existing ~~native indigenous tree canopies canopy~~ within the town; so as to provide the community with the ~~adequate green and open space;~~ the health and safety benefits which can be derived from native plant life and the active use of a clean living environment; energy conservation through the use of natural resources, of energy, the eradication of invasive nonnative plants, weeds, and other non-indigenous plant species; land preservation; and the general psychological, aesthetic, and economic benefits that can be derived from a healthy environment and an abundance of naturally indigenous plant life, among other laudable tree preservation objectives. ~~therefrom.~~

**Sec. 34-2. Definitions.**

The following words and phrases shall have the meanings ascribed to them in this section:

*Public way.* Includes all public streets, roads, boulevards, alleys and sidewalks, and other public rights-of-way as more specifically defined in Chapter 316, F.S., as amended from time to time.

*Public areas.* Includes all public ways, parks and other lands owned or leased by the town or another governmental entity.

*Tree.* Any self-supporting woody plant, usually having a single woody trunk; a potential caliper of two inches or more, and a more or less distinct and elevated head with many branches.

*Plant and plant products.* Means trees, shrubs, vines, forage, and cereal plants, and all other plants and plant parts, including cuttings, grafts, scions, buds, fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all products made from them, unless specifically excluded by the Division of Plant Industry of the state of Florida Department of Agriculture and Consumer Services.

*Protected tree.* A tree with a minimum caliper of four inches in diameter, one foot above the ground of the species Live Oak, Laurel Oak, Gumbo Limbo, Royal Poinciana, Banyan, Black Olive, and Mahogany.

*Maintenance and protection.* Includes activities all operations consisting of, but not limited to,

of pruning, trimming, spraying, injecting, watering, fertilizing, treating, bracing, performing tree surgery work, cutting above or below the ground, removal and disposal, stump grinding, and mulching.

Pruning. Pruning is the cutting or removing branches or parts of trees or for improving the shape or growth of trees, and is the most common tree maintenance procedure. Trees supposed to be pruned in a careful and systematic manner as a preventative or corrective measure to remove dead branches, dead or living plant parts, crowded or rubbing limbs, eliminate hazards, and increase light and air penetration, without damaging other parts of the tree. ~~The removal of plant parts, dead or alive, in a careful and systematic manner so as not to damage other parts of the plant.~~

*Specimen tree*. A tree with any individual trunk, which has a caliper larger than 12 inches. All nuisance trees listed in subsection 34-9(2)(e) are ~~specifically determined to not~~ considered to be specimen trees.

*Tree service/arboret*. Any person or entity, ~~company, corporation or service~~, which is the business, for compensation or a fee, performs tree maintenance and protection. An arborist is a trained professional that is knowledgeable and equipped to provide proper tree care, and who is specially trained to provide a variety of services to maintain trees. ISA Certified Arborists are individuals who have achieved a level of knowledge in the art and science of tree care with a minimum of three years experience and who have passed a comprehensive examination.

*Developed property*. Property containing a structure, which has a valid certificate of occupancy.

*Equivalent replacement*. A tree or trees, which due to condition, size and value, is determined by the ~~public works~~ community development department to be equivalent to the tree to be removed.

*Equivalent value*. An amount of money, which reflects the replacement cost of a tree, (including transportation, planting and initial maintenance to insure survival) based on its size, condition and location, following the international society of arbors tree evaluation formula and the market value.

Topping. Topping is the indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role and a process to flat-cut the top of a tree or to remove more than one-third of the tree crown. Effects of topping include but are not limited to, the removal of the normal tree canopy, disfiguration of the tree and rendering the tree susceptible to disease, pest invasion, broken or weakened branches and limbs. ~~hat-racking~~. Other names for topping including "heading," "tipping," "hat-racking," and "rounding over."

*Public nuisance*. Any tree or shrub or part thereof growing upon private or public property, which is determined to endanger the health, safety and general welfare of the town.

*Large tree*. A tree with a mature height of 40 feet or more in height, a mature canopy wider than 22 feet, and a mature root system wider than 15 feet.

*Medium tree.* A tree with a mature height of between 26 feet and 39 feet, a mature canopy between 15 feet and 22 feet, and a mature root system between ten feet and 15 feet.

*Small tree.* A tree with a mature height of 25 feet or smaller, a mature canopy smaller than 15 feet, and a mature root system smaller than ten feet.

*Invasive plant.* Means a naturalized plant that disrupts naturally occurring native plant communities.

*Drop-crotch pruning.* A specific type of pruning designed to properly reduce the size of trees within the current national arborist association standards, or any subsequent amendments thereto.

*Branch collar.* Trunk tissue that forms around the base of a branch.

*Shade tree.* Any tree with a mature crown width that is at least two-thirds of the tree's mature height.

*Swale or swale areas.* A broad manmade depression, running parallel ~~from a property line to a public the street, roadway, or other form of right-of-way, and which may be used for among other things, between the pavement and the sidewalks for containing storm water runoff. from streets.~~

*Crown.* Main part of the branching of a tree.

*Crown width.* The width of the crown at its widest point measured on a plane parallel to the ground.

*Caliper.* A tree measurement that takes the diameter of the tree at 12 inches above the rootball.

*Root ball.* A group of roots extending from the base of a tree trunk that must be intact when relocating a tree in order to promote survival of the tree.

*Nonviable.* Not capable of existing and continuing to provide the biological or aesthetic qualities associated with a healthy functioning tree resource.

*Effectively destroyed.* The cutting, trimming, or damaging of a tree's trunk, branch or root system to the extent that the tree is no longer viable.

*Tree removal.* Directly or indirectly cutting down, destroying, removing or relocating or effectively destroying (through damaging, trimming, authorizing or allowing the cutting down, destroying, removing, moving or damaging of) any tree.

### **Sec. 34-3. ~~Public tree care.~~ Care of trees on public property.**

The town shall have the right, but not the obligation, to plant, prune, maintain, and remove trees, plants, vegetation, and shrubs within ~~the lines of~~ all public streets, roadways,

alleys, avenues, lanes, squares and other public rights-of-way and public grounds, which the town's community development director in the exercise of his/her sole discretion reasonably deems to ~~may~~ be necessary to ensure public safety, and/or to preserve or enhance the symmetry and beauty of such public property grounds. The community development director may obtain the removal of any tree or other form of vegetation (or part thereof), which is located on town-owned property if the town's community development director in the exercise of his/her sole discretion reasonably determines that the tree or vegetation (or any part thereof) cause or order to be removed, any tree or part thereof which has created a dangerous or in an unsafe condition, and/or presents a serious threat to the public health, safety, or welfare, and/or is in irreparable or irreversible condition, including but not limited to actual or potential hazards or threats caused by diseases, fungus, pests, insects, vermin or which conditions present an actual or potential threat of injury to, or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees in the swale by adjacent property owners providing that the selection and location of such trees is in accordance with this section.

**Sec. 34-4. Removal of trees on town property Replacement by another tree or bush. Replacement of removed trees and/or vegetation from town property with appropriate trees and permitted vegetation in the same or a suitable alternative location.**

Whenever ~~Wherever~~ a tree or other form of vegetation has been removed from ~~on~~ town property ~~has been removed under~~ pursuant to section 34-3, another tree or other form of permitted vegetation ~~bush~~ shall be planted in its place whenever possible, or alternatively in another suitable location on town property, wherever possible.

**Sec. 34-5. Planting on certain drainage easements. Advance town approval required for proposed landscaped and related improvements for lots located over pre-existing drainage easements.**

Those property owners of record and authorized agents of the property owners who persons whose own homes and/or vacant lots which directly abut the pre-existing public drainage easement, which transverses running through the approximate center of those lots located in Blocks 61, 65, 69, 73, and 39, and 115, of the town are authorized to ~~may~~ landscape and beautify only that portion of the drainage easement which directly abuts the entire length of the property line owned to a depth of not more than 25 feet from the rear property line, with only permitted landscape materials, in such blocks. All proposed landscaping and related improvements must first be beautification shall be first presented to the community development director for either written approval, approval with conditions, or denial. In considering any such request, the community development director shall take into consideration, among other relevant factors, whether the proposed who shall approve or modify same upon determination that any landscaping and/or related improvements beautification will not interfere with the use, maintenance, alterations, modification, relocation, repair, replacement of the drainage easement, for drainage purposes or the use of the easement to maintain existing and/or any planned, contemplated, or anticipated future drainage facilities. All landscaping and related improvements by a property owner or his/her authorized agents, beautification which are placed in, over, under,

~~upon, or across any on the public drainage easement, shall automatically become the property of the town; however, and the town shall have assume no obligation to maintain the landscaping and/or related improvements unless it so chooses and has received advance written authority to do so. Furthermore, the town shall have no liability for any damage caused to the landscaping or related improvements beautification material if any work on such improvements was undertaken by town employees or under town auspices. ; provided, however, that the The town manager shall use reasonable efforts is directed to make every effort to provide the affected abutting property owners who have landscaped and beautified the subject drainage easement referred to above with advance sufficient notice of any intended alterations to the drainage easement area by the town or its agents, which might result in potential damage or destruction to the beautification of landscape materials. If permitted by the town manager, the affected so that said property owners may be allowed to retain possession of any landscape materials and related improvements that the property owners installed once the property owners have had an opportunity to may remove the landscape materials and related improvements, materials; whereupon such materials shall belong to the abutting property owner, as set forth herein.~~

**Sec. 34-6. Tree topping prohibited.**

It shall be unlawful as a normal practice for any person, ~~or entity, firm~~ or town department to top any ~~street tree, park tree or other tree on public property or on~~ private property, ~~when the where~~ such trees are required a condition of an approved development order or permit. ~~The term "topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.~~ Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this section at the determination of the community development director.

**Sec. 34-7. Pruning, corner clearance.**

(1) A property owner who has ~~Every owner of any tree or plant material, or portion thereof, that overhangs overhanging~~ any street, sidewalk, or right-of-way within the town, shall ~~have the duty to properly prune the branches and overgrowth so that such branches and/or overgrowth do shall not obstruct pedestrian or vehicular traffic, do not obstruct the light from any street lamp, or do not obstruct visibility sight triangles or the view of any street intersection and so that there is shall be a clear space above the surface of the street or sidewalk. in compliance with the town's visibility triangle standards. Such Property owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs from their property to prevent the creation of a nuisance. , which constitute a menace to the safety of the public. The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign.~~

(2) The following standards shall be applicable to the pruning of trees within the town:

(a) The pruning practices established by the current National Arborist Association standards, or any subsequent amendments thereto, which are specifically incorporated

herein.

(b) All branches too large to be supported by one hand shall be precut to avoid splitting or tearing of the bark. Where necessary, proper equipment should be used to lower large branches or stubs to the ground.

(c) All cuts shall be made as close as possible to the trunk or parent limb without cutting into the branch collar or leaving a protruding stub. Drop-crotch pruning for overhead utility lines shall be followed.

(d) All cut limbs shall be removed from the crown upon completion of the pruning.

(e) Not more than one-third of the total crown area should be removed at a single operation. A cutting exceeding this standard will be considered to have rendered the tree nonviable, and shall be presumed, subject to rebuttable evidence to the contrary, to be effective destruction of the tree.

(f) All trees located on property which extend over any town roadway, alley or other vehicular right-of-way shall have their branches pruned to a clearance height of between 12 and 16 feet, so that no branches shall interfere with the vehicular use of said areas.

**Sec. 34-8. Dead or diseased tree and plant removal from ~~on~~ private property.**

The town shall have the right to cause the removal of ~~any~~ dead and/or diseased trees and other forms of vegetation and plant materials, and/or when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign on private property, in the event a violation of this Code is found pursuant to the code enforcement provisions of Section 162.06, F.S., Section 162.09, F.S., and 162.10, F.S., as amended from time to time, and Chapter 9 of this Code, and the condition(s) of the tree(s), vegetation, or other plant material(s), which presents the violation of this Code, presents a serious threat to the public health, safety and general welfare, or the condition causing the violation is irreparable or irreversible in nature. The violator shall be responsible for all costs of the tree or plant removal, together with any fines imposed, and the legal fees and administrative costs incurred by the town in connection therewith. If the violation is found to be irreversible or irreparable in nature in the code enforcement proceeding, a fine not to exceed \$5000.00 per violation may be assessed against the violator. Examples of violations which warrant tree or plant removal, include but are not limited to, conditions where the trees, vegetation, and/or plant materials when such trees constitute a serious hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees and plant life within the town. The property owner shall be responsible for removal of such trees. The code compliance board shall be responsible for enforcement of this requirement after consultation with the town tree board and the community development director. In the event of failure of owners to comply with such provisions or when such trees present an imminent hazard, the town shall have the authority to remove such trees and place a lien on the property of the owner for the cost of removal.

**Sec. 34-9. Tree removal standards.**

The following standards shall be applicable to the removal of trees within the town:

(1) [*Permit required.*] It shall be unlawful for any person, business or entity, intentionally or unintentionally, knowingly or unknowingly, directly or by direction, to cut down, destroy, remove or move, or to effectively remove or destroy, through the infliction of damage, any tree within the town, without first obtaining a permit from the community development department.

(2) [*Exemptions.*] The following tree removal activities are specifically exempted from the permit, relocation, replacement and mitigation requirements of this chapter:

(a) Removal of trees within the property boundaries of developed property, which are not specimen, or protected trees.

(b) Removal of any dead tree.

(c) Removal of trees in emergency situations.

(d) Removal of any of the following nuisance tree species:

TABLE INSET:

	Species	Common Name
(a)	Acacia Auriculiformis	Earleaf Acacia
(b)	Albizia lebeck	Woman's Tongue
(c)	Araucaria heterophylla	Norfolk Island Pine
(d)	Bambusa Vulgaris	Tree Bamboo
(e)	Bischofia javanica	Bischofia
(f)	Brassaia actinophylla	Schefflera
(g)	Casuarina spp	Australian Pine
(h)	Cupaniopsis anacardiodes	Carrotwood
(i)	Enterolobium cyclocarpum	Ear Tree
(j)	Eucalyptus spp	Eucalyptus
(k)	Ficus spp	Ficus
(l)	Grevillea robusta	Silk Oak
(m)	Hibiscus tiliaceus	Mahoe
(n)	Melaleuca quinquenervia	Melaleuca
(o)	Metopium toxiferum	Poison Wood
(p)	Psidium quajava/littorale	Guava
(q)	Ricinus communis	Castorbean
(r)	Sapium sebiferum	Chinese Tallow Tree
(s)	Schinus terebinthifolius	Brazilian Pepper
(t)	Syzygium cumini	Java Plum
(u)	Thespesia populnea	<del>Mahoe</del> —Portia Tree

(e) ~~(f)~~ Removal of any tree which has been destroyed or effectively destroyed by an act of God, or by acts outside the control of the legal, beneficial or equitable owner of the real property in which the tree is located, and which acts could not have been prevented by the exercise of reasonable care.

(f) ~~(g)~~ Removal of any tree by the town in accordance with the authority and administrative discretion provided in section 34-14 of this chapter.

(g) Removal of noxious weeds, noxious plants, noxious aquatic plants, invasive plants, non-native plants, non-native aquatic plants, and plants infested with plant pests, as such terms are defined in chapter 581, F.S., as amended from time to time.

#### **Sec. 34-10. Arborists license and bond.**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the town ~~unless they without first applying for and procuring a business tax receipt~~ and possess a current contractors registration with the Town of Lake Park. No license shall be required of any public service company or town employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for bodily injury and \$20,000.00 for property damage, indemnifying the town or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

#### **Sec. 34-11. Regulations for tree plantings and improvements in swales and on other town-owned or controlled property or rights-of-way.**

(1) *Sole risk property owner.* Liability for any injuries or damages which result from any work performed and/or improvements constructed, installed or placed in the swale area by the property owner(s), their successors or assigns shall be at the property owner's sole risk; and without recourse to the town, even if improvements and other materials placed in the swale area required to be removed by the town or other entity with jurisdiction. ~~The area from the property line to the edge of the street or roadway shall be considered the swale area for purposes of this section.~~

(2) Newly planted trees on Town owned property or controlled rights of way or within 5 feet of sidewalks or parking areas shall have installed (at the time of planting) an approved root barrier.

**Section 3.** Chapter 78, Article VIII, Section 78-251 of the Code of Ordinances of Town of Lake Park, Florida is hereby amended to read as follows:

#### **Sec. 78-251. Landscaping generally.**

(a) *Purpose and intent.* The purpose and intent of this ~~article chapter~~ is to protect, preserve, and enhance the natural environment and beauty of the town by creating minimum standards for

landscaping and vegetation protection. The purpose and intent as expressed in section 34-1 of this code is also applicable to this section. Landscaping that meets these standards will:

- (1) Improve and sustain the aesthetic appearance of the town.
- (2) Improve air and water quality by such natural processes as transpiration and the maintenance of permeable land areas for aquifer recharge and surface water filtration.
- (3) Buffer noise and reduce pollution through the filtering capacity of living trees and vegetation.
- (4) Promote energy conservation through:
  - a. The creation of shade which reduces heat gain in or on buildings and paved areas; and
  - b. The channeling and control of breezes to facilitate the natural cooling of buildings.
- (5) Reduce erosion by stabilizing the soil.
- (6) Provide habitat for urban wildlife and a planned transition of the town's green space and open space to the town's conservation areas.
- (7) Conserve freshwater resources through the use of drought-tolerant plants and mulch, promoting the planting of less sod and water efficient irrigation systems.
- (8) Provide a visual and/or structural buffer between otherwise incompatible types of land uses.
- (9) Increase the economic value of land by serving as a capital asset when properly incorporated into site design.
- (10) Provide for the public health, safety and welfare.

(b) *Procedures established.* In order to fulfill these goals, this article ~~chapter~~ establishes the following:

- (1) Procedures to evaluate new landscape plans and existing vegetation protection plans using:
  - a. Minimum standards for new landscape installations;
  - b. Minimum standards for the preservation of existing vegetation; and
  - c. Adequate standards for maintenance and arboriculture.

(2) Procedures for administration and enforcement of these standards.

(c) *Applicability.*

(1) The standards contained in this section shall apply to all property within the town. ~~While existing development and approvals, granted prior to July 1, 1998, are not required to comply with the standards, any amendments to previous approvals, redevelopment, or development approvals which have been granted time extensions for a previously approved development plan or the continuation of a partially developed development plan shall conform with these regulations.~~

(2) Nonconforming parcels ~~buildings, structures, uses or landscape areas.~~

a. Any parcel of land, with the exception of nonconforming parcels on which single-family, two-family or three-family dwellings exist, ~~which is the subject of a current valid development order or upon which a structure has been erected prior to July 1, 1998, shall be required to~~ must conform with to the requirements and regulations of this article and chapter, regardless of the date of the erection of the structure. ~~within two years of July 1, 1998.~~

b. Nonconforming ~~parcels of real property~~ on which single-family, two-family or three-family dwellings exist must shall be required to comply with the landscape requirements of this article whenever at such time that a building permit is issued by the town for construction work on the property, where the estimated total value of the construction work and/or other improvements is has a value of \$5,000.00 or more.

c. Nonconforming parcels of real property ~~buildings, lots or uses~~ shall be subject to the ~~provisions of the~~ landscape requirements of this article. should they seek any expansion or modification, or should they suffer damage in excess of 50 percent of their appraised value.

d. If it is impossible to satisfy the landscape requirements on a non-conforming parcel, the Town may designate the Town Manager or her designee to mitigate the non conformity by donation to the Town of cash equal to the costs of the required improvements, or by the owners contribution of a like amount (or combination thereof) of trees, shrubs, and ground covers for the improvement of the Town's public parks, ball fields or other parcels that might be designated to satisfy the extent of the non conformity.

~~d. If an amendment to an approved site plan is proposed or any change is proposed to a site for which there is no site plan, then the town shall require the noneconforming landscaping and open space to comply with this chapter. The following types of amendments to a site plan or change to a site without a site plan shall require the submittal and formal review of a landscape plan:~~

- ~~1. The total square footage of any building or open space by more than five percent;~~
  - ~~2. The number of structures;~~
  - ~~3. The number of residential dwelling units;~~
  - ~~4. The building height of any building;~~
  - ~~5. The traffic impact, required parking, or change in traffic circulation;~~
  - ~~6. Modifications to the facade of an existing building; or~~
  - ~~7. Modifications to on-site signage (not including replacement of sign face).~~
- ~~e. The variance procedure for standards of this section shall be the same as outlined in section 78-75.~~

(3) To the extent that any conflicts occur between the standards of this section and any corridor plans or other landscaping requirements specified for properties within the Community Redevelopment Agency Area (CRA), the provisions of the CRA requirements shall prevail. Additionally, where provisions of the CRA are not in conflict with other regulations contained herein, those provisions that which are more strict shall prevail.

(d) *Approval required.* Unless otherwise provided within this chapter, no parcel within the town which is in violation of the landscape requirements of this article, or any parcel which requires site plan approval and shall be landscaped, cleared or grubbed within the town unless a landscape permit is issued by the community development department for the parcel which is in violation of the requirements of this article. After review and administrative approval of the landscape permit application and the payment of the applicable permit fee by the applicant. In the case of property which is the subject of an approved site plan, the property shall not be landscaped, cleared or grubbed until an amended site plan together with a separate landscape plan is submitted by the applicant along with the applicable site plan amendment application fee, and the site plan amendment and landscape plan are approved by the town. new site written permission is first obtained by site plan approval and a permit as outlined in this chapter. Furthermore, the standards for tree removal and abuse as set forth in articles 1 and 2 of chapter 34 entitled "Vegetation" shall be strictly complied with, and are incorporated by reference herein. no tree, except as provided for in this chapter, shall be cut down, destroyed, removed, hat raked or effectively destroyed as a result of damaging the tree or changing the natural grade within the drip line of a tree, without first obtaining site plan approval and a permit. The town grants permission to remove, add to, relocate, or plant vegetation on land within the limits of the town through a procedure that requires an application and permit as described in subsection (e) of this section. Approved landscape and tree protection plans may shall not be altered in any way, unless otherwise provided for by this chapter.

(e) *Application and permit required.*

(1) Any person or entity seeking who wants site plan approval and as a part thereof, desires to landscape or clear existing vegetation, grub, or remove or destroy (destroy) a tree, or in any way, or alter existing plant communities, or alter previously cleared land, shall submit a technically complete development application to the community development director for review and approval or denial, ~~town manager or designee~~. Applications are available at the community development department.

(2) If an application for a site plan amendment is submitted, a separate landscape plan shall be submitted as part of the application. ~~a change to an approved landscape plan is needed by the landowner or agent, an amendment to the development application, specifically the landscape plan, shall be filed with the town and approved by the town.~~

~~(3) Each development application and amendments, including changes to the landscape plan, shall be accompanied by a fee imposed by the town commission.~~

~~(4) Each permit for the clearing of property shall be accompanied by a fee imposed by the town commission.~~

~~(3) (5) Prior to the submission of any application for site plan approval or a landscape permit, the community development department shall use its best efforts to schedule a pre-application conference and inspection of the property work or permit, the town community development department shall make its services available for review or inspection of the site, provided there is at least seven working days notice thereof. The intent of the preapplication inspection is to identify specific areas of concern and protection in order to plan for tree protection, relocation, grading, drainage, building location, and road alignment. prior to preparation of site plan submission.~~

~~(4) (6) Except for single-family and two-family dwellings, prior to the issuance of any permit for paving, a development application shall be submitted to and approved by the community development department. No permit shall be issued for buildings or paving unless the such application complies with the provisions hereof, and no certificate of use and occupancy or completion shall be issued until the landscaping is complete and passes a final inspection by the town. , and it It shall be unlawful to occupy the premises unless the landscaping is installed in accordance with the approved plans and the requirements hereof.~~

(f) *Development application.*

(1) Any person who does not have a site plan or landscape plan approval as required by this section, ~~pursuant to subsection (g)(3) of this section~~ and who desires to clear vegetation, plant vegetation, grub, or remove, or destroy (destroy) a tree, or in any way alter a plant community or previously cleared land, must first submit a written development application for the proposed landscape work to the community development

department, together with the applicable permit fee, and obtain a landscape permit from the town. shall make a written development application to the town manager or designee.

(2) The following actions require approval from the town commission and will only be reviewed upon submittal of a technically complete development application and other information deemed necessary by the community development director and/or town commission information:

a. Installation of new landscaping, land clearing, site vegetation grubbing, or removal of trees or other vegetation that is as proposed by either a proposed landscape plan or drawing, site plan, a site plan amendment, a development review site plan, or other form of development order (s). PUD.

b. Clearing, grubbing, or removing trees or plants for the expansion of a permitted use within a particular land use or zoning district.

c. Performing Making major changes (~~these changes that have been deemed not minor by the town manager~~) to the landscaping or preserve area which is the subject of a previously approved site plan or PUD approval, within a previously approved site development plan to the extent that plant quantities or design are affected.

d. Changing the landscape area or preserve area which is the subject of a previously approved site plan or PUD approval of an ~~approved site plan~~ due to restraints, conflicts or conditions put on the property owner, applicant or agent by the state department of transportation, a utility company or a governmental agency with multi-jurisdictional authority prior to starting work.

(3) Evaluation of the development application will be based upon the application package prepared by the applicant, property owner or designee. A pre-application field inspection by the town community development director shall be conducted. ~~is available.~~ The submitted development application package shall include, but shall not be limited to, the following information:

a. The technically complete development application submitted, on a form, which ~~is~~ available in the community development department, together with the applicable application fee, and fee if applicable.

b. Location map, including but not limited to, the location of the site within the town, including but not limited to, the nearest major roadways, landmarks, road, and water bodies.

c. Vegetation and habitat map. A drawing to scale or aerial photo with scale of the site that shows the existing terrestrial and aquatic vegetation and significant wildlife habitat, including exotic invasive species and native plant communities at the same scale as the site plan:

1. Within the plant communities, the location of all three-inch caliper trees or greater.
  2. Location of large groups of trees in close proximity can be designated as clusters within predominant communities if approximate tree count and the largest and average caliper in the cluster is indicated on the map; using plot samples to acquire this information is acceptable.
  3. A description of each plant community, including species within the canopy, understory and ground cover and a written statement to indicate the proposed removal, relocation or preservation of all or part of such community.
  4. Soil types and conditions.
  5. A drawing to scale or aerial photo with scale that maps the species, location or possible location of any federal- or state-listed endangered, threatened or species of special concern (plant or animal), and a written statement to indicate the proposed removal, relocation, or preservation of all or part of the habitat at the same scale as the site plan.
  6. Archaeologically, historically, and/or geologically important features found on site.
  7. Areas of previous alteration or degradation including present and past human use should be indicated on a map or aerial photo at the same scale as the site plan.
  8. Surrounding landscaping or plant communities within 50 feet of the property line.
  9. Protected trees, as designated by the town commission, must ~~will~~ be located on a survey map which map is not older than 90 days from the date of submission of the application and is signed and sealed by a registered state of Florida surveyor. This survey will be used in the project design to ~~help~~ protect the trees through the planning stages of development.
  10. Data table with specific values for acreage of each plant community, including total upland and wetland areas before and after land alteration.
- d. Project design plan.
1. Site plan showing proposed buildings, roadways, parking areas, utility easements, dumpster enclosures, water features, flood control structures, backflow preventers, well field locations, stormwater systems, landscaped areas, buffer areas, preserve areas and other open space areas at the same scale

as an overlay of the vegetation map.

2. Elevation (contour) or grade maps for the existing grades and proposed grades at the same scale as the vegetation map.
3. Mitigation proposals as they relate to loss of wetlands or actual occupied habitat of endangered, threatened species or species of special concern for plants and wildlife.
4. Detailed landscape plan. All landscape plans except individual single-family, duplex and triplex lots, or areas of one acre or less which are required by this chapter shall bear the seal of a landscape architect licensed to practice in the state of Florida, or be prepared by another licensed professional authorized to prepare landscape plans by F.S. § 481.301 et seq. and be at a scale no smaller than one inch equals twenty feet. Detailed landscape plans shall include but not be limited to:
  - i. Clearly delineated and keyed landscape areas, square footage of open space and impervious areas, landscape materials with specifications, such as caliper, height, species name (common and botanical), size and the like, and quantities to be used.
  - ii. Existing trees on the property that are proposed or required to be preserved and the methods to protect these trees during construction. The protection methods will be consistent with the Florida Division of Forestry, Tree Protection Manual for Builders and Developers, most current edition. ~~1979.~~
  - iii. Specifications of hardscapes (nonliving landscape materials) including heights, widths, types, and locations of all barriers.
  - iv. Landscape plans may be required to have typical aerial view drawings and/or cross section details of any proposed perimeter buffer area, road right-of-way, or lot landscaping.
  - v. Landscaping shall be shown as an overlay of the site plan including all new trees, shrubs, grass, open areas, preservation areas and hardscapes. For the purpose of public hearings, landscape plans submitted for Planning and Zoning or Town Council review shall be rendered with plan (color) graphics and present elevations of all sides of a property or building. Presentations may be in the form of a digital PowerPoint or equivalent format. The town encourages the proper choice of plants for water conservation in landscaping as set forth in the South Florida Water Management Xeriscape Plant Guide.

- vi. A plan (narrative) to eradicate and prevent the reestablishment of prohibited plant species listed in section 78-253(f).
  - vii. Landscape plans may be required to have typical aerial view drawings and/or cross section details of any proposed littoral planting zones as referenced in section 78-254(f).
  - vii. Conceptual irrigation system plan, including main lines, backflow preventer, and water source, which indicates 100 percent coverage of all pervious areas and which meets the current standards of the Florida Irrigation Society. Also refer to section 78-254(e)(3) for more information.
  - viii. All landscape plans shall be coordinated with civil engineering plans to avoid conflicts with proposed underground utilities. The civil engineer of record shall certify in writing that the landscape and civil engineering drawings have been reviewed for their coordination and that no conflicts exist.
- e. Project operations.
- 1. Description of construction methodology to be performed on site, including use, storage, handling or production of substances known to be harmful to plants and/or wildlife.
  - 2. Description of any anticipated soil, water, or air pollution produced or generated by the project and known to be harmful to plants and/or wildlife.
  - 3. Description of the project phasing. Any project that will require multiple building permits due to the methodology or construction sequence caused by off-site improvements, staging building-by-building, increasing square footage, restructuring finances or changing market strategies will be considered phased. There shall be a narrative and/or map depicting the projected phasing submitted that describes when areas will be cleared and landscaped.
- f. Prior to approval, revised site plans shall be accompanied by a written description of all changes made since the last site plan review.
- g. After approval and prior to the issuance of any town permit, the site plan shall have all conditions of approval located on the site plan, and this information will be available on the site during construction. A reduced copy shall be provided to the town clerk's office for attachment to the respective ordinance or resolution documents.

(g) *Administrative approval.*

(1) The following actions may be approved by the community development director ~~town manager or designee~~ upon request for a permit:

- a. Landscape plans for single-family and two-family dwellings.
- b. Clearing, grubbing, or removal of trees or other vegetation pursuant to an approved site plan. No vegetation clearing will be permitted until a written permit is issued or as otherwise permitted in this chapter.
- c. Removing and replacing dead, diseased, damaged, or insect-infested vegetation, including trees, if such determination is made and approved by the town community development director.
- d. Removing or relocating vegetation, including trees, that are a hazard to existing buildings or within existing utility easements or rights-of-way, if such determination is made and approved by the community development department.
- e. Removing and replacing trees due to a hardship regarding health or safety, if such determination is made and approved by the town community development director.
- f. Minor alterations or changes to approved landscape plans within all districts to improve or remove existing landscape as determined by the town manager. Minor alterations shall be defined, in most cases, as a change of type, quantity, or location that affects up to 25 percent of required shrubs or 25 percent of required trees on a site.
- g. Installations of fences, if no expansion of an existing or proposed use is intended.
- h. Temporary landscaping (landscaping other than what was originally approved), if it does not result in the removal of native vegetation.

(2) Evaluation of the permit to amend a landscape plan administratively shall be based upon the information prepared and submitted to the town by the property owner or the property owner's designee. A field inspection by the town community development director shall be conducted, ~~is available~~. The submittal shall include, but not be limited to, the following information:

- a. Location map of the property (a current legible aerial photograph or a drawing to scale).
- b. Existing vegetation inventory map and landscape plan for all changes.
- c. Location and description of all proposed changes.

- d. Reasons/rationale for the proposed changes.
- e. Replacement schedule, if applicable.
- f. Site plan data revision, if applicable.

(3) Administrative approval will be granted, granted with conditions, or denied within 15 working days from the time a technically complete application is submitted to the community development director, unless circumstances warrant additional review time by the town. The cost recovery provisions of section 51-6 shall apply to the review and processing of all such applications by the town and must be paid in advance prior to the issuance of any approval or permit by the town. ~~town manager or designee.~~

**Section 4. Severability.** If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by a Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

**Section 5. Repeal of Laws in Conflict.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**Section 6. Codification.** The provision of this Ordinance shall become and be made a part of the Code of Ordinances for the Town of Lake Park. The Sections of the Ordinance maybe renumbered or re-lettered to accomplish such.

**Section 7. Effective date.** This Ordinance shall take effect immediately upon passage.

# TAB 8

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

Meeting Date: February 17, 2010

Agenda Item No. 8

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

**SUBJECT:** CRA Plan approval

RECOMMENDED MOTION/ACTION: Adoption

Approved by Town Manager W. Lewis Date: 2/9/10

<b>Originating Department:</b> Community Development	Costs: \$ N/A  Funding Source:  Acct. #	<b>Attachments:</b> Staff Report
<b>Department Review:</b> <input checked="" type="checkbox"/> Town Attorney <u>QJB</u> <input type="checkbox"/> Community Affairs <u>A. Wynn</u> <input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ <u>QJB</u> Or <u>2/3/2010</u> Not applicable in this case _____:  Please initial one.

**Summary Explanation/Background:** This agenda item is for the review & approval of the proposed amendments to the Community Redevelopment Agency ("CRA") Plan. The statutory process for CRA plans requires the CRA Plan to be reviewed first by the local LPA for conformity with the adopted Comprehensive Plan ("Plan"). This was done in at a December meeting of the LPA. The LPA voted to find the CRA Plan in conformance with the Town Plan. The next step is for the CRA to review the CRA Plan and the LPA's recommendations, if any at a public hearing of the CRA. The CRA approved the plan and recommended that the Town Commission adopt the plan. This was done at the January 17, 2010 meeting of the CRA Board. The final step is to submit the plan for adoption to the Town Commission at a public hearing.

**RESOLUTION NO. 10-02-10**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, ADOPTING PROPOSED AMENDMENTS TO THE COMMUNITY REDEVELOPMENT AGENCY PLAN PURSUANT TO SECTION 163.360, FLORIDA STATUTES; PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the Lake Park Town Commission adopted Resolution No. 14 on April 3, 1996, finding, and declaring an area of the Town of Lake Park to be a slum or blighted area, as defined in Sections 163.340(7) and (8), Florida Statutes, and finding there is a need for a community redevelopment to function in such area of the Town; and

**WHEREAS**, the Lake Park Town Commission adopted Resolution No. 65 on November 20, 1996, creating a Community Redevelopment Agency, providing for its legislative intent, purpose, organization and procedures, and delegating the Community Redevelopment Agency certain powers as necessary and appropriate for community redevelopment; and

**WHEREAS**, the Palm Beach County Board of County Commissioners adopted Resolution No. R-96-1852 on November 6, 1996, delegating the exercise of powers conferred by Chapter 163, Part III, Florida Statutes, "The Community Redevelopment Act of 1969"; and

**WHEREAS**, pursuant to section 163.360, Florida Statutes, the Community Redevelopment Agency prepared an amendment to the Community Redevelopment Plan that meets the statutory requirements of Sections 163.360 and 163.362, Florida Statutes and has submitted same to the Town's Local Planning Agency for its review and recommendations as to its conformity with the Town's Comprehensive Plan ; and

**WHEREAS**, on December 7, 2009, pursuant to Section 163.360(4), the Town's Local Planning Agency reviewed the Community Redevelopment Plan and determined that it conforms with the Town of Lake Park's Comprehensive Plan, and has submitted its written recommendations with respect to its conformity to the Community Redevelopment Agency; and

**WHEREAS**, On January 20, 2010, the Lake Park Community Redevelopment Agency reviewed the Community Redevelopment Plan and has recommended that the Town Commission adopt it; and

**WHEREAS**, the Community Redevelopment Agency has submitted its Community Redevelopment Plan to the Lake Park Town Commission and each taxing authority that levies ad valorem taxes on taxable real property contained within the geographic boundaries of the redevelopment area; and

**WHEREAS**, public notice has been published in a newspaper having general circulation in the area of operation of the community redevelopment agency describing the time, date, place,

and purpose of the hearing, identifying generally the community redevelopment area covered by the plan, and outlining the general scope of the community redevelopment plan under consideration; and

**WHEREAS**, THE Lake Park Town Commission has considered any and all comments or recommendations received from Palm Beach County and such other taxing authorities that levy ad valorem taxes on taxable real property within the redevelopment area; and

**WHEREAS**, the Town Commission finds that the amendments to the Community Redevelopment Plan conforms to the Town of Lake Park's Comprehensive Plan; and

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

**Section 1.** The Town Commission finds that the Community Redevelopment Plan is consistent with the Town's Future Land Use Element and encourages redevelopment renewal or renovation that maintains or improves existing neighborhood and commercial areas ... and ... facilitates the achievement of economic development, historic preservation, resource preservation and other key goals ; and

**Section 2.** The Town Commission finds that the CRA Plan strongly encourages transit-oriented development with the downtown area of the Town, which is in accordance with the adopted objectives of the Traffic Circulation Element of the Town's Comprehensive Plan. Development and redevelopment is also encouraged by the Community Redevelopment Plan in order to meet traffic performance standards.

**Section 3.** The Town Commission finds that the Community Redevelopment Plan will afford maximum opportunity, consistent with the sound needs of the Town as a whole, for the rehabilitation or redevelopment of the community redevelopment area by private enterprise.

**Section 4.** The Community Redevelopment Plan, a copy of which is attached hereto and incorporated herein as Exhibit "A," is hereby approved and adopted.

**Section 5. Effective Date.** Pursuant to Section 163.410, Florida Statutes, and the effective date of the Community Redevelopment Agency Plan shall be the date the Plan is approved by the Board of County Commissioners of Palm Beach County.

# TAB 9

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

Meeting Date: February 17, 2010

Agenda Item No. 9

- |  |  |
|--|--|
| <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:                      |  |

**SUBJECT: Authorization to Install a Tree and Bronze Plaque at Kelsey Park in Memory of Alexandra Mary Spilos**

**RECOMMENDED MOTION/ACTION: Request Direction**

Approved by Town Manager W. Davis Date: 2/10/10

Name/Title \_\_\_\_\_ Date of Actual Submittal \_\_\_\_\_

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

**Summary Explanation/Background: Long term resident Andy Spilos recently lost a daughter and wishes to install a tree with a plaque in her memory in Kelsey Park. Mr. Spilos is requesting permission to install the tree and plaque at his own expense. He will be present to discuss the issue with the Commission.**