



**Minutes**  
**Town of Lake Park, Florida**  
**Regular Commission Meeting**  
**Wednesday, May 21, 2014, 6:30 PM**  
**Town Commission Chamber, 535 Park Avenue**

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, May 21, 2014 at 6:30 p.m. Present were Mayor James DuBois, Vice-Mayor Kimberly Glas-Castro, Commissioners Erin Flaherty, Michael O'Rourke and Kathleen Rapoza, Town Manager Dale S. Sugerman, Attorney Thomas Baird, and Town Clerk Vivian Mendez.

Town Clerk Mendez performed the roll call and Mayor DuBois led the pledge of allegiance.

**SPECIAL PRESENTATIONS/REPORTS**

**1. Presentation of the Comprehensive Annual Financial Report for the Fiscal Year Ended September 30, 2013**

Town Manager Sugerman introduced Ron Bennett of Nolen, Holt, and Miner who presented the item (see attached Exhibit "A").

Mr. Bennett explained the Financial Highlights charts which he distributed to the Commission (see attached exhibit "A").

Mayor DuBois stated that last fiscal year the Marina showed a loss of \$572,000 and was wondering if the Marina would anticipate a loss of this amount again in the future or was it a one-time occurrence. He asked if the Marina would continue to lose revenues at the current occupancy rate.

Town Manager Sugerman explained that if occupancy at the Marina does not increase the Marina would continue to lose this amount of revenue. He stated that this is not a one-time occurrence.

Mayor DuBois stated that allocated funds have been identified for construction and now there is a clear base line of what the operating losses are.

Town Manager Sugerman explained that in his Monthly Update Report he includes the Marina occupancy rate for that month. He explained that last year an analysis was conducted and the Marina would break-even at approximately 77 percent occupancy at the current rates. He explained that the Marina occupancy rate has been between 58 and 62 percent the past three months.

Mayor DuBois asked if the Town Manager knew what the linear rental length is.

Town Manager Sugerman stated that he does not know it off the top of his head, but staff does have that calculation and it would be provided to the Commission before the next meeting.

**Motion: A motion was made by Commissioner O'Rourke to accept the Comprehensive Annual Financial Report for the Fiscal Year ending September 30, 2013; Commissioner Rapoza made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O'Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois	X		

Motion passed 5-0.

**PUBLIC COMMENT:**

None

**CONSENT AGENDA:**

- 2. Regular Commission Meeting Minutes of May 7, 2014**
- 3. Affirming the Acceptance of the 2013-2014 and 2014-2015 Community Development Block Grant Awards from Palm Beach County**
- 4. Completing the Annual Performance Evaluation of the Town Manager**

**Motion: A motion was made by Commissioner O'Rourke to approve the Consent Agenda; Commissioner Rapoza made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O'Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois	X		

Motion passed 5-0.

**OLD BUSINESS:**

- 5. Commission Discussion of Request from T-Mobile to Modify One of the Terms Offered in the April 2<sup>nd</sup> Approval of the Lease with Options**

Town Manager Sugerman presented the item (see attached Exhibit "B") wherein T-Mobile was asking the Commission to consider modifying the Lease with Options to state a flat rate for co-location revenues, rather than a rate of 50 percent of net revenues..

The Commission came to consensus to remain with the current offer proposed by the Town, which was to receive 50 percent of the net revenues from co-locator on the tower.

**PUBLIC HEARINGS - ORDINANCES ON FIRST READING:**

**6. Ordinance No. 04-2014 Zoning Code Text Amendment Modifying the General Description of the Commercial 4 (C4) Business Zoning District to Eliminate Locational References**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE III, SECTION 78-74(1) OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "C-4 BUSINESS DISTRICT" TO EXPRESS THE PURPOSE AND INTENT OF THE C-4 BUSINESS DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Community Development Director Nadia DiTomasso explained the item (see attached Exhibit "C").

**Public Comment Open:**

None

**Public Comment Closed:**

**Motion: A motion was made by Commissioner O'Rourke to approve Ordinance No. 04-2014 on first reading; Vice-Mayor Glas-Castro made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O'Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois	X		

Motion passed 5-0.

Attorney Baird read the Ordinance into the record by title only.

**7. Ordinance No. 05-2014 Rezoning Eight (8) Parcels on the West Side of 10<sup>th</sup> Court From Commercial-2 to Commercial-4 Zoning District**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REZONING EIGHT PARCELS OF REAL PROPERTY GENERALLY LOCATED SOUTH OF NORTHLAKE BOULEVARD, WEST OF 10<sup>TH</sup> COURT AND NORTH OF NORTHERN DRIVE FROM COMMERCIAL-2 TO COMMERCIAL-4; PROVIDING FOR THE AMENDMENT OF THE TOWN'S OFFICIAL ZONING MAP TO REFLECT THE ASSIGNMENT OF**

**THE COMMERCIAL-4 TO THE EIGHT PARCELS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Community Development Director Nadia DiTommaso explained the item (see attached Exhibit "D").

**Public Comment Open:**

None

**Public Comment Closed:**

**Motion: A motion was made by Commissioner O'Rourke to approve Ordinance 05-2014 on first reading; Commissioner Rapoza made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O'Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois	X		

Motion passed 5-0.

Attorney Baird read the Ordinance into the record by title only.

**8. Ordinance No. 06-2014 To Amend the Town's Purchasing Policy and Procedures Codified at Chapter 2, Article V, Division 2 of the Town of Lake Park Code of Ordinances**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CODE AT CHAPTER 2, ARTICLE V, DIVISION 2, ENTITLED "PURCHASING" TO AMEND SECTION 2-244 ENTITLED "APPLICATIONS AND EXCLUSIONS"; SECTION 2-245 AMENDING AND ADDING DEFINITIONS; SECTION 2-246 ENTITLED "ORGANIZATION"; SECTION 2-247 ENTITLED "PROCUREMENT"; SECTION 2-248 ENTITLED "COMPETITIVE SEALED BID PROCESS"; SECTION 2-249 ENTITLED COMPETITIVE SEALED PROPOSAL PROCESS. REQUESTS FOR PROPOSALS (RFP) OR REQUESTS FOR INFORMATION (RFI); SECTION 2-250 ENTITLED "ALTERNATIVE SOURCE SELECTION"; SECTION 2-251 ENTITLED "CONTRACT DOCUMENT"; SECTION 2-252 ENTITLED "PROTESTED SOLICITATIONS AND AWARDS"; SECTION 2-253 ENTITLED "SUSPENSION AND DEBARMENT"; SECTION 2-254 ENTITLED "INSPECTION AND TESTS"; SECTION 2-255 ENTITLED "EQUAL OPPORTUNITY/MINORITY AND WOMEN BUSINESS ENTERPRISES"; REMOVING SECTION 2-256 ENTITLED "CONFLICT OF INTEREST"; AND, ADDING NEW SECTION 2-256 "BID PREFERENCES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT;**

**PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Manager Sugerman explained the item (see attached Exhibit “E”).

Commissioner O’Rourke referred to the emergency purchases section of the ordinance, which states that the Town Manager or the designee to make emergency purchases. He asked what restrictions are in there on those types of purchases.

Town Manager Sugerman explained that the restrictions are defined in the narrative (see exhibit “E”).

Vice-Mayor Glas-Castro asked for clarification with the Change Order threshold of \$10,000.

Town Manager Sugerman explained that the Town Manager’s spending authority has been changed to \$10,000; therefore, a change order would have to be \$9,999 or less for the Town Manager to make the purchase without Town Commission approval.

**Motion: A motion was made by Commissioner O’Rourke to approve Ordinance 06-2014; Commissioner Rapoza made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O’Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois	X		

Motion passed 5-0.

Attorney Baird read the Ordinance into the record by title only.

**PUBLIC HEARINGS - ORDINANCE ON SECOND READING:**

**None**

**QUASI-JUDICIAL HEARING - RESOLUTION:**

**9. Resolution No. 15-05-14 An Application for Four (4) Park Avenue Downtown District (PADD) Waiver to the Parking Space Regulations Applied for by Fred Vecchione of Vecchione Construction, Acting as the Agent for Sue-Ellen Mosler Gamble Trust (Owner) for the Properties Located at 700 and 748 Park Avenue**

Declaration of Exparte Communication:

Commissioner O’Rourke stated that he has spoken with the property owner.

Vice-Mayor Glas-Castro stated that she recently spoke with the property owner, but does not recall if this topic was discussed.

Mayor DuBois stated that he spoke with the property owner and the agent.

Town Attorney Baird swore in all witnesses.

Community Development Director Nadia DiTommaso explained the item (see attached Exhibit "F").

Fred Vecchione of Vecchione Construction, acting as the agent for Sue-Ellen Mosler Gamble Trust (Owner) for the properties located at 700 and 748 Park Avenue was available to answer questions from the Commission.

Commissioner O'Rourke asked if there were ever a new property owner of 754 Park Avenue, would it be possible to require that new property owner to have a cross-access and joint access agreement.

Attorney Baird explained that if the property changed ownership, presumably the new owner would want to develop the property; the item would come before the Commission for approval and the Commission could require a condition that would include the same type of cross-access agreement that 700 and 748 Park Avenue ~~have currently~~ are being asked to put in place with the recommended condition.

The Commission and Mr. Vecchione discussed the cross-access and the joint access agreement and the parking plan for 700 and 748 Park Avenue.

**Motion: A motion by Commissioner O'Rourke to approve Resolution No. 15-05-14 An Application for Four (4) Park Avenue Downtown District (PADD) Waiver to the Parking Space Regulations Applied for by Fred Vecchione of Vecchione Construction, Acting as the Agent for Sue-Ellen Mosler Gamble Trust (Owner) for the Properties Located at 700 and 748 Park Avenue conditioned upon the owner provide an easement to provide access to the property at 754 Park Avenue at the west end of the parking lot; Vice-Mayor Glas-Castro made the second.**

Discussion ensued between the Commission, Mr. Vecchione, and staff regarding the requirement of a cross-access and joint access agreement for this property.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty		X	
Commissioner O'Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois		X	

Motion passed 3-2.

**The public hearing was closed.**

**NEW BUSINESS:**

**QUASI-JUDICIAL HEARING – Resolution:**

**10. Resolution No. 13-05-14 Request by Barkley’s Canine Club to Eliminate Condition #6 of Resolution 21-08-13 Requiring a Noise Study for the Previously Approved Animal Service Establishment, Special Exception Use, Located at 524 Northlake Boulevard**

Declaration of Exparte Communication:

Vice-Mayor Glas-Castro stated that she drove past the site on May 20<sup>th</sup> and also the day before it was presented to the Commission at a previously meeting, but has not had any communication with anyone.

Mayor DuBois stated that he spoke to the business owner regarding the issue about a month ago.

Town Attorney Baird swore in all witnesses.

Community Development Director Nadia DiTomasso explained the item (see attached Exhibit “G”).

Vice-Mayor Glas-Castro asked what type of flushing drains were installed outside the activity area to comply with condition number 7.

Community Development Director DiTomasso explained that Seacoast Utilities was provided with the plumbing plans and the business owner has informed them that all the animal excrements are picked up; therefore, no additional flushing drains were required.

Commissioner O’Rourke asked if any noise complaints were received.

Community Development Director DiTomasso stated “no”.

**Motion: A motion was made by Commissioner Flaherty to approve Resolution No. 13-05-14 with the condition that if the Town receives four or more complaints in a year then the business owner would be required to install bark blockers inside of the business; Commissioner Rapoza made the second.**

Discussion ensued between the Commission, the business owner Cindy Hackle, and staff.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O’Rourke		X	
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro		X	
Mayor DuBois	X		

Motion passed 3-2.

## **11. Commission Discussion on Possible Revisions to Chapter 10-Environment, Article IV Noise Control of the Code of Ordinances**

Town Manager Sugerman explained the item (see attached Exhibit "H").

Vice-Mayor Glas-Castro asked if the Town would have the means to enforce the noise ordinance considering that the Town does not own decibel meters.

Town Manager Sugerman explained that the Town does have the means to enforce the ordinance, but did not know if an enforcement action were brought before the Town if the Town had the means to uphold the ordinance in a court of law.

Vice-Mayor Glas-Castro asked Attorney Baird for clarification regarding a statement he made at the last Commission meeting regarding other municipalities dealing with noise as a nuisance factor rather than using decibel meters.

Attorney Baird explained that what he believed he said at the last meeting was that in addition to noise regulations where decibel levels were established, some municipalities have established a standard of plainly audible noise from an amplified source. He stated that they use various standards such as 100 feet away, 50 feet away, 25 feet away and when a complaint was received, a code officer would respond and would identify where they were when they heard the noise and they would then cite the owner of the property based on the distance of the noise.

Discussion ensued by the Commission regarding the current noise ordinance and what is considered excessive noise in the Town. Commissioner O'Rourke offered to draft language and to confer with the Town Manager on his ideas for modifying the current noise ordinance.

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

**Town Attorney Baird** none

**Town Manager Sugerman** none

**Commissioner O'Rourke** stated that a new business has opened on Park Avenue called Brewhouse Gallery.

**Commissioner Rapoza** stated that she would provide an update on Club 100 Charities at the next Commission meeting.

**Commissioner Flaherty** thanked staff for all the work they put into creating the Comprehensive Annual Financial Report.

**Vice-Mayor Glas-Castro** stated that Brewhouse Gallery seems to be an excellent addition to Park Avenue. She thanked everyone that attended the Palm Beach County League of Cities Installation Gala where she was appointed to the Board of Directors.

She announced that the next Palm Beach County League of Cities meeting would be in Royal Palm Beach.

**Mayor DuBois** congratulated the Vice-Mayor for her appointment to the Board of Directors. He thanked Lieutenant Chris Myers for his service to the Town of Lake Park and asked for a motion to present Lt. Myers with a certificate of appreciation at a future meeting.

**Motion: A motion was made by Commissioner O'Rourke to present Lt. Myers with a certificate of appreciation; Commissioner Rapoza made the second.**

Vote on Motion:

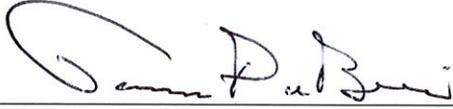
Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O'Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois	X		

Motion passed 5-0.

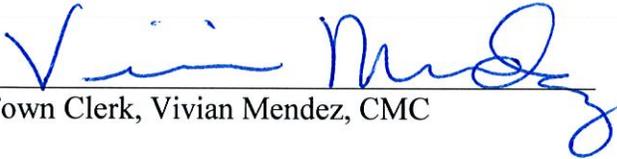
Mayor DuBois stated that he was glad to see the amount of people that attended the Brewhouse Gallery opening.

**ADJOURNMENT**

There being no further business to come before the Commission and after a motion to adjourn by Commissioner Rapoza and seconded by Commissioner Flaherty, and by unanimous vote, the meeting adjourned at 9:18 p.m.



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



\_\_\_\_\_  
Town Clerk, Vivian Mendez, CMC



Approved on this 18 of June, 2014



# AGENDA

Lake Park Town Commission  
Town of Lake Park, Florida  
Regular Commission Meeting  
Wednesday, May 21, 2014, 6:30 p.m.  
Lake Park Town Hall  
535 Park Avenue

<b>James DuBois</b>	—	<b>Mayor</b>
<b>Kimberly Glas-Castro</b>	—	<b>Vice-Mayor</b>
<b>Erin T. Flaherty</b>	—	<b>Commissioner</b>
<b>Michael O'Rourke</b>	—	<b>Commissioner</b>
<b>Kathleen Rapoza</b>	—	<b>Commissioner</b>
<hr style="border-top: 1px dashed black;"/>		
<b>Dale S. Sugerman, Ph.D.</b>	—	<b>Town Manager</b>
<b>Thomas J. Baird, Esq.</b>	—	<b>Town Attorney</b>
<b>Vivian Mendez, 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/ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. SPECIAL PRESENTATIONS/REPORTS

1. Presentation of the Comprehensive Annual Financial Report for the Fiscal Year Ended September 30, 2013

Tab 1

D. PUBLIC COMMENT:

This time is provided for addressing 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.

E. 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.

- 2. Regular Commission Meeting Minutes of May 7, 2014 Tab 2
- 3. Affirming the Acceptance of the 2013-2014 and 2014-2015 Community Development Block Grant Awards from Palm Beach County Tab 3
- 4. Completing the Annual Performance Evaluation of the Town Manager Tab 4

F. OLD BUSINESS:

- 5. Commission Discussion of Request from T-Mobile to Modify One of the Terms Offered in the April 2<sup>nd</sup> Approval of the Lease with Options Tab 5

G. PUBLIC HEARINGS - ORDINANCE ON FIRST READING:

- 6. Ordinance No. 04-2014 Zoning Code Text Amendment Modifying the General Description of the Commercial 4 (C4) Business Zoning District to Eliminate Locational References Tab 6

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE III, SECTION 78-74(1) OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "C-4 BUSINESS DISTRICT" TO EXPRESS THE PURPOSE AND INTENT OF THE C-4 BUSINESS DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

- 7. Ordinance No. 05-2014 Rezoning Eight (8) Parcels on the West Side of 10<sup>th</sup> Court From Commercial-2 to Commercial-4 Zoning District Tab 7

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REZONING EIGHT PARCELS OF REAL PROPERTY GENERALLY LOCATED SOUTH OF NORTHLAKE BOULEVARD, WEST OF 10<sup>TH</sup> COURT AND NORTH OF NORTHERN DRIVE FROM COMMERCIAL-2 TO COMMERCIAL-4; PROVIDING FOR THE AMENDMENT OF THE TOWN'S OFFICIAL ZONING MAP TO REFLECT THE ASSIGNMENT OF THE COMMERCIAL-4 TO THE EIGHT PARCELS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

- 8. Ordinance No. 06-2014 To Amend the Town's Purchasing Policy and Procedures Codified at Chapter 2, Article V, Division 2 of the Town of Lake Park Code of Ordinances Tab 8

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CODE AT CHAPTER 2, ARTICLE V, DIVISION 2, ENTITLED "PURCHASING" TO AMEND SECTION 2-244 ENTITLED "APPLICATIONS AND EXCLUSIONS"; SECTION 2-245 AMENDING AND ADDING DEFINITIONS; SECTION 2-246 ENTITLED**

**“ORGANIZATION”; SECTION 2-247 ENTITLED “PROCUREMENT”; SECTION 2-248 ENTITLED “COMPETITIVE SEALED BID PROCESS”; SECTION 2-249 ENTITLED COMPETITIVE SEALED PROPOSAL PROCESS. REQUESTS FOR PROPOSALS (RFP) OR REQUESTS FOR INFORMATION (RFI)”; SECTION 2-250 ENTITLED “ALTERNATIVE SOURCE SELECTION”; SECTION 2-251 ENTITLED “CONTRACT DOCUMENT”; SECTION 2-252 ENTITLED “PROTESTED SOLICITATIONS AND AWARDS”; SECTION 2-253 ENTITLED “SUSPENSION AND DEBARMENT”; SECTION 2-254 ENTITLED “INSPECTION AND TESTS”; SECTION 2-255 ENTITLED “EQUAL OPPORTUNITY/MINORITY AND WOMEN BUSINESS ENTERPRISES”; REMOVING SECTION 2-256 ENTITLED “CONFLICT OF INTEREST”; AND, ADDING NEW SECTION 2-256 “BID PREFERENCES”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**H. PUBLIC HEARINGS – ORDINANCE ON SECOND READING:**

None

**I. QUASI-JUDICIAL HEARINGS - RESOLUTIONS:**

**9. Resolution No. 15-05-14 An Application for Four (4) Park Avenue Downtown District (PADD) Waiver to the Parking Space Regulations Applied for by Fred Vecchione of Vecchione Construction, Acting as the Agent for Sue-Ellen Mosler Gamble Trust (Owner) for the Properties Located at 700 and 748 Park Avenue**

**Tab 9**

**J. NEW BUSINESS:**

**10. Resolution No. 13-05-14 Request by Barkley’s Canine Club to Eliminate Condition #6 of Resolution 21-08-13 Requiring a Noise Study for the Previously Approved Animal Service Establishment, Special Exception Use, Located at 524 Northlake Boulevard**

**Tab 10**

**11. Commission Discussion on Possible Revisions to Chapter 10-Environment, Article IV Noise Control of the Code of Ordinances**

**Tab 11**

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

**L. ADJOURNMENT**

**Next Scheduled Regular Commission Meeting will be held on Wednesday, June 4, 2014**



Exhibit "A"

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: May 21, 2014

Agenda Item No. Tab I

Agenda Title: Presentation of the Comprehensive Annual Financial Report for the Fiscal Year Ended 9/30/2013

- [X] SPECIAL PRESENTATION/REPORTS [ ] BOARD APPOINTMENT [ ] PUBLIC HEARING [ ] NEW BUSINESS [ ] OTHER: [ ] CONSENT AGENDA [ ] OLD BUSINESS ORDINANCE ON \_\_\_ READING

Approved by Town Manager [Signature] Date: 5/18/14

Blake K. Rane, Finance Director [Signature] Name/Title

Table with 3 columns: Originating Department (FINANCE), Costs/Funding Source (N/A, Acct. #, [X] Finance \_\_BKR\_\_), Attachments (Comprehensive Annual Financial Report), Advertised (Date, Paper, [X] 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 \_\_ BKR \_\_ or Not applicable in this case. Please initial one.

Summary Explanation/Background:

Each year, the Town's independent auditors, Nowlen, Holt & Miner, P.A., report on the condition of the Town's finances and present the Town's Comprehensive Annual Financial Report ("CAFR") for the past fiscal year. Mr. Ron Bennett, a principal with the firm will present the report for the year ended September 30, 2013.

Recommended Motion:

I move to accept the 2013 CAFR

# **TOWN OF LAKE PARK, FLORIDA**

## **Financial Highlights**

### **For the Year Ended**

**September 30, 2013**

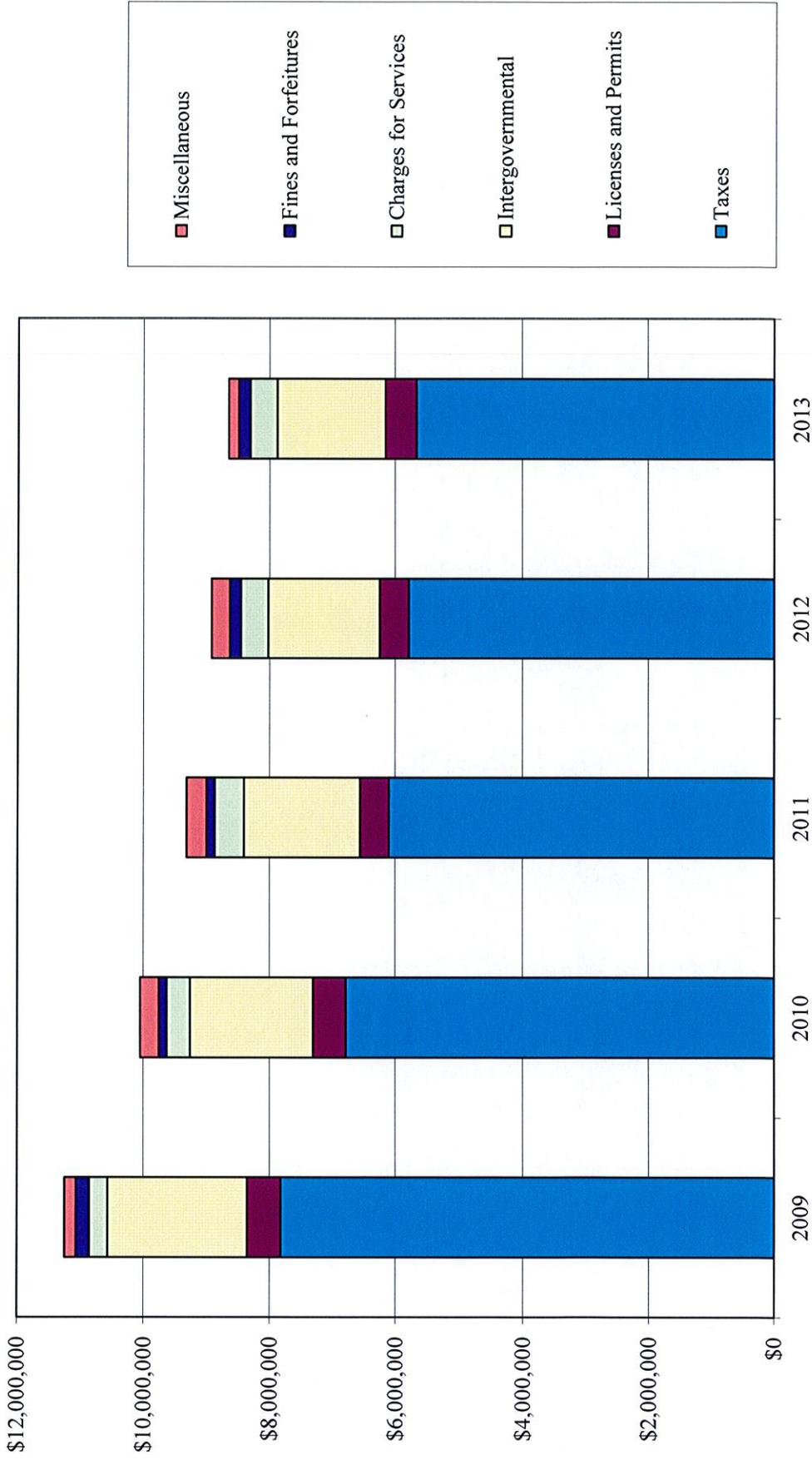


The information presented here has been derived from the Town's Basic Financial Statements and information provided by the Town. It is not intended to be a financial report under generally accepted accounting principles.

**Town of Lake Park, Florida  
Governmental Revenues**

Description	2009	2010	2011	2012	2013	Increase (Decrease)	Percent Change
Taxes	\$ 7,825,211	\$ 6,789,358	\$ 6,100,349	\$ 5,784,862	\$ 5,659,011	\$ (125,851)	-2.2%
Licenses and Permits	529,487	526,201	467,389	470,844	502,279	31,435	6.7%
Intergovernmental	2,198,263	1,938,633	1,833,846	1,765,296	1,718,020	(47,276)	-2.7%
Charges for Services	293,756	375,283	467,931	431,057	418,675	(12,382)	-2.9%
Fines and Forfeitures	213,105	120,890	132,963	183,345	185,451	2,106	1.1%
Miscellaneous	184,381	302,937	310,590	291,484	167,701	(123,783)	-42.5%
<b>Total Revenues</b>	<b>\$ 11,244,203</b>	<b>\$ 10,053,302</b>	<b>\$ 9,313,068</b>	<b>\$ 8,926,888</b>	<b>\$ 8,651,137</b>	<b>\$ (275,751)</b>	<b>-3.1%</b>

# Town of Lake Park, Florida Governmental Revenues



**Town of Lake Park, Florida  
Governmental Expenditures**

<b>Description</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Increase (Decrease)</b>	<b>Percent Change</b>
General Government	\$ 2,361,396	\$ 2,432,667	\$ 2,382,504	\$ 1,915,421	\$ 1,429,575	\$ (485,846)	-25.4%
Public Safety	5,413,894	5,484,119	4,906,546	4,725,084	4,578,945	(146,139)	-3.1%
Physical Environment	287,322	308,366	292,967	256,855	267,232	10,377	4.0%
Transportation	553,392	581,424	533,475	517,457	471,465	(45,992)	-8.9%
Culture and Recreation	1,087,407	858,955	870,465	697,998	776,567	78,569	11.3%
Economic Environment		32,063	49,637	3,458	1,921	(1,537)	-44.4%
Capital Outlay	2,369,922	490,174	153,252	234,513	70,763	(163,750)	-69.8%
Debt Service - Principal	746,625	766,541	801,042	827,516	865,224	37,708	4.6%
Debt Service - Interest & Other Charges	417,120	442,783	398,200	361,607	323,700	(37,907)	-10.5%
<b>Total Expenditures</b>	<b>\$ 13,237,078</b>	<b>\$ 11,397,092</b>	<b>\$ 10,388,088</b>	<b>\$ 9,539,909</b>	<b>\$ 8,785,392</b>	<b>\$ (754,517)</b>	<b>-7.9%</b>



**Town of Lake Park, Florida  
General Fund  
Fund Balance**

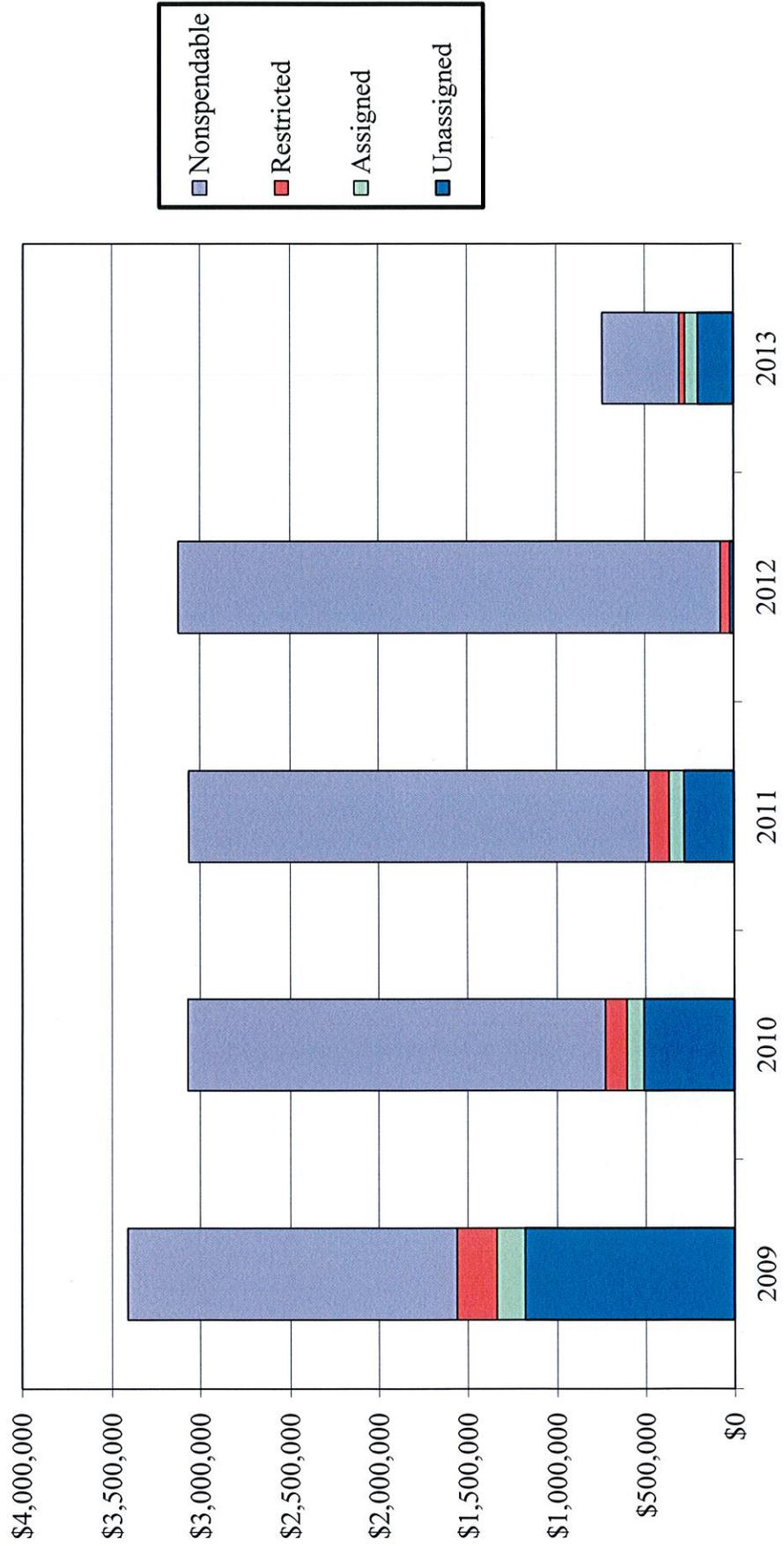
Fund Balance						Increase (Decrease)	Percent Change
	2009	2010	2011	2012	2013		
Unassigned	\$ 1,176,019	\$ 510,773	\$ 277,015	\$ 20,643	\$ 198,722	\$ 178,079	862.7%
Assigned	159,773	95,273	84,887	-	70,648	70,648	
Restricted	224,560	120,800	118,164	54,100	33,929	(20,171)	-37.3%
Nonspendable	1,853,598	2,342,499	2,582,849	3,045,989	435,992	(2,609,997)	-85.7%
<b>Total Fund Balance</b>	<b>\$ 3,413,950</b>	<b>\$ 3,069,345</b>	<b>\$ 3,062,915</b>	<b>\$ 3,120,732</b>	<b>\$ 739,291</b>	<b>\$ (2,381,441)</b>	<b>-76.3%</b>

**Fund Balance as a Percent of Total Expenditures Plus Transfers Out**

Unassigned	11.5%	5.3%	3.2%	0.3%	1.9%
Assigned	1.6%	1.0%	1.0%	0.0%	0.7%
Restricted	2.2%	1.3%	1.4%	0.7%	0.3%
Nonspendable	18.1%	24.3%	29.8%	37.3%	4.2%
<b>Total Fund Balance</b>	<b>33.4%</b>	<b>31.9%</b>	<b>35.4%</b>	<b>38.2%</b>	<b>7.1%</b>

General Fund Expenditures	\$ 9,405,978	\$ 9,054,087	\$ 8,299,794	\$ 7,868,055	\$ 7,652,544	\$ (215,511)	-2.7%
General Fund Transfers Out	\$ 818,659	\$ 580,324	\$ 354,462	\$ 292,910	\$ 2,725,018	\$ 2,432,108	830.3%
<b>Total</b>	<b>\$ 10,224,637</b>	<b>\$ 9,634,411</b>	<b>\$ 8,654,256</b>	<b>\$ 8,160,965</b>	<b>\$ 10,377,562</b>	<b>\$ 2,216,597</b>	<b>27.2%</b>

# Town of Lake Park, Florida General Fund Fund Balance



# Town of Lake Park, Florida

## Enterprise Funds

	2009	2010	2011	2012	2013	Increase (Decrease)
Operating Revenues	\$ 2,874,363	\$ 3,191,485	\$ 3,161,583	\$ 2,847,109	\$ 2,766,623	\$ (80,486)
Operating Expenses						
Personal Services	848,787	796,727	859,017	799,613	864,189	64,576
Operating Expenses	1,369,864	1,765,184	1,699,317	1,563,270	1,514,636	(48,634)
Depreciation	884,483	892,368	850,640	804,565	790,141	(14,424)
Total Operating Expenses	3,103,134	3,454,279	3,408,974	3,167,448	3,168,966	1,518
Operating Income (Loss)	(228,771)	(262,794)	(247,391)	(320,339)	(402,343)	(82,004)
Nonoperating Revenues (Expenses)						
Interest Income	7,100	16,780	10,652	11,902	11,214	(688)
Sale of Surplus Property	-	8,355	-	-	18,388	18,388
Amortization	(8,123)	2,384	2,384	(2,332)	(7,894)	(5,562)
Construction Settlements	-	-	-	15,000	880,000	865,000
Interest Expense	(285,018)	(286,007)	(273,912)	(273,569)	(252,781)	20,788
Total Nonoperating Revenues (Expenses)	(286,041)	(258,488)	(260,876)	(248,999)	648,927	897,926
Income (Loss) Before Capital Contributions	(514,812)	(521,282)	(508,267)	(569,338)	246,584	815,922
Capital Contributions	206,031	4,246	2,400,000	-	-	-
Net Transfers In (Out)	(212,554)	(281,801)	(284,050)	(324,350)	2,168,700	2,493,050
Change in Net Position	(521,335)	(798,837)	1,607,683	(893,688)	2,415,284	3,308,972
Net Position - Beginning of Year	3,759,828	3,238,493	2,439,656	4,047,339	3,153,651	(893,688)
Net Position - End of Year	\$ 3,238,493	\$ 2,439,656	\$ 4,047,339	\$ 3,153,651	\$ 5,568,935	\$ 2,415,284



# NOWLEN, HOLT & MINER, P.A.

CERTIFIED PUBLIC ACCOUNTANTS

WEST PALM BEACH OFFICE  
NORTHBRIDGE CENTRE  
515 N. FLAGLER DRIVE, SUITE 1700  
POST OFFICE BOX 347  
WEST PALM BEACH, FLORIDA 33402-0347  
TELEPHONE (561) 659-3060  
FAX (561) 835-0628  
WWW.NHMCPA.COM

EVERETT B. NOWLEN (1930-1984), CPA  
EDWARD T. HOLT, CPA  
WILLIAM B. MINER, CPA  
ROBERT W. HENDRIX, JR., CPA  
JANET R. BARICEVICH, CPA  
TERRY L. MORTON, JR., CPA  
N. RONALD BENNETT, CVA, ABV, CFF, CPA  
ALEXIA G. VARGA, CFE, CPA  
EDWARD T. HOLT, JR., PFS, CPA  
BRIAN J. BRESCIA, CFP®, CPA

KATHLEEN A. MINER, CPA  
J. MICHAEL STEVENS, CPA  
JARRETT A. PERRY, CPA  
KARA D. PETERSON, CFE, CPA  
MARK J. BYMASTER, CFE, CPA  
RUDINA TORO, CPA  
RYAN M. SHORE, CFP®, CPA  
TIMOTHY H. SCHMEDES, CFP®, CPA  
WEI PAN, CPA

May 21, 2014

The Honorable Mayor and Members of the Town Commission  
Town of Lake Park, Florida

BELLE GLADE OFFICE  
333 S.E. 2nd STREET  
POST OFFICE BOX 338  
BELLE GLADE, FLORIDA 33430-0338  
TELEPHONE (561) 996-5612  
FAX (561) 996-6248

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Town of Lake Park (the "Town") for the year ended September 30, 2013. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards and *Government Auditing Standards*, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated September 26, 2013. Professional standards also require that we communicate to you the following information related to our audit.

### *Qualitative Aspects of Accounting Practices*

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Town of Lake Park are described in Note 1 to the financial statements. As discussed in Note 17 to the financial statements, the Town changed its accounting policies by adopting the following Statements of Governmental Accounting Standards (GASB Statements) during 2013:

- GASB Statement No. 61, *The Financial Reporting Entity: Omnibus an amendment of GASB Statements No. 14 and No. 34*. This statement provides additional criteria for classifying entities as component units to better assess the accountability of elected officials by ensuring that the financial reporting entity includes organizations for which the elected officials are financially accountable or that are determined by the government to be misleading to exclude.
- GASB Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements*. This statement directly incorporates the applicable guidance from FASB and AICPA pronouncements into the state and local government accounting and financial reporting standards, with provisions modified, as appropriate, to recognize the effects of the governmental environment and the needs of governmental financial statement users without affecting the substance of the applicable guidance.

- GASB Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources, and Net Position*. This statement improves financial reporting by standardizing the presentation of deferred outflows of resources and deferred inflows of resources and their effects on a government's net position. It alleviates uncertainty about reporting those financial statement elements by providing guidance where none previously existed.

The application of existing policies was not changed during 2013. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate affecting the financial statements was management's estimate of the allowance for doubtful accounts in the Marina Fund which is based on aged receivables in excess of ninety days. We evaluated the key factors and assumptions used to develop the allowance for doubtful accounts in determining that it is reasonable in relation to the financial statements taken as a whole.

The financial statement disclosures are neutral, consistent, and clear.

#### *Difficulties Encountered in Performing the Audit*

We encountered no significant difficulties in dealing with management in performing and completing our audit. Management was helpful and cooperative throughout our audit.

#### *Corrected and Uncorrected Misstatements*

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. The adjusting journal entries presented in Appendix I represent misstatements detected during the audit process and were corrected by management prior to the preparation of the financial statements.

#### *Disagreements with Management*

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

#### *Management Representations*

We have requested certain representations from management that are included in the attached management representation letter April 30, 2014, which is included as Appendix II.

*Management Consultations with Other Independent Accountants*

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the governmental unit's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

*Other Audit Findings or Issues*

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the governmental unit's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses are not a condition to our retention.

In planning and performing our audit, we considered the Organization's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Organization's internal control over financial reporting. Accordingly, our audit procedures would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However we noted certain items which are listed in our Management Letter dated April 30, 2014.

With respect to the supplementary information accompanying the financial statements, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

We commend management for the improvements made from last year, their willingness to make the necessary changes to improve internal controls, and for their cooperation throughout the audit.

This information is intended solely for the use of the Town Commission and management of the Town of Lake Park, Florida, and is not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,

*Nowlen, Holt & Miner, P.A.*

Nowlen, Holt & Miner, P.A.

## Appendix I

Prepared by \_\_\_\_\_

**Lake Park  
Adjusting Journal Entries**

15071

Page 1

05/14/14 11:28 AM

Reviewed by \_\_\_\_\_

Reference	Type	Date Account Number	Description	Debit	Credit	Net Income Effect	
AJE01	Adjusting	09/30/13					
		190-13100-402-00000	Due from Stormwater	14,458.00			
		190-71000-190-54541	Principal		13,532.00		
		190-72000-190-54541	Interest		926.00		
		402-23900-920-00000	Loan Payable - Seacoast 2011	13,531.00			
		402-72010-402-53538	Interest-Alley & Equipment	927.00			
		402-20700-190-00000	Due to Streets & Roads		14,458.00		
							13,531.00
			To reverse payment by streets & roads to stormwater for debt service.				
AJE02	Adjusting	09/30/13					
		402-73100-402-53538	Bond Issuance Costs	4,023.00			
		402-23000-205-00000	Accum Amort of Issue Costs		4,023.00		
		401-23000-110-00000	Accum Amortization on Premium	12,510.00			
		401-73000-800-57579	Amortization Expense		12,510.00		
							8,487.00
			To correct bond amortization entries.				
AJE03	Adjusting	09/30/13					
		001-38100-130-00000	Transfer from CRA Fund - ILA	50,215.00			
		001-13200-910-00000	Advance to CRA - ILA		50,215.00		
		110-91030-520-55552	Transfer to Gen Fund - ILA 20		50,215.00		
		110-23600-910-00000	Advance from General Fund - ILA	50,215.00			
							0.00
			To adjust transfer for principal portion.				
AJE04	Adjusting	09/30/13					
		001-96200-900-51589	Unrealized Gain/Loss on Inves	1,799.00			
		001-15200-200-00000	Investment-Unrealized Gain/Loss		1,799.00		
		001-15200-200-00000	Investment-Unrealized Gain/Loss	1,839.00			
		001-96200-900-51589	Unrealized Gain/Loss on Inves		1,839.00		
							40.00
			To correct client error in reversing 9/30/12 unrealized gain on SBA Fund B account.				
AJE05	Adjusting	09/30/13					
		001-96200-900-51589	Unrealized Gain/Loss on Inves		2,168.00		
		001-15200-200-00000	Investment-Unrealized Gain/Loss	2,168.00			
		110-96200-520-55552	Unrealized Gain/Loss on Inves		194.00		
		110-15200-200-00000	Investment - Unrealized Gain/Loss	194.00			
		404-96200-404-53534	Unrealized Gain/Loss on Inves		1,342.00		
		404-15200-200-00000	Investment - Unrealized Gain/Loss	1,342.00			
							3,704.00
			To record unrealized gain as of 9/30/13				

Prepared by \_\_\_\_\_

**Lake Park  
Adjusting Journal Entries**

15071

Page 2

Reviewed by \_\_\_\_\_

05/14/14 11:28 AM

Reference	Type	Date Account Number	Description	Debit	Credit	Net Income Effect	W
			for SBA Fund B.				
AJE06	Adjusting	09/30/13					
		001-10100-200-00000	Checking - PNC Revenue	12,187.00			
		001-10100-100-00000	Checking - PNC Operating		12,187.00		
		110-10100-200-00000	Checking - PNC Revenue	19.00			
		110-10100-100-00000	Checking - PNC Operating		19.00		
		401-10100-200-00000	Checking - PNC Revenue	26,820.00			
		401-10100-100-00000	Checking - PNC Operating		26,820.00		
		404-10100-200-00000	Checking - PNC Revenue	80.00			
		404-10100-100-00000	Checking - PNC Operating		80.00		
						0.00	
			To reverse client entry posted in error.				
AJE07	Adjusting	09/30/13					
		001-10100-100-00000	Checking - PNC Operating	12,187.00			
		001-20200-000-00000	Accounts Payable		12,187.00		
		110-10100-100-00000	Checking - PNC Operating	19.00			
		110-20200-000-00000	Accounts Payable		19.00		
		401-10100-100-00000	Checking - PNC Operating	26,820.00			
		401-20200-000-00000	Accounts Payable		26,820.00		
		404-10100-100-00000	Checking - PNC Operating	80.00			
		404-20200-000-00000	Accounts Payable		80.00		
						0.00	
			To reverse client entry posted in error and record payables as of 9/30.				
AJE08	Adjusting	09/30/13					
		402-59000-402-53538	Depreciation Expense	4,022.00			
		402-16500-900-00000	Allow for Depreciation-Improvements		4,022.00		
		110-12800-913-00000	Note Receivable - Hot Pot Rest.		1,921.00		
		110-82111-520-55552	Grant - Business Development	1,921.00			
						(5,943.00)	
			To post client-provided entries to records depreciation expense and grant activity.				
AJE09	Adjusting	09/30/13					
		401-49101-800-57579	Bad Debts	4,414.00			
		401-11600-000-00000	Allowance for Doubtful Accounts		4,414.00		
						(4,414.00)	
			To record allowance for marina doubtful accounts at 9/30/13.				
AJE10	Adjusting	09/30/13					
		401-16400-900-00000	Improvements Other Than Bldgs	3,206.00			
		401-63040-800-57579	Improvements/Bt Trailer Park		3,206.00		

Prepared by \_\_\_\_\_

Reviewed by \_\_\_\_\_

## Lake Park Adjusting Journal Entries

15071  
Page 3  
05/14/14 11:28 AM

Reference	Type	Date Account Number	Description	Debit	Credit	Net Income Effect	W
			To record additional capital asset in Marina			3,206.00	
AJE11	Adjusting	09/30/13					
		301-33700-713-00000	Grant - FMIT Safety	5,000.00			
		301-20700-001-00000	Due to General Fund		5,000.00		
		001-13100-301-00000	Due from Special Project Fund	5,000.00			
		001-36600-713-00000	Grant-FMIT Safety		5,000.00		
			To post client requested entry to move FMIT grant to General Fund			0.00	
AJE12	Adjusting	09/30/13					
		402-23700-000-00000	OPEB Liability		324.00		
		402-23100-402-53538	Health Insurance	324.00			
		404-23700-000-00000	OPEB Liability		2,068.00		
		404-23100-404-53534	Health Insurance	2,068.00			
		951-18100-000-00000	Amount to be Provided	5,827.00			
		951-23700-000-00000	OPEB Liability		5,827.00		
			To record OPEB entry			(2,392.00)	
AJE13	Adjusting	09/30/13					
		404-34910-404-53534	Bad Debt Expense	44.00			
		404-11600-000-00000	Allowance for Doubtful Accounts	2,508.00			
		404-11500-100-00000	Accounts Receivable		2,552.00		
			To post client-provided entry to correct AR, Allowances, and Bad Debt expense.			(44.00)	
AJE14	Adjusting	09/30/13					
		001-11600-008-00000	Allowance for Uncoll A/R	13,496.00			
		001-11600-009-00000	Allowance for Uncollectable A/R		13,496.00		
			To post client-provided entry to correct PY entry posted to wrong account.			0.00	
AJE15	Adjusting	09/30/13					
		001-11500-006-00000	Accounts Receivable - Cost Recov	7,423.00			
		001-22240-000-00000	Deposits-Cost Recovery		7,423.00		
			To post client-provided entry to reclassify customer deposits to			0.00	

Prepared by \_\_\_\_\_

**Lake Park  
Adjusting Journal Entries**

15071

Page 4

Reviewed by \_\_\_\_\_

05/14/14 11:28 AM

Reference	Type	Date Account Number	Description	Debit	Credit	Net Income Effect	
			appropriate liability account.				
AJE16	Adjusting	09/30/13					
		001-11600-006-00000	Allowance for Uncoll-Cost Recove		202.00		
		001-34910-900-51589	Bad Debt Expense	202.00			
						(202.00)	
			To post client-provided entry to record allowance for cost recovery A/R.				
AJE17	Adjusting	09/30/13					
		951-18100-000-00000	Amount to be Provided	2,538.00			
		951-21000-900-00000	Compensated Absences Payable		2,538.00		
		401-16000-800-57579	Compensated Vacation Leave		321.00		
		401-17000-800-57579	Compensated Sick Leave		322.00		
		401-21000-100-00000	Accrued Leave Payable	643.00			
		402-16000-402-53538	Compensated Vacation Leave		1,464.00		
		402-17000-402-53538	Compensated Sick Leave		1,465.00		
		402-21000-100-00000	Accrued Leave Payable	2,929.00			
		404-16000-404-53534	Compensated Vacation Leave	5,229.00			
		404-17000-404-53534	Compensated Sick Leave	5,229.00			
		404-21000-100-00000	Accrued Leave Payable		10,458.00		
						(6,886.00)	
			To post client-provided entry to reverse compensated absences.				
AJE18	Adjusting	09/30/13					
		951-18100-000-00000	Amount to be Provided	17,268.00			
		951-21000-900-00000	Compensated Absences Payable		17,268.00		
		401-16000-800-57579	Compensated Vacation Leave	706.00			
		401-17000-800-57579	Compensated Sick Leave	706.00			
		401-21000-100-00000	Accrued Leave Payable		1,412.00		
		402-16000-402-53538	Compensated Vacation Leave	588.00			
		402-17000-402-53538	Compensated Sick Leave	588.00			
		402-21000-100-00000	Accrued Leave Payable		1,176.00		
		404-16000-404-53534	Compensated Vacation Leave		3,969.00		
		404-17000-404-53534	Compensated Sick Leave		3,969.00		
		404-21000-100-00000	Accrued Leave Payable	7,938.00			
						5,350.00	
			To post client-provided entry to record compensated absences balances.				
AJE19	Adjusting	09/30/13					
		950-16900-000-00000	Construction in Progress	53,042.00			
		950-28000-000-00000	Investment in Fixed Assets		53,042.00		
						0.00	
			To record cwip additions				

Prepared by \_\_\_\_\_

**Lake Park  
Adjusting Journal Entries**

15071

Page 5

05/14/14 11:28 AM

Reviewed by \_\_\_\_\_

Reference	Type	Date Account Number	Description	Debit	Credit	Net Income Effect	W
RJE01	Adjusting	09/30/13					
		404-10100-200-00000	Checking - PNC Revenue	320,000.00			
		404-20700-402-00000	Due to Stormwater Fund		320,000.00		
		402-13100-404-00000	Due From Sanitation Fund	320,000.00			
		402-10100-200-00000	Checking - PNC Revenue		320,000.00		
		404-10100-200-00000	Checking - PNC Revenue	17,200.00			
		404-20700-190-00000	Due to Streets and Roads Fund		17,200.00		
		190-13100-404-00000	Due From Sanitation Fund	17,200.00			
		190-10100-200-00000	Checking - PNC Revenue		17,200.00		
		401-10100-200-00000	Checking - PNC Revenue	175,000.00			
		401-20700-150-00000	Due to Insurance Fund		175,000.00		
		150-13100-401-00000	Due From Marina Fund	175,000.00			
		150-10100-200-00000	Checking - PNC Revenue		175,000.00		
		001-10100-200-00000	Checking - PNC Revenue	97,000.00			
		001-20700-110-00000	Due to CRA Fund		97,000.00		
		110-13100-001-00000	Due From General Fund	97,000.00			
		110-10100-200-00000	Checking - PNC Revenue		97,000.00		
		001-10100-200-00000	Checking - PNC Revenue	33,000.00			
		001-20700-190-00000	Due to Streets and Roads Fund		33,000.00		
		190-13100-001-00000	Due From General Fund	33,000.00			
		190-10100-200-00000	Checking - PNC Revenue		33,000.00		
			To post client AJE to adjust cash balances at 9/30/13.			0.00	
RJE02	Adjusting	09/30/13					
		401-73000-800-57579	Amortization Expense	6,255.00			
		401-72000-800-57579	Interest		6,255.00		
			To reclassify prem. amortz for financial stmt presentation			0.00	
		TOTAL		<u>1,674,947.00</u>	<u>1,674,947.00</u>	<u>14,437.00</u>	

## Appendix II



Office of the  
Town Manager

535 Park Avenue  
Lake Park, FL 33403  
Phone: (361) 881-3304  
Fax: (361) 881-3314

[www.lakeparkflorida.gov](http://www.lakeparkflorida.gov)

April 30, 2014

Nowlen, Holt & Miner, P.A.  
Certified Public Accountants  
515 North Flagler Drive, Suite 1700  
West Palm Beach, FL 33401

Gentlemen:

This representation letter is provided in connection with your audit of the financial statements of the Town of Lake Park, Florida, which comprise the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information as of September 30, 2013, and the respective changes in financial position and, where applicable, cash flows for the year then ended, and the related notes to the financial statements, for the purpose of expressing opinions as to whether the financial statements are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP).

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement. An omission or misstatement that is monetarily small in amount could be considered material as a result of qualitative factors.

We confirm, to the best of our knowledge and belief, as of April 30, 2014, the following representations made to you during your audit.

#### **Financial Statements**

- 1) We have fulfilled our responsibilities, as set out in the terms of the audit engagement letter dated September 13, 2013, including our responsibility for the preparation and fair presentation of the financial statements and for preparation of the supplementary information in accordance with the applicable criteria.
- 2) The financial statements referred to above are fairly presented in conformity with U.S. GAAP and include all properly classified funds and other financial information of the primary government and all component units required by generally accepted accounting principles to be included in the financial reporting entity.

- 3) We acknowledge our responsibility for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
- 4) We acknowledge our responsibility for the design, implementation, and maintenance of internal control to prevent and detect fraud.
- 5) Significant assumptions we used in making accounting estimates are reasonable.
- 6) Related party relationships and transactions, including revenues, expenditures/expenses, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties have been appropriately accounted for and disclosed in accordance with the requirements of U.S. GAAP.
- 7) All events subsequent to the date of the financial statements and for which U.S. GAAP requires adjustment or disclosure have been adjusted or disclosed. No events, including instances of noncompliance, have occurred subsequent to the balance sheet date and through the date of this letter that would require adjustment to or disclosure in the aforementioned financial statements.
- 8) As part of your audit, you have proposed adjusting journal entries that have been posted to the Town's accounts. We have reviewed and approved those entries and accepted responsibility for them.
- 9) The effects of all known actual or possible litigation, claims, and assessments have been accounted for and disclosed in accordance with U.S. GAAP.
- 10) Guarantees, whether written or oral, under which the Town of Lake Park, Florida is contingently liable, if any, have been properly recorded or disclosed.
- 11) We have not completed the process of evaluating the impact that will result from adopting Governmental Accounting Board Statements (GASB) No. 65, 66, 67, 68, and 71, as discussed in Note 18 to the financial statements. The Town of Lake Park, Florida is therefore unable to disclose the impact that adopting GASB 65, 66, 67, 68, and 71 will have on its financial position and the results of its operations when the Statements are adopted.

#### **Information Provided**

- 12) We have provided you with:
  - a) Access to all information, of which we are aware, that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters.
  - b) Additional information that you have requested from us for the purpose of the audit.
  - c) Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.
  - d) Minutes of the meetings of the Town Commission or summaries of actions of recent meetings for which minutes have not yet been prepared.
- 13) All material transactions have been recorded in the accounting records and are reflected in the financial statements.
- 14) We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.
- 15) We have no knowledge of any fraud or suspected fraud that affects the entity and involves:
  - a) Management,

- b) Employees who have significant roles in internal control, or
  - c) Others where the fraud could have a material effect on the financial statements.
- 16) We have no knowledge of any allegations of fraud or suspected fraud affecting the entity's financial statements communicated by employees, former employees, regulators, or others.
  - 17) We have no knowledge of instances of noncompliance or suspected noncompliance with provisions of laws, regulations, contracts, or grant agreements, or abuse, whose effects should be considered when preparing financial statements.
  - 18) We have disclosed to you all known actual or possible litigation, claims, and assessments whose effects should be considered when preparing the financial statements.
  - 19) We have disclosed to you the identity of the entity's related parties and all the related party relationships and transactions of which we are aware.

**Government—specific**

- 20) We have made available to you all financial records and related data.
- 21) There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices.
- 22) We have a process to track the status of audit findings and recommendations.
- 23) We have identified to you any previous audits, attestation engagements, and other studies related to the audit objectives and whether related recommendations have been implemented.
- 24) We have provided our views on reported findings, conclusions, and recommendations, as well as our planned corrective actions, for the report.
- 25) The Town of Lake Park, Florida has no plans or intentions that may materially affect the carrying value or classification of assets, liabilities, or equity.
- 26) We are responsible for compliance with the laws, regulations, and provisions of contracts and grant agreements applicable to us, including tax or debt limits and debt contracts; and we have identified and disclosed to you all laws, regulations and provisions of contracts and grant agreements that we believe have a direct and material effect on the determination of financial statement amounts or other financial data significant to the audit objectives, including legal and contractual provisions for reporting specific activities in separate funds.
- 27) There are no violations or possible violations of budget ordinances, laws and regulations (including those pertaining to adopting, approving, and amending budgets), provisions of contracts and grant agreements, tax or debt limits, and any related debt covenants whose effects should be considered for disclosure in the financial statements, or as a basis for recording a loss contingency, or for reporting on noncompliance.
- 28) As part of your audit, you assisted with preparation of the financial statements and related notes. We have designated an individual with suitable skill, knowledge, or experience to oversee your services and have assumed all management responsibilities. We have reviewed, approved, and accepted responsibility for those financial statements and related notes.
- 29) The Town of Lake Park, Florida has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral.
- 30) The Town of Lake Park, Florida has complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.

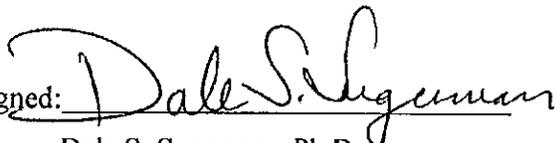
- 31) We have followed all applicable laws and regulations in adopting, approving, and amending budgets.
- 32) The financial statements include all component units as well as joint ventures with an equity interest, and properly disclose all other joint ventures and other related organizations.
- 33) The financial statements properly classify all funds and activities.
- 34) All funds that meet the quantitative criteria in GASBS Nos. 34 and 37 for presentation as major are identified and presented as such and all other funds that are presented as major are particularly important to financial statement users.
- 35) Components of net position (net investment in capital assets; restricted; and unrestricted) and equity amounts are properly classified and, if applicable, approved.
- 36) Provisions for uncollectible receivables have been properly identified and recorded.
- 37) Expenses have been appropriately classified in or allocated to functions and programs in the statement of activities, and allocations have been made on a reasonable basis.
- 38) Revenues are appropriately classified in the statement of activities within program revenues, general revenues, contributions to term or permanent endowments, or contributions to permanent fund principal.
- 39) Interfund, internal, and intra-entity activity and balances have been appropriately classified and reported.
- 40) Deposits and investment securities are properly classified as to risk and are properly disclosed.
- 41) Capital assets, including infrastructure and intangible assets, are properly capitalized, reported, and, if applicable, depreciated.
- 42) We have appropriately disclosed the Town of Lake Park, Florida's policy to first apply restricted resources when an expense is incurred for purposes for which both restricted and unrestricted net position is available and have determined that net position is properly recognized under the policy.
- 43) We have appropriately disclosed the Town of Lake Park, Florida's policy regarding classifying fund balance amounts and have determined that fund balances and changes in fund balance classifications were properly recognized under the policy.
- 44) We acknowledge our responsibility for the required supplementary information (RSI). The RSI is measured and presented within prescribed guidelines and the methods of measurement and presentation have not changed from those used in the prior period. We have disclosed to you any significant assumptions and interpretations underlying the measurement and presentation of the RSI.
- 45) With respect to the Other Supplementary Information on which an in-relation-to opinion is issued.
  - a) We acknowledge our responsibility for presenting the Other Supplementary Information in accordance with accounting principles generally accepted in the United States of America, and we believe the Other Supplementary Information, including its form and content, are fairly presented in accordance with accounting principles generally accepted in the United States of America. The methods of measurement and presentation of the Other Supplementary Information have not changed from those used in the prior period, and we have disclosed to you any significant assumptions or interpretations underlying the measurement and presentation of the supplementary information.
  - b) If the Other Supplementary Information are not presented with the audited financial statements, we will make the audited financial statements readily available to the intended users of the

supplementary information no later than the date we issue the supplementary information and the auditor's report thereon.

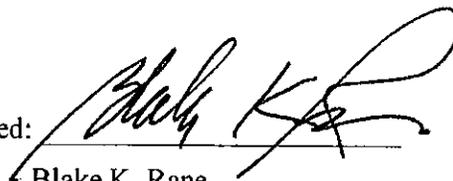
- 46) During the fiscal year ended September 30, 2013, the Town of Lake Park, Florida has not adopted an impact fee by ordinance or resolution.
- 47) We believe that the actuarial assumptions and methods used to measure pension and OPEB liabilities and costs for financial accounting purposes are appropriate in the circumstances. We agree with the findings of actuaries in calculating these amounts and have adequately considered the qualifications of the actuaries in determining the amounts and disclosures used in the financial statements and underlying accounting records. We did not give or cause any instructions to be given to the actuaries with respect to the values or amounts derived in an attempt to bias their work, and we are not otherwise aware of any matters that have had an impact on the independence or objectivity of the actuaries.
- 48) During the fiscal year ended September 30, 2013, the Town of Lake Park, Florida has not met any of the following financial emergency conditions specified in Section 218.503(1), Florida Statutes:
  - a) Failure within the same fiscal year in which due to pay short-term loans or failure to make bond debt service or other long-term debt payments when due, as a result of a lack of funds.
  - b) Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of a lack of funds.
  - c) Failure to transfer at the appropriate time, due to lack of funds:
    1. Taxes withheld on the income of employees; or
    2. Employer and employee contributions for:
      - i. Federal social security; or
      - ii. Any pension, retirement, or benefit plan of an employee.
  - d) Failure for one pay period to pay, due to lack of funds:
    1. Wages and salaries owed to employees; or
    2. Retirement benefits owed to former employees.
- 48) We have received a copy of the most recent peer review report for Nowlen, Holt & Miner, P.A. dated October 23, 2012.
- 49) During the fiscal year ended September 30, 2013, the Town of Lake Park, Florida expended less than \$500,000 in federal awards and less than \$500,000 in state financial assistance, and the Town is not required to have a Federal Single Audit or a State Single Audit.
- 50) We understand that it is management's responsibility to monitor the Town of Lake Park, Florida's financial condition, and that your financial condition assessment was based in part on representations made by management and the review of financial information provided by management.

51) In regards to the Lake Park Marina/Interlocal Agreement R-2010-1943, as amended, between the Town and Palm Beach County:

- a) The agreement requires the Town to complete and open the boat trailer/automobile parking lot as specified in the agreement within 24 months of the execution of the agreement. The Town has until April 16, 2016 to complete the parking lot as specified.
- b) The agreement requires the Town to complete the pedestrian promenade as described in the agreement upon the successful receipt of grant funding for such purposes within 60 months of the execution of the agreement. The Town has not received any grant funding for this purpose to date.
- c) The Town has submitted all project status reports to the County's representative, as requested.

Signed:   
Dale S. Sugerman, Ph.D.

Title: Town Manager

Signed:   
Blake K. Rane

Title: Finance Director



Exhibit "B"

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: May 21, 2014

Agenda Item No. *Tab 5*

Agenda Title: Commission Discussion of Request from T-Mobile to Modify One of the Terms Offered in the April 2<sup>nd</sup> Approval of the Lease with Options

- SPECIAL PRESENTATION/REPORTS
  - BOARD APPOINTMENT
  - PUBLIC HEARING ORDINANCE ON \_\_\_\_\_ READING
  - NEW BUSINESS
  - OTHER: \_\_\_\_\_
- CONSENT AGENDA
  - OLD BUSINESS

Approved by Town Manager *DSS* Date: *5/1/14*

*Dale S. Sugerman, Ph.D. - Town Manager*  
Name/Title

<b>Originating Department:</b>  <b>Town Manager</b>	Costs: \$ 0.00 Funding Source: Acct. # <input type="checkbox"/> Finance _____	<b>Attachments:</b>  <b>E-mail message dated April 23, 2014 from Adam Morris, agent for T-Mobile</b>
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case <i>DSS</i> <b>Please initial one.</b>

Summary Explanation/Background:

At the April 2, 2014 Town Commission meeting, two additional terms were added by the Commission to the proposed Site Lease with Options which would allow T-Mobile to place a cell tower at the Lake Park Harbor Marina. The first additional term was that T-Mobile would be fully responsible for abandonment, return, and the payment of all costs associated with any easement granted to them which would need to be released at the termination of the lease. That language is apparently acceptable to them. The second additional term was that the Town would receive 50% of net revenue from any co-locator on the tower. T-Mobile does not want to agree to a 50% revenue sharing, but instead has

asked the Town to establish a flat rate. You will see attached herein e-mail correspondence between my office and Adam Morris, agent for T-Mobile, asking that the Town set a flat rate. He has also asked that we provide him with comparables for whatever flat rate is set. If the Town Commission wants to set a flat rate amount, his client will determine if that is acceptable to them or not.

You will find the pertinent correspondence highlighted in yellow in the attachment to this Agenda Request Form.

**Recommended Motion:**

No motion is necessary at this time as this is a discussion item only.

## Dale Sugerman

---

**From:** Adam Morris [amorris@rgpartners.com]  
**Sent:** Wednesday, April 23, 2014 12:39 PM  
**To:** Dale Sugerman  
**Subject:** RE: Commission Approved Site Lease with Options

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dale,

Can you give me a flat rate the the City Commission would agree to along with any comparable tower rents to justify and I will present to T-Mobile as a fixed increase alternative. I believe this will help move the ball forward.

Best regards,

Adam Morris  
239-229-1130

### CONFIDENTIALITY NOTICE

The information contained in this message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately via email and delete the original; thank you.

-----Original Message-----

**From:** Dale Sugerman [mailto:dsugerman@lakeparkflorida.gov]  
**Sent:** Monday, April 21, 2014 5:33 PM  
**To:** Adam Morris  
**Subject:** Re: Commission Approved Site Lease with Options

Thanks for the update Adam.

Dale

Sent from my iPhone

On Apr 21, 2014, at 5:31 PM, "Adam Morris"  
<amorris@rgpartners.com<mailto:amorris@rgpartners.com>> wrote:

Thank you Dale,

I believe they are still interested, but management is determining what direction to take with the 50% rev share; either stay with the way it is proposed or come back with a fixed amount. I hope to receive a final answer this week.

Best regards,

Adam Morris  
239-229-1130

CONFIDENTIALITY NOTICE

The information contained in this message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately via email and delete the original; thank you.

From: Dale Sugerman [mailto:dsugerman@lakeparkflorida.gov]  
Sent: Monday, April 21, 2014 3:30 PM  
To: Adam Morris  
Cc: Vivian Mendez  
Subject: RE: Commission Approved Site Lease with Options

Adam-

The deadline for making the May 7th Town Commission agenda has now passed. The next available agenda is for the meeting of May 21st. Do you think T-Mobile still wants to move this site forward, or do you think this opportunity is now dead and gone?

Dale

From: Dale Sugerman  
Sent: Wednesday, April 09, 2014 9:21 AM  
To: 'Adam Morris'  
Cc: Vivian Mendez  
Subject: RE: Commission Approved Site Lease with Options

Adam-

Does T-Mobile want to offer a fixed dollar amount, or do you want the Town Commission to pick the number? Either way, the earliest I can get this back on a Commission agenda would be for the meeting of May 7th.

dale

From: Adam Morris [mailto:amorris@rgpartners.com]  
Sent: Wednesday, April 09, 2014 7:10 AM  
To: Dale Sugerman  
Cc: Vivian Mendez  
Subject: RE: Commission Approved Site Lease with Options

Dale,

T-Mobile has requested a fixed dollar increase per tenant rather than a 50% of revenue. They are stating that it creates a significant accounting challenges and subtenant landlord lease review problems that can be avoided if a fixed increase can be agreed upon instead.

Best regards,

Adam Morris  
239-229-1130

CONFIDENTIALITY NOTICE

The information contained in this message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately via email and delete the original; thank you.

From: Dale Sugerman [mailto:dsugerman@lakeparkflorida.gov]  
Sent: Friday, April 04, 2014 3:17 PM  
To: Adam Morris  
Cc: Vivian Mendez  
Subject: Commission Approved Site Lease with Options

Hello Adam-

Thank you for being at our Town Commission meeting this past Wednesday evening. Hopefully, you are pleased, on behalf of your client, with the outcome of the discussion and the vote by our governing body.

As you know, the Commission asked for two modifications to the Site Lease with Options. I have inserted those two modifications into the attached document. They are in red-lined type. Please let me know if this language is acceptable or not to your client. If it is acceptable, I will craft a final, clean document and circulate it for signatures.

Thank you and have a good weekend.

Regards,

Dale

Dale S. Sugerman, Ph.D.  
Town Manager  
TOWN OF LAKE PARK  
535 Park Avenue  
Lake Park, FL 33403  
561-881-3304  
561-881-3314 (Fax)  
www.lakeparkflorida.gov<http://www.lakeparkflorida.gov>

Please note: Florida has a very broad public records law. Written communication regarding Town business are public records available to the public upon request. Your e-mail communications are therefore subject to public disclosure. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entry, instead contact this office by phone or in writing. Section 668.0076, F.S.



Town of Lake Park Town Commission

Agenda Request Form

Exhibit "C"

Meeting Date: May 21, 2014

Agenda Item No. Tab 6

**AGENDA TITLE: ZONING CODE TEXT AMENDMENT MODIFYING THE GENERAL DESCRIPTION OF THE COMMERCIAL-4 (C-4) BUSINESS ZONING DISTRICT TO ELIMINATE LOCATIONAL REFERENCES.**

- SPECIAL PRESENTATION/REPORTS
- BOARD APPOINTMENT
- PUBLIC HEARING ORDINANCE ON 1<sup>st</sup> READING
- NEW BUSINESS
- OTHER: \_\_\_\_\_

- CONSENT AGENDA
- OLD BUSINESS

Approved by Town Manager  Date: 5/18/14

Nadia Di Tommaso / Community Development Director  
Name/Title 

<b>Originating Department:</b>  <p style="text-align: center;"><b>Community Development</b></p>	Costs: \$ 0 Funding Source: Acct. # <input type="checkbox"/> Finance _____	<b>Attachments:</b> → Ordinance __-2014 → Exhibit "A" – Zoning Map
<b>Advertised:</b> Date: Paper: <input checked="" type="checkbox"/> Not Required for 1 <sup>st</sup> reading	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>ND</u> OR Not applicable in this case _____ <b>Please initial one.</b>

**Summary Explanation/Background:**

The *General Description* in Section 78-74(1) of the Town's Commercial-4 (C-4) Business Zoning District needs to be amended. This is the only zoning district in the Town Code that includes a technical boundary description. From time to time, zoning district boundaries are amended and the regulating document used to illustrate these boundaries is the Town's Official Zoning Map which is adopted by reference in Town Code Section 78-32. Staff recommends that this antiquated language be removed from Town Code Section 78-74(1) with the understanding that the Town's Official Zoning Map included as Exhibit "A", will remain as the Town's official regulating document. The proposed changes can be found in the attached Ordinance.

**Recommended Motion:** I move to APPROVE Ordinance 04-2014 on first reading.

**ORDINANCE NO. 04-2014**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE III, SECTION 78-74(1) OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "C-4 BUSINESS DISTRICT" TO EXPRESS THE PURPOSE AND INTENT OF THE C-4 BUSINESS DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**WHEREAS**, the Town Commission has adopted general provisions pertaining to land development and zoning, which have been codified in Chapter 78 of the Code of Ordinances of the Town of Lake Park; and

**WHEREAS**, the Community Development Department has recommended to the Town Commission that Section 78-74(1) of the Code, entitled "General Description" be amended to remove the legal descriptions of the location of the C-4 zoning district; and

**WHEREAS**, the Community Development Department has recommended that the title of Section 78-74(1) should be amended to express the purpose and intent of this zoning district.

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

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

**Section 2.** Chapter 78, Article III, Section 78-74(1) is hereby amended to read as follows:

**Sec. 78-74. C-4 business district.**

Within the C-4 business district, the following regulations shall apply:

(1)

~~*General description Purpose and intent.* This district is intended to be located between the western boundary of Section 20 of Township 42 South, Range 43 East and the Florida East Coast (F.E.C.) right-of-way to the east, bounded on the south by the northern boundaries of parcels 307, 316 and 306, the eastern boundary of parcel 306 and then easterly on Watertower Road on a line extending to the Florida East Coast Railroad and on the north by the south boundary line of the existing C-1 commercial (business) district, as is shown is identified on the Town of Lake Park Official Zoning Map. This area is served by major roads but is not feasible for heavy commercial or industrial developments. The purpose of the regulations - in this district is are intended to encourage the development or redevelopment of uses which are compatible with the uses of the surrounding or abutting districts, and to provide for appropriate landscaping and parking for the uses in this district spaces. The intent of this district is to limit development to a concentration of permitted uses, by confining those permitted uses to business offices, wholesaling, retailing and light manufacturing activities.~~

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

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

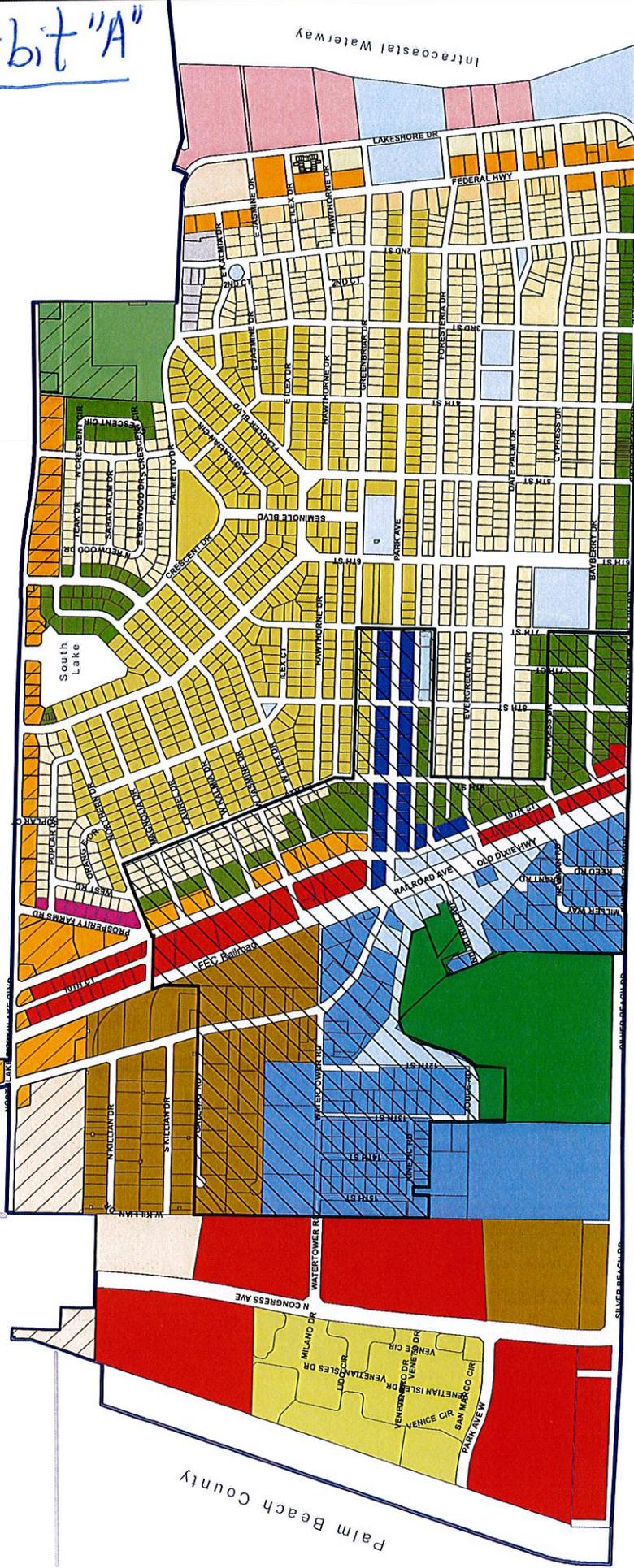
**Section 5.**     **Codification.** The sections of the Ordinance may be made a part of the Town Code of Laws and Ordinances and may be renumbered or relettered to accomplish such, and the word “ordinance” may be changed to “section,” “article,” or any other appropriate word.

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

Exhibit "A"

Village of North Palm Beach

City of Palm Beach Gardens



City of Riviera Beach

**Legend**

- CRA Boundaries
- R1B
- R1AA
- R1
- R1A
- C1
- C1B
- C2
- C3
- R2A
- R3
- R2
- TND
- Public
- PUD
- PADD
- CLIC
- CRA
- NBOZ\_overlay
- C4
- Lake\_Park\_Boundary
- Conservation



# Lake Park Zoning Map

Nadia Di Tommaso - Director  
 Community Development Department  
 Town of Lake Park  
 535 Park Ave Lake Park FL 33403  
 561-881-3319 561-881-3323 (fax)  
 nditommaso@lakeparkflorida.gov



Town of Lake Park Town Commission

Agenda Request Form

Exhibit "D"

Meeting Date: May 21, 2014

Agenda Item No. *Tab 7*

**AGENDA TITLE: REZONING EIGHT (8) PARCELS ON THE WEST SIDE OF 10<sup>TH</sup> COURT FROM COMMERCIAL-2 TO COMMERCIAL-4 ZONING DISTRICT.**

- SPECIAL PRESENTATION/REPORTS
- BOARD APPOINTMENT
- PUBLIC HEARING ORDINANCE ON 1<sup>st</sup> READING
- NEW BUSINESS
- OTHER: \_\_\_\_\_

- CONSENT AGENDA
- OLD BUSINESS

Approved by Town Manager *ND* Date: *5/9/14*

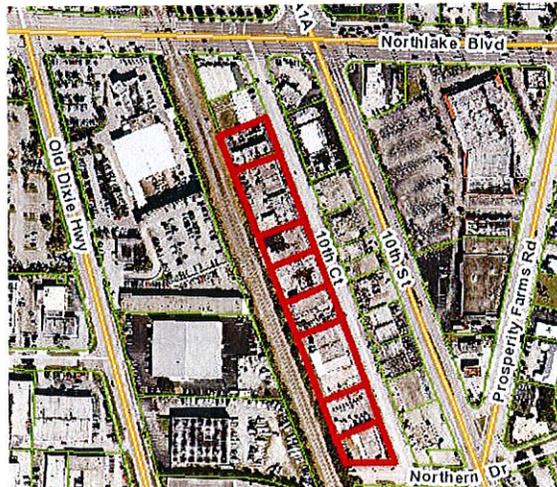
Nadia Di Tommaso / Community Development Director  
Name/Title

*ND*

<p><b>Originating Department:</b></p> <p style="text-align: center;"><b>Community Development</b></p>	<p>Costs: \$ 0</p> <p>Funding Source:</p> <p>Acct. #</p> <p><input type="checkbox"/> Finance _____</p>	<p><b>Attachments:</b></p> <ul style="list-style-type: none"> <li>→ Staff Report</li> <li>→ Ordinance __-2014</li> <li>→ Legal Ad</li> </ul>
<p><b>Advertised:</b></p> <p>Date: <b>04-14-2014*</b></p> <p>Paper: <b>Palm Beach Post</b></p> <p><input type="checkbox"/> Not Required</p> <p><i>*will be advertised again prior to 2<sup>nd</sup> reading*</i></p>	<p>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.</p>	<p>Yes I have notified everyone <u><i>ND</i></u></p> <p>OR</p> <p>Not applicable in this case _____</p> <p><b>Please initial one.</b></p>

**Summary Explanation/Background:**

This is a Town-initiated application to rezone eight properties consisting of 3.71 acres on the west side of 10th Court so that their zoning designations are consistent with amendments to the Town's Comprehensive Plan Future Land Use Map that became effective in 2009 and changed the land use designation from Commercial to Commercial/Light Industrial. These properties are located south of Northlake Boulevard and north of Northern Drive, *as illustrated below:*



These eight properties were built in the 1960's and 1970's as office/warehouse structures and throughout the years have been operated with automotive repair and other warehouse-type uses. These commercial AND light industrial-type uses are better served with a Commercial-4 (C-4) zoning district rather than a predominantly service and retail-oriented Commercial-2 (C-2) zoning district.

Consequently, staff is proposing that the zoning on these eight parcels is modified to reflect a C-4 zoning district which caters to both commercial AND light industrial uses and is in line with the existing Commercial/Light Industrial land use designation, as well as the existing operations throughout this area.

All eight parcels have been notified of this rezoning request. The Planning & Zoning Board held a public hearing on this item on May 5, 2014 and unanimously approved the rezoning of these eight parcels to the C-4 zoning district.

**Recommended Motion: I move to APPROVE Ordinance \_\_\_\_-2014 on first reading.**



**TOWN OF LAKE PARK  
TOWN COMMISSION  
May 21, 2014**

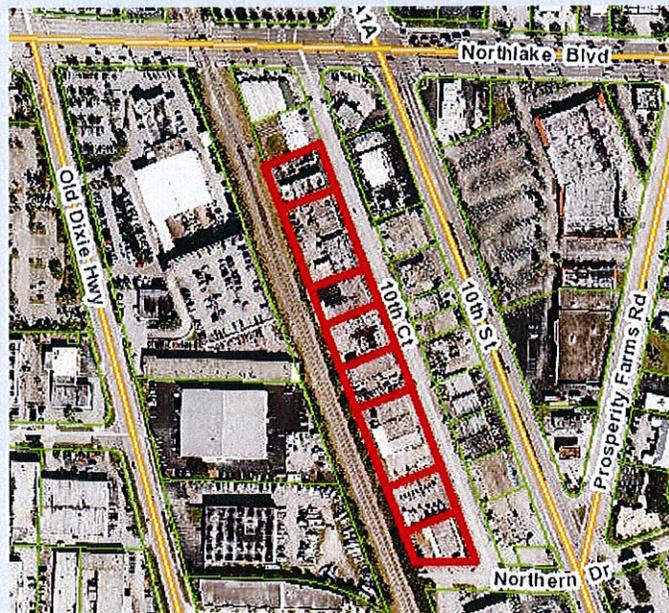
**STAFF REPORT**

**DESCRIPTION:**

Rezoning eight (8) parcels on the west side of 10<sup>th</sup> Court from Commercial-2 to Commercial-4 Zoning District.

**REQUEST:** This is a Town-initiated application to rezone eight properties consisting of 3.71 acres on the west side of 10th Court so that their zoning designations are consistent with amendments to the Town's Comprehensive Plan Future Land Use Map (see Exhibit "C") that became effective in 2009. The future land use designations of the eight properties changed from Commercial to Commercial/Light Industrial. The Town Commission at the time initiated this land use change to better reflect the actual commercial and light industrial land uses operating upon the eight properties. Staff recommends that the eight properties be rezoned from C-2 to C-4. The property control numbers of the properties are:

- (1) 36-43-42-20-04-132-0120; (2) 36-43-42-20-04-132-0130; (3) 36-43-42-20-04-132-0140;
- (4) 36-43-42-20-04-132-0160; (5) 36-43-42-20-04-132-0170; (6) 36-43-42-20-04-132-0181;
- (7) 36-43-42-20-04-132-0182; (8) 36-43-42-20-04-132-0210



The acreages of the eight properties are (1) 0.3535 acres, (2) 0.3128 acres, (3) 0.6256 acres, (4) 0.3145 acres, (5) 0.3145 acres, (6) 0.3082 acres, (7) 0.6322 acres, and (8) 0.3145 acres, (totaling 3.1758 acres). The properties are located on the north side of Northern Drive,

approximately 170 feet south of Northlake Boulevard, on the west side of 10<sup>th</sup> Court. Staff recommends that the properties be rezoned to the C-4 Zoning District to be consistent with the existing future land use designation of “Commercial/Light Industrial” of the Town’s Comprehensive Plan. The C-4 zoning district contains a variety of commercial and light industrial uses. In comparison, the existing C-2 zoning district is primarily intended for general commercial uses and not light industrial uses.

**STAFF RECOMMENDATION: APPROVAL.**

**PLANNING & ZONING BOARD RECOMMENDATION (May 5, 2014): APPROVAL.**

**BACKGROUND INFORMATION:**

Applicant(s): Town of Lake Park  
Owners: Various (see Exhibit “B” for *Property Listings*)  
Addresses : Various (see Exhibit “B” for *Property Listings*)  
Lot Size: 3.71 total acres

Parcel Control Numbers: 36-43-42-20-04-132-0120; 36-43-42-20-04-132-0130;  
36-43-42-20-04-132-0140; 36-43-42-20-04-132-0160;  
36-43-42-20-04-132-0170; 36-43-42-20-04-132-0181;  
36-43-42-20-04-132-0182; 36-43-42-20-04-132-0210

Existing Zoning: Commercial-2 (C-2)  
Proposed Zoning: Commercial-4 (C-4)  
Existing Land Use: Commercial and Light Industrial

**Adjacent Zoning**

North: Commercial-2 (C-2)  
South: Commercial-2 (C-2)  
East: Commercial-2 (C-2)  
West: Commercial-4 (C-4)

**Adjacent Land Uses**

North: Auto Repair  
South: Warehousing and Auto Repair  
East: Restaurants/Dry Cleaning/Storage Warehouse  
West: Office/Warehouse

**CONSISTENCY WITH THE COMPREHENSIVE PLAN**

The assignment of the C-4 Zoning District is consistent with the Comprehensive Plan’s Future Land Use Map’s (see Exhibit “C”) designation of the properties as “Commercial and Light Industrial.”

The proposed rezoning is consistent with Policy 1.1 of the Future Land Use Element of the Town's Comprehensive Plan which reads:

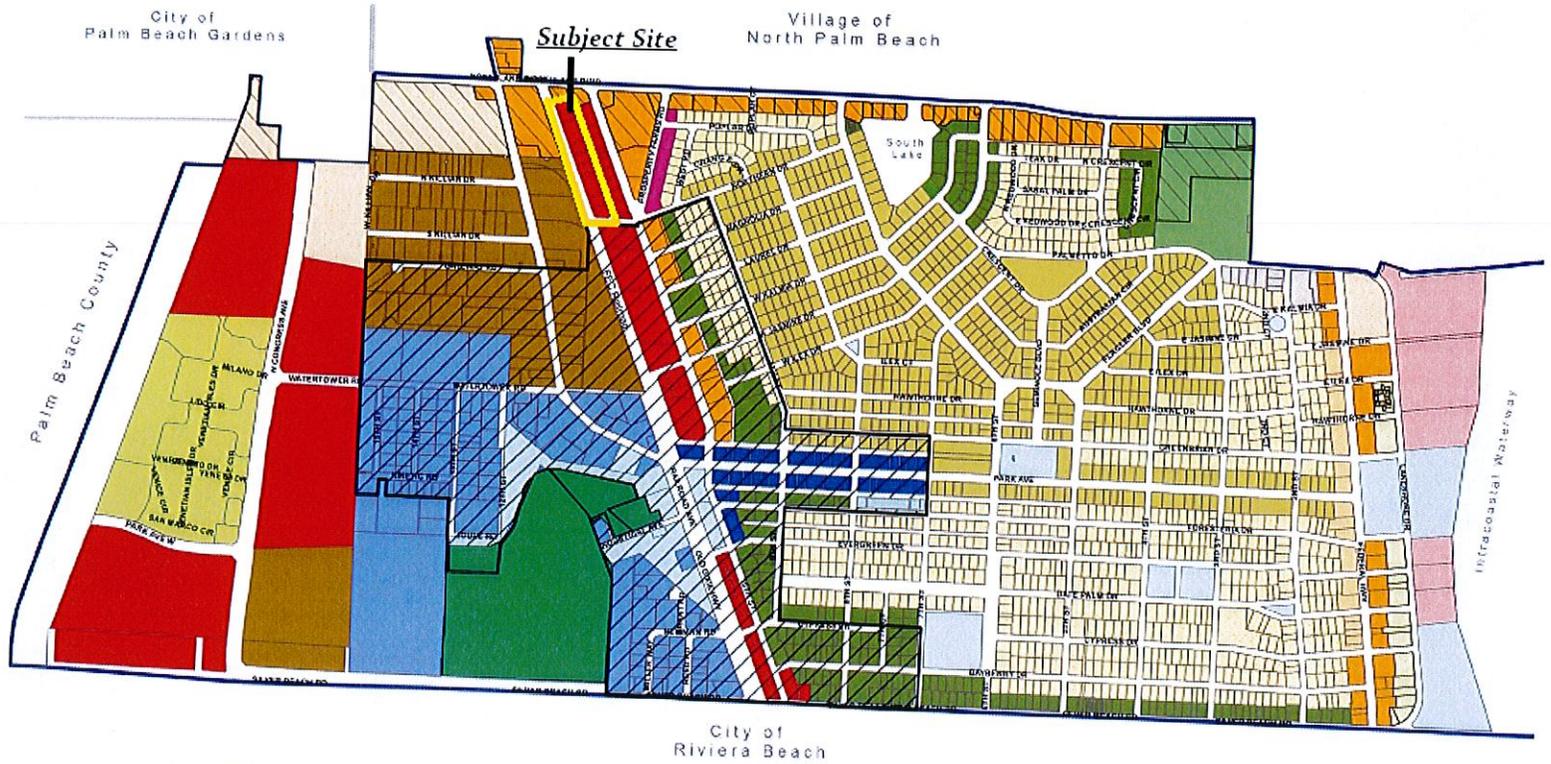
**Policy 1.1:** Land Development Regulations shall be amended as necessary to contain specific and detailed provisions required to implement the adopted Comprehensive Plan and which as a minimum:

- b. Regulate the use and intensity of land development consistent with this element to ensure the compatibility of adjacent land uses.
- k. Eliminate and/or reduce use of land inconsistent with the Future Land Use Map and the community's character.

**STAFF and PLANNING & ZONING BOARD RECOMMENDATION:**

**APPROVAL**

# EXHIBIT "A" – Town of Lake Park Zoning Map



## Legend

— CRA Boundaries

- |      |     |     |        |                    |              |
|------|-----|-----|--------|--------------------|--------------|
| R1B  | R2A | C1  | Public | CRA                | Conservation |
| R1AA | R3  | C1B | PUD    | NBOZ_overlay       |              |
| R1   | R2  | C2  | PADD   | C4                 |              |
| R1A  | TND | C3  | CLIC   | Lake_Park_Boundary |              |



**EXHIBIT "B" – Property Listings**

*(intentionally left blank)*

#1



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption **E-file** ▶



**Location Address** 1400 10TH CT  
**Municipality** LAKE PARK  
**Parcel Control Number** 36-43-42-20-04-132-0120  
**Subdivision** LAKE PARK ADD NO 2 IN  
**Official Records Book** 04556 **Page** 0490  
**Sale Date** MAY-1985  
**Legal Description** LAKE PARK ADD NO 2 LT 12 BLK 132

**Owners**

CATANZARO DENNIS &  
 CATANZARO DIANE L

**Mailing address**

1402 10TH CT  
 LAKE PARK FL 33403 2007

Sales Date	Price	OR Book/Page	Sale Type	Owner
MAY-1985	\$190,000	04556 / 0490	WARRANTY DEED	CATANZARO DENNIS &

No Exemption Information Available.

**Number of Units** 0 **\*Total Square Feet** 5050 **Acres** 0.3535  
**Use Code** 2700 - AUTO SALES **Zoning** C2 - Business ( 36-LAKE PARK )

Tax Year	2013	2012	2011
Improvement Value	\$187,273	\$173,432	\$170,639
Land Value	\$80,080	\$80,080	\$82,467
Total Market Value	\$267,353	\$253,512	\$253,106

All values are as of January 1st each year

Tax Year	2013	2012	2011
Assessed Value	\$267,353	\$253,512	\$253,106
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$267,353	\$253,512	\$253,106

Tax Year	2013	2012	2011
Ad Valorem	\$6,776	\$6,433	\$6,541
Non Ad Valorem	\$1,502	\$1,502	\$1,512
Total tax	\$8,278	\$7,935	\$8,053

#2



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption E-file ▶



**Location Address** 10TH CT  
**Municipality** LAKE PARK  
**Parcel Control Number** 36-43-42-20-04-132-0130  
**Subdivision** LAKE PARK ADD NO 2 IN  
**Official Records Book** 22505 **Page** 1265  
**Sale Date** MAR-2008  
**Legal Description** LAKE PARK ADD NO 2 LT 13 BLK 132

**Owners**

R & K 10TH COURT LLC

**Mailing address**

301 52ND ST  
 WEST PALM BEACH FL 33407 2723

Sales Date	Price	OR Book/Page	Sale Type	Owner
MAR-2008	\$1	22505 / 1265	WARRANTY DEED	R & K 10TH COURT LLC
JUL-2000	\$10	11951 / 1699	WARRANTY DEED	KAUFF RICHARD L TR
OCT-1991	\$100	06996 / 0962	QUIT CLAIM	
AUG-1982	\$95,000	03783 / 1253	WARRANTY DEED	

No Exemption Information Available.

**Number of Units** 0 **\*Total Square Feet** 0 **Acres** 0.3128  
**Use Code** 2700 - AUTO SALES **Zoning** C2 - Business ( 36-LAKE PARK )

Tax Year	2013	2012	2011
Improvement Value	\$3,107	\$3,129	\$3,117
Land Value	\$70,855	\$70,855	\$72,967
<b>Total Market Value</b>	<b>\$73,962</b>	<b>\$73,984</b>	<b>\$76,084</b>

All values are as of January 1st each year

Tax Year	2013	2012	2011
Assessed Value	\$73,962	\$73,984	\$76,084
Exemption Amount	\$0	\$0	\$0
<b>Taxable Value</b>	<b>\$73,962</b>	<b>\$73,984</b>	<b>\$76,084</b>

Tax Year	2013	2012	2011
Ad Valorem	\$1,875	\$1,877	\$1,966
Non Ad Valorem	\$210	\$210	\$210
<b>Total tax</b>	<b>\$2,085</b>	<b>\$2,087</b>	<b>\$2,176</b>

#3



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption **E-file** ▶



**Location Address** 1416 10TH CT  
**Municipality** LAKE PARK  
**Parcel Control Number** 36-43-42-20-04-132-0140  
**Subdivision** LAKE PARK ADD NO 2 IN  
**Official Records Book** 22044 **Page** 1577  
**Sale Date** MAY-2007  
**Legal Description** LAKE PARK ADD NO 2 LTS 14 & 15 BLK 132

**Owners**

1416 10TH COURT LLC

**Mailing address**

1416 10TH CT  
 LAKE PARK FL 33403 2007

Sales Date	Price	OR Book/Page	Sale Type	Owner
MAY-2007	\$10	22044 / 1577	WARRANTY DEED	1416 10TH COURT LLC
OCT-1991	\$100	06996 / 0964	QUIT CLAIM	KAUFF WALLACE H & HELEN L

No Exemption Information Available.

**Number of Units** 0 **\*Total Square Feet** 8880 **Acres** 0.6256  
**Use Code** 2700 - AUTO SALES **Zoning** C2 - Business ( 36-LAKE PARK )

Tax Year	2013	2012	2011
Improvement Value	\$395,920	\$360,760	\$358,113
Land Value	\$141,710	\$141,710	\$145,934
Total Market Value	\$537,630	\$502,470	\$504,047

All values are as of January 1st each year

Tax Year	2013	2012	2011
Assessed Value	\$537,630	\$502,470	\$504,047
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$537,630	\$502,470	\$504,047

Tax Year	2013	2012	2011
Ad Valorem	\$13,626	\$12,750	\$13,027
Non Ad Valorem	\$2,669	\$2,669	\$2,687
Total tax	\$16,295	\$15,419	\$15,714

#4



**Gary R. Nikolits, CFA**  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption **E-file**



**Location Address** 1424 10TH CT  
**Municipality** LAKE PARK  
**Parcel Control Number** 36-43-42-20-04-132-0160  
**Subdivision** LAKE PARK ADD NO 2 IN  
**Official Records Book** 11364 **Page** 1253  
**Sale Date** SEP-1999  
**Legal Description** LAKE PARK ADD NO 2 LT 16 BLK 132

**Owners**

PRADETTO ALBERT

**Mailing address**

7379 154TH CT  
 PALM BEACH GARDENS FL 33418 1977

Sales Date	Price	OR Book/Page	Sale Type	Owner
SEP-1999	\$190,000	11364 / 1253	WARRANTY DEED	PRADETTO ALBERT
JUN-1995	\$100	08795 / 1004	QUIT CLAIM	
JUN-1981	\$115,000	03553 / 0816	WARRANTY DEED	

No Exemption Information Available.

**Number of Units** 0 **\*Total Square Feet** 3840 **Acres** 0.3145  
**Use Code** 2700 - AUTO SALES **Zoning** C2 - Business ( 36-LAKE PARK )

Tax Year	2013	2012	2011
Improvement Value	\$155,197	\$143,363	\$141,871
Land Value	\$71,240	\$71,240	\$73,364
Total Market Value	\$226,437	\$214,603	\$215,235

All values are as of January 1st each year

Tax Year	2013	2012	2011
Assessed Value	\$226,437	\$214,603	\$215,235
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$226,437	\$214,603	\$215,235

Tax Year	2013	2012	2011
Ad Valorem	\$5,739	\$5,446	\$5,563
Non Ad Valorem	\$1,134	\$1,134	\$1,142
Total tax	\$6,873	\$6,580	\$6,705

#5



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption **E-file** ▶

**Location Address** 1430 10TH CT  
**Municipality** LAKE PARK  
**Parcel Control Number** 36-43-42-20-04-132-0170  
**Subdivision** LAKE PARK ADD NO 2 IN  
**Official Records Book** 22734 **Page** 298  
**Sale Date** JUN-2008  
**Legal Description** LAKE PARK ADD 2 LT 17 BLK 132

**Owners**

GROOT JANE TRUST &  
 PARSONS MICHAEL J TR  
 PFAFFENBERGER WILLIAM J TR

**Mailing address**

772 US HIGHWAY 1 STE 200  
 NORTH PALM BEACH FL 33408 4418

Sales Date	Price	OR Book/Page	Sale Type	Owner
JUN-2008	\$10	22734 / 0298	DEED OF TRUST	GROOT JANE TRUST &
JUN-1999	\$100	11198 / 0789	WARRANTY DEED	GROOT WILLIAM TR

No Exemption Information Available.

**Number of Units** 0 **\*Total Square Feet** 6784 **Acres** 0.3145  
**Use Code** 2700 - AUTO SALES **Zoning** C2 - Business ( 36-LAKE PARK )

Tax Year	2013	2012	2011
Improvement Value	\$178,851	\$164,672	\$159,621
Land Value	\$71,240	\$71,240	\$73,364
Total Market Value	\$250,091	\$235,912	\$232,985

All values are as of January 1st each year

Tax Year	2013	2012	2011
Assessed Value	\$250,091	\$235,912	\$232,985
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$250,091	\$235,912	\$232,985

Tax Year	2013	2012	2011
Ad Valorem	\$6,338	\$5,986	\$6,021
Non Ad Valorem	\$1,983	\$1,983	\$1,997
Total tax	\$8,321	\$7,969	\$8,018

#6



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption E-file ▶



**Location Address** 1436 10TH CT  
**Municipality** LAKE PARK  
**Parcel Control Number** 36-43-42-20-04-132-0181  
**Subdivision** LAKE PARK ADD NO 2 IN  
**Official Records Book** 22461 **Page** 1780  
**Sale Date** FEB-2008  
**Legal Description** LAKE PARK ADD NO 2 LT 18 /LESS N 1.20 FT/ BLK 132

**Owners**

BELLA INVESTORS INC

**Mailing address**

PO BOX 32967  
 PALM BEACH GARDENS FL 33420 2967

Sales Date	Price	OR Book/Page	Sale Type	Owner
FEB-2008	\$10	22461 / 1780	QUIT CLAIM	BELLA INVESTORS INC
JUN-2007	\$435,000	21876 / 1720	WARRANTY DEED	MANTOVANI KENNETH J JR
AUG-2006	\$550,000	20799 / 1541	WARRANTY DEED	INVESTMENTS OF SOUTH FLORIDA INC
JUN-2006	\$1	20557 / 1234	WARRANTY DEED	CHIRA MARTIN A
JAN-1996	\$100	09089 / 1592	WARRANTY DEED	

1 2

No Exemption Information Available.

**Number of Units** 0 **\*Total Square Feet** 5940 **Acres** 0.3082  
**Use Code** 4800 - WAREH/DIST TERM **Zoning** C2 - Business ( 36-LAKE PARK )

Tax Year	2013	2012	2011
Improvement Value	\$190,763	\$179,757	\$176,590
Land Value	\$69,815	\$69,815	\$71,896
Total Market Value	\$260,578	\$249,572	\$248,486

All values are as of January 1st each year

Tax Year	2013	2012	2011
Assessed Value	\$260,578	\$249,572	\$248,486
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$260,578	\$249,572	\$248,486

Tax Year	2013	2012	2011
Ad Valorem	\$6,604	\$6,333	\$6,422
Non Ad Valorem	\$1,752	\$1,752	\$1,764
Total tax	\$8,356	\$8,085	\$8,186

# 7



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption E-file ▶



**Location Address** 1440 10TH CT  
**Municipality** LAKE PARK  
**Parcel Control Number** 36-43-42-20-04-132-0182  
**Subdivision** LAKE PARK ADD NO 2 IN  
**Official Records Book** 22905 **Page** 772  
**Sale Date** OCT-2008  
**Legal Description** LAKE PARK ADD 2 N 1.20 FT OF LT 18 & LTS 19 & 20 BLK 132

**Owners**

LAKE PARK INVESTMENTS INC

**Mailing address**

1408 N KILLIAN DR STE 111  
 WEST PALM BCH FL 33403 1960

Sales Date	Price	OR Book/Page	Sale Type	Owner
OCT-2008	\$10	22905 / 0770	REP DEED	LAKE PARK INVESTMENTS INC
OCT-2008	\$625,000	22905 / 0772	WARRANTY DEED	LAKE PARK INVESTMENTS INC
AUG-2005	\$100,000	19181 / 1556	WARRANTY DEED	MASSER DAVID &
OCT-2000	\$405,000	12108 / 0688	WARRANTY DEED	MASSER DAVID &
AUG-1989	\$431,800	06155 / 1815	WARRANTY DEED	

1 2

No Exemption Information Available.

**Number of Units** 0 **\*Total Square Feet** 9200 **Acres** 0.6322  
**Use Code** 4800 - WAREH/DIST TERM **Zoning** C2 - Business ( 36-LAKE PARK )

Tax Year	2013	2012	2011
Improvement Value	\$287,706	\$271,012	\$266,847
Land Value	\$143,192	\$143,192	\$147,461
<b>Total Market Value</b>	<b>\$430,898</b>	<b>\$414,204</b>	<b>\$414,308</b>

All values are as of January 1st each year

Tax Year	2013	2012	2011
Assessed Value	\$430,898	\$414,204	\$414,308
Exemption Amount	\$0	\$0	\$0
<b>Taxable Value</b>	<b>\$430,898</b>	<b>\$414,204</b>	<b>\$414,308</b>

Tax Year	2013	2012	2011
Ad Valorem	\$10,921	\$10,511	\$10,707
Non Ad Valorem	\$2,828	\$2,828	\$2,847
<b>Total tax</b>	<b>\$13,749</b>	<b>\$13,339</b>	<b>\$13,554</b>

#8



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption E-file ▶



**Location Address** 1452 10TH CT A  
**Municipality** LAKE PARK  
**Parcel Control Number** 36-43-42-20-04-132-0210  
**Subdivision** LAKE PARK ADD NO 2 IN  
**Official Records Book** 15213 **Page** 546  
**Sale Date** MAY-2003  
**Legal Description** LAKE PARK ADD NO 2 LT 21 BLK 132

**Owners**

A 1 PAINT &amp; BODY INC

**Mailing address**

1452 10TH CT  
 LAKE PARK FL 33403 2007

Sales Date	Price	OR Book/Page	Sale Type	Owner
MAY-2003	\$390,000	15213 / 0546	WARRANTY DEED	A 1 PAINT & BODY INC
MAY-2002	\$50,000	13771 / 1384	WARRANTY DEED	SIEGEL STANLEY
JUL-2000	\$325,000	11901 / 1469	WARRANTY DEED	DASILVA ALDA
JUN-1985	\$100	04595 / 0193	QUIT CLAIM	
OCT-1983	\$50,000	04053 / 1499	QUIT CLAIM	

No Exemption Information Available.

**Number of Units** 0 **\*Total Square Feet** 4436 **Acres** 0.3145  
**Use Code** 2700 - AUTO SALES **Zoning** C2 - Business ( 36-LAKE PARK )

Tax Year	2013	2012	2011
Improvement Value	\$190,046	\$176,391	\$175,373
Land Value	\$71,240	\$71,240	\$73,364
Total Market Value	\$261,286	\$247,631	\$248,737

All values are as of January 1st each year

Tax Year	2013	2012	2011
Assessed Value	\$261,286	\$247,631	\$248,737
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$261,286	\$247,631	\$248,737

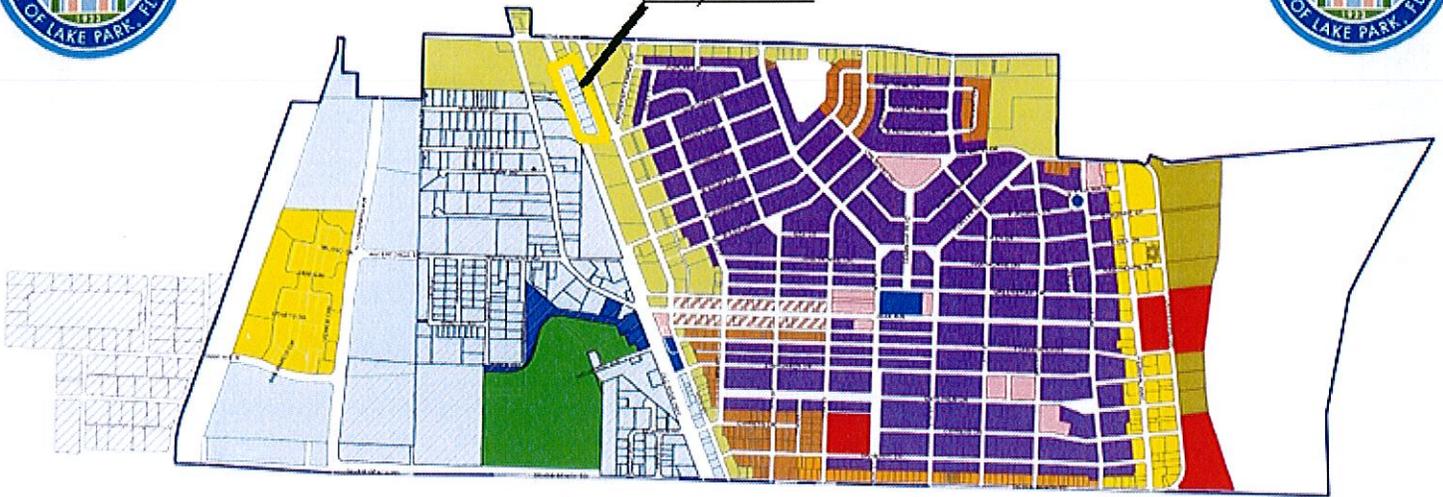
Tax Year	2013	2012	2011
Ad Valorem	\$6,622	\$6,284	\$6,428
Non Ad Valorem	\$1,368	\$1,368	\$1,377
Total tax	\$7,990	\$7,652	\$7,805

**EXHIBIT "C" – Future Land Use Map**



**Lake Park Future Land Use Map**

*Subject Site*



0 0.25 0.5 1 Miles



**Legend**

- |              |                    |                  |                      |
|--------------|--------------------|------------------|----------------------|
| Bioscience_2 | Downtown           | Condo_density    | Lake_Park_Boundary   |
| Conservation | Comm Lt Industrial | Resi_Low_Density | Pub_Bldg_Grounds     |
| Annexation   | Comm Residential   | Resi_medium      | Rec_Lands            |
|              | Commercial         | Single_Fam       | Other_Pub_Facilities |

Maple & Associates, Inc.  
 13000 US 90, Suite 100, Jacksonville, FL 32218  
 904.731.1111

**ORDINANCE NO. 05-2014**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REZONING EIGHT PARCELS OF REAL PROPERTY GENERALLY LOCATED SOUTH OF NORTHLAKE BOULEVARD, WEST OF 10<sup>TH</sup> COURT AND NORTH OF NORTHERN DRIVE FROM COMMERCIAL-2 TO COMMERCIAL-4; PROVIDING FOR THE AMENDMENT OF THE TOWN'S OFFICIAL ZONING MAP TO REFLECT THE ASSIGNMENT OF THE COMMERCIAL-4 TO THE EIGHT PARCELS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the town's Community Development Department has recommended that eight parcels of land (the "subject property") in the Town of Lake Park (Town) and which are generally located south of Northlake Boulevard, west of 10<sup>th</sup> Court and north of Northern Drive should be rezoned to Commercial-4 (C-4); and,

WHEREAS, the subject property is legally described in **Exhibit "A"**; and

WHEREAS, the subject property is generally located as shown on **Exhibit "B"**; and,

WHEREAS, the current zoning designation of the subject property is Commercial-2 (C-2); and,

WHEREAS, the existing future land use assigned to the subject property is Commercial/Light Industrial; and

WHEREAS, the Commission's rezoning of the subject property from C-2 to C-4 would be consistent with the subject property's existing future land use designation; and

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

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

**Section 2.** The Town Commission hereby assigns the zoning classification of Commercial-4 to the subject property which is legally described in the Exhibit A, which is attached hereto and incorporated herein.

**Section 3.** Section 78-32, which incorporates by reference the Town's Official Zoning Map and generally shows the assignment of the various zoning districts assigned to properties in the Town, is hereby amended to reflect the assignment of the Commercial-4 Zoning District to the subject property.

**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 part of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6.** The provisions of this Ordinance shall become effective upon adoption.

**Attachment:** Exhibit "A" – Legal Descriptions  
Exhibit "B" - Location Map

**Exhibit "A"**  
**Legal Descriptions**

**(PCN: 36-43-42-20-04-132-0120)**  
LAKE PARK ADD NO 2 LT 12 BLK 132

**(PCN: 36-43-42-20-04-132-0130)**  
LAKE PARK ADD NO 2 LT 13 BLK 132

**(PCN: 36-43-42-20-04-132-0140)**  
LAKE PARK ADD NO 2 LTS 14 & 15 BLK 132

**(PCN: 36-43-42-20-04-132-0160)**  
LAKE PARK ADD NO 2 LT 16 BLK 132

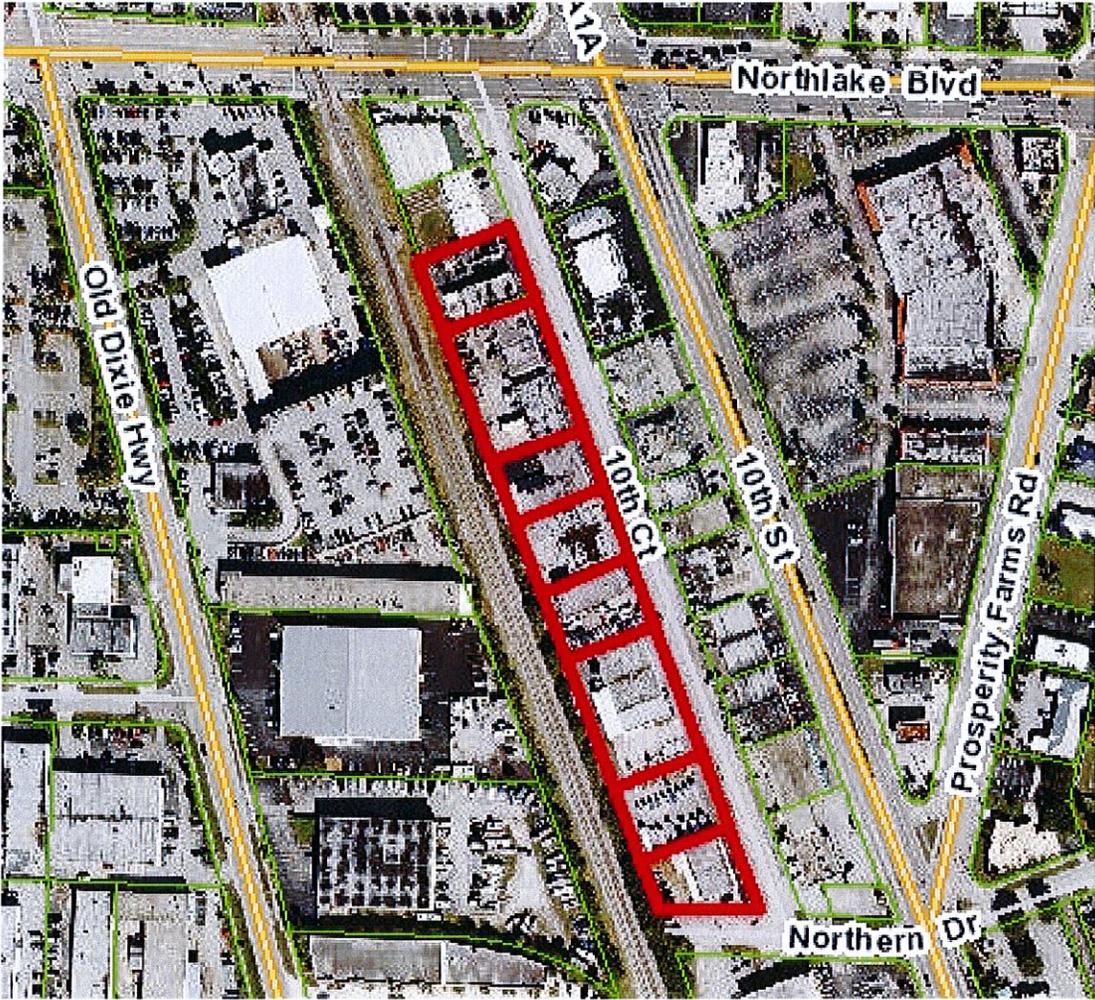
**(PCN: 36-43-42-20-04-132-0170)**  
LAKE PARK ADD 2 LT 17 BLK 132

**(PCN: 36-43-42-20-04-132-0181)**  
LAKE PARK ADD NO 2 LT 18 /LESS N 1.20 FT/ BLK 132

**(PCN: 36-43-42-20-04-132-0182)**  
LAKE PARK ADD 2 N 1.20 FT OF LT 18 & LTS 19 & 20 BLK 132

**(PCN: 36-43-42-20-04-132-0210)**  
LAKE PARK ADD NO 2 LT 21 BLK 132

Exhibit "B"  
Location Map



# LEGAL NOTICE OF PROPOSED ORDINANCES

## TOWN OF LAKE PARK

Please take notice that the Planning & Zoning Board on Monday, May 5, 2014 at 7:30 p.m., or as soon thereafter as can be heard, and the Town Commission on Wednesday, May 21, 2014 at 6:30 p.m. on first reading and Wednesday, June 4, 2014 at 6:30 p.m. on second reading for adoption, in a regular session to be held in the Commission Chambers, Town Hall, 535 Park Avenue, Lake Park, Florida will consider the rezoning of the following eight properties described by their respective property control number, from the Commercial-2 (C-2) Zoning District to the Commercial-4 (C-4) Zoning District. These properties are generally located on the west side of 10<sup>th</sup> Court, just south of Northlake Boulevard, in the Town of Lake Park, FL:

36-43-42-20-04-132-0120; 36-43-42-20-04-132-0130; 36-43-42-20-04-132-0140; 36-43-42-20-04-132-0160;  
36-43-42-20-04-132-0170; 36-43-42-20-04-132-0181; 36-43-42-20-04-132-0182; 36-43-42-20-04-132-0210

If a person decides to appeal any decision made by the Town Commission with respect to any hearing, they 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. For additional information, please contact Vivian Mendez, Town Clerk at 561-881-3311.

Vivian Mendez, Town Clerk, Town of Lake Park, Florida **PUB:** The Palm Beach Post: Monday, April 14



Town of Lake Park Town Commission

Agenda Request Form

Exhibit "E"

Meeting Date: May 21, 2014

Agenda Item No. Tab 8

**Agenda Title:** An Ordinance to Amend the Town's Purchasing Policy and Procedures Codified at Chapter 2, Article V, Division 2 of the Town of Lake Park Code of Ordinances

- SPECIAL PRESENTATION/REPORTS
- BOARD APPOINTMENT
- PUBLIC HEARING ORDINANCE ON 1st READING**
- NEW BUSINESS
- OTHER: \_\_\_\_\_

- CONSENT AGENDA
- OLD BUSINESS

Approved by Town Manager *DSS* Date: 5/9/14

*Bonnie McKeon-Purman*  
 Name/Title HUMAN RESOURCES DIRECTOR

<b>Originating Department:</b>  Human Resources and Finance Department	<b>Costs: \$ -0-</b> Funding Source: Acct. # <input type="checkbox"/> Finance _____	<b>Attachments:</b> Proposed Amended Purchasing Policy and Procedures
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR <b>Not applicable in this case</b> <u>BMT</u> Please initial one.

**Summary Explanation/Background:**

From time to time, it is important that we look at the Town's policies and procedures to make sure that they are as current as they can possibly be. Most recently, staff has reviewed the Town's purchasing policies, which are codified at Chapter 2, Article V, Division 2 of the Town of Lake Park Code of Ordinances (Code), and has determined that the purchasing Ordinance needs to be "cleaned-up" in a variety of areas to reflect current best municipal purchasing practices. The Commission may find that looking at the proposed changes is rather cumbersome (and in many cases they are just housekeeping

changes). Therefore, below you will find a brief summary of what staff is proposing as far as changes to the purchasing ordinance, and why it is proposing them:

Section Modified	Why the Modification is Being Suggested
<ul style="list-style-type: none"> <li>• §2-244(a) Applications and Exclusions</li> </ul>	<p>Enables the Town to use other forms of payment for purchases (e.g., a field purchase order or a purchasing card) in addition to a request for disbursement.</p>
<ul style="list-style-type: none"> <li>• §2-244(a)(13) Applications and Exclusions</li> </ul>	<p>Repeals the exclusion of legal settlements from the requirements of the purchasing policies and procedures so as to require that any Court case wherein the Town is a party and in which the settlement involves a monetary settlement shall be approved by the Commission. This amendment is pursuant to the Town Manager's suggestion.</p>
<ul style="list-style-type: none"> <li>• §2-245 Definitions</li> </ul>	<p>"Change-order": Amends the existing definition by requiring that change orders of \$10,000 be approved pursuant to Code §2-82 pertaining to the purchasing authority of the Town Manager.</p> <p>"Evaluation Committee": Creates an Evaluation Committee whose purpose is to evaluate all bids and proposals for goods and services which exceed \$25,000, and adds this definition to the Code.</p> <p>Adds the following definitions to the Code:</p> <ul style="list-style-type: none"> <li>• "Estimate"</li> <li>• "Local Merchant"</li> <li>• "Originating Department"</li> <li>• "Palm Beach County Merchant"</li> <li>• "Piggyback"</li> <li>• "Purchasing Card"</li> </ul> <p>Clarifies the following existing terms:</p> <ul style="list-style-type: none"> <li>• "Minority Business Enterprise"</li> <li>• "Public Entity Crime"</li> <li>• "Quotation"</li> <li>• "Sole Source"</li> </ul>

Section Modified	Why the Modification is Being Suggested
<ul style="list-style-type: none"> <li>• § 2-247(a) – (d) Procurement Methods</li> </ul>	<p>Amends the purchasing thresholds so as to be consistent with §2-82 pertaining to the purchasing authority of the Town Manager. This also amends the title of this section from “Procurement Methods to “Procurement Thresholds”.</p>
<ul style="list-style-type: none"> <li>• §2-248(p) Competitive Sealed Bid Process</li> </ul>	<p>Amends the language pertaining to changes/amendments to bids so as to be consistent with §2-82 pertaining to the purchasing authority of the Town Manager.</p>
<ul style="list-style-type: none"> <li>• §2-249(e) Competitive Sealed Proposal Process. Request for Proposal (RFP) or Request for Information (RFI)</li> </ul>	<p>Adds language prohibiting lobbying by any Town official with regard to a proposal or bid prior to the time of award (cone of silence).</p>
<ul style="list-style-type: none"> <li>• §2-249(g)(1) Competitive Sealed Proposal Process. Request for Proposal (RFP) or Request for Information (RFI)</li> </ul>	<p>Repeals the right of the Town to conduct negotiations with two or more proposers who respond to a straight RFP for vendor services or contracts for products as such negotiation only pertains to proposals submitted pursuant to the Consultants Competitive Negotiation Act</p>
<ul style="list-style-type: none"> <li>• §2-249(j)(4) Competitive Sealed Proposal Process. Request for Proposal (RFP) or Request for Information (RFI)</li> </ul>	<p>Amends the language pertaining to the approval of all price proposals so as to be consistent with §2-82 pertaining to the purchasing authority of the Town Manager</p>
<ul style="list-style-type: none"> <li>• §2-250(b) Alternative Source Selection</li> </ul>	<p>Amends the language pertaining to sole source purchases so as to be consistent with §2-82 pertaining to the purchasing authority of the Town Manager.</p>
<ul style="list-style-type: none"> <li>• §2-250(c) Emergency Purchases</li> </ul>	<p>Amends the language pertaining to emergency purchases to reserve the right to make or authorize emergency purchases to the Town Manager or the Town Manager’s designee</p>
<ul style="list-style-type: none"> <li>• §2-250(e) Cooperative Purchases</li> </ul>	<p>Clarifies the language pertaining to cooperative purchases (piggybacking).</p>

<b>Section Modified</b>	<b>Why the Modification is Being Suggested</b>
<ul style="list-style-type: none"> <li>• §2-251(a)(5) Contract Document</li> </ul>	Establishes uniform insurance requirements for inclusion in contract documents.
<ul style="list-style-type: none"> <li>• §2-251(a)(7) Contract Document</li> </ul>	Adds a standard provision to be included in all bid or contract documents requiring a statement of compliance with the Public Entity Crimes Act.
<ul style="list-style-type: none"> <li>• §2-252(b) Protested Solicitations and Awards</li> </ul>	Clarifies the bid protest process.
<ul style="list-style-type: none"> <li>• §2-253(a) Suspension and Debarment</li> </ul>	Deletes this section because the Town does not maintain a vendor list.
<ul style="list-style-type: none"> <li>• §2-253(a)(6) Suspension and Debarment</li> </ul>	Deletes this section to remove ambiguous and redundant language pertaining to grounds for vendor debarment.
<ul style="list-style-type: none"> <li>• §2-253(b)(3) Suspension and Debarment</li> </ul>	Adds language pertaining to the placement of a vendor or its subcontractors on the convicted vendor list maintained by the State of Florida Department of Management Services as grounds for permanent debarment.
<ul style="list-style-type: none"> <li>• §2-253(e) Suspension and Debarment</li> </ul>	Deletes this section to remove the redundant definition of "public entity crime", which is defined in §2-245.
<ul style="list-style-type: none"> <li>• §2-256 Bid Preferences</li> </ul>	Creates a new section to provide for a bid preference for local merchants or certified women or minority business enterprises.
<ul style="list-style-type: none"> <li>• § 2-257(a) Conflict of Interest</li> </ul>	Clarifies the language pertaining to the standards of conduct for public officers and employees and incorporates by reference the Palm Beach County Code of Ethics and the Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees.

Section Modified	Why the Modification is Being Suggested
<ul style="list-style-type: none"> <li>• §2-257(b) Conflict of Interest</li> </ul>	Deletes this section as such prohibition is contained in the Palm Beach County Code of Ethics which is incorporated by reference pursuant to §2-257(a).

In addition to the above substantive amendments, staff has made several non-substantive housekeeping clarifications, as well as grammatical and clerical corrections, which are identified throughout the attached Ordinance in underlined format.

Staff recommends approval of this Ordinance on first reading.

**Recommended Motion:** I move to approve Ordinance \_\_\_\_-2014 on first reading.

**ORDINANCE NO. 06-2014**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CODE AT CHAPTER 2, ARTICLE V, DIVISION 2, ENTITLED "PURCHASING" TO AMEND SECTION 2-244 ENTITLED "APPLICATIONS AND EXCLUSIONS"; SECTION 2-245 AMENDING AND ADDING DEFINITIONS; SECTION 2-246 ENTITLED "ORGANIZATION"; SECTION 2-247 ENTITLED "PROCUREMENT"; SECTION 2-248 ENTITLED "COMPETITIVE SEALED BID PROCESS"; SECTION 2-249 ENTITLED COMPETITIVE SEALED PROPOSAL PROCESS. REQUESTS FOR PROPOSALS (RFP) OR REQUESTS FOR INFORMATION (RFI); SECTION 2-250 ENTITLED "ALTERNATIVE SOURCE SELECTION"; SECTION 2-251 ENTITLED "CONTRACT DOCUMENT"; SECTION 2-252 ENTITLED "PROTESTED SOLICITATIONS AND AWARDS"; SECTION 2-253 ENTITLED "SUSPENSION AND DEBARMENT"; SECTION 2-254 ENTITLED "INSPECTION AND TESTS"; SECTION 2-255 ENTITLED "EQUAL OPPORTUNITY/MINORITY AND WOMEN BUSINESS ENTERPRISES"; REMOVING SECTION 2-256 ENTITLED "CONFLICT OF INTEREST"; AND, ADDING NEW SECTION 2-256 "BID PREFERENCES"; 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 has codified a procedure governing the procurement of goods and services, in which the Town has established procedures and the methods of procurements to be used when the Town desires to purchase goods and services; and

**WHEREAS**, it is generally in the best interest of the Town to use competitive procurement methods in order to obtain the best price and maximize the value of public funds in procurements; and

**WHEREAS**, establishing procurement methods and procedures for Town purchases, will provide for the fair and equitable treatment of persons and entities involved in purchasing by the Town, and establish safeguards for maintaining a procurement system of quality and integrity; and

**WHEREAS**, Town staff has recommended to the Town Commission that it amend Chapter 2, Article V, Division 2, Sections 2-244, 2-245, 2-246, 2-247, 2-248, 2-249, 2-250, 2-251, 2-252, 2-253, 2-254, 2-255, and 2-256; and

**WHEREAS**, the Town Commission has reviewed the recommendations of Town staff, and has determined that amending Chapter 2, Article V, Division 2, Sections 2-244, 2-245, 2-246, 2-247, 2-248, 2-249, 2-250, 2-251, 2-252, 2-253, 2-254, 2-255, and 2-256 of the Town's Code of Ordinances is necessary to further the public health, safety and welfare.

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

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

**Section 2.** Chapter 2, Article V, Division 2, Sections 2-244, 2-245, 2-246, 2-247, 2-248, 2-249, 2-250, 2-251, 2-252, 2-253, 2-254, 2-255, and 2-256 of the Town's Code of Ordinances are hereby amended to read as follows:

**DIVISION 2. PURCHASING**

**Sec. 2-241. General purpose.**

The purpose of this division is to meet the following objectives:

- (1) Establish policies governing all purchases and contracts;
- (2) Encourage and promote fair and equal opportunity for all persons doing business with the town;

- (3) Obtain goods and services of satisfactory quality and quantity at reasonable cost for the town;
- (4) Permit the continued development of procurement policies and procedures through the promulgation of administrative regulations and internal procedures of purchasing and contracts;
- (5) Foster effective broad-based competition within the free enterprise system; and
- (6) Provide safeguards for the maintenance of a procurement system of quality and integrity.

**Sec. 2-242. Supplementary general principles of law applicable.**

(a) *Compliance with federal and state law.* The town shall comply with all applicable federal and state laws.

(b) *Principles of law and equity.* The principles of law and equity, including the Uniform Commercial Code of this state (F.S. chs. 670--680), laws relative to ethics, and laws relative to contract, agency, fraud, misrepresentation, duress, coercion, mistake or bankruptcy shall supplement the provisions of this division.

(c) *Access to procurement information.* Procurement information shall be a public record to the extent provided in F.S. ch. 119, and shall be available to the public as provided by law.

(d) *Preference to proposals for goods and services.* The town shall have the option to give preference to proposals for goods and services received from vendors whose businesses are based within the town where price, quality and other relative factors are comparable.

**Sec. 2-243. Requirement of good faith.**

The provisions of this division require all parties involved in the development, performance or administration of purchasing contracts of the town commission to act in good faith.

The town commission recognizes that fair and open competition is a basic tenant of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically, and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are processed. The purchase of all commodities and services will be in accordance with town policy, codes, regulations and all applicable state statutes

**Sec. 2-244. Application and exclusions.**

(a) The provisions of this division shall apply to every purchase/procurement by the town, irrespective of their fund source, including state and federal assistance monies, except as otherwise specified by law. Items in this category shall be paid for through a

request for disbursement or other payment approval techniques. The provisions of this division shall not apply to:

- (1) Interlocal Agreements between the town commission and nonprofit organizations or governmental entities including the procurement, transfer, sale or exchange of goods and/or services.
- (2) Procurement Payment of dues and memberships in trade or professional organizations; subscriptions to periodicals; title insurance for real property; court reporter services; water, sewer and electrical utility services; copyrighted materials; patented materials; and fees and costs of job-related seminars and training.
- (3) Real property.
- (4) Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services.
- (5) Auditing services.
- (6) Lectures by individuals.
- (7) Goods and/or services given, or accepted by the town via grant, gift or bequest.
- (8) Goods purchased with petty cash in accordance with established town procedures.
- (9) Goods and/or services purchased under contract with the federal, state or any other municipal government or government agency or political subdivision providing the vendor extends the same terms and conditions of the contract to the town.
- (10) Items purchased for resale to the general public.
- (11) Permits (payable to governmental entities).
- (12) Approved travel expenses.
- ~~(13) Legal settlements. (However, any legal settlements over the amount of \$5,000.00 shall be approved by the town commission in a public meeting.)~~
- (143) Insurance.
- (154) Health services.
- (165) Conferences and travel.
- (176) Utilities bills.
- (187) Normal recurring disbursements not for the purpose of acquiring goods and services.

(b) The exclusions listed above do not preclude the town from procuring such goods and/or services using the procedures listed herein this division.

(c) The minimum requirements of this division do not preclude additional procedures from being taken as deemed appropriate by the town manager or town staff.

**Sec. 2-245. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agreement:* The written agreement between the Town of Lake Park and vendor covering the work to be performed; other contract documents are incorporated into or referenced in the agreement and made a part thereof as provided therein.

*Amendment:* A modification, deletion or addition to an executed contract by means of a formally executed document signed by both parties.

*Bid:* A formal written price offer by a vendor to the town to furnish specific goods and/or services in response to an invitation to bid.

*Bid award:* A contract and/or purchase order to the selected vendor to provide specific commodities and/or services to the town for which funds have been appropriated by the Town of Lake Park Commission.

*Bid criteria:* The basis upon which the town will rely to determine acceptability of a bid or proposal, as stated in the bid or the proposal, including, but not limited to, inspection, testing, quality, workmanship, delivery, price, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total cost or life cycle costs.

*Blanket purchase order:* A purchase order under which vendor agrees to provide goods and/or services to a purchaser on a demand basis.

*Certificate of contract completion:* A form which indicates that a project has been satisfactorily completed and the contractor has paid all labor, materials and other charges against the project in accordance with the terms of the contract.

*Certificate of insurance:* A document which shows proof of insurance, coverage, types and amounts.

*Change order:* A written instrument issued on or after the effective date of the formal written contract or purchase order which, when duly executed by the town and contractor, amends the contract documents to provide for a change in the work or in the provisions of the contract documents, or changes in contract price or contract time, or any combination thereof. A change order to a purchase order must be approved by the finance director and/or town manager for all changes that affect the original dollar amount by an increase of ten (10%) percent or more. Change orders of \$10,000.00 or

more require the approval of the town commission shall proceed pursuant to Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager.

*Commodities:* Any tangible personal property other than services or real property.

*Consultants Competitive Negotiation Act (CNNA):* Acquisitions of architectural, engineering, landscape architectural or surveying and mapping services. (F.S. § 287:055).

*Consulting services:* All other services that do not fall under the definition of professional services for the Consultant Competitive Negotiation Act (CCNA).

*Consulting services contract:* A continuing contract to retain the services of a consultant(s). The authorization for performance of services by the consultant shall be in written form issued and executed by the town and signed by the consultant.

*Contract:* A deliberate verbal or written agreement between two or more competent parties to perform or not perform a specific act or acts, or any type of agreement (regardless of what it is called) for the procurement or disposal of goods, services or construction in exchange for money or other consideration. An authorized purchase order is a contract even though it is only signed by the town manager, finance director or designee.

*Debarment:* The exclusion, for cause, of a vendor or contractor from bidding and/or receiving a contract to do business with the town.

*Design-build:* The requirement for which a single contract with a design-build firm is entered into for the design and construction of a capital improvement construction project.

*Designee:* A duly authorized representative of a person, organization, or agency.

*Discrimination:* Any vendor ~~who~~ that has been placed on the discrimination vendor list as defined by F.S. § 287.134, shall not be able to transact business with the town to the extent as specified in § 287.134 (2) (b).

*Emergency purchase:* Procurement made in response to certain emergencies or when the delay caused by complying with all governing rules, regulations, and/or procedures would be detrimental to the health, safety and welfare of the town and/or its citizens or would create a hardship on the reasonable conduct of business in a timely fashion. Lack of planning, or funding surpluses, do not justify emergency purchases.

*Estimate:* A stated expectation of price based upon time, quantity or other qualifiers.

*Evaluation committee:* A committee comprised of Town of Lake Park staff is hereby established for the purpose of evaluating all bids and proposals submitted in response to invitations for bids or requests for proposals for purchases with an estimated cost of \$25,000 or more. The evaluation committee shall have no less than three voting members and shall consist of the following:

- (1) The originating department director who may appoint up to three other members of the same department; and
- (2) The finance director who shall chair the evaluation committee as a non-voting member.

The town attorney shall provide advisory legal assistance as requested.

*Field purchase order:* A purchase of less than \$1,500.00 that does not require a purchase requisition or regular purchase order.

*Formal contract:* Represents a legal obligation on the part of each party to the formal contract, which results from both parties' signatures being affixed to the contract documents and some additional obligation imposed by law.

*Health services:* The procurement of any medical functions not covered by insurance, including but not limited to pre-employment physicals, random drug screening, medical consultations, and the contractual employment of the medical director for the county fire department.

*Invitation for bids:* All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids for the procurement of construction, commodities, and/or services.

*Letter of renewal:* A document, generated by either party, to renew or extend the contract in accordance with the terms of the original contract. Contract renewals will be requested by the ~~department head~~ department director of the originating department and prepared and approved by the town manager, finance director or designee and/or town commission where applicable per contract documents.

*Local merchant:* A merchant whose primary place of business is located within the municipal boundaries of the Town of Lake Park, Florida, and which has possessed a valid Town of Lake Park Business Tax Receipt for a minimum of one continuous year prior to the issuance of the invitation for bids or request for proposals.

*Mandatory bid amount:* The threshold dollar amount established as policy by the town commission at and above which the formal competitive sealed bid process shall be used, except as otherwise provided herein. The mandatory bid amount is \$25,000.00 as established by the town commission.

~~*Minority business enterprise:* Any small business concern, which is defined as a minority business enterprise pursuant to business certified by the Office of Supplier Diversity which meets the criteria outlined by F.S. § 288.703, as amended from time to time.~~

*Minority person:* Shall be defined as ascribed described by F.S. § 288.703, as amended from time to time.

*Nonresponsive bidder, proposer, or respondent:* Any vendor responding to an invitation to bid, request for proposals, or request for statement of qualifications ~~who~~

that does not submit the required signed documents or submits incomplete requested documents and/or information.

*Notice to proceed:* A written notification from the town manager or finance director or designee to the contractor to establish commencement of the contractor's responsibilities under the provisions of the contract.

*Originating department:* The town department issuing the invitation to bid, request for proposals, or request for statement of qualifications.

*Palm Beach County Merchant:* A merchant whose primary place of business is located within the boundaries of Palm Beach County, Florida, and which has possessed a valid Palm Beach County Local Business Tax Receipt for a minimum of one (1) continuous year prior to the issuance of the invitation for bids or request for proposals.

*Person:* Any business, individual, union, committee, club, or organization, or group of individuals.

*Piggyback:* A method of procuring the same goods or services utilizing a contract issued by another public agency that has fulfilled the requirements of competitive solicitation.

*Procurement:* Buying, purchasing, renting, leasing or otherwise acquiring any commodities and/or services for public purposes in accordance with the law, rules, regulations and procedure intended to provide for the economic expenditure of public funds. It includes, but is not limited to, all functions which pertain to the obtaining of any supplies, materials, equipment and/or services including construction projects and capital improvement projects, as defined herein, required by the town.

*Professional services (PS):* A solicitation for responses for CCNA services which include architectural, engineering, landscape architectural, and registered land surveying and mapping services as defined and prescribed under F.S. § 287.055.

*Project manager:* A person designated by the town manager to ensure compliance with town codes, resolutions, procedures, and specification for contracts which he/she originates. The project manager, along with the Department Head department director of the originating department is held accountable for contract compliance.

*Proposal:* An executed formal document submitted by a vendor to the town stating the goods and/or service offered to satisfy the need as described in a request for proposals (RFP), request for statement of qualifications (RFQ) or a request for information (RFI).

~~*Public entity crime:* Any vendor who has been convicted of a public entity crime as defined by F.S. § 287.133, shall not be able to transact business with the Town to the extent as specified in F.S. § 287.133 (2) (a).~~ A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids,

proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in F.S. § 287.017 for category two for a period of 36 months following the date of being placed on the convicted vendor list.

*Public notice:* The required notification or advertisement of an invitation to bid, request for proposal, or other competitive solicitation provided for in this division, to be given to prospective vendors for a reasonable/required period of time as determined by the town manager, which shall, at a minimum, include:

- (i) Posting public notice on the town's official website; and
- (ii) Notice in a newspaper of general circulation when required by applicable law.

The public notice shall describe the goods or services sought, and state the date, time and place of the bid/proposal/solicitation opening.

*Public record:* Upon award recommendation or ten days after opening, invitation to bid, request for proposals, request for statement of qualifications and request for information become public records and shall be subject to public disclosure consistent with F.S. ch. 119.

*Purchase order:* The town's document used to authorize a purchase transaction with a vendor, which contains provisions and/or descriptions for goods and/or services ordered. Acceptance of a valid purchase order by a vendor shall constitute a legally binding contract.

*Purchasing card:* A method of payment whereby charges are paid based on receipts or invoices at month end utilizing a supplier-specific credit card and not requiring a purchase order.

*Quotation:* ~~Any oral or written informal offer~~ by a vendor to the Town to furnish specific goods and/or services at a stated price.

*Request for information (RFI):* A solicitation for response from interested and prospective vendors/contractors to provide information to determine specifications, qualifications and/or capabilities to satisfy a need rather than a firm specification and in which the respondent may be given latitude in order to develop a product and/or service which will fulfill the need. Upon receipt of responses to the RFI, the town may develop specifications for an invitation for bid or criteria for a request for proposal, either of which may be issued to qualified proposers ~~who~~that submitted responses to the RFI.

*Request for letters of interest:* A solicitation of responses from interested and prospective vendors to provide information and/or specifications in order to determine qualifications and/or capabilities to satisfy a need rather than a firm specification, and in which the vendor may be given latitude in order to develop a product and/or service which will fulfill the need.

*Request for proposal (RFP):* A solicitation of responses for commodities and/or services for which the scope of work, specifications or contractual terms and conditions cannot reasonably be closely defined. Evaluation of a proposal is based on prior established criteria wherein the RFP shall state the relative importance of price and other evaluation factors.

*Request for qualification (RFQ):* Solicitation for statement of qualifications pursuant to F.S. § 287:055, known as the Consultants Competitive Negotiation Act (CCNA).

*Requisition:* An internal document generated by the originating requesting department and forwarded to the town manager or finance director requesting purchase of commodities and/or services.

*Responsible bidder, proposer, or respondent:* A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, ability, reliability, capacity, facilities, equipment, financial resources and credit which will assure good faith performance.

*Responsive bid:* A bid submitted by a responsive and responsible bidder, which conforms in all material respects to the invitation for bids.

*Responsive bidder:* A bidder ~~who~~ that has submitted a bid, which conforms in all material respects to the invitation for bids.

*Responsive proposal:* A proposal submitted by a responsive and responsible proposer, which conforms in all material respects to the request for proposal.

*Responsive proposer:* A proposer ~~who~~ that has submitted a proposal, which at a minimum conforms in all material respects to the request for proposal.

*Sales tax recovery:* An option, resulting from the town's tax exempt status, reserved by the town to purchase all, any, or none of the materials and equipment included in each contract agreement directly from the manufacturer or supplier.

*Sole source:* The only existing source of an item or service which meets the needs of the user—originating department as determined and documented by a reasonable analysis of the marketplace. If in the process of a public bid, only one response is received, the town manager or finance director may proceed as a sole source purchase.

*Specification:* A concise statement of terms, conditions and a set of requirements to be satisfied by a product, material, service, or process used in an invitation for bids, request for proposals, and request for statement of qualifications. It may include a description of any requirement for inspecting, testing, or preparing a commodity, service, or construction item for delivery.

*Surety bonds:* A document from the contractor, which is issued to guarantee that an obligation will be fulfilled. The nature of the obligation determines the type of bond

that will be issued. The types of surety bonds include: license and permit bonds, public official bonds, bid, performance, labor, material and payment bonds.

*Suspension:* The temporary debarment of a vendor for a period not to exceed three years.

*Town:* When herein referenced refers to the Town of Lake Park.

*Warranty:* The representation, either expressed or implied, that a certain fact regarding the subject matter of a contract is presently true or will be true.

#### **Sec. 2-246. Organization.**

The finance department shall be the agency through which the town will conduct all of its procurement and contracting for all supplies, material, equipment, contractual services, professional and consultant services, construction and/or combination of goods and services. A properly completed purchase requisition should be completed and approved by the appropriate department director of the originating department head prior to submission to the finance department. When a field purchase order is used, a requisition need not be completed but the field purchase order should be approved by the department Head director, and a copy of the field purchase order promptly sent to the finance department.

#### **Sec. 2-247. Procurement methodsthresholds.**

(a) *Twenty-five thousand dollars or more estimated cost.* Any purchase with an estimated cost of \$25,000.00 or more except in an emergency situation (as determined by the town manager), or when involving single-source commodities (as determined by the finance director or town manager) must have an invitation to bid or request for proposal formally advertised in a newspaper of general circulation in the county, for a period of time as specified in Section 2-248(c) prior to the date set for submittal of bids or proposals. All purchases with an estimated cost of \$25,000 or more shall require Town Commission approval. proceed pursuant to Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager.

(b) *Ten thousand dollars through \$24,999.99.* All purchases having a value between \$10,000.00 through \$24,999.99 must have at least three written quotes from vendors. The results should be summarized by the cost center procuring the commodity or service originating department, and the purchase reviewed by the finance director, and approved by the town manager. Three quotes are not required in emergency situations or when involving single-source commodities, as determined by the finance director or and the town manager. All purchases with an estimated cost of \$10,000.00 or more shall require Town Commission approval. proceed in pursuant to Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager.

(c) *Fifteen hundred dollars through \$9,999.99.* All purchases having a value of \$1,500.00 through \$9,999.99 must have at least three phone quotes documented by the procuring originating department. The documentation should include the vendor name, phone number, contact person, and quoted price. The town manager, finance director or the designee's assistant must approve all purchases between the amounts of

\$1,500.00 and \$9,999.99. Appropriate quotes should be submitted to the finance department with the purchase requisition. All purchases having a value of between the amounts of \$1,500.00 and \$9,999.99 shall proceed in accordance with Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager.

(d) *One cent through \$1,499.99.* All purchases having a value between \$0.01 and \$1,499.99 may be made using a field purchase order (FPO). It is the responsibility of the ~~procuring~~-originating department to ensure that items are obtained at a competitive price, and that the department has not exceeded the line-item budgetary appropriation for the items purchased. The ~~procuring~~-originating department shall not use field purchase orders to make more than one purchase of the same item within five business days if the total cost is more than \$1,499.99.

(e) *Review of purchases.* The finance department may review purchases from time to time to ensure the validity of the purchase, including but not limited to, a confirmation of the need for the items purchased, verification of the department's report and its supporting documentation, the adherence to these purchasing procedures, and the overall integrity of the process used. One copy of each field purchase order shall be immediately forwarded to the finance department by the ~~user~~originating department after completion of the purchase.

(f) *Aggregate Annual Amounts.* All references to bids and purchases and amounts established for bid parameters shall be deemed to be aggregate annual amounts, to the extent ~~feasible~~by each department. The total annual expected value of the purchase is to be used to determine the type of bid process to be applied. There shall be no artificial division of orders, piecemeal orders or other plans of order diversion or pyramiding to avoid said requirement.

(g) *Unauthorized purchases prohibited.* Unless specifically identified and approved it shall be prohibited for any town employee to order the purchase of any goods or services or make a contract other than through the finance director unless otherwise provided herein. Any purchase or contract made contrary to the provisions hereof are not authorized and shall not be binding upon the town, even though said goods and/or services are used or consumed in support of the effort of the town.

#### **Sec. 2-248. Competitive sealed bid process.**

(a) *Threshold amount.* The threshold dollar amount established as policy by the town commission at and above which the competitive sealed bid process shall be used, except as otherwise provided herein shall be \$25,000.00.

(b) *Invitation for bids.* Shall include the specifications, scope of service, all terms and conditions applicable to the bid and shall set forth the evaluation criteria to be used to determine the award.

(c) *Publication of notice.* Public notice of the invitation to bid shall be published in a newspaper of general circulation in the county for a period of time, as determined herein, prior to bid submittal deadline, and posted on the Town of Lake Park official web site. The public notice shall state the place, date, and time of bid opening.

(1) For bids estimated to be from \$25,000.00 or more and expected to be ~~under~~ less than \$200,000.00, the public notice of the invitation to bid shall provide a minimum of 21 days for submission of bids.

(2) For bids estimated to be ~~over~~ more than \$200,000.00 public notice of the invitation to bid shall provide at least 30 days for submission of bids unless determined by the town manager or finance director to not be in the best interest of the town.

(d) *Bid submission.* Bids must be ~~received,~~ submitted in a sealed envelope no later than the time and date set forth as the bid submittal deadline and at the location specified in the invitation to bid. Any bids received later than the bid submittal deadline or at any other location than as specified in the invitation to bid ~~will~~ shall not be accepted and shall be returned unopened to the bidder. It shall be the bidder's sole responsibility to ensure that ~~their~~ its bid reaches the specified place for receipt of bids by the specified ~~time~~ deadline. The town shall bear no responsibility for any failure of the U.S. Postal Service, other courier service or town employee to successfully deliver a bid to the designated delivery location. It is noted that bidders shall be allowed to withdraw their bids at any time prior to bid opening.

(1) All bids and accompanying documentation received from bidders in response to an invitation to bid become the property of the town, and will not be returned to the bidders. In the event of a contract award, all documentation produced as part of the contract shall become the exclusive property of the town.

(e) *Bid acceptance and evaluation.* Bids shall be accepted from all qualified vendors except as otherwise provided herein and shall be evaluated based on the requirements set forth in the invitation for bid. Unsolicited alternates will not be considered.

The town may, at any time and in its sole discretion, reject all bids and/or re-advertise for bids using the same or different specifications and terms and conditions.

(f) *Bid opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place specified in the invitation to bid. At the time of public opening, the town clerk or designee will officiate at all public bid opening of sealed bids, and shall announce and record the name of each bidder, the amount of each bid and such other relevant information as the town manager deems appropriate.

(g) *Public record.* Upon award recommendation or ten days after opening, bids become public records and shall be subject to public disclosure consistent with F.S. ch. 119.

(h) *Cancelling or postponing invitation to bid.* The town manager or finance director may, prior to bid opening, elect to cancel an invitation to bid or postpone the

date and/or time of bid submission or opening. In such situations, an addendum will be issued.

(i) *Withdrawal of bids.* A bidder can withdraw ~~their~~ its bid up to the time listed for receipt of bids. If a bidder unilaterally withdraws ~~their~~ its bid without permission after bid opening, the finance director may suspend the vendor from participating in future bids for up to three years.

(j) *Corrections to bids.* The following shall govern the corrections of information submitted in a bid when the information is a material factor in determining the responsiveness of the bid.

(1) Errors in extension of unit prices or in multiplication, division, addition or subtraction in a bid may be corrected by the finance director or designee prior to award. In such cases, the unit prices bid shall not be changed. When bidders quote in words and in figures on items on the bid sheet and the words and figures do not agree, the words shall govern and the figures shall be disregarded.

(2) Nothing herein is intended to prohibit the acceptance of a voluntary reduction in price from the low bidder after recommendation to award bid to the low bidder, provided such reduction is not conditioned on, or does not result in, the modification or deletion of any specifications or conditions contained in the invitation to bid.

(k) *Responsible bidder.* Factors to be considered in determining whether the standard of responsibility for bidders/proposers has been met include whether, in the town's determination, a prospective vendor/contractor has:

(1) Appropriate financial, material, equipment, facility, and personnel resources, experience, knowledge and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements as demonstrated by the vendor's submitted bid documents.

(2) A satisfactory record of performance on similar projects as set forth by the vendor's submitted bid documents and as verified by the town.

(3) A ~~satisfactory~~ record of integrity- that is satisfactory to the town.

(4) ~~Qualified legally~~ Documented that it is legally established to conduct business and to contract with the town.

(l) *Responsive bidder.* A bid shall be considered responsive only if it conforms to the requirements of the invitation for bids concerning pricing, surety, insurance, specifications of the commodities or services requested, inclusion of required documents and signed forms and any other matter unequivocally stated in the invitation for bids.

(m) *Tie bids.* If two or more bidders are tied, the tie may be broken and the successful bidder selected by the following criteria presented in order of importance and consideration:

- (1) Quality of the items or services bid if such quality is ascertainable.
- (2) Delivery time if provided in the bids by the bidders.
- (3) Certification of a "Drug-Free Workplace Program" which meets criteria established in F.S. § 287.087.
- (4) Physical location of the vendors with the following award preferences in the following priority order of priority for purposes of tabulating and/or ranking proposals:
  - i. ~~A Town of Lake Park vendor~~ local merchant (first priority).
  - ii. ~~A Palm Beach County vendor~~ merchant (second priority).
  - iii. ~~A Florida vendor~~ merchant (third priority).
  - iv. A minority business enterprise certified pursuant to the provisions of F.S. § 288.703, as amended from time to time.
- (5) ~~If the above criteria are impossible to determine with any reasonableness or do not resolve the issue it is impossible with any reasonableness to determine if any of the above criteria have been met, or if application of the above criteria do not resolve the issue,~~ the award will be given to that bidder whose bid was received earliest in time by the town as indicated by the time clock stamp impressed upon the bid envelope of each bidder.

(n) *Bid award.* Award will ordinarily be made to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. Notice of intent to award, along with a tabulation of the bid/proposal results, shall be posted by the town clerk on the town's official website five business days prior to the commission award. All bidders, proposers, offerors or contractors affected by the proposed award of contract will also be notified by the town clerk at the time of posting, via telefax or other means, of the intended award. The award shall be effective upon approval of ~~by~~ the town commission and upon issuance of a purchase order, execution of a contract, or written notice of award by the finance director or town manager. The town may reject any bid prior to such issuance. In the event only one bid is received, the town may award to the sole bidder if the bid is deemed to be reasonable and in the best interests of the town or to request new bids. In the event all bids exceed budgeted funds, the finance director, with direction of the town manager, in cooperation with ~~affected~~ the department director of the originating department, is authorized, when time or economic considerations preclude re-solicitation to negotiate an adjustment of the

bid price and/or bid specifications with the low responsive and responsible bidder in order to bring the bid within the amount of budgeted funds.

(o) *Rejection or award of bids.*

(1) The town reserves the right to accept or reject any and all bids and/or to make award to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation to bid and whose award will, in the opinion of the town, be in the best interest of and most advantageous to the town.

(2) Factors to be considered in determining whether the standard of responsibility has been met include whether, ~~in the town's determination,~~ a prospective vendor/contractor has provided:

a. Appropriate financial, material, equipment, facility, and personnel resources, experience, knowledge, and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements; as demonstrated by the vendor in the bid documents;

b. A satisfactory record of performance on similar projects; as specifically set forth in the bid submitted by the vendor/contractor and verified by the town;

c. A satisfactory record of integrity; that is satisfactory to the town;

d. ~~Qualified legally~~ Documentation that the vendor/contractor is a legally established business entity, is in good standing, and is able to conduct business in the state of Florida and to contract with the town; and

e. ~~Supplied a~~ All necessary information in connection with the inquiry concerning responsibility including but not limited to any current licenses, permits, insurance, or organization papers required. official documentation of its legal status.

~~The prospective vendor/contractor shall supply the above information requested by the town concerning the responsibility of such vendor/contractor or documentation to the town as part of the bid documents it submits to the town pursuant to the town's invitation to bid. If such vendor/contractor fails to supply the requested such information the town shall consider the bid documents submitted to be not responsive to the invitation to bid base the determination of responsibility upon any available information or may and find the prospective vendor/contractor nonresponsive if such information is not submitted within the time specified by the Finance Director.~~

(3) The town may conduct a prequalification process to evaluate ~~in which the~~ responsibility of potential vendors/contractors ~~is evaluated~~ and may then limit acceptance of bids or proposals to those vendors/contractors deemed qualified in such process.

(p) *Changes and amendments.* The finance director and/or town manager may authorize changes/amendments for construction, and goods and/or services within the overall scope of the project or procurement ~~of up to a cumulative amount of ten percent or \$10,000.00, whichever is lower.~~ pursuant to § 2(10) of Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager. If the amendment/change order exceeds the maximum amounts herein, the amount of the amendment/change order must be approved by the town commission. If the change is outside the scope of the original project or procurement as determined by the finance director and/or town manager, a new invitation to bid must be issued, unless an emergency or sole source situation exists. Should an emergency or sole source situation exist, a new contract with the existing contractor may be negotiated and presented to the town commission for approval, provided such contractor is qualified and available to perform on the new project, or is capable of securing the services of a qualified subcontractor. Extensions of time frames for completion of contracts may be authorized by the finance director and/or town manager.

**Sec. 2-249. Competitive sealed proposal process. Requests for proposal (RFP) or requests for information (RFI).**

When it is determined by the town manager that the use of competitive sealed bidding is either not practical or not advantageous to the town, the competitive proposal process may be used as an alternative to the competitive bid process.

- (a) *Public notice.* Public notice of the request for proposal or request for statement of qualification shall be given in the same manner as provided for competitive sealed bidding except all RFP or RFQ require a minimum of 21 days for submission of proposals unless determined by the finance director to be not in the best interest of the town.
- (b) *Evaluation factors.* The request for proposals shall state the relative importance of price and other evaluation factors as listed in the request for proposal.
- (c) *Submission.* Proposals must be received no later than the specified time and date and at the location specified for submission in the request for proposal (RFP) or request for statement of qualifications (RFQ). No proposal shall be accepted after such time or at any other location than specified; any proposal received later or at any other location than specified shall be returned unopened.
- (d) *Proposal cancellation or postponement.* The town manager, finance director or designee may, prior to the RFP or RFQ due date, elect to cancel or postpone the date and/or time for submission or opening. In such situations an addendum will be issued.
- (e) *Discussion with responsible proposer and revisions to proposals.* As provided in the request for proposals, discussions may be conducted with any responsible proposer ~~who~~ that submits a proposal determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Proposer

shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no exchange of information regarding the content or feasibility of the proposals ~~by to~~ competing vendors.

A proposer or bidder shall not communicate with any town elected or appointed official or employee other than a person listed in the bid or contract documents as the contact person for a particular bid or contract prior to the time an award decision has been made by the town. Any communication between the proposer or bidder and the town shall be to the employee listed in the bid or contract documents and shall be solely for the purposes of obtaining information or clarification necessary to develop a responsive, accurate proposal or bid. If a proposer or bidder fails to observe this restriction on communications, it shall be grounds for disqualifying the offending proposer or bidder from consideration for award of the proposal or bid.

- (f) *Proposal evaluation.* Award shall be made to the most responsive, responsible proposer whose proposal is determined to be the most advantageous to the town in accordance with the evaluation criteria contained in the RFP/RFQ; ~~e~~ Evaluation of proposals may be made in a multi-step selection process as set forth in the RFP or RFQ.
- (g) *Award.* Notice of the intent to award, along with a tabulation of the bid/proposal results, shall be posted by the town clerk on the town's official website five business days prior to the commission award. All bidders, proposers, offerors or contractors affected by the proposed award of contract will also be notified by the town clerk at the time of posting, via telefax or other means, of the intended award.
- ~~(1) The town reserves the right to conduct negotiations with two or more proposers who respond to an RFP.~~
- ~~(2)~~(1) Negotiations involving the Consultants Competitive Negotiation Act (CCNA) will be conducted by a team selected by the town manager.
- (h) *Proposal vs. bid.* All of the guidelines specified for invitation to bid will apply to request for proposals unless otherwise stated in the guidelines for request for proposals.
- (i) *Consultant services.* Consultant ~~S~~services for services other than for architecture, engineering, landscape architectural or surveying and mapping services are acquired in compliance with policies outlined in invitation to bid and/or request for proposal.

(1) Architectural, engineering, landscape architectural or surveying and mapping services are acquired using F.S. § 287.55, known as the Consultants Competitive Negotiation Act (CCNA).

(2) Design build contracts shall be established in compliance with F.S. § 287.055, known as the Consultants Competitive Negotiation Act (CCNA).

(j) *Continuing consultant services.* The Consultant's Competitive Negotiation Act (CCNA) does not provide criteria for negotiating a contract for continuing consultant services. The town has established selection criteria among consultants under continuing consultant services contracts. Consultant services required for any project, which is within the scope of a continuing service contract with the town, which services are within the scope of the Consultant Competitive Negotiations Act, shall be awarded as follows:

(1) ~~The town manager and department head in charge of the project for which such services are required~~ director of the originating department shall determine which of the service providers then under continuing contract with the town are potentially capable of providing the required services.

(2) The town manager or finance director shall then request that each such provider submit a proposed scope of services and a fee quotation. The ~~department head~~ director of the originating department shall review the proposals received. In the event he/she determines it to be in the best interest of the town, prior to completing his/her review, to enter into negotiations with any service provider which has submitted a proposal with respect to the proposed scope of services, the proposed fee, or both, in order to have the project completed in the most efficient and economical manner possible, upon the conclusion of any such negotiations, the ~~department head~~ director shall complete review of the proposals.

(3) Upon completion of the proposals review, the ~~department head~~ director of the originating department shall prepare and submit to the finance director and town manager his/her recommendation as to which service provider should, in his/her professional judgment, receive authorization to perform the work. In making such determination he/she shall take into account factors set forth in F.S. § 287.055 (4)(b), with respect to service providers then under continuing contracts with the town and the price for which the services are to be rendered.

(4) The town manager will be the approving authority for all price ~~proposals~~ under \$10,000.00; for all price proposals over \$10,000.00 the town manager will review and make his/her recommendation to the town commission for approval pursuant to Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager.

**Sec. 2-250. Alternative source selection.**

(a) *Small purchases.* Any purchase for an amount less than the mandatory bid amount may be made in accordance with those procedures promulgated in the Code; provided, however, no purchase shall be artificially divided so as to constitute a purchase for an amount less than the mandatory bid amount.

(b) *Sole source purchases.* The town manager may make or authorize a purchase without competitive bid when the ~~appropriate department head~~ director of the originating department has documented in writing that such good and/or service is the only item that meets the need and is available through only one source of supply. Sole source purchases greater than ~~\$5,000.00~~ \$10,000.00 must be approved by the ~~Town Manager.~~ In addition, ~~all sole source purchases exceeding the mandatory bid amount \$10,000.00 shall be approved by the Town Commission.~~ pursuant to Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager. Written determinations documenting sole source purchases shall be retained for a period of at least three years.

(c) *Emergency purchases.* The town manager ~~or the finance director or designee~~ may make or authorize emergency purchases as defined herein. The appropriate department head ~~director of the originating department~~ shall document in writing that such goods and/or services need to be purchased on an emergency basis. Emergency purchases of ~~\$10,000 or more~~ above the town manager's purchasing authority shall be approved by the town commission at the next regularly scheduled commission meeting. Written determinations documenting emergency purchases shall be retained for a period of at least three years.

(d) *Authority to waive bidding.* Bidding may be waived when it is determined to be not practicable or advantageous for the town as declared by the town commission.

(e) *Cooperative purchases ("piggybacking").* ~~Notwithstanding any requirements of this division, the Town Manager or the Finance Director may purchase goods and/or services under contract with the federal, state, or municipal governments or any other governmental agency or political subdivision providing the vendor extends the same terms and conditions of the contract to the Town.~~ Cooperative purchasing or piggybacking is only allowed for the purchase of the same product or service and limited only to variances in the quantity and or minor features of a product or service. The town may cooperatively purchase or piggyback from vendors or contractors who have been selected after a competitive process and selected by other governmental entities who are subject to competitive solicitations by Florida law. The vendor or contractor shall confirm in writing that it will provide the goods or services to the Town based upon the terms of the contract which is the subject of the cooperative purchasing. The Town and vendor or contractor shall enter into a contract which incorporates the terms of the cooperative purchasing contract. ~~Cooperative~~ Such purchases shall be subject to the approval levels specified in § 2-247.

(f) *Field purchase orders.* Field purchase orders may be utilized for purchases of less than \$1,500.00. Field purchase orders do not require the preparation of a purchase requisition by the ~~preparing~~ originating department or the approval of the

finance director prior to the procurement of a commodity and/or service. The ~~procuring~~originating department is responsible for ensuring that a competitive price is received for the commodity and/or service ordered, and that the budgetary appropriation for the commodity and/or service purchased is not over ~~expanded~~expended. The town manager or the finance department shall determine the integrity of such purchases.

(g) *Construction services.* The procurement of construction services by the town shall be acquired in accordance with the competitive sealed bid process outlined in § 2-248.

(1) Bid security shall be required for all competitive sealed bidding for construction contracts when the total cost of construction is estimated by the town manager or the finance director to exceed \$200,000.00. Bid security shall be an original bid bond executed by a surety company admitted and authorized to do business in the State of Florida. Cash, a certificate of deposit, treasurer's check, or a certified cashier's check satisfactory to the town may be tendered in lieu of the bid bond. Nothing contained herein shall prevent the town from requiring bid security on construction contracts ~~under~~ of less than \$200,000.00 as determined in the discretion of the town manager to be in the best interest of the town. Bid security shall be in an amount deemed sufficient by the town manager to ~~insure~~ ensure bid compliance but in no event shall the bid security be less than five percent of the bid amount.

(2) Bids or proposals which are submitted without the required bid security shall be rejected.

(3) Any person, firm or entity ~~whethat~~ enters into a written construction contract with the town which is for \$200,000.00 or more, shall, before commencing the work, execute and deliver to the town within the time specified by the contract or procurement documents, a payment and performance bond, each in the amount equal to or greater than 100 percent of the total contract price, unless the amount of the bonds is reduced to a lesser amount as determined by the town commission, but in no event shall the amount of each bond be less than 100 percent of the total contract price. The bonds shall be issued by a surety insurer authorized to do business in the State of Florida as a surety. The required bonds shall also be recorded in the public records of Palm Beach County. At the discretion of the town commission, any person or entity entering into a construction contract which is for \$200,000.00 or less may be exempted from executing the payment and performance bond.

(4) In lieu of the bond required by this section, a contractor may file with the town an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or a security of a type listed in F.S. Chapter 625, pt. 1L. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this section. The determination of the value of an alternative form of security shall be made by the town manager.

(5) The bond must state on its front page: the name, principal business address, and phone number of the contractor, the surety, the owner of the property being improved, and, if different from the owner, the contracting public entity; the contract number assigned by the contracting public entity, and a description of the project sufficient to identify it, such as a legal description or the street address of the property being improved, and a general description of the improvement. Such bond shall be conditioned upon the contractor's performance of the construction work in the time and manner prescribed in the contract and promptly making payments to all persons defined in F.S. § 713.01, as amended, who furnish labor, services, or materials for the prosecution of the work provided for in the contract.

(6) If at any time after the execution of the contract and the surety bonds, the town deems the surety or sureties upon such bonds to be unsatisfactory or, if for any reason such bonds cease to be adequate to cover the requirements of the contract, the town may require the contractor, at its sole expense and within five days after the receipt of notice from the town, to furnish an additional bond in such form and amount and with such surety as shall be satisfactory to the town. In such event, no further payment to the contractor shall be deemed to be due under the contract until such new or additional security shall be furnished in manner and form satisfactory to the town as to protect the interests of the town and ensure the payment of persons supplying labor and materials under the contract. Final payment of all construction projects shall be approved by the town manager after certification of completion from the community development director.

(7) Nothing herein shall prohibit the town from deleting line items within the invitation to bid and purchasing said items directly from a supplier in an amount not exceeding the bid amount per line item of the successful bidder, without further bidding, in an effort to benefit from the town's tax exempt status.

#### **Sec. 2-251. Contract document.**

(a) *General provisions.* Every procurement of contractual services shall be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which provisions and conditions shall not be limited to:

(1) A provision that bills for fees or other compensations for services or expenses be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(2) A provision allowing unilateral cancellation by the agency for the refusal by the contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of F.S. ch. 119 and made or received by the contractor in conjunction with the contract.

(3) Where feasible, a provision dividing the contract into units of deliverables, which shall include, but not be limited to, reports, findings, and drafts, that must be received and accepted in writing by the contract manager prior to payment.

(4) A provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(5) A provision specifying that the vendor (contractor) shall maintain the following insurance coverages in the amounts specified below during the term of the contract and any extensions thereof:

a. Workers' compensation insurance for all employees of the contractor for statutory limits in compliance with applicable state and federal laws. Notwithstanding the number of employees or any other statutory provisions to the contrary, coverage shall extend to all employees of the contractor and all subcontractors. Employers liability limits shall be not less than \$1,000,000.00 each accident; \$1,000,000.00 disease-policy limit; and \$1,000,000.00 disease-each employee.

b. Comprehensive general liability of \$1,000,000.00, per occurrence, premises and operations, independent contractors, products and completed operations, personal and advertising injury, XCU coverage, and a contractual liability endorsement \$2,000,000.00 aggregate.

c. Business auto liability of \$1,000,000.00 per occurrence or combined single limit for bodily injury and property damage liability. This insurance shall be an "any-auto" policy including hired and non-owned auto liability coverage.

The town shall be included as an additional named insured under the general liability and automobile liability policies and a waiver of subrogation against the town shall be included in all workers' compensation policies. Current valid insurance policies meeting the requirements herein identified shall be maintained during the term of the contract, and any extensions thereof. A current certificate of insurance issued not more than 30 calendar days prior to the submission of the bid documents demonstrating the required coverages shall be submitted with the proposer or vendor's bid documents. There shall be a 30 day notification to the town in the event of cancellation or modification of any stipulated insurance policy. It shall be the responsibility of the contractor to ensure that all subcontractors are adequately insured or covered under their policies.

All certificates of insurance shall be subject to the town's verification and approval as part of the town's evaluation of the bid or proposal. The town may require the contractor or vendor to provide a complete certified copy of the insurance policy(ies). If the contractor or vendor includes the installation of machinery and/or equipment into an existing structure, the comprehensive general liability policy must include an endorsement covering same, including installation and transit.

The required insurance coverages shall be issued by an insurance company duly authorized and licensed to do business in the State of Florida with minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability: B+ to A+.

All required insurance shall preclude any underwriter's rights of recovery or subrogation against the town with the express intention of the parties being that the required coverages protect both parties as the primary insurance for any and all losses covered by the above described insurance.

Violation of the terms of such insurance requirements shall constitute a material breach of the contract by the contractor and the town, at its sole discretion, may cancel the contract and all rights, title and interest of the contractor shall thereupon cease and terminate.

~~(5)~~(6) Where applicable, a provision specifying that the contract may be renewed on a yearly basis for a maximum of two years after the initial contract, the terms under which the cost may change as determined in the invitation to bid or request for proposals; and that renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of appropriate funds.

(7) A provision specifying that the execution of the contract does not violate the Public Entity Crimes Act (F.S. § 287.133), and certifying that the vendors or its subcontractor(s) under the contract have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within 36 months from the date of submitting the bid or proposal for the contract.

(b) *Signing of written agreement.* The written agreement shall be signed by the town manager and/or the mayor and an authorized representative of the contractor prior to the rendering of any contractual service, except in the case of a valid emergency as certified by the town manager.

## **Sec. 2-252. Protested solicitations and awards.**

(a) *Right to protest.* Any actual, or prospective, bidder or proposer ~~whethat~~ is allegedly aggrieved in connection with the solicitation or pending award of a contract may protest to the town's finance director.

(b) *Notice.*

(1) A written notice of bid protest (e.g., letter, etc.) that a bid protest will be filed must be submitted to the office of the finance director no later than 5:00 p.m. Eastern Time local time, three business days from the time of initial posting of notice of intent to award. The notice of bid protest must be in writing, and must identify the protestant and the solicitation involved, and shall include a factual summary of the basis of the protest.

(2) ~~Formal bid protest submission.~~ AThe formal written protest must then be filed at the office of the finance director no later than 5:00 p.m. Eastern Time local time, within five business days after the date of filing the notice of bid protest. The formal written bid protest shall contain at a minimum the following information:

- a. Identification of the name, address and contact information of the ~~protester~~protestant and the solicitation involved;
- b. A clear, brief, statement of the facts, legal arguments and other grounds on which the protest is based;
- c. Identification of any applicable statutes, or ordinance(s), or other legal authority(ies) which the ~~protester~~protestant deems applicable to the ~~{protest}~~solicitation involved; and
- d. ~~Clearly state~~ A clear statement, in writing, of the specific nature of the relief requested by ~~protester~~protestant.
- e. Any additional written or physical materials, objects, statements, and arguments, which the ~~protester~~protestant deems relevant to the issues raised in the request for review.

The protestant shall mail a copy of the notice of protest and the formal written protest to ~~any person with whom the protestant is in dispute~~ the finance director, and shall provide the town manager with evidence of such mailing.

(3) ~~A~~The formal written protest is considered filed with the town when it is received by the finance director. ~~Accordingly, a protestand~~ is not timely filed unless it is received by the finance ~~Department~~ director within the times specified above. Failure to file a written notice of bid protest and subsequent formal written protest within the time period specified shall result in relinquishment of all rights of protest by the vendor and abrogation of any further bid protest proceedings.

(4) These protest procedures shall be the sole remedy for challenging an award of bid or proposal. Bidders and proposers are prohibited from attempts to influence, persuade or promote through any other channels or means. Such attempts shall be cause for suspension in accordance with subsection 2-253(a).

(c) *Authority to resolve.* The finance director shall attempt to resolve the protest in a fair and equitable manner, and shall render a written decision within 10 business days to the protestant. The protestant may appeal such decision, in writing to the finance director within five business days of the date of the written decision, whereby a protest committee, comprised of the finance director, town manager, town attorney, and the department ~~head~~director of the ~~using~~originating department, shall have the authority to settle and resolve the protest.

(d) *Proceedings.* The finance director shall serve as the presiding officer of the protest committee in a nonvoting capacity. The town clerk shall give reasonable notice to all substantially affected persons or businesses prior to the date scheduled to consider the appeal of the protest.

(1) At or prior to the protest proceeding, the protestant may submit any written or physical materials, objects, statements, affidavits, and arguments which the protestant deems relevant to the issues raised.

(2) In the proceeding, the protestant, or its representative or counsel, may also make an oral presentation of the evidence and arguments. However, neither direct nor cross examination of witnesses will be permitted, although the presiding officer and other protest committee members may make whatever inquiries deemed pertinent to a determination of the protest.

(3) The judicial rules of evidence shall not apply and the protest committee shall base its decision on such information adduced in the course of the proceeding upon which reasonable prudent persons rely in the conduct of their affairs.

(4) A quorum of the committee consists of a majority of protest committee members. A decision shall be rendered by a majority vote of the committee members in attendance.

(5) If it is deemed that the solicitation or award is in violation of law or the procedures outlined in this resolution, the solicitation or award shall be cancelled or revised.

(6) If it is determined that the solicitation or award should be upheld, the finance director shall promptly issue a decision on behalf of the protest committee in writing stating the reason for the action with a copy furnished to the protestant and all substantially affected persons or businesses. The decision shall be final and conclusive as to the town. Any party may arrange for the proceedings to be stenographically recorded, and shall bear the expense of such recording. The proceedings shall be open to the general public.

(e) *Stay of procurement during protests.* In the event of a timely protest, the finance director shall not proceed further with the solicitation or with the pending award of the contract until the finance director, with the advice of the town attorney and after consultation with the using department director of the originating department makes a determination that the award of the contract without delay is necessary to protect substantial interests of the town.

(f) *Reservation of powers to settle actions pending before the courts.* Nothing in this section is intended to affect the existing powers of the town commission to settle actions pending before the courts.

(g) *Damages.* In the event ~~of the court upholding that a court of competent jurisdiction upholds~~ the protestant's claim, the court awarded damages on behalf of the protestant shall be solely limited to bid/proposal preparation costs.

### **Sec. 2-253. Suspension and debarment.**

~~(a) **AUTHORITY.** The Finance Director may suspend or debar for cause the right of a vendor to be included on a vendor list and any bid or response from that vendor rejected; provided, however, the Commission shall have the power to waive or lift such suspension or debarment.~~

(b~~a~~) *Suspension.* A vendor may be suspended for a period not to exceed two years as determined by the finance director based upon the following:

(1) Vendor defaults or fails to fully comply with the conditions, specifications, or terms of a ~~an~~ any current or previous bid, quotation, proposal or contract with the town;

(2) Vendor commits any fraud or misrepresentation or provides false information in connection with a bid, quotation proposal or contract with the town;

(3) Vendor is charged by a court of competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(4) Vendor is charged by a court of competent jurisdiction with the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a town government contractor. If charges are dismissed or the vendor found not guilty, the suspension shall be lifted automatically upon written notification and proof of final court disposition provided by the vendor to town;

(5) Vendor becomes insolvent, has proceedings in bankruptcy instituted against it, or compounds its debts or assigns over its estate or effects for payment thereof, or has a receiver or trustee appointed over its property;

~~(6) Vendor commission or any act or omission to perform any act which is grounds for debarment;~~

~~(76)~~ Vendor violates the ethical standards set forth in local, state, or federal law;

~~(87)~~ Vendor fails to comply with the minority or women business enterprise participation or minority or women business enterprise requirements of an awarded contract; or

~~(98)~~ Any other cause the finance director determines to be so serious and compelling as to materially and adversely affect responsibility of a business to perform as a town government contractor, including but not limited to suspension by another governmental entity for substantial cause.

(eb) *Debarment.* A vendor may be permanently debarred for the following:

(1) Default or failure to fully comply with the conditions, specifications, drawings, or terms of a bid, proposal or contract with the town twice in any three-year period.

(2) Conviction by or judgment obtained in a court of competent jurisdiction for commission of those offenses in connection with the vendor's commercial enterprise stated in subsections (b)(3) and (b)(4) of this section. If the conviction or judgment is reversed through the appellate process, the debarment shall be

removed immediately upon written notification and proof of final court disposition from the vendor to the town.

(3) Placement of the vendor or its subcontractor(s) on the convicted vendor list maintained by the State of Florida Department of Management Services within thirty-six months from the date of submittal of the bid or proposal.

(dc) *Decision.* After the finance director has determined there is cause to suspend or debar a vendor, the finance director shall notify the vendor in writing of the debarment or the period of suspension and the reasons for the action taken.

~~(e) *Public entity crime.* Any vendor who has been convicted of a public entity crime, as defined by F.S. § 287.133, shall not be able to transact business with the town to the extent as specified in F.S. § 287.133(3)(a).~~

(f)(d) *Finality of decision.* The suspension or debarment shall be final and conclusive unless the suspended or debarred vendor initiates protest proceedings pursuant to section 2-252 within 21 days after the date of notification.

#### **Sec. 2-254. Inspections and tests.**

(a) The finance director or ~~appropriate department head~~ department director of the originating department may inspect, or arrange for the inspection of, all deliveries of supplies, materials, equipment or contractual services to determine conformance with specifications set forth in the order of contract.

(b) Any using originating department which has the staff and facilities for adequate inspection may be authorized by the finance director to inspect deliveries made to it.

(c) The finance director shall have the authority to require chemical and/or physical tests or samples submitted with bids and, samples of deliveries which are necessary to determine their quality and conformance with the specifications. For such tests, the finance director shall have the authority to make use of any facilities of the town where such tests may be competently performed or an outside laboratory may be utilized. Should the product fail such testing, the town may require the vendor to pay the town for any expense incurred in testing.

#### **Sec. 2-255. Equal opportunity/minority and women business enterprise.**

(a) The town shall use its best efforts to ensure that minority and women businesses shall have an equitable opportunity to participate in the town's procurement process and that no business shall be excluded from participation in, denied benefits of, or be otherwise discriminated against in connection with the award and performance of any contracts with the town because of race, color, religion, natural origin, age, sexual orientation, gender, marital status, handicap or physical impairment.

(b) This division shall be read consistently with the Florida Civil Rights Act, F.S. ch. 760, and shall not repeal existing or subsequently enacted town minority/women business enterprise ordinances.

**Sec. 2-256. Bid preferences.**

The town shall provide one of the following bid preferences:

- (1) To local merchants that are within five percent of the lowest bid submitted; or
- (2) To certified minority business enterprises or women business enterprises that are within five percent of the lowest bid submitted.

~~— (b) The Finance Director, every member of the Finance Director's staff, and any employee of the Town engaged in the procurement of goods and/or services are prohibited from accepting or receiving any money, rebate, gift or anything of value or any promise of future reward or compensation, from any person, firm or corporation to which any purchase or contract may be awarded. This prohibition shall not apply to holiday gifts with a value of \$25.00 or less.~~

**Sec. 2-2567. Conflict of interest.**

~~(a) The standards of conflict conduct for public offices, officers and employees, government and attorneys as set forth in the Palm Beach County Code of Ethics and the Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees F.S. §112.313 Part III are hereby adopted and incorporated herein by reference as if fully set forth herein.~~

~~(b) The Finance Director, every member of the Finance Director's staff, and any employee of the Town engaged in the procurement of goods and/or services are prohibited from accepting or receiving any money, rebate, gift or anything of value or any promise of future reward or compensation, from any person, firm or corporation to which any purchase or contract may be awarded. This prohibition shall not apply to holiday gifts with a value of \$25.00 or less.~~

**Secs. 2-2587--2-280. Reserved.**

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

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

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

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

p:\docs\26508\00001\doc\1iu6784.doc



Town of Lake Park Town Commission

Agenda Request Form

Exhibit "F"

Meeting Date: May 21, 2014

Agenda Item No. Tab 9

**Agenda Title: AN APPLICATION FOR FOUR (4) PARK AVENUE DOWNTOWN DISTRICT WAIVERS TO THE PARKING SPACE REGULATIONS APPLIED FOR BY FRED VECCHIONE OF VECCHIONE CONSTRUCTION, ACTING AS THE AGENT FOR SUE-ELLEN MOSLER GAMBLE TRUST (OWNER) FOR THE PROPERTIES LOCATED AT 700 AND 748 PARK AVENUE.**

- SPECIAL PRESENTATION/REPORTS
- BOARD APPOINTMENT
- PUBLIC HEARING ORDINANCE ON \_\_ READING
- NEW BUSINESS
- OTHER: RESOLUTION – PUBLIC HEARING

Approved by Town Manager  Date: 5/9/14

Nadia Di Tommaso / Community Development Director ND  
Name/Title

<b>Originating Department:</b>  Community Development	Costs: \$ 0 Funding Source: Acct. # <input type="checkbox"/> Finance _____	<b>Attachments:</b> → Staff Report → Cross and Joint Access Easement Agreement → Resolution <u>15-05-14</u> → Legal Ad → Revised Site Renovation Plan (reduced version – <b>entire plan packet available in the Dropbox</b> )
<b>Advertised:</b> Date: 04-25-2014 Paper: Palm Beach Post <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: <b>ND (includes certified mail requirement)</b> or Not applicable in this case _____ <b>Please initial one.</b>

**Summary Explanation/Background:**

This agenda item proposes four waiver requests for a property located within the Park Avenue Downtown District, better known as the PADD. It is important to note that the Town Code identifies all variances from the PADD as “waivers”. Therefore, parties located within the PADD who are unable to meet certain development regulations must request a waiver rather than a variance.

This waiver request application has been initiated by Fred Vecchione of Vecchione Construction (“the Applicant”), on behalf of Sue-Ellen Mosler Gamble Trust, the property owner of 700 and 748 Park Avenue.

The 700 block between 7<sup>th</sup> Street and 8<sup>th</sup> Street along Park Avenue occupies three buildings: 700, 748, and 754 Park Avenue. Although the buildings are physically connected, each building is on a separate legal

parcel. 700 Park Avenue has an access point off of 7<sup>th</sup> Street and Park Avenue, while 754 Park Avenue has an access point off of 8<sup>th</sup> Street and Park Avenue. 748 Park Avenue does not have any direct access points. For many years, the three sites informally shared these access points without the recording of an official Cross and Joint Access Agreement. In fact, the original parking configuration for 700 and 748 Park Avenue shows 45 degree angled parking stalls facing east, demonstrating dependence on the 754 Park Avenue access point off of Park Avenue and 8<sup>th</sup> Street.

In April of 2013, the property owner of 754 Park Avenue placed dividers along the property line separating his Property from 748 Park Avenue, and given that a Cross and Joint Access Agreement was never formally executed, nothing could prevent the property owner from doing so. Consequently, this prevented the patrons of 700 and 748 Park Avenue from accessing the points of ingress and egress within the 754 Park Avenue property boundaries. The parking configuration for 700 and 748 Park Avenue was no longer sustainable and the unclear traffic flow created a hazardous situation for motorists and pedestrians.

Understanding that the two property owners had no plan to enter into a Cross and Joint Access Agreement between each other, Mr. Fred Vecchione, Agent for the property owner of 700 and 748 Park Avenue, approached the Town with a proposed revision to the parking lot. His revision included a change of direction for the parking stalls set at 45 degrees facing east, to be modified to 90 degrees. It also implemented the placement of parallel parking spaces, as seen on the visuals provided with this agenda packet.

The revision resulted in the reduction of the number of parking spaces, as well as the reduction in the stall size and drive aisle width, however, it allowed the Applicant's site to be self-sufficient, relying only on the access point within the 700 Park Avenue boundaries. Even though 700 and 748 Park Avenue are currently under the same ownership, the Applicant also created a Cross and Joint Access Agreement between 700 and 748 Park Avenue in order to secure this parking and traffic circulation pattern in the future. Based on the preliminary approval in 2013, the Town issued a temporary permit for the Applicant to temporarily reconfigure the site and make the traffic circulation pattern clear for its patrons.

In order to legitimize this new parking configuration, the Applicant is requesting a total of four waivers. The revised parking lot plan proposes a reduction of 9 parking spaces from the original plans for 700 and 748 Park Avenue. As a result, there will be a total of 64 parking spaces instead of a combined 73 spaces for 700 and 748 Park Avenue. The plan also calls for a reduction of the parking stall width from 10 feet to 9 feet, and depth from 18 ½ feet to 17 feet. Lastly, the plan proposes a reduction of the drive aisle width from the 24 feet to 23 feet. At the May 5, 2014 Planning & Zoning Board meeting, it was recommended that this particular waiver request to reduce the drive aisle width from 24 feet to 23 feet be modified. The Board recommended that the drive aisle width remain at the Code required 24 feet and that the parallel parking spaces be granted a reduced width waiver instead to allow a 9 foot width instead of the Code required 10 foot width.

Staff, the Town's contracted Engineer, and Palm Beach County Fire Rescue have reviewed this waiver request application based on the waiver criterion addressed in Section 78-70 and is recommending APPROVAL.

**Recommended Motion: I move to APPROVE Resolution \_\_\_ -14.**



**TOWN LAKE OF PARK  
TOWN COMMISSION  
Meeting Date: May 21, 2014**

**STAFF REPORT**

**AN APPLICATION FOR FOUR (4) PARK AVENUE DOWNTOWN DISTRICT  
WAIVERS TO THE PARKING SPACE REGULATIONS APPLIED FOR BY  
FRED VECCHIONE OF VECCHIONE CONSTRUCTION, ACTING AS THE  
AGENT FOR SUE-ELLEN MOSLER GAMBLE TRUST (OWNER) FOR THE  
PROPERTIES LOCATED AT 700 AND 748 PARK AVENUE, TO AUTHORIZE:**

- (1) A REDUCTION OF 9 PARKING SPACES FROM THE ORIGINALLY APPROVED PLANS (73 TO 64) FOR THE PROPERTIES LOCATED AT 700 AND 748 PARK AVENUE.
- (2) A MODIFICATION OF THE PARKING STALLS RESULTING IN A WIDTH OF 9 FEET INSTEAD OF A WIDTH OF 10 FEET AS REQUIRED BY TABLE 78-70-6(B).
- (3) A MODIFICATION OF THE PARKING STALLS RESULTING IN A DEPTH OF 17 FEET INSTEAD OF A DEPTH OF 18 FEET, 6 INCHES AS REQUIRED BY TABLE 78-70-6(C).
- (4) A MODIFICATION OF A ONE FOOT REDUCTION IN THE DRIVE AISLE WIDTH SEPARATION BETWEEN PARKING SPACES RESULTING IN THE DRIVE AISLE BEING REDUCED TO 23 FEET FROM 24 FEET AS REQUIRED BY TABLE 78-70-6(D).

**BRIEF HISTORY OF APPLICATION:** For many years the properties located at 700-748 Park Avenue (the "Site"), could be accessed from the west off of 8<sup>th</sup> street or Park Avenue in an easterly direction through the parking lot of the former Park Avenue Barbeque property located at 754 Park Avenue. However, there was no written easement, license, or agreement executed between the subject Site and the neighboring property whereby the property owner of the subject Site was entitled to always be able to rely upon this access as being permanently available access. Last year, the property owner of 754 Park Avenue closed access through its property to the subject Site from west to east. Records indicate that the Town never required a Cross Access Agreement between the property owners, and chose to rely upon an informal access arrangement which allowed for a traffic pattern for the subject Site. Based upon this informal access agreement approach from the west, the Town approved the design of 45 degree angled parking spaces facing eastward for the subject Site.

Because the west to east access to the subject Site was no longer available after the adjacent owner closed off access, the Owner restriped the parking lots of 700 and 748 Park Avenue to change the vehicular access and circulation pattern to and through the subject Site. By doing so, the Owner can no longer comply with

the number and the dimensional criteria for parking spaces set forth in the Town Code. The Community Development Department previously issued a "temporary permit" authorizing the Owner's modifications to the parking lot and the dimensions of the parking stalls. In order to receive a "permanent" authorization for the parking lot and stalls, the Owner must secure the approval of waivers to the Code from the Town Commission.

The reconfiguration of the vehicular access and circulation and the dimensions and striping of the parking stalls have been reviewed by the Town's contracted Engineer and Palm Beach County Fire Rescue, and they have no objections. Based upon the use of the parking lot under the configuration approved under the temporary permit during the past year, some minor alterations to the drive aisles and parking areas are recommended. Specifically, the Town's contracted Engineer recommends a wider turning radius at the entrance to the subject Site, and modifications to directional signage, existing bollards and to the handicap access spaces. These modifications are reflected on the Applicant's plans and have been approved as to technical requirements by the Town's contracted Engineer and the Palm Beach County Fire-Rescue Department.

**Staff Recommendation: APPROVAL**

**Planning and Zoning Board Recommendation (May 5, 2014): APPROVAL** with one condition of approval: *(1) drive aisle be enlarged to the Code required 24 foot width, and the waiver be granted for a 9 foot parallel parking stall width instead.* The Board also asked staff to look into including a striped pedestrian crosswalk connection on the northeast corner of the site. Staff reviewed this possibility with the Applicant and given the close proximity of the public sidewalk which is available and the limited land area dedicated to circulation onsite, determined this additional striping was not feasible.

**BACKGROUND:**

Applicant:	Fred Vecchione - Vecchione Construction
Owner:	Sue-Ellen Mosler Gamble Trust
Address/Location:	700-748 Park Avenue
Net Acreage:	700 Park Avenue - 1.2196 748 Park Avenue - 0.1722
Legal Description:	700 Park Ave - KELSEY CITY LTS 1 TO 17 INC BLK 10 748 Park Ave - KELSEY CITY LTS 18, 19 & E 10 FT OF LT 20 BLK 10
Existing Zoning:	Park Avenue Downtown District (PADD)
Future Land Use:	Downtown

**Adjacent Zoning**

North:	Park Avenue Downtown District (PADD)
South:	Public
East:	R1A- Residence District
West:	Park Avenue Downtown District (PADD)

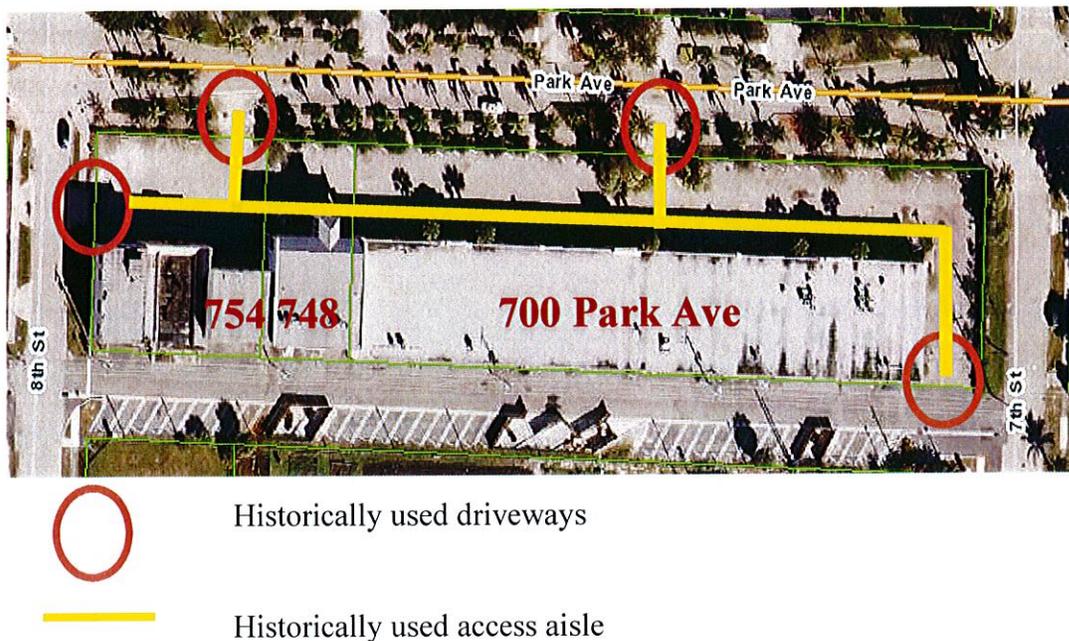
**Adjacent Existing Land Use**

North:	Downtown
South:	Public
East:	Single-Family
West:	Downtown

## I. SUMMARY OF REQUEST

Prior to April 2013, the traffic circulation pattern between the two properties of 700 and 748 (the "Site") , and 754 Park Avenue went from 8<sup>th</sup> Street and Park Avenue, west to east, as shown below.

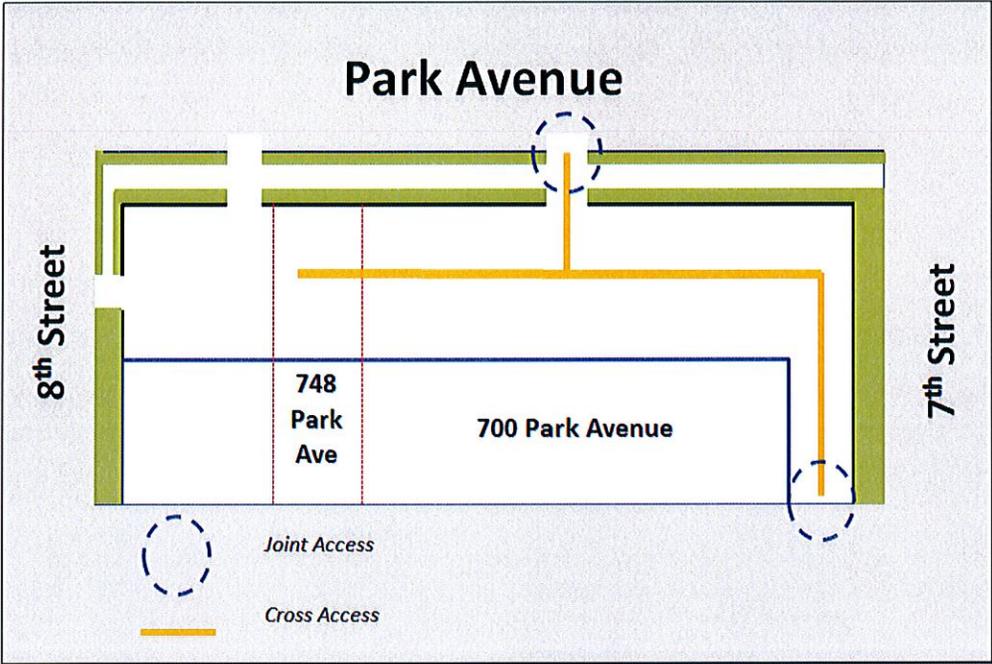
**Figure 1. Ariel Image of Property**



The Site, which is physically connected to 754 Park Avenue (formerly Park Avenue Barbeque) informally shared the two driveways at 754 Park Avenue which provided two points of ingress and egress to the Site. The Site's traffic circulation and parking configuration was wholly dependent upon the use of the driveways of 754 Park Avenue; however, the two property owners never executed a Cross and Joint Access Easement Agreement upon which the Owner of the Site could rely for legal access.

In April of 2013, the owner of 754 Park Avenue closed the access through his property by placing dividers between his property and the Site. As a result, the traffic circulation for the Site no longer worked. Moreover, because the Site's parking stalls were configured at 45 degree angles to facilitate the flow of traffic into the Site, the parking spaces were striped facing an easterly direction. In order to provide for the efficient flow of traffic and parking on the Site, the Owner proposed a new traffic circulation plan. The Town issued a "temporary permit" authorizing the reconfiguration of the traffic circulation and parking on the Site. The proposed plan required the Site change the direction of the parking stalls nearest to the west property line to 90 degrees and parallel parking. This resulted in a reduction of parking spaces, a reduction of the width and depth of parking stalls, the reduction of the width of the Site's drive aisle, and a slight reduction of the Site's landscaped area. The new traffic circulation and points of ingress and egress to the Site are shown in Figure 2 on the following page.

Figure 2: Image of proposed traffic circulation



The Owner is requesting four waivers, which if approved, would convert the “temporary” plan into a permanent traffic circulation and parking plan. The Town’s Community Development Department staff, the Town’s contracted Engineer, and Palm Beach County Fire Rescue Department have all reviewed and recommend approval of the plans. .

## II. APPLICANT'S WAIVER REQUEST

The Applicant is requesting four waivers from the Parking Space/Dimensional Requirements as follows:

Waiver Request	Town Code Section	Requirement	Proposed
1	78-142-1	Overall Site: 151 spaces required using a "retail" parking calculation in our current general parking code Section 78-142, however the originally approved site plan(s) for 700 Park Avenue and for 748 Park Avenue were approved with a total of 73 combined parking spaces. <sup>(1)</sup>	64 spaces
2	Table 78-70-6(B)	Parking Stall: 10 feet in width for 90 degree parking spaces	9 feet
3	Table 78-70-6(C)	Parking Stall: 18 feet 6 inches in depth for 90 degree parking spaces	17 feet
4	Table 78-70-6(D)	Drive Aisle between 90 degree parking spaces: 24 feet in aisle width	23 feet

<sup>(1)</sup> Pursuant to Ordinance 27-2001 approved on January 2, 2002, the Town Commission eliminated the parking requirements in the PADD. While this was done with the intent to promote business growth, it did not reference any elimination to applying Section 78-142 of the Town Code which is the Town's general parking Code applying to ALL Districts. It also did not eliminate the general parking space dimensions in Table 78-70-6 of the PADD District. Therefore, the overall site consisting of 700 and 748 Park Avenue was originally approved with 65 combined spaces with the probable understanding that the parking requirements were eliminated in the PADD. Staff believes the general parking Code in Section 78-142, as it relates to the required number of spaces, still applies, especially since the PADD includes dimensional requirements for these spaces, as well as uses that rely on parking for their everyday operations. It is unreasonable to assume that a 30,000+ square foot building, built as "retail" space could be approved with as little as one (1) parking space without any additional Code references to mitigation methods such as valet, public parking, and so on. Right now, Town Code Section 78-142 applies to the PADD as a PADD development regulation, until which time it is properly addressed in the Town Code. Additionally, because both 700 and 748 Park Avenue rely on each other's parking spaces and drive aisle connection, a Cross and Joint Access Easement agreement has also been executed, accepted by the Town Attorney, and will be recorded upon final approval of this request (attached).

### III. ANALYSIS OF 12 CRITERIA WHICH MUST BE MET FOR WAIVERS

The 12 criteria which must be met for a waiver of the requirements of regulations set forth in the Park Avenue Downtown District (PADD) are set forth in Code Section 78-70(i)(7). An applicant must meet all 12 criteria to receive a waiver.

**CRITERIA A:**           **The application is consistent with the comprehensive plan.**

**STAFF RESPONSE:**

The Applicant's proposed modifications align with the Town's goal of ensuring that each parcel has a safe and efficient system of internal traffic circulation. See Policy 1.9 of the Future Land Use Element of the Comprehensive Plan which states,

*"At the time of redevelopment and through cross-access and shared access agreements, the Town shall discourage excessive curb cuts including the control of connections and access points of driveways and roads to roadways on arterial and major collector streets within the confines of the Town's roadway network.*

**Criteria met.**

**CRITERIA B:**           **The application is consistent with the regulations of the Park Avenue Downtown District.**

Section 78-70(a) lists the purpose and intent of the PADD :

- (1) Urban development which is reflective of early master plans for a neighborhood and community commercial area;
- (2) Buildings and structures of a human scale which, in conjunction with public investments, help to create a sense of place;
- (3) Downtown development and redevelopment which offer a mixture of retail, personal service, commercial, office, and residential uses;
- (4) A pedestrian-oriented development pattern;

- (5) Concentration of certain types of uses, including live performance theaters, restaurants, arts and crafts, etc., which will attract both residents and nonresidents for specialty shopping and entertainment;
- (6) Attracting a variety of uses which serve the needs of residents and nonresidents;
- (7) Zoning regulations, consistent with the town comprehensive plan, which support the reestablishment and redevelopment of an urban center;
- (8) Limitations on certain uses which do not support or enhance the pedestrian nature of the area;
- (9) Uses offering goods and services that will attract both town residents and visitors from outside the town; and
- (10) Uses offering goods and services that will possess a family orientation.

**STAFF RESPONSE:** The Application is consistent with the intent of the PADD.

**Criteria met.**

**CRITERIA C:                   The application furthers the Town's goal to establish a neighborhood and community-serving urban center**

**STAFF RESPONSE:**

The Site has provided and will continue to provide neighborhood and community-serving commercial goods and services. The location of the Site and the services offered by the Site satisfy the intent of the PADD.

Therefore, approval of the waivers allows the Site to continue to provide neighborhood and community goods and services fulfilling the Town's goal; whereas not approving the requests will deter it by creating an unsafe traffic situation in the heart of the PADD.

**Criteria met.**

**CRITERIA D:**           **The application furthers the Town's goal to create a pedestrian-friendly environment**

**STAFF RESPONSE:**

The approval of the waivers allows the Site to maintain a pedestrian-friendly environment.

**Criteria met.**

**CRITERIA E:**           **The application furthers the architectural and site design elements of the Park Avenue Downtown District.**

**STAFF RESPONSE:**

The Site's architectural features will not change and the proposed parking lot modifications will not impact the degree to which the Site is compatible with the intent of the PADD.

**Criteria met.**

**CRITERIA F:**           **The application demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved or proposed, and which are not applicable to other lands, structures, or buildings in the Park Avenue Downtown District**

**STAFF RESPONSE:**

The special conditions and circumstances are that the Town previously allowed the design of traffic circulation and parking on the Site without first ensuring that the Owner had legal authority to agree to the plan approved by the Town Commission. Since the neighboring owner no longer permits access through his property, the Owner is required to develop a new plan to provide access and parking to the Site.

**Criteria met.**

**CRITERIA G:** The application demonstrates that the special conditions and circumstances do not result from the actions of the applicant.

**STAFF RESPONSE:**

This Application seeks to correct a traffic situation that was not caused by the Applicant. See above.

**Criteria met.**

**CRITERIA H:** The application demonstrates that granting the waiver requested will not confer upon the applicant any special privilege that is denied by this section to other lands, buildings, or structures in the Park Avenue Downtown District

**STAFF RESPONSE:**

The Applicant is seeking the four waivers because the access to the Site upon which the Town relied has been closed.

**Criteria met.**

**CRITERIA I:** The application demonstrates that literal application of the provisions of this section would deprive the applicant of rights commonly enjoyed by other properties within the Park Avenue Downtown District

**STAFF RESPONSE:**

A literal application of the provisions of the Code would require the Owner to remove existing structures. This would unfairly deprive the Owner of some portion of her property.

**Criteria met.**

**CRITERIA J:** The application demonstrates that the waiver requested is the minimum waiver that will make possible the reasonable use of the land, building, or structure

**STAFF RESPONSE:**

The waivers are the minimal deviations as determined by Staff and the Town's contracted Engineer. The removal of

landscaping is also necessary and can be approved administratively. Only the minimum removal that is required to incorporate the proposed traffic circulation plan is being proposed. To mitigate the impact of the loss of landscaping, the Applicant is relocating some trees and planting new plants into existing landscaped areas.

**Criteria met.**

**CRITERIA K: The application demonstrates the request for waiver is not based solely upon economic reasons.**

**STAFF RESPONSE:**

The application for waivers is not based upon economic reasons.

**Criteria met.**

**CRITERIA L: The application demonstrates the request for waivers will be in harmony with the general intent and purpose of the Park Avenue Downtown District, and that such waiver or waivers will not be injurious to the area involved or otherwise detrimental to the public health, safety, and welfare.**

**STAFF RESPONSE:**

The Applicant's requests are harmonious with the intent and purpose of the PADD. Approval of the waivers will not produce an unsafe area or in any way produce a situation that is detrimental to the public health, safety, and welfare.

**Criteria met.**

**IV. STAFF RECOMMENDATION: APPROVAL with the following condition:**

- (1) Drive aisle be enlarged to the code required 24 foot width, and the waiver be granted for a 9 foot parallel parking stall width instead.*

COMMUNITY

APR 09 2014

COMMUNITY

Prepared By/Return To:  
Jared Quartell, Esq.  
11770 US Highway 1, Suite 406  
North Palm Beach, FL 33408

**JOINT ACCESS AND CROSS ACCESS EASEMENT AGREEMENT**

This JOINT ACCESS AND CROSS ACCESS EASEMENT AGREEMENT (the "Agreement") is made and entered into as of this 2 day of MARCH 2014, by Sue-Ellen Gamble Mosler, Trustee of the Sue-Ellen Gamble Mosler Living Trust u/a/d October 1, 2008, having an address of P.O. Box 530137 Lake Park, FL 33403 ("Owner").

**RECITALS:**

WHEREAS, the Owner is the fee simple owner of the two parcels of property located in the Town of Lake Park, Palm Beach County, Florida (as both a geographic location and a governmental entity, the "Town"), described as:

Lots 1 through 17, inclusive, Block 10, Lake Park (f/k/a Kelsey City) According to the plat thereof, as recorded in the office of the Clerk of the circuit court in and for Palm Beach County, Florida in plat Book 8, Page 15 (a.k.a. 700 Park Ave., Lake Park, FL); and

Lots 18 and 19 and the easterly 10 feet of Lot 20, Block 10, Lake Park (f/k/a/ Kelsey City, Florida, according to the Plat thereof, as recorded in the office of the Clerk of the circuit court in and for Palm Beach County, Florida in Plat Book 8, Page 27 (a.k.a. 748 Park Ave., Lake Park, FL)

WHEREAS, the above described properties consist of two (2) tax parcels subject to potential separate conveyance, such parcels bearing Parcel Control Numbers 36-43-42-20-01-010-0010 and 36-43-42-20-01-010-0180 (referred to herein collectively as the "Parcels" or "Properties" and individually as "Parcel").

WHEREAS, the square footage and type of uses of the buildings on each Parcel are such that in order to accommodate same it is necessary to have all ingress and egress ways and parking spaces within the Properties be open for use in connection with both of the Parcels. as required by the Town.

WHEREAS, the Owner in accordance with the requirements of the Town, has agreed to grant and declare access and parking rights to be used in common by occupants of both buildings and their present and future owners, tenants, and visitors and such owners' and tenants' employees, guests, service and supply providers and other invitees (collectively, the "Easement Beneficiaries").

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, and in accordance with the Town's requirements, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are true and are hereby incorporated by reference and agreed to.

## 2. Easement Grant.

The Owner does hereby grant and declare that all means of ingress and egress, including driveways, drive aisles, and parking spaces located within and upon each Parcel shall be subject to a perpetual but non-exclusive easement in favor of the other Parcel for such vehicular and pedestrian ingress and egress and vehicular parking as shown on the drawing attached hereto and incorporated herein as Exhibit "A". Such ingress and egress shall consist of external joint access to and from both Parcels to and from Park Avenue and for the internal cross access between the two Parcels.

Neither Owner nor any future owner(s) of the Properties shall erect any curbs, fences, bollards, landscaping or other obstruction of any kind or which would prevent, hinder or interfere in any way with the free flow and passage of vehicular and pedestrian traffic, or the continued availability of parking spaces, without charge, of a sufficient quantity to satisfy applicable Town code requirements, except for temporary interruptions for maintenance, repair or replacement purposes or approved special events.

THE FOREGOING EASEMENTS ARE NOT INTENDED AND SHALL NOT BE CONSTRUED AS A DEDICATION OF THE PROPERTIES FOR PUBLIC USE.

3. Maintenance. In the event that the Parcels shall become separately owned, each owner shall be solely responsible for maintaining its respective Parcel in accordance with all Town requirements and so as to accommodate the uses described herein.

## 4. Miscellaneous.

A. If any term or provision of this Agreement or the application thereof to any person or circumstance should to any extent be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement and the application of such term or provision to persons or circumstances other than those which have been held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Without limiting the generality of the foregoing, in the event of any actual or claimed invalidity of this Agreement or the easement rights granted herein by virtue of the fact that both Parcels are benefited and burdened by the easements, are presently under one (1) ownership, then said easement rights shall be deemed "springing easements" coming into being upon a severance of ownership of the two Parcels; provided, however, that this Agreement shall immediately constitute a separate covenant and restriction running with the land to the benefit of the Town and the general public which shall come into effect upon its recordation and remain in full force and effect until amended and/or terminated as provided herein.

B. The failure of either party to enforce its rights under this Agreement shall not constitute a waiver of such rights. Any party hereto may waive the benefit of any provision or condition for its benefit contained in this Agreement.

C. The provisions of this Agreement may only be amended or terminated by an instrument signed and acknowledged by the then-owner(s) of the Properties, approved by the

Town and duly recorded in the Public Records of Palm Beach County.

D. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The venue of any litigation or administrative proceeding shall be exclusively in Palm Beach County, Florida. The enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any covenant herein, either to restrain or prevent such violation or proposed violation by an injunction, either prohibitive or mandatory, or to obtain any other relief.

E. This Agreement is intended to be and shall constitute a covenant running with the land described herein for the benefit of the Town and the general public and shall be binding on the parties hereto and their successors and assigns.

IN WITNESS WHEREOF, Sue-Ellen Gamble Mosler, Trustee of the Sue-Ellen Gamble Mosler Living Trust u/a/d October 1, 2008 has executed this Agreement as of the date first written above.

Sue Ellen Gamble Mosler, trustee  
Sue-Ellen Gamble Mosler, Trustee of the Sue-Ellen Gamble Mosler Living Trust u/a/d October 1, 2008

Signed in the presence of:

SUE-ELLEN GAMBLE Mosler, trustee

Print Name:

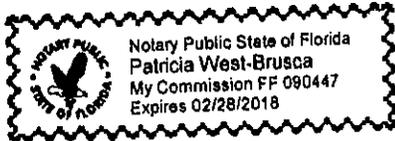
\_\_\_\_\_  
Print Name:

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 2 day of March 2014, by Sue-Ellen Gamble Mosler, Trustee of the Sue-Ellen Gamble Mosler Living Trust u/a/d October 1, 2008 on behalf of the corporation, ( ) who is personally known to me OR ( ) who produced \_\_\_\_\_ as identification.

Patricia West-Brusca  
Notary Signature

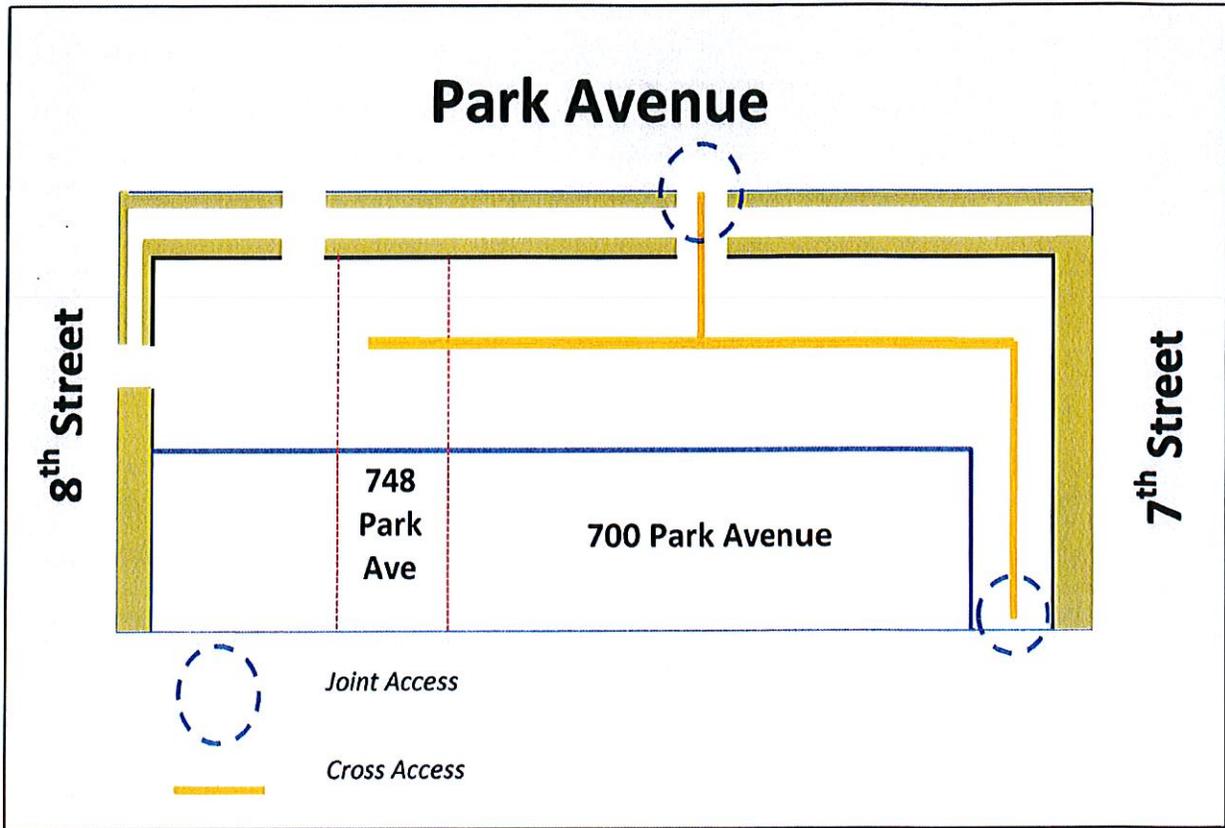
PATRICIA WEST-BRUSCA  
Print Notary Name



NOTARY  
PUBLIC State of  
Florida at Large

My Commission Expires:

Exhibit "A"





Town of Lake Park Town Commission

Exhibit "G"

Agenda Request Form

Meeting Date: May 21, 2014

Agenda Item No. Tab 10

Agenda Title: REQUEST BY BARKLEY'S CANINE CLUB TO ELIMINATE CONDITION #6 OF RESOLUTION 21-08-13 REQUIRING A NOISE STUDY FOR THE PREVIOUSLY APPROVED ANIMAL SERVICE ESTABLISHMENT, SPECIAL EXCEPTION USE, LOCATED AT 524 NORTHLAKE BOULEVARD.

- Special Presentation/Reports, Board Appointment, Public Hearing, New Business, Consent Agenda, Old Business, Ordinance on Reading, Other: Modification to Resolution 21-08-13

Approved by Town Manager [Signature] Date: 5/8/14

Nadia Di Tommaso / Community Development Director [Signature]

Form with fields for Originating Department (Community Development), Costs (\$0), Attachments (Resolutions 13-04-14 and 21-08-13), and Advertisment status.

Summary Explanation/Background:

At the August 21, 2013 Town Commission meeting, the Town Commission approved by Resolution 21-08-13 a special exception use for an Animal Service Establishment located at 524 Northlake Boulevard. One of the conditions of approval set forth in the Resolution was Condition #6 which reads as follows:

"Within six months of the effective date of the Resolution approving the Animal Service Establishment, the Applicant shall submit to the Community Development Department a letter from a sound professional indicating the results of a four-week noise study as it relates to the Applicant's business. The study shall compare the noise levels from the business with the decibel levels established in the Town Code. In the event the study reveals that the uses are creating noise which exceeds the decibel levels established in the Code, the Applicant shall employ methods such as the use of sound barrier material such as "bark-block" and/or other

*approved insulation to mitigate the noise such that the establishment is operating within the decibel levels permitted by Code."*

Over the past two months, staff discussed this condition with the owner of the property, Mr. Truc Phan Nguyen and the business operator, Ms. Cindy Hackle. The compliance date for Condition #6 was set for February 21, 2014 and on March 19, 2014 the property was cited for not complying with the above condition. The property is currently scheduled for the June 5, 2014 Special Magistrate Hearing.

Ms. Hackle informed staff that while she understands the reason behind Condition #6, the establishment simply cannot afford a noise study at this time as it will cost in the thousands of dollars. Town Staff has not received any complaints on Barkley's Canine Club and has actually received many compliments relating to the exceptional services offered to pet owners. This being said, even though the use has carried forward without any documented issues, only the Town Commission can eliminate Condition #6. Should the Town Commission choose to eliminate Condition #6, the Town Code will still allow for the proper enforcement of the Town's noise Code.

Resolution 21-08-13 included additional conditions and the status of those conditions are as follows:

- Condition #1: The Animal Service Establishment shall be limited to the boarding of dogs. → **SATISFIED**
- Condition #2: No animal having a disease harmful to humans shall be boarded or maintained in the facility. → **ACKNOWLEDGED BY APPLICANT; NO COMPLAINTS RECEIVED**
- Condition #3: The outdoor area shall be limited to 1,150 square feet and no part of the outdoor area be may located within 55 feet of any adjacent residential property line. → **SATISFIED**
- Condition #4: If the outdoor area is constructed using a chainlink fence, the fabric shall include a green mesh to screen the area from public view. → **SATISFIED with a very dark green mesh**
- Condition #5: The outdoor area in or adjacent to a residential use shall not be used between the hours of 1:00 pm and 7:00 am for outdoor activity/ recreation purposes, with the exception of dog toilet necessities. → **ACKNOWLEDGED BY APPLICANT; NO COMPLAINTS RECEIVED**
- Condition #6 (*see above request*)

Condition #7: The Animal Service Establishment shall have flushing drains which shall be connected to an approved sanitary facility and other physical elements to properly dispose of the waste products generated by the business.

→ **SEACOASY UTILITY AUTHORITY REVIEWED THE PLUMBING PLANS AND SATISFIED THE PROPERTY WITHOUT ANY ADDITIONAL INSPECTIONS REQUIRED.**

Condition #8: The facility shall be operated with air conditioning and heat so that the windows and doors can remain closed at all times, except when employees, patrons, and guests are entering and leaving the facility.

→ **ACKNOWLEDGED BY APPLICANT**

Staff recommends that Condition #6 be eliminated as a condition of Resolution 21-08-13 with the understanding that staff will continue to monitor Barkley's Canine Club's operation and enforce the noise regulations as established in the Town Code.

**Recommended Motion:** I move to APPROVE Resolution \_\_\_-14.



Town of Lake Park Town Commission

Exhibit "H"

Agenda Request Form

Meeting Date: May 21, 2014

Agenda Item No. Tab 11

Agenda Title: Commission Discussion on Possible Revisions to Chapter 10- Environment, Article IV Noise Control of the Code of Ordinances

- Special Presentation/Reports, Board Appointment, Public Hearing Ordinance on Reading, New Business, Other.

Approved by Town Manager [Signature] Date: 5/8/14

Dale S. Sugerman, Ph.D. - Town Manager Name/Title

Table with 3 columns: Originating Department (Commissioner Michael O'Rourke), Costs (\$0.00), Attachments (Chapter 10- Environment, Article IV- Noise Control), Advertised (Not Required), and notification details.

Summary Explanation/Background:

At the May 7, 2014 Town Commission meeting, Commissioner O'Rourke asked that the Town's Noise Control Ordinance be placed on the agenda for purposes of discussing various options for modifying this section of the Code.

Recommended Motion:

No motion is necessary at this time as this is a discussion item only.

Lake Park, Florida, Code of Ordinances >> Subpart A - GENERAL ORDINANCES >> **Chapter 10 - ENVIRONMENT** >> **ARTICLE IV. NOISE CONTROL** >>

#### ARTICLE IV. NOISE CONTROL <sup>151</sup>

Sec. 10-151. Policy.

Sec. 10-152. Acoustical terminology.

Sec. 10-153. Definitions.

Sec. 10-154. Noise disturbance prohibited.

Sec. 10-155. Maximum permissible sound levels by receiving land use.

Sec. 10-156. Noise sensitive zones.

Sec. 10-157. Specific prohibitions.

Sec. 10-158. Exemptions from permissible sound levels.

Sec. 10-159. Noise measurement procedure.

Sec. 10-160. Procedure for motor vehicle noise.

Sec. 10-161. Exemptions.

#### **Sec. 10-151. Policy.**

In furtherance of the mandate of the people, as expressed in Article II, Section 7 of the Constitution of the State of Florida (Fla. Const. art. II, § 7), it shall be the policy of the town to conserve and protect its natural resources and scenic beauty and adequate provision shall be made by ordinance for the abatement of loud, excessive and unnecessary noise.

*(Ord. No. 18-1990, § 1, 10-3-1990; Code 1978, § 15-1)*

#### **Sec. 10-152. Acoustical terminology.**

All acoustical terminology and all definitions thereof shall be that contained in ASA S1.1-1960, as amended, American Standard Acoustical Terminology of the American National Standards Institute (ANSI). Any tests for sound measurements shall be conducted pursuant to procedures and standards prescribed by ANSI or other nationally recognized standards.

*(Ord. No. 18-1990, § 1, 10-3-1990; Code 1978, § 15-2)*

#### **Sec. 10-153. Definitions.**

For the purpose of this article, whenever any of the following words, terms or definitions are used herein they shall have the meanings respectively ascribed to them in this section except where the context requires otherwise:

*Authorized emergency vehicle* means vehicles of the county fire department (fire patrol), police vehicles and such ambulances and emergency vehicles of municipal departments, public service corporations operated by private corporations, and the department of transportation as are designated or authorized by the department or the chief of police of an incorporated city or any sheriff of any of the various counties.

*A-weighted sound level* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dBA.

*Decibel* means a unit for measuring the intensity of a sound, the mathematical formula for which is expressed as the volume of a sound which is equal to ten times the logarithm of the ratio of the intensity of the sound to the intensity of a specified standard sound, abbreviated "dBA."

*Emergency work* means work made necessary to restore property to a safe condition following a natural disaster or public calamity; or work required to protect persons or property from imminent danger caused by hurricanes, tornados, floods or other natural disasters or public calamity; or work by private or public utilities when installing or restoring utility service.

*Fixed source* means a machine or device capable of creating a noise level at the property line upon which it is located, including but not limited to industrial and commercial process machinery and equipment, pumps, fans, air conditioning apparatus, refrigeration machines or pool heaters.

*Fluctuating noise* means a noise in which the loudness varies with time. This is expressed technically as a noise whose sound pressure level varies significantly and exceeds the ambient noise level.

*Holidays* means New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas.

*Impulsive noise* means a very short duration noise. An impulsive noise is a noise characterized by brief exertions of sound pressure which significantly exceed the ambient sound pressure.

*Motorcycle* means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

*Motor-driven cycle* means any motorcycle, and any motor scooter with a motor which produces not to exceed five-brake horsepower, including every bicycle with a motor attached.

*Motor vehicle* means any vehicle which is self-propelled.

*Noise disturbance* means any sound which:

- (1) Endangers or injures the safety or health of humans or personal or real property;
- (2) Exceeds any dBA limit established pursuant to this article;
- (3) Is loud and raucous;
- (4) Tends to annoy a substantial number of persons in the community; or
- (5) Is plainly audible and causes or tends to cause an adverse psychological or physiological effect on human beings.

*Noise sensitive zone* means any area within the town, designated by the town as such, for the purpose of ensuring quiet.

*Period of observation* means the time interval during which acoustical data and facts are obtained. All periods of observation made hereunder shall be determined with regard to the character of the noise being measured, and the particular instrument used to make the measurement, and shall be made in accordance with the standards contained in ANSI S1.13-1971 as amended on the American National Standards Institute or its updated version.

*Sound* means a temporal and spatial oscillation in pressure, or other physical quantity in a medium with internal forces causing compression and rarefaction of that medium, and propagating at finite speed to distant points.

*Sound pressure level* means the sound pressure level, in decibels, of a sound 20 times the logarithm to the base ten of the ratio of the pressure of the sound to the reference sound pressure. The reference is 0.0002  $\mu$ bar. The sound pressure level may be evaluated using FLAT, A, B or C scales as defined by the American National Standards Institute and shall be labeled dB, dBA, dBB or dBC, respectively. The A-weighted sound pressure level measured with fast response on an instrument meeting American National Standards Institute specifications or its successor bodies, except that only the A-weighting and fast dynamic response need be provided, shall be called the "sound level."

*Steady noise* means a nonfluctuating noise or a noise the level of which remains essentially constant during the period of observation.

*Zoning district* means any of the several designated categories in the zoning code of the town (chapter [78](#)).

(Ord. No. 18-1990, § 1, 10-3-1990; Code 1978, § 15-3)

Cross reference— Definitions generally, § 1-2.

#### Sec. 10-154. Noise disturbance prohibited.

No person shall make, continue or cause to be made or continued any noise disturbance as defined herein.

(Code 1978, § 15-4, Ord. No. 18-1990, § 1, 10-3-1990)

#### Sec. 10-155. Maximum permissible sound levels by receiving land use.

No person shall operate or cause to be operated any source of sound in such manner as to create a sound level which exceeds the limits set forth for the receiving land use district in Table 1, for more than 50 percent of any period of observation which shall not be less than ten minutes, when measured at the boundary of the receiving land use and as a result of a source of sound being located on some other property.

TABLE 1

*Sound Levels by Receiving Land Use*

Receiving Land Use	Time	Sound Level Limit dBA
Conservation	6:00 a.m.—7:00 p.m.	<u>55</u>
	7:00 p.m.—6:00 a.m.	50
Residential	7:00 a.m.—10:00 p.m.	<u>55</u>
	10:00 p.m.—7:00 a.m.	50
Commercial/Residential and Downtown	7:00 a.m.—10:00 p.m.	<u>55</u>
	10:00 p.m.—7:00 a.m.	50
Commercial	At all times	<u>60</u>
Commercial/Light Industrial	At all times	<u>65</u>

Public Buildings/Grounds and Other Public Facilities	7:00 a.m. – 10:00 p.m.	60
Recreation and Open Space	10:00 p.m. – 7:00 a.m.	55

(Code 1978, § 15-5; Ord. No. 18-1990, § 1, 10-3-1990; Ord. No. 07-2012, § 2, 5-2-2012)

### Sec. 10-156. Noise sensitive zones.

It shall be unlawful to create any noise disturbance on any street or any adjacent area within 500 feet of any hospital or within 500 feet of any school, institution of learning, public park, church or courtroom in the town during the period of use thereof, where such noise causes interference with the workings of such facility or disturbs or annoys the persons using such facility. There shall be no conviction for violation of this provision, however, unless signs bearing an appropriate warning legend are posted and displayed in a conspicuous manner on the streets approaching facilities.

(Ord. No. 18-1990, § 1, 10-3-1990; Code 1978, § 15-6)

### Sec. 10-157. Specific prohibitions.

The following specific acts, and the causing thereof, are declared to be in violation of this article notwithstanding the noise levels set forth in [section 10-155](#):

- (1) *Radios, television sets, musical instruments and similar devices.* Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, compact disc or similar device which produces, reproduces or amplifies sound:
  - a. Between the hours of 7:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone (except for activities open to the public and for which a permit has been issued by the town);
  - b. In such a manner as to create a noise disturbance at 50 feet from such device, when operated in or on a motor vehicle on public right-of-way or public space, or in a boat on public waters;
  - c. In such a manner as to create a noise disturbance to any person other than the operator of a device, when operated by any passenger on a common carrier; or
  - d. In such a manner or at such a level that would disturb or annoy a substantial number of persons in the community within any residentially zoned area of the town at any time.
- (2) *Loudspeaker/public address systems.*
  - a. Using or operating for any noncommercial purpose any loudspeaker, public address system or similar device between the hours of 8:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone; or
  - b. Using or operating for any commercial purpose any loudspeaker, public address system or similar device for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (3)

- Street sales.* Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the town, except by permit issued by the town.
- (4) *Animals and birds.* Owning, possessing or harboring any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone.
  - (5) *Loading and unloading.* Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 7:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone. Any properties lying west of Old Dixie Highway in the commercial districts shall be exempt from the hours of the provision above.
  - (6) *Vehicle or motorboat repairs and testing.* Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.
  - (7) *Explosives, firearms and similar devices.* The use or firing of explosives, firearms or similar devices which create impulsive noise so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way without first obtaining a permit issued by the town.
  - (8) *Powered model vehicles.* Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary in a public space or within a noise sensitive zone between the hours of 7:00 p.m. and 7:00 a.m. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set for residential land use in [section 10-155](#) and shall be measured at a distance of four feet from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by sections [10-155](#) and [10-156](#), respectively.
  - (9) *Domestic power tools.* Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 7:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.
  - (10) *Engines, generators, pumps, motors and other machinery.* Operating or permitting the operation of any engines, generators, pumps, motors or other machinery, including air conditioning and air-handling equipment, so as to cause a noise disturbance at any time.
  - (11) *Vehicle defect or condition of load.* It shall be unlawful for any person to operate a motor vehicle or motor-propelled boat so out of repair or defective, or under any condition of load, acceleration or deceleration so as to create a noise disturbance, including but not limited to grating, grinding, rattling or explosive noise.
  - (12) *Noise from buildings or premises.* No person who owns, leases or controls any building or premises shall use the same for any business, employment, residential use, or for any purpose of pleasure or recreation, where such use shall cause a noise disturbance across a real property boundary or within a noise sensitive zone.
  - (13) *Construction.* It shall be unlawful for any person to do, perform or engage in any construction work, building, excavating, hoisting, grading, pile driving, pneumatic

hammering, demolition, dredging, building alteration or repair work of any nature to any building or structure or upon any site for the same in the town without a permit issued by the town:

- a. Between the hours of 7:00 p.m. and 7:00 a.m. the following day, and at all times on Sundays and holidays, such that the sound therefrom creates a noise disturbance or exceeds 50 dBA at a real property boundary;
- b. At any other time such that the sound level at a real property boundary creates a noise disturbance or exceeds 80 dBA for the daily period of operation.

This section shall not apply to the use of domestic power tools as described in subsection (9) of this section.

- (14) *Lawn maintenance devices.* It shall be unlawful to operate lawnmowers, edgers, trimmers and power-driven hedge shears in the town between the hours of 9:00 p.m. and 7:00 a.m. the following day.
- (15) *Idling vehicles.* It shall be unlawful for any person to operate any motor of a motor vehicle of a weight in excess of 8,000 pounds for a consecutive period of time longer than two minutes while such vehicle is standing on private property and located within a 150 feet of property zoned and used for residential purposes, except where such vehicles are standing within a completely enclosed structure. Emergency vehicles and public transportation vehicles shall be exempt from this provision of this article. Delivery vehicles shall be exempt when such a motor is an integral component of the delivery process in question.
- (16) *Mufflers.* No person shall modify or change the exhaust muffler, intake muffler or any other noise-abatement device of a motor vehicle in a manner such that the noise emitted by the motor vehicle is increased above that emitted by the vehicle as originally manufactured.
- (17) *Boats.* No person shall operate any engine-powered pleasure vessel, engine-powered craft or motorboat on any body of water, lake, canal or waterway being within the town which creates a noise disturbance or emits frequent or long-continued noise that exceeds 90 dBA from a distance of 50 feet.
- (18) *Motorcycles, trailbikes, minibikes, scooters.* It shall be unlawful and declared a public nuisance to use or operate any motorcycle, trailbike, minibike, scooter or vehicle, as defined in F.S. § 316.003, which creates a noise disturbance or emits frequent or long-continued noise that exceeds 75 dBA from a distance of 50 feet. Exemption: This section shall not apply to those vehicles regulated by state statute.
- (19) *Motor vehicle horns and signaling devices.* Sounding any horn or other signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger.
- (20) *Refuse collection vehicle.* No person shall collect refuse with a refuse collection vehicle between the hours of 7:00 p.m. and 6:00 a.m. of the following day in a residential area or noise sensitive zone; nor shall such vehicle be operated in any other area which violates the provisions of section 10-155 between the hours of 7:00 p.m. and 6:00 a.m. the following day.
- (21) *Motor vehicles operating on a public right-of-way.* Motor vehicles on a public right-of-way are regulated as set forth in the Florida Motor Vehicle Noise Prevention and Control Act of 1974, as set forth in F.S. §§ 316.272, 316.293 and 403.415.
- (22) *Air conditioning or air-handling equipment.* Operating or permitting the operation of any air conditioning or air-handling equipment in a residential area which creates a noise disturbance, but excluding cooling towers.

(Ord. No. 18-1990, § 1, 10-3-1990; Ord. No. 12-2002, § 1, 4-17-2002; Code 1978, § 15-7)

### Sec. 10-158. Exemptions from permissible sound levels.

The provisions of [section 10-155](#) shall not apply at any time to:

- (1) Routine maintenance of public service utilities.
- (2) Noise generated for the purpose of alerting persons to the existence of an emergency or noise generated in the performance of emergency work.

(Ord. No. 18-1990, § 1, 10-3-1990; Code 1978, § 15-8)

### Sec. 10-159. Noise measurement procedure.

For the purpose of determining and classifying any noise as a noise disturbance which is hereby declared to be unlawful and prohibited by this article, the requirements and provisions in [section 10-155](#) may be applied; provided, however, a violation of this article may occur without the occasion of the measurements being made as therein provided.

(Ord. No. 18-1990, § 1, 10-3-1990; Code 1978, § 15-9)

### Sec. 10-160. Procedure for motor vehicle noise.

The procedure for enforcing operating motor vehicle noise standards shall be as established in F.S. § 316.293, and applicable rules and regulations of the state department of environmental protection with the cooperation of the state department of highway safety and motor vehicles.

(Ord. No. 18-1990, § 1, 10-3-1990; Code 1978, § 15-11)

*Cross reference— Traffic and motor vehicles, ch. 30.*

### Sec. 10-161. Exemptions.

The following are exempt from the provisions of this article except the operation of motor vehicles under F.S. § 316.293, which specifically exempts certain vehicles:

- (1) All public parks, schools, playgrounds, and recreation areas specifically designated for such activity in performance of that activity.
- (2) Any public performance being conducted in accordance with the provisions of a special permit issued by the town.
- (3) All equipment tests required by law.
- (4) All procedures or processes required by law.

(Ord. No. 18-1990, § 1, 10-3-1990; Code 1978, § 15-13)

---

#### FOOTNOTE(S):

--- (5) ---

*State Law reference— Motor vehicle noise, F.S. §§ 316.293, 403.415 [\(Back\)](#)*