



Minutes
Town of Lake Park, Florida
Regular Commission Meeting
July 15, 2009 7:41 p.m.

Town Commission Chambers, 535 Park Avenue

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, July 15, 2009 at 7:41 p.m. Present were Mayor DuBois, Vice-Mayor Carey, Commissioners Daly, Rumsey, and Osterman, Attorney Thomas Baird, Town Manager Maria Davis and Town Clerk Vivian Lemley.

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

ADDITIONS/DELETIONS/APPROVAL OF AGENDA

Item #10 Parking Meters was pulled from the Agenda to be discussed at the Budget Workshop Meeting scheduled for July 22, 2009.

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

Vote on Motion:

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

Motion passed 5-0.

PROCLAMATIONS

James Aaron

Mayor DuBois read the Proclamation for James Aaron.

Family members of Mr. Aaron accepted the Proclamation and thanked the Commission.

Sue Ellen Mosler

Mayor DuBois read the Proclamation to Sue Ellen Mosler.

Ms. Mosler thanked the Commission for her Proclamation.

PRESENTATION

Legislative Report by Fausto Gomez

Mr. Fausto Gomez thanked the Commission and Town Manager for joining him at the Legislative Session in Tallahassee. He began to discuss and explain his Legislative Report (see Exhibit "A"). He stated that the year was extremely difficult because of a 6 billion dollar budget deficit and the speaker for the House of Representatives had to resign almost immediately prior to the Legislative Session which created a scramble in Legislative leadership that has not yet been completely addressed. He stated that the Governor had four priorities. Two of those priorities failed and two of them were severely modified. He stated that there was 3 billion dollars of stimulus funds put toward the 6 billion dollar deficit. He explained and gave an overview of the tax increases and additional fees that were implemented to raise funds. He stated that for the first time since September 2006, budget revenues stabilized. He stated that since September 2006, the state of Florida had not suffered a decline in general revenue projections. He explained how the budget was projected and built. He gave examples of what things were used to build the foundation of the budget.

He began to explain that Lake Park had fared well despite the budget issues. He stated that funding for the Library was secured, legislation imposed revenue caps, property tax caps, extending permits and development orders for three years, relaxed zoning regulations for community residential homes, removed sovereign immunity protection from Bert Harris claims, established a moratorium on impact fees, and prohibiting local governments from enforcing ordinances that require mortgage holders to maintain and secure foreclosed properties failed. He stated that the last item was very important and explained that the Florida Bankers Association attempted to place an amendment on legislation to eliminate a property registry where foreclosed and abandoned properties are registered. The registry would allow the Town and other cities to identify mortgage holders i.e. lending institutions of the foreclosed properties and ask those holders to secure and maintain those properties. The Association attempted to place the amendment through seven different vehicles but failed. He also explained how Lake Park did not receive a \$200,000 grant through the South Florida Water Management District (see Exhibit "A"). He stated that in his report, he outlined the strategy that the Town would follow the next legislative session to assure that water funding was available for local governments through the legislature (see Exhibit "A"). He reviewed and explained the "Appropriations" portion of his report (see pages 2-6 of Exhibit "A"). He reviewed and explained "Bills of Specific Interest to Lake Park" (see pages 6-8 of Exhibit "A"). He reviewed and explained "Other Bills of Interest to Lake Park" (see pages 8-12 Exhibit "A").

Commissioner Rumsey thanked Mr. Gomez for all of his hard work.

Mayor DuBois thanked Mr. Gomez for his presentation.

PUBLIC and OTHER COMMENT

David Hill, 133 Miller Way – requested that the Commission consider relaxing the codes for landscaping in the light industrial areas of the Town. He expressed his concerns and gave reasons for his request. He provided the Commission with pictures of his industrial property (see Exhibit “B”).

Kim Hanson, Advancement Director for the ARC of Palm Beach County– stated that Ms. Karen Teagarden was chairing the second annual ARC in the Park Parade. She thanked the Town for their support and stated that she wanted to encourage involvement for the citizens of Lake Park to celebrate the job development services that they operate for people with developmental disabilities. She stated that there were roughly 90 individuals in job placement thanks to the operation on Park Avenue. She stated that they were supported with job coaching, earning a living, paying taxes and living and working independently. She announced that a parade would be taking place on Park Avenue on September 12, 2009 from 9 a.m. to 11 a.m. and will begin at the clock tower. She stated that she hopes that businesses in Lake Park will sponsor the parade and that citizens will sign up for the quarter mile walk to support funds for those with disabilities. She stated that funding for people with disabilities has been cut in many areas and the parade and walk will help to support the funding.

Mayor DuBois asked if the parade would start at the park and come back to the ARC headquarters on Park Avenue.

Ms. Hanson explained that the parade will begin at the clock tower and proceed onto Kelsey Park and through to the lakefront at Lake Shore Park.

Chris Price, 644 Date Palm Dr. – stated that he was recently able to enjoy Lake Shore Park and noticed that there was a restriction on the east waterfront side of the park. He stated that there was a step that does not make it possible for those in wheelchairs or motor scooters to ride all the way along the waterfront. He recommended that the step be removed and replaced with a ramp or smooth surface in order to make it accessible. He stated that the Recreation Department bus was also not accessible for the handicap. He asked that the Commission take these issues into consideration.

Kristen Puhalainen, 301 N. Olive Ave. – stated that she was with the Palm Beach County League of Cities and was there as part of their new effort to expand member outreach. She stated that she was visiting all of the cities in the county to make them aware that the League was a resource. She announced that the July Membership Meeting would be taking place next week on Wednesday and the keynote speaker would be Rebecca O’Hara who is in charge of the legislative issues for the League of Cities. She stated that their website was leagueofcities.org and they were now on Twitter.

Public Comment Closed.

CONSENT AGENDA:

1. Regular Commission Meeting Minutes of June 17, 2009
2. Resolution No. 27-07-09 Amendment of the Job Description for the Position of Planner I
3. Resolution No. 28-07-09 Boating Infrastructure Grant Program (BIGP) Florida Fish and Wildlife Conservation Commission
4. Hurricane Preparedness for Debris Removal
5. Hurricane Preparedness for Tree Trimming

Public Comment Open.

None

Public Comment Closed.

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

Vote on Motion:

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

Motion passed 5-0.

PUBLIC HEARING

ORDINANCE NO. 08-2009 – Text Change to the Alcoholic Beverages Section to Exempt Businesses on Park Avenue

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES, ENTITLED “ALCOHOLIC BEVERAGES”; PROVIDING FOR THE AMENDMENT OF SECTION 6-6 ENTITLED “SALE OF ALCOHOL NEAR CERTAIN USES PROHIBITED”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Community Development Director Patrick Sullivan explained the reason for Ordinance No. 08-2009. He stated that the current Ordinance does not allow for the sale of alcohol within 500 feet of a church or school and that 30% of the Park Avenue Downtown District is within that restriction. He stated that the language is being changed to allow for the sale of alcohol at businesses located on Park Avenue between 7th St. and 10th St. He stated that night clubs, bars, and lounges were strictly prohibited in the Park Avenue Downtown District. The sale of alcohol would have to be a secondary use or accessory use to a business.

Public Comment Open.

None

Public Comment Closed.

Motion: A motion was made by Vice-Mayor Carey to approve Ordinance No. 08-2009 upon 1st reading; Commissioner Daly made the second.

Vote on Motion:

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

Motion passed 5-0.

Attorney Thomas Baird read Ordinance No. 08-2009 by caption-only.

ORDINANCE NO. 09-2009 - Adopt Code Language that Requires the Town to Expedite Certain Applications for Development

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA , AMENDING CHAPTER 67 OF THE TOWN CODE ENTITLED "LAND DEVELOPMENT CODE" CREATING ARTICLE VII TO BE ENTITLED "EXPEDITED PERMITTING"; PROVIDING FOR THE CREATION OF NEW SECTIONS 67-201 ENTITLED "PURPOSE"; 67-202 ENTITLED "APPLICABILITY"; AND SECTION 67-203 ENTITLED "TOWN'S RESPONSIBILITIES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor DuBois stated that Ordinance No. 09-2009 was very important due to the economic times and the Business Development Board and Chamber of Commerce was influential in pushing for the adoption of the Ordinance.

Community Development Director Patrick Sullivan explained that it was requested by the Business Development Board and Chamber of Commerce that all municipalities adopt the regulations set forth in Ordinance No. 09-2009.

Public Comment Open.

None

Public Comment Closed.

Motion: A motion was made by Commissioner Rumsey to approve Ordinance No. 09-2009 upon 1st reading; Commissioner Osterman made the second.

Vote on Motion:

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

Motion passed 5-0.

Attorney Thomas Baird read Ordinance No. 09-2009 by caption-only.

DISCUSSION & POSSIBLE ACTION

Use of Town Property for a Community Yard Sale

Town Manager Maria Davis explained that the Lake Park Kiwanis Club had requested to use Kelsey Park or another area of Town to conduct a community yard sale. She stated that staff was requesting direction.

Mr. John Enck of the Kiwanis Club explained their reasons for the request.

Mayor DuBois asked if the yard sale would be conducted by the Town's Recreation Department.

Town Manager Maria Davis explained that the yard sale would not be conducted by the Town. She stated that the Kiwanis Club was requesting the use of Town property to conduct their yard sale.

Mayor DuBois stated that there was an area of Town that was previously discussed as being used as a community garden. She asked if the garden was not going forward.

Town Manager Maria Davis stated that the property was not currently under construction and it could be used for the yard sale.

Mayor DuBois asked if staff had a preference of utilizing one location over the other for the yard sale.

Town Manager Maria Davis stated that staff was not taking a position on any preference of any particular property to be utilized for the yard sale.

Vice-Mayor Carey expressed his concerns about conducting a community yard sale. He discussed past issues that came up from prior community flea markets and garage sales in the Town.

Commissioner Osterman expressed her opinions and views on the Town sponsoring a community yard sale. She stated that she had concerns regarding cleaning up after the event.

Commissioner Daly stated that he did not object to the yard sale providing that there were strict guidelines and requirements put in place.

Mr. Enck stated that he understood and that the group would certainly discuss any requirements that the Town would set forth for the yard sale.

Commissioner Rumsey recommended that a refundable security deposit be required and that the Foresteria property be utilized for the yard sale.

Commissioner Daly also recommended that the Foresteria property be used for the yard sale.

Commissioner Rumsey asked what type of advertising the Kiwanis Club would use for the yard sale.

Mr. Enck stated that they had not addressed advertising yet.

Mayor DuBois asked Mr. Enck to go back to his group for discussion and to come back with their requests and ideas so that the Commission could make a decision for the final details.

Commissioner Rumsey asked what the date of the yard sale would be.

Mr. Enck stated that they were anticipating the yard sale to be on August 8, 2009.

Discussion ensued between the Commissioners on what would be the best way to make a decision on the yard sale.

Town Manager Maria Davis stated that Finance Director Anne Costello suggested that the community yard sale take place on Town Hall's parking lot instead of the Foresteria property.

Public Comment Open.

None

Public Comment Closed.

The Commission came to consensus to allow the Kiwanis Club to conduct a Community Yard Sale on the Town Hall's parking lot.

Abutting Private Property Encroachment onto Town Alleyways

Community Development Director Patrick Sullivan gave a short PowerPoint presentation (see Exhibit "C") He reviewed and discussed the alleyways in Town that were experiencing issues with encroachment. He stated that in addition to the options he presented to the Commission, another option would be to rent the property that was being encroached. The Town would still own the property and be responsible for its maintenance.

Discussion ensued between Community Development Director Sullivan, the Commissioners, and Attorney Thomas Baird regarding the alleyway encroachments.

Public Comment Open.

None

Public Comment Closed.

The Commission came to consensus to give property owners six months to come into compliance on the property encroachment with an option to lease the property.

Continuing Landscape Maintenance Agreement with Chris, Wayne & Associates for the Lake Park Harbor Marina

Public Comment Open.

None

Public Comment Closed.

Motion: A motion was made by Commissioner Osterman to approve continuing the landscape maintenance agreement for the Lake Park Harbor Marina with Chris, Wayne, & Associates; Vice-Mayor Carey made the second.

Vote on Motion:

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

Motion passed 5-0.

COMMENTS BY COMMISSION, TOWN MANAGER, TOWN ATTORNEY

Mayor DuBois

None

Vice-Mayor Carey

None

Commissioner Osterman

None

Commissioner Daly asked if it would be possible to talk to the owners of the Majestic Princess cruises at the Marina and ask if them if they could provide a restaurant service at the Marina while they are docked.

Town Manager Maria Davis stated that she thought it was a great idea and she would check into it.

Commissioner Rumsey congratulated the Recreation Department for doing a great job on the Fireworks Festival. He asked if the Town's budget would be online for citizen's viewing prior to the meeting on July 22, 2009.

Town Manager Maria Davis stated that the budget would be online for viewing the Friday evening before the meeting.

Commissioner Daly stated that the Public Works Department has been doing a fantastic job maintaining the parks and Marina.

Attorney Thomas Baird stated that he will be having a United States conference call the following day to discuss a scheduling order regarding discovery. He recommended another Attorney Client Session with the Commission. He discussed the status of the case between the Town and the Florida Department of Justice. He stated that he would coordinate the Attorney Client Session with Town Manager Davis.

Town Manager Maria Davis announced National Marina Day on August 8, 2009. She asked Marina Director Michael Pisano to discuss the event.

Marina Director Michael Pisano explained that National Marina Day was a celebration of America's gateways to boating. The event would take place on August 8, 2009 from 10 a.m. to 2 p.m. He stated that there would be several activities including a fishing clinic for the children as well as free water slide, music, hamburgers, hot dogs, and beverages. Several maritime agencies would also be on site to answer questions.

ADJOURNMENT

There being no further business to come before the Commission and after a motion to adjourn by Commissioner Rumsey and seconded by Vice-Mayor Carey, and by unanimous vote, the meeting adjourned at 9:20 p.m.

Jeffrey Carey

Mayor DuBois

Jessica Shepherd

Deputy Clerk Jessica Shepherd

Vivian Lemley

Town Clerk Vivian Lemley



FLORIDA

Approved on this 5 of Aug., 2009.

2350 Coral Way, Suite 301
Miami, Florida 33145
(305) 860-0780 (Telephone)
(305) 860-0580 (Facsimile)

119 South Monroe Street, Suite 200
Tallahassee, Florida 32301
(850) 222-9911 (Telephone)
(850) 222-8416 (Facsimile)

fgomez@gomezbarker.com

**Gomez Barker
Associates, Inc.**

Memorandum

To: Hon. Desca DuBois, Mayor
Hon. Jeff Carey, Vice Mayor
Hon. Ed Daly, Commissioner
Hon. Patricia Plasket-Osterman, Commissioner
Hon. Kendall R. Rumsey, Commissioner

From: Fausto B. Gomez

CC: Maria V. Davis, Town Manager

Date: July 9, 2009

Re: Legislative Report

I am pleased to report on the activities of this firm on behalf of the Town of Lake Park during the recently concluded legislative session. This was an extremely difficult year, with the recession and individual political considerations impacting every budget and policy decision. Compounding this, Speaker Ray Sansom had to resign and there were a record forty-four freshmen involved in the process. All these factors created a legislative scramble and vacuum that was never completely addressed. At the same time the Governor's authority was challenged with regard to his priorities; the Indian Gaming Compact, Everglades Restoration, Renewable Energy, and Commuter Rail. Two of these were severely modified and two failed. Given all of this, it is remarkable that the Session ended only a week late.

On the budget front, this year's \$66.5 billion spending plan used \$3 billion in stimulus money to close a deficit that would have been as high as \$6 billion without the federal dollars. To close the rest of the gap, the Legislature approved new taxes and fees and swept trust funds. This includes a \$1 billion cigarette tax and \$800 million in fees ranging from vehicle registration to driver's license renewals. The budget also depends on the Seminole Indian Tribe agreeing to the terms of the gaming compact. That is expected to generate from \$150 to \$300 million annually and the proceeds are already factored into the state budget for next fiscal year, albeit in reserves. A Special Session is anticipated for October to either ratify the Compact or reduce the budget if those dollars don't materialize. Also included in the budget is a potential property tax increase of .25 mils if a local school board imposes it and if voters subsequently agree to it. One of Tallahassee's most wry observers noted that the budget was approved "with a bit of apology that it has higher taxes and fees, a bit of bragging that it was

better than expected given the economy, and a bit of wariness over what the future may hold due to its patchwork nature.”

A similar dysfunction permeated policy deliberations. There were fewer bills passed this year than in any session since 1998 thus creating a stampede at the end to amend legislation stuck in committee onto bills considered on the floor. Development and insurance interests took advantage of these difficulties to push their long-standing agendas under the guise of economic development and the lamentable practice of demonizing cities and counties continued. The result of all this was that as your lobbyists we had to continually fight legislation impacting local governance or ameliorate their most onerous provisions.

In the midst of this, Lake Park did rather well. Funding for the Library was secured and legislation imposing Revenue Caps as well as Property Tax Caps, extending permits and development orders for three years, relaxing zoning regulations for community residential homes, removing sovereign immunity protection from Bert Harris claims, establishing a moratorium on impact fees, and prohibiting local governments from enforcing ordinances that require mortgage holders to maintain and secure foreclosed properties failed.

Also failing, unfortunately, was an important funding issue. Until the closing moments of the budget process Lake Park was recommended for a \$200,000 grant through the South Florida Water Management District. Ultimately, no city in the state received any water funding, but key members of the South Florida Legislative Delegation worked throughout the session to secure a \$15 million allocation for local governments in the tri-county area. Despite the urgency of this item and it being advanced by budget leaders, at the last instance this was rejected by the President of the Senate and the Speaker of the House who could not agree on a funding source.

Following is a synopsis of items of particular interest to Lake Park and recommendations on how to proceed in order to secure legislative funding next year, through both line item appropriations as well as grant opportunities. We understand that the Town is aggressively seeking grants and, of course, my team and I will be working with you and the administration in order to provide the greatest possible support to Lake Park. Let me just take a moment to recognize Town Manager Maria Davis and Grants Coordinator Virginia Martin who are both incredibly attuned to funding opportunities and who are invaluable as we jointly explore and access resource prospects.

APPROPRIATIONS

- Library and Cultural Affairs

The legislature appropriated \$24,396,017 for Library Grants and \$1,200,000 for Library Cooperatives statewide. This funding was in jeopardy throughout the session as policy-makers debated whether they would have the resources to fund them. At the close of the session they reduced the film incentive monies and identified some additional dollars to continue both programs. The Lake Park Library continues to be an eligible recipient and last year was appropriated \$15,200.

In addition, the legislature this year collapsed all cultural and historical programs into one grant silo and capped the awards at \$25,000. The Department of State is currently accepting applications.

- Transportation

Transportation stimulus funding was a two-step process, requiring both a local recommendation from the Metropolitan Planning Organization (MPO) as well as state

approval from the Legislative Budget Commission. Unfortunately, the MPO did not recommend the Park Avenue project and thus it was impossible to obtain funding from Tallahassee. A subsequent review of the MPO recommendations evidences that every project, except for one, was a jurisdiction represented by someone on the MPO Board. The Town Manager and I will be meeting with the MPO Executive Director as well as Florida Department of Transportation (FDOT) officials to assure that Lake Park is considered during next year's round of stimulus funding.

Additionally, during the meeting with the MPO Executive Director, the Manager and I will discuss the Transportation Improvement Program (TIP) and the use of "XU" funds to meet local road demands. The TIP is a staged program encompassing a five-year period and contains transportation initiatives funded by all public sources. My team and I have successfully utilized that source to help fund Crandon Boulevard in the Village of Key Biscayne, a road very similar to Park Avenue. Moreover, we will explore the possibility of seeking supplementary funding from the FDOT Transit Corridor Program.

- Water Resources Protection

Notwithstanding our continuous lobbying efforts with the legislative budget conferees, neither this firm nor our colleagues who represent other local governments were able to secure funding for water projects. In fact, the Legislature provided no funding for any water projects in the state and this is only the second time in the past 15 years that critical funding support in this area was not appropriated. As you know, last year Lake Park secured \$100,000 from this source for drainage improvements.

The leading members of the South Florida legislative delegation and those of us representing local governments in the tri-county area shared a real optimism that despite a record shortfall in state revenues we would be able to impress upon the presiding officers the need for continued funding for critical water projects. So it was when Sen. Diaz de la Portilla, Rep. Llorente and Rep. Rivera managed to convince their respective chambers on two separate occasions to extend informal offers for such funding, although dependent upon different revenue streams. Despite repeated indications of support from many of the highest ranking members of the House and Senate, they were unable to agree on the funding source and so the issue died.

In consultation with legislators and our colleagues in Tallahassee, we are beginning to chart a course for success in next year's session. Our plan is comprised of three important steps:

1. *Promoting the passage of a dedicated funding source for water resources:*

In 2005, the Legislature passed SB 444, which was intended to provide a minimum of \$100 million annually for the protection and development of water supplies. The funding for this program has been reduced each of the last four years, to a point that for the 2009-10 Fiscal Year the state eliminated all funding. It remains our highest priority to once again secure a dedicated source for these critical issues. To that end, we already obtained legislative approval for maintaining the "Water Protection and Sustainability Program Trust Fund" in the Department of Environmental Protection (CS/SB1740) and have reached out to the Florida League of Cities and the Association of Counties to work collaboratively to identify and develop a program framework which will provide significant funding and shared state and local government control as to its implementation. Various models exist in other areas of state government as to how funds for infrastructure projects can be administered in a manner providing local governments with a reasonable opportunity to access support. These will be evaluated with a goal of introducing legislation early in the 2010 session.

2. Application and approval of projects through the State Revolving Loan Program:

It is clear that the State places a high degree of emphasis on the participation of local government in the State Revolving Loan Program (SRL). For those less familiar with it, it is actually comprised of two separate categories; one for Drinking Water and another for Wastewater and Stormwater. The SRL Program is subsidized by the federal government and is predicated upon the issuance of below market rate loans to qualified local governments. The funds are disbursed based upon a priority ranking system which gives preference to financially constrained communities and projects intended to address immediate health risks. I recently met with Tim Banks, Program Director of the SRL Program, who informed me that Lake Park had not applied for funding support and we will work with the administration to assure that an appropriate application is submitted and funded.

In addition to the \$230 million in bonds issued by the State earlier this year, Florida recently received an additional subsidy of \$88 million for drinking water projects and \$132 million for wastewater and stormwater projects through the federal stimulus package. Although the State has proposed to issue half of the federal dollars as grants, the program rules require that these "free" dollars will only be made available to "Small Disadvantaged Communities," defined as those communities with populations of less than 7,500 or mean household income levels below the State average. Under the federal guidelines, Florida is required to submit to the Environmental Protection Agency (EPA) an Intended Use Plan (IUP) detailing how the federal share of the funds are to be expended. The State is still in the process of developing the IUP for drinking water, but has already submitted its IUP for wastewater and stormwater projects under current program rules.

3. Modification of the SRL Program guidelines in order to ensure that local governments enjoy a fair opportunity to access those funds.

The DEP has long been critical of local governments in South Florida for leading the efforts to obtain direct grants from the Legislature for water projects, preferring that local governments secure loans and participate in the SRL Program. The DEP will readily admit, however, that the backlog of projects at any given time greatly exceeds their funding capacity. Therefore, we propose to revise the program guidelines in order to ensure that every community has a fair chance to qualify for funding, and to expand the qualification for grants so that additional deserving communities may be able to implement their projects.

This firm and many of our colleagues who also represent local governments are confident that if we implement the plan as outlined above we will be successful in securing line item funding.

4. Department of Community Affairs, Division of Emergency Management

The DCA has dollars available for implementing pre-disaster mitigation plans that have been previously approved by the Federal Emergency Management Agency (FEMA). Lake Shore Drive qualifies since Palm Beach County has included it as a part of its FEMA approved approach. This is an available source for continuing the stormwater project and the Town is submitting an application for funding to this source.

5. South Florida Water Management District

Employing their own property tax dollars, the Water Management District is able to fund "alternative water supply" infrastructure projects to develop systems for reclaimed water. This

is a priority of the state and the District and the water is used for irrigation and other non-potable purposes. More commonly known as "purple pipes," a number of municipalities in South Florida have already received significant funding.

- Marina

I understand that the administration has already identified and is applying to various sources in order to fund the breakwater associated with the Marina. These include the Department of Environmental Protection's (DEP) "Land and Water Conservation Project" for \$200,000; the Florida Inland Navigation District for \$349,000; and the Florida Fish and Wildlife Conservation Commission "Boating Infrastructure Grant Program" for \$149,300. We will be assisting Lake Park by attempting to have the Commission recognize the \$62,000 grant previously obtained from the Navigation District for engineering, design, and permitting as well as the corresponding \$62,000 in local matching dollars for purposes of the pre-application financial requirements (25%).

The Marina Bulkheads is another infrastructure requirement and when funding is again available for the Florida Forever Program, a high priority of the Governor, we will work with the administration to apply and secure a "Stan Mayfield Working Waterfront" grant. This new program provides 2.5% of the total Florida Forever program appropriation (\$7.5 million) and may be used for support...of piers, wharves, docks, or other facilities operated to provide waterfront access to licensed commercial fisherman, aquaculturists, or business entities." Another possibility is the Florida Coastal Management Program of DEP that provides annual grants ranging from \$20,000 to \$60,000 for working waterfront purposes. The annual application is published in August or September.

- Community Center

The development of a community center is another of Lake Park's priorities. There are two possible sources to secure both legislative and departmental dollars we recommend that each be pursued. The first is the Florida Recreational Development Assistance Program (FRDAP) which provides legislative grants of up to \$200,000. Although this was the first year in history that the program was not funded, the DEP will be accepting applications for next fiscal year and they are confident that monies will become available. Working in concert with FRDAP is the Green Infrastructure Program. This makes available funding for innovative design practices that incorporate green building practices such as permeable concrete and water re-use. Both of these programs are within the DEP and we maintain excellent relations with the senior administrators of each. Finally, the United States Department of Agriculture (USDA) "Community Facility Grants" and the "Community Facility Loan Program" can be used to assist low-income municipalities in developing "essential public facilities." There is \$430,000 available statewide for this fiscal year for the grant program and \$6.518 million for direct loans and \$4.569 million for loan guarantees. The USDA has a contact office in West Palm Beach.

- Community Development

The Neighborhood Stabilization Program, part of the Stimulus Package and administered by the Florida Department of Community Affairs, is a source for purchasing foreclosed and abandoned properties. The submission by the State to the federal government was dated December 1st of last year and the initial allocations were distributed on March 1st. The program continues until February 28, 2011 and we will work with the administration to determine if there is a possibility of re-capture currently appropriated dollars and to seek funding from the program for the forthcoming fiscal year.

LEGISLATION

Below is a list of bills of particular importance to Lake Park. I have highlighted in blue those bills in which we were successful and in red those in which we were not. Following that is a roster of bills impacting local governments that either passed or failed.

Bills of Specific Interest to Lake Park

- Management of Wastewater

This bill requires the Department of Health, when it issues a health advisory against swimming in beach waters due to bacterial contamination, to notify appropriate local governments. It also requires the Department of Environmental Protection to investigate any wastewater treatment facility within a specific range of the affected beaches to determine whether the facility experienced an incident that contributed to the contamination. HB707 by Rep. Aubuchon passed both the Senate and House unanimously.

- Boating Regulations

CS/CS/HB 1423 by Rep. Troutman substantially revises the procedures by which local governments adopt certain ordinances for boating restricted and slow speed boating areas. Local governments will be required to submit "substantial, competent evidence" that the proposed ordinance meets specified standards established by the Florida Fish and Wildlife Conservation Commission including adequate public notice of the proposed ordinances. The bills direct the FWCC to establish a pilot program in 5 areas around the state to explore regulatory options regarding the anchoring and mooring of non-live-aboard vessels outside of the marked boundaries of a mooring field. Existing mooring fields and other lawful local government boating restrictions currently in effect are grandfathered. The bill also requires a saltwater fishing license if anyone fishes from Florida's saltwater shoreline or from a structure fixed to the land. Effective October 1, 2009.

- Revenue Caps

This legislation would have limited state and local revenues and required voter approval for all new taxes and fees. Commonly known as "TABOR," HB1263 by Rep. Flores died on March 31st in the Finance and Tax Council. Its companion, SB1906 by Sen. Haridopolis, died on April 21st in the Government Oversight and Accountability Committee. This legislation will most probably be back on the legislative agenda next year in the form of a constitutional amendment for the November 2010 ballot.

- Property Tax Caps

This legislation would have restricted the aggregate amount of taxation to 1.35% of the property's taxable value. HB385 by Rep. Rivera died in Messages and SB738 by Sen. Haridopolis died on March 19th in the Finance and Tax Committee. This legislation will most probably be back on the legislative agenda next year in the form of a constitutional amendment for the November 2010 ballot.

- Permit Streamlining

This legislation would have extended and automatically renewed for three years any development order, building permit, or other land use application that has been approved by a state agency or local government. CS/HB7143 by the House Agriculture and Natural

Resources Committee died in Senate Messages on April 27th. Its companion, CS/CS/SB2026 by Sen. Altman, died in the Commerce Committee on April 14th. Notwithstanding this victory, the comprehensive Growth Management bill, CS/CS/SB360 by Sen. Bennett, was approved and it has a provision requiring an automatic 2-year extension of any local or state permit or development order expiring between September 2008 and January 2012. Exceptions to the extension are provided for owners or operators who are in significant noncompliance with the conditions of the permit. The Growth Management bill is quite controversial and there is a concerted campaign to have it vetoed.

- Community Residential Homes

This legislation would have exempted community residential homes from the current 1,000 foot radius prohibition. HB371 by Rep. Stargel died on the House Special Order Calendar on April 29th. Its companion, SB1124 by Sen. Altman, died in Messages.

- Bert Harris Act

This legislation, promoted by the Private Property Rights Coalition, would have removed the sovereign immunity provisions in Florida Statutes for Bert Harris claims, would have changed from 180 days to 120 days the time period in which a local government had to be notified prior to a claim being filed, and limited to 120 days the time period for a response. HB1361 by Rep. Eisnagle was never heard in committee. Its companion, SB1556 by Sen. Baker, died in the Judiciary Committee on April 14th.

- Impact Fees

This legislation would have established a three-year moratorium on the imposition or collection of impact fees by a county or municipality. HB1129 by Rep. Grimsley died on May 8th in the Military and Local Affairs Policy Committee. Its companion, SB630, died in the Committee on Finance and Tax on April 16th.

- Red Light Cameras

This legislation would have authorized the use of cameras at traffic intersections. The bills included comprehensive grandfather provisions for existing cameras, directed FDOT to develop statewide standards for the cameras, and pre-empted the authorities of counties to prohibit the installation of cameras on county-owned or maintained right-of-way. CS/CS/CS439 by Rep. Reagan died in Senate Messages and CS/CS/SB2004 by Sen. Altman was laid on the table in the House. At the end of the legislative session a dispute arose about the distribution formula for traffic citations with the Senate advocating a greater amount to Trauma Centers and a corresponding lesser amount to local governments. The House would not go along with that change.

- Property Register

This legislation would have required the Department of Financial Services to create a statewide registry of abandoned or vacant property and placed a number of obligations on mortgage lenders to inspect and maintain the property. If a lender did not inspect and maintain the property, then a local government could enter the property and initiate repairs. HB119 by Rep. Porth was never heard in committee. Its companion, SB874, by Sen. Smith died in the Banking and Insurance Committee on April 14th. It is difficult to lobby against the banking community when the Senate President is a banker and the chairmen of the committees to which the bills were referred are also bankers. Fearing the effects of this legislation, however, representatives of the Florida Bankers Association attempted to enact an amendment to pre-empt local governments from enforcing ordinances that require

mortgage holders to maintain and secure foreclosed properties. They argued that that was an illegal obligation placed on lenders. That amendment was killed.

Other Bills of Interest to Lake Park

- Local Government Issue Campaign Expenditures/Restrictions

SB 216 by Sen. Justice restricts the ability of local governments to use or expend public funds to advocate for or against an issue presented to voters. The bill allows local governments to present factual information to voters under specified conditions and clarifies that a local government elected official is not prohibited from expressing an opinion on any issue at any time. Effective July 1, 2009.

- Fertilizer Ordinances

CS/CS/CS/SB 494 by Sen. Bennett directs the Department of Environmental Protection to create, by January 15, 2010, a model ordinance relating to automatic irrigation systems and encourages local government to adopt and enforce the model ordinance that includes penalties for operators of automatic sprinkler systems not in compliance with sprinkler system contractor reporting requirements by October 1, 2010. This will include technology that will inhibit the sprinkler system during periods of sufficient moisture. Funds generated through penalties are to be retained by local governments to further water conservation activities. Also included is language relating to local government adoption of the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes and certification of fertilizer applicators. Any local government with an impaired water body must adopt the Model Fertilizer Ordinance or a more stringent fertilizer ordinance and existing local government ordinances are grandfathered. Effective July 1, 2009.

- Water Resources

SB2080 by Sen. Alexander requires all government agencies to use Florida-friendly landscaping on public properties associated with a building or road constructed after June 30, 2009. Effective July 1, 2009.

- Impact Fees Burden of Proof

CS/CS/HB 227 by Rep. Aubuchon places the burden of proof on the local government in an impact fee challenge and changes the standard of review to the preponderance of the evidence. The bill also removes any deference to the local government's decision. Effective July 1, 2009.

- Non Homestead Cap and First Time Homebuyers Exemption

CS/SJR 532 by Sen. Lynn provide first time home buyers a property tax exemption. The bill provides a first time homebuyer an exemption of 25% of the just value of the property in the first year and reduces that exemption by 20% each year thereafter. It also sets for a vote a constitutional amendment that would limit the assessment growth on commercial and residential rental property to the higher of 5% annually or the average annual percentage growth in revenues derived from the property over the previous 3 years. Multiple effective dates.

- Ad Valorem Taxation

CS/SB1580 by Sen. Ring would authorize tax collectors to accept one or more partial payment of any amount per parcel for payment of current property taxes and assessments. The partial payment would be distributed in equal portions among all applicable taxing districts and levying authorities. Effective July 1, 2009.

- Public Construction

CS/CS/HB 611 Rep. Hukill addresses the public construction and bidding process. The bill requires local governments to competitively bid any project to construct or improve any public building or project in excess of \$300,000 (the current threshold is set at \$200,000) and for electrical work the threshold is \$75,000 (currently the electrical work threshold is \$50,000). The bill changes the cost index multiplier from CPI to a construction cost index. The words "maintenance" and "repair" are specifically defined to limit the types of projects that can be undertaken by a local government outside the bidding procedures. For maintenance or repair projects that include extensions, additions or upgrades within a set cap and for which the local government will utilize its own equipment and employees, the local government must develop a breakdown of the estimated costs of the project including employee compensation and benefits, equipment costs, insurance costs, etc. The bill also provides that if a local government wants to perform a public project using its own employees and equipment, the local government must make its estimated costs available to the public and then hold a public hearing in which qualified bidders are provided an opportunity to present evidence regarding the accuracy of the cost estimate prepared by the local government. Airports, ports and public transit systems owned by local government entities are exempt from the provisions of the bill. Effective October 1, 2009.

- Traffic Accident Response Fees

CS/SB 2282 by Sen. Bennett prohibits cities and counties from imposing fees or obtaining reimbursement for costs or expenses incurred for services provided by first responders relating to a motor vehicle accident. The bill exempts charges for ambulance services and the costs to contain or clean up hazardous materials in quantities reportable to the Florida State Warning Point at the Division of Emergency Management. Effective July 1, 2009.

- Growth Management/Affordable Housing

CS/CS/SB 360 by Sen. Bennett defines certain areas of the state as "Dense Urban Land Areas" and designates such areas as automatic Transportation Concurrency Exception Areas (TCEAs). In addition, it specifies that large scale developments within such areas are exempt from "Development of Regional Impact" review. The bill allows all other cities and counties to "opt in" specified portions of their jurisdictions to the TCEA and DRI-exemption. Within 2 years, cities and counties must develop strategies to support and fund mobility within TCEAs. In addition, the bill extends the deadline for cities and counties to comply with statutory financial feasibility requirements to December 2011. It requires the intergovernmental coordination element of local government comprehensive plans to provide for mandatory dispute resolution of intergovernmental disputes. It requires a local government to issue "contingent" zoning approval concurrent with the transmittal of a plan amendment, if requested by an applicant. It requires an automatic 2-year extension of any local or state permit or development order expiring between September 2008 and January 2012. Exceptions to the extension are provided for owners or operators who are in significant noncompliance

with the conditions of the permit. It prohibits local governments from adopting or maintaining in effect an ordinance that establishes standards for security cameras at businesses. It requires state agencies to develop and report on a "mobility fee" as a means to replace transportation concurrency. The substance of CS/CS/HB 161 (Aubuchon), addressing affordable housing, was amended onto CS/CS/SB 360. The bills provides for numerous changes to affordable housing statutes, including a provision that redefines the term "infrastructure" to allow the proceeds of a local government infrastructure surtax to be used to purchase land for the construction of affordable housing. Effective upon becoming law.

- Budget and Spending Transparency

CS/CS/1796 by Sen. Alexander establishes transparency requirements for state budgeting and spending. The bill requires the Joint Legislative Auditing Committee over the next year to develop recommendations for budgeting and spending transparency for local governments, school districts, universities, and other entities. These recommendations could be acted upon during the 2010 legislative session. Effective upon becoming law.

- FDOT Transportation Package

HB 1021 by Rep. Aubuchon addresses numerous issues relating to the Department of Transportation. CS/HB 1021 includes language creating a process for local governments to provide input to the Department of Transportation relating to projects being considered for deletion or deferral from the 5-Year Work Plan. Current law relating to transportation concurrency backlog authorities is amended to authorize the issuance of bonds and extend the lifespan of the debt that can be incurred for up to forty years as well as increase the amount of ad valorem tax increment the authorized to be collected. The bills also include language revising provisions relating to outdoor advertising; the placement of public pay phones containing advertising signs on public rights of way; and the allocation of costs relating to the relocation of utility facilities. Effective upon becoming law.

- Property Insurance

CS/CS/CS/HB1495 by Rep. Nelson makes wide ranging changes to the regulation of property insurance. Among its provisions, it would implement a rate "glide path" capped at 10% per year for Citizens Property Insurance Corporation policyholders until rates are actuarially sound. This provision goes into effect on January 1, 2010.

- Residential Property Insurance

CS/CS/HB1711 would allow certain insurers to use a rate in excess of the rate filed with the Office of Insurance Regulation if the insurer has surplus as to policyholders of \$500 million or more or the insurer has a surplus of \$200 million or more and a ratio of net written premium to surplus of two to one or less. Effective July 1, 2009.

- Professional Regulation

HB425 by Rep. Plakon amends 509.233, F.S. which was a pilot program to allow patrons' dogs within certain designated outdoor portions of public food service establishments. In removing the pilot program, the legislation establishes the ability for local governments to accomplish this by local ordinance. At last count, twenty-two cities

and counties (from Miami Beach to Jacksonville) have expressed an interest in this. Effective October 1, 2009.

- Emergency Preparedness

SB714 by Sen. Fasano repealed 553.509, F. S. which required any multi-family dwelling at least 75 feet in height to contain a public elevator and that at least one elevator had to be capable of operating on an alternative power source for emergency purposes. Effective upon becoming law.

- Safety Belt Law

CS/SB344 by Senator Rich provides for primary enforcement of the safety belt law for operators and front seat passengers. The bill would allow law enforcement officers to stop motorists solely for not using their safety belts. A person violating this section would be cited for a nonmoving violation, punishable by a \$30 fine. These provisions were approved by the Governor and take effect June 30, 2009.

- Elevator Retrofit

The proposal by the Department of Business and Professional Regulation (DPBR) to mandate the upgrade of elevators to new code requirements whenever those are changed was a serious struggle all session. The language to grandfather existing elevators was included in SB2100 by Sen. Bennett, HB7149 by Rep. Williams, and SB682 also by Sen. Bennett. None of these bills passed, although SB682 was the next bill on Messages when the session ended. Because of our efforts, DPBR indicated to legislators that waivers will be granted for periods between six to eighteen months to accomplish elevator retrofits and that such waivers will be granted routinely for three to five years. This will allow Key Biscayne to revisit the issue in future sessions.

- Condominium Reform

Despite attempts by legislators and other interested parties to move forward relief for condominium residents by increasing the responsibility of primary mortgage holders with regard to assessments and fees on foreclosed units, none of the six bills which contained language passed. The Senate President and the Chairman of the Banking and Insurance Committee are both bankers and Rep. Robaina, the chief advocate of condominium reform, experienced difficulties with the Speaker of the House and set aside his proposals for several weeks of Session.

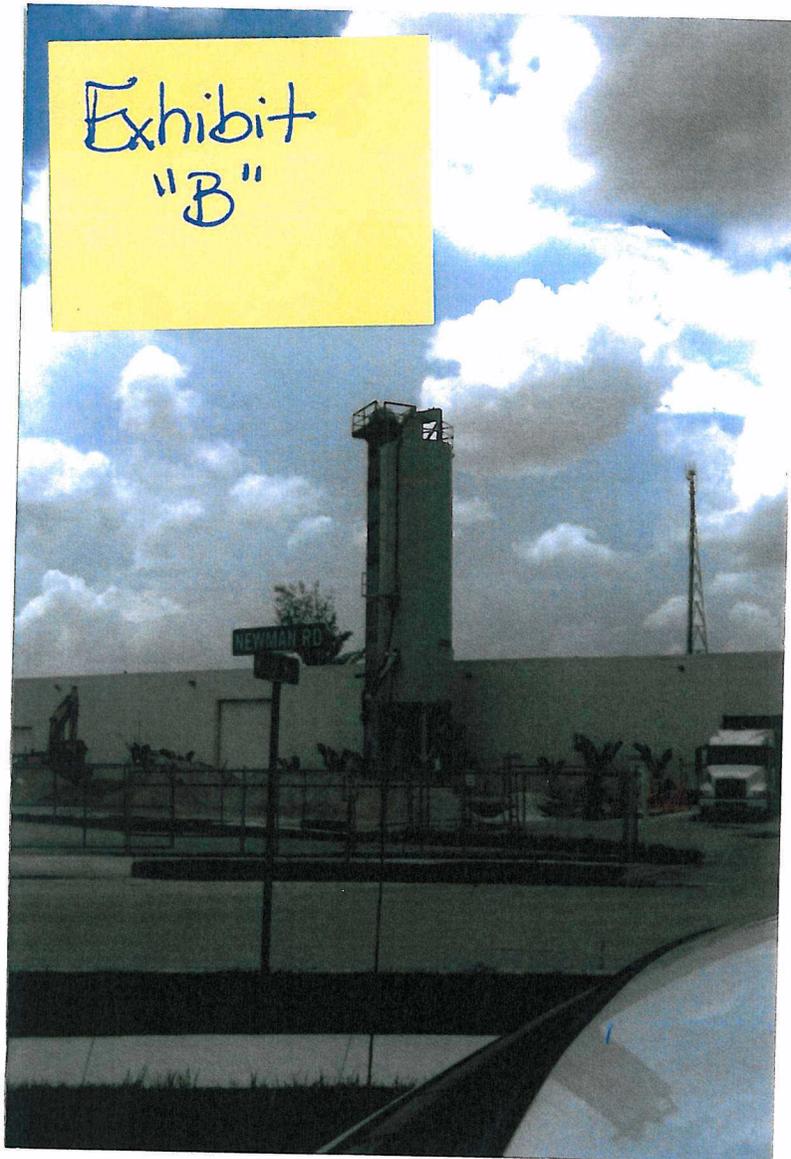
SB880 by Sen. Fasano died on Special Order. It would have required a tenant who was occupying a unit in foreclosure, when the owner is delinquent in the payment of regular assessments, to be responsible for the payment of future assessments. The tenant's landlord would then be required to provide a credit against rent in the amount of assessments paid to the condominium. Its companion bill, HB831 by Rep. Frishe, was never heard.

SB998 by Sen. Ring would have required the first mortgagee or its successor to pay the association the lesser of the unit's common expenses and regular assessments that came due during the preceding six months, or 1% of the original mortgage debt. Its companion bill, HB633, by Rep. Porth, was never heard.

HB1397 by Rep. Robaina would have added language requiring a mortgagee who files a foreclosure case on a unit, within fifteen days after filing, unpaid common expenses and regular periodic assessments which accrued or came due up to the date of filing. Its companion bill, SB2302 by Sen. Garcia, was not heard.

My team and I take great pride in representing Lake Park and appreciate the Commission and Manager joining us in Tallahassee. We will follow all of the budget and policy items and their implementation and will keep you abreast of any developments. As always, please do not hesitate to contact me if you have any questions or desire additional information.

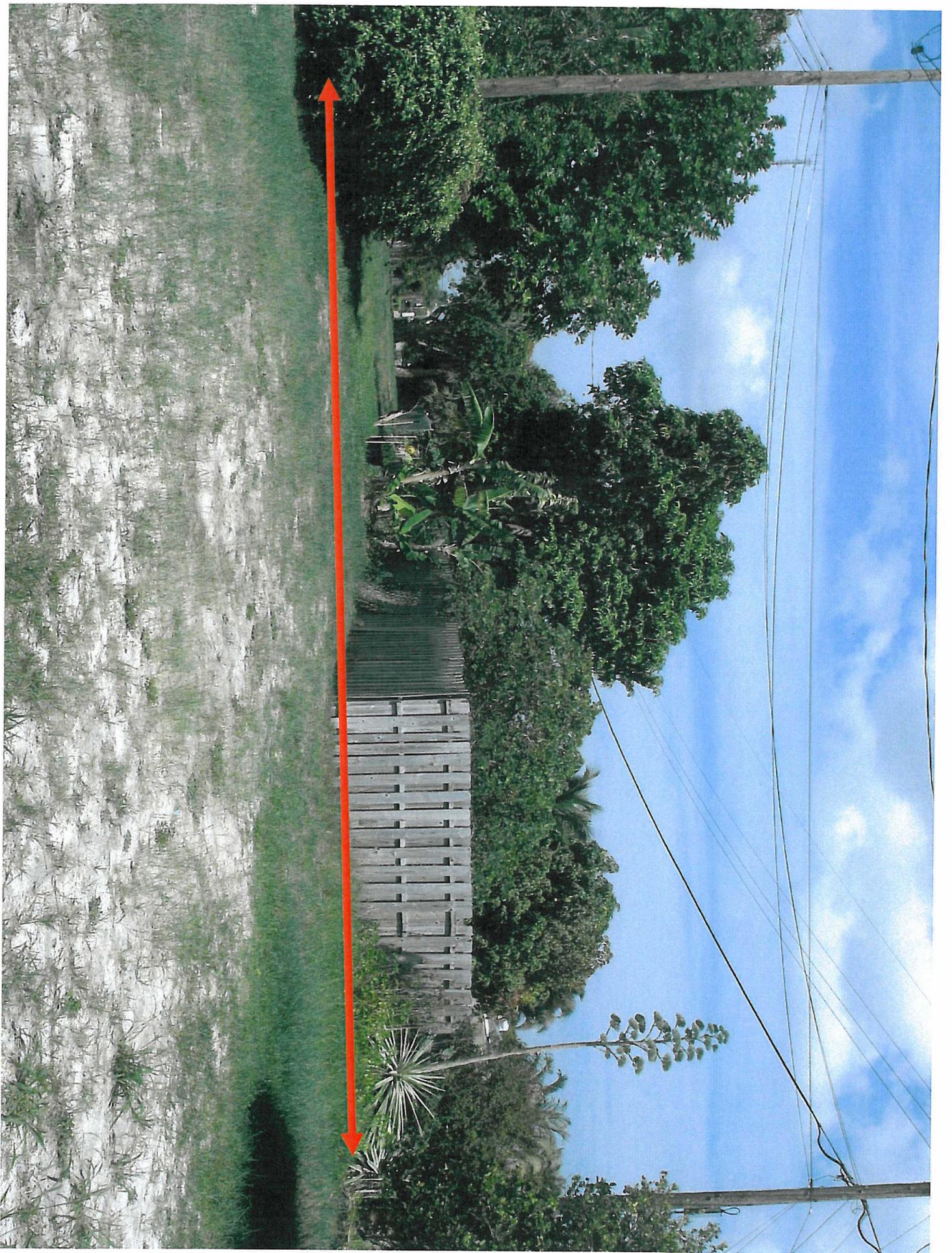
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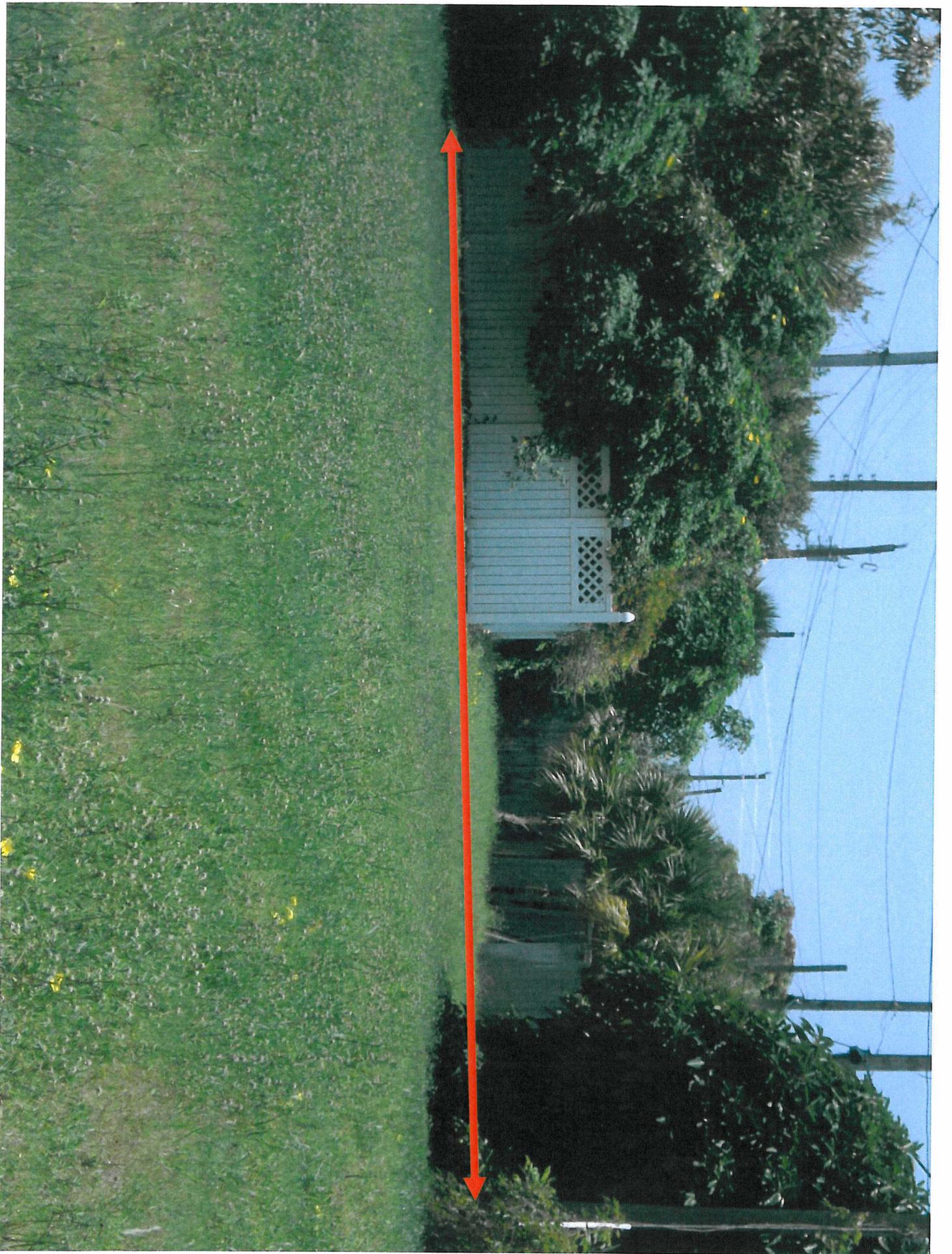






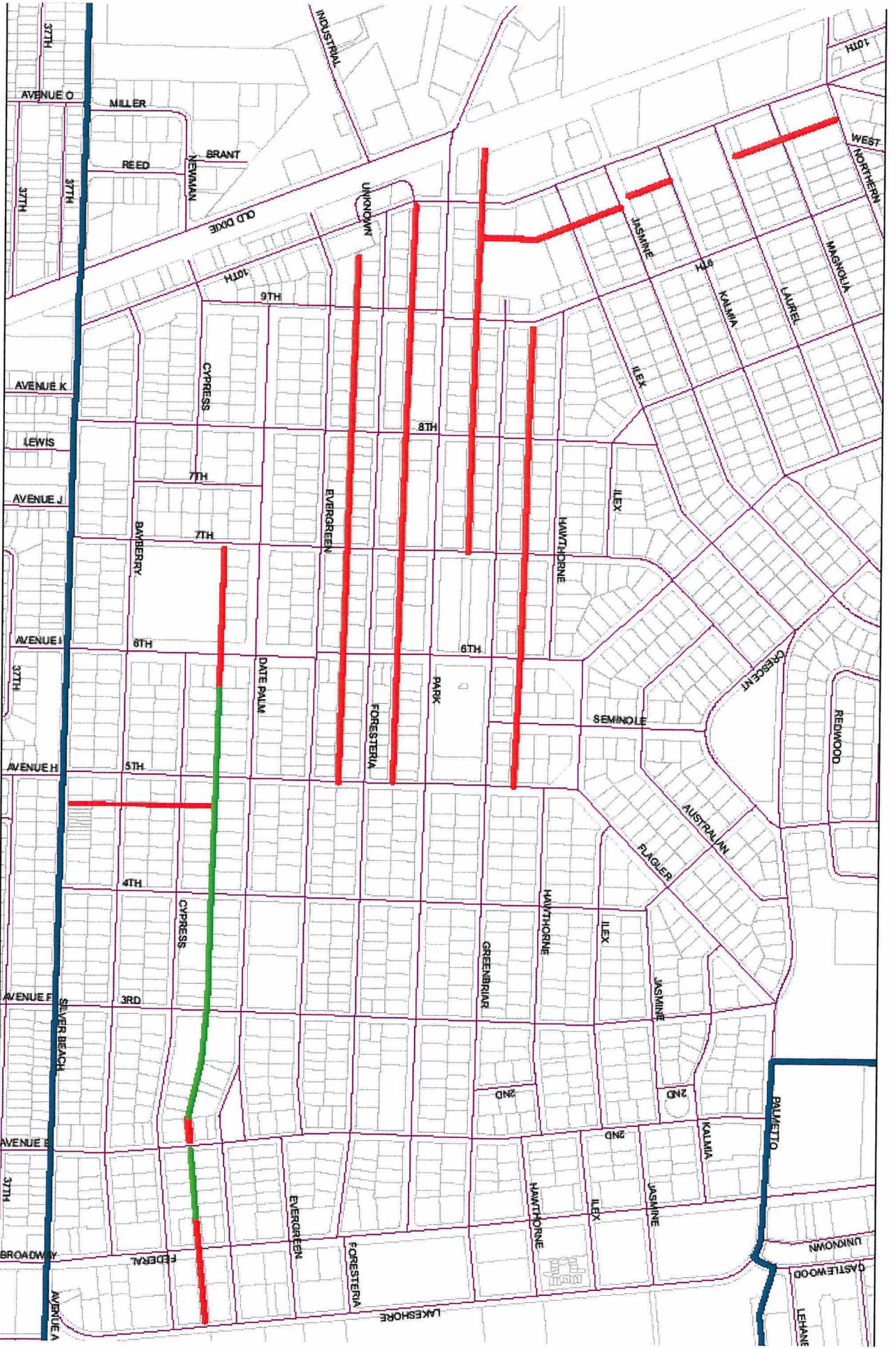












Alleyways

Easements

Town Owned Alleyways

NE

June 8, 2009

PERKINS ENGINEERING, A
 CONSULTING CORPORATION
 525 SOUTH AVENUE, SUITE 1000
 FORT LAUDERDALE, FL 33304
 PHONE: 760.328.1000