AGENDA

Lake Park Town Commission
Town of Lake Park, Florida
Regular Commission Meeting
Wednesday, December 19, 2012, 7:00 p.m.
Lake Park Town Hall
535 Park Avenue

James DuBois	—	**Mayor**
Kendall Rumsey	—	**Vice-Mayor**
Steven Hockman	—	**Commissioner**
Jeanine Longtin	—	**Commissioner**
Tim Stevens	—	**Commissioner**
Dale S. Sugerman, Ph.D.	—	**Town Manager**
Thomas J. Baird, Esq.	—	**Town Attorney**
Vivian Mendez Lemley, CMC	—	**Town Clerk**

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

A. CALL TO ORDER

B. INVOCATION

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. ADDITIONS/DELETIONS - APPROVAL OF AGENDA

F. PUBLIC and OTHER COMMENT:
This time is provided for audience members to address items that do not appear on the Agenda. Please complete a comment card and provide it to the Town Clerk so speakers may be announced. Please remember comments are limited to a TOTAL of three minutes.

G. CONSENT AGENDA: All matters listed under this item are considered routine and action will be taken by one motion. There will be no separate discussion of these items unless a Commissioner or person so requests, in which event the item will be removed from the general order of business and considered in its normal sequence on the Agenda. Any person wishing to speak on an Agenda item is asked

to complete a public comment card located on either side of the Chambers and given to the Town Clerk. Cards must be submitted before the item is discussed.

Recommended For Approval:

1. **Regular Commission Meeting Minutes of December 5, 2012** **Tab 1**
2. **Revised Supervisor of Elections Agreement for Vote Processing Equipment Use and Election Services** **Tab 2**
3. **Resolution No. 34-12-12 In Support of the Palm Beach County Health Department Effort to Urge Local Tobacco Retailers to Refrain from Marketing and Selling Flavored Tobacco Products.** **Tab 3**
4. **Resolution No. 35-12-12 Establishing the General Municipal Election** **Tab 4**
5. **Discussion Regarding the Advisability of Holding the Regularly Scheduled January 2, 2013 Commission Meeting on the Day after New Year's Day** **Tab 5**

H. PUBLIC HEARING:
ORDINANCE ON SECOND READING:

******* OPEN PUBLIC HEARING*******

A. Staff Report

B. Public Comments

C. Commission Deliberation

6. Ordinance 10-2012 Request for a small-scale land use amendment for 711, 725 and 761 Foresteria Drive to re-designate from Medium Density Residential to the Public Buildings and Grounds land use designation **Tab 6**
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE FUTURE LAND USE MAP AND THE FUTURE LAND USE DESIGNATION OF PARCELS OF REAL PROPERTY HAVING THE PROPERTY ADDRESSES OF 711, 725 AND 761 FORESTERIA DRIVE AND OWNED BY THE TOWN'S COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

A. Staff Report

B. Public Comments

C. Commission Deliberation

7. Ordinance 11-2012 Request to Rezone 711, 725 and 761 Foresteria Drive from Residential-2 to the P-Public District zoning designation. **Tab 7**
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REZONING THREE PARCELS OF REAL PROPERTY LOCATED AT 711, 725, AND 761 FORESTERIA DRIVE FROM RESIDENTIAL 2

(R2) TO PUBLIC DISTRICT (P); PROVIDING FOR AN AMENDMENT TO SECTION 78-76 OF THE TOWN CODE WHICH INCORPORATES BY REFERENCE THE ZONING MAP OF LAKE PARK REFLECTING THE CHANGE IN ZONING TO THE PUBLIC ZONING DISTRICT OF THE PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

******* CLOSE PUBLIC HEARING*******

I. ORDINANCES ON FIRST READING:

8. Ordinance No. 12-2012 Request for a Text Amendment to Section 78-148 (a) to Reduce the Distance Separation Between Gas Stations from 1,200 feet to 500 feet. Tab 8

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING SECTION 78-148(a) OF THE TOWN OF LAKE PARK CODE OF ORDINANCES TO REDUCE THE DISTANCE SEPARATION BETWEEN GASOLINE AND FILLING STATIONS USES FROM 1,200 FEET TO 500 FEET; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

9. Ordinance No. 13-2012 Request for a Text Amendment in the Park Avenue Downtown District (PADD) Sign Code to Modify the Language Whereby it Would Increase the Permitted Awning Signage Height in Table 78-70-7 from 6 inches to 10 inches and Provide for Uniformity Throughout Contiguous Plazas. Tab 9

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING TABLE 78-70-7, WHICH IS CONTAINED WITHIN SECTION 78-70 OF THE TOWN'S CODE OF ORDINANCES WHICH PERTAINS TO AWNING SIGNS, BY INCREASING THE SIZE OF LETTERS, NUMBERS, AND LOGOS FROM SIX INCHES TO TEN INCHES AND PROVIDING FOR UNIFORMITY THROUGHOUT CONTIGUOUS PLAZAS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

J. COMMISSIONER COMMENTS, TOWN ATTORNEY, TOWN MANAGER:

K. ADJOURNMENT:

Consent Agenda

TAB 1

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: December 19, 2012 **Agenda Item No.** Tab 1

Agenda Title: Regular Commission Meeting Minutes of December 5, 2012

[X]	CONSENT AGENDA	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[ ]	RESOLUTION
[ ]	PUBLIC HEARING	[ ]	ORDINANCE ON ____ READING
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager DSS **Date:** 12/11/12

Shari Canada, Deputy Town Clerk
Name/Title

Originating Department: Town Clerk	Costs: **$ 0.00** Funding Source: Acct. # [ ] Finance _____	**Attachments:** Agenda Minutes Exhibit "A" Exhibit "B" Exhibit "C" Exhibit "D" Exhibit "E" Exhibit "F" Exhibit "G" Exhibit "H"
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_____ or Not applicable in this case _X_ **Please initial one.**

Summary Explanation/Background:

Recommended Motion: To approve the Regular Commission Meeting Minutes of December 5, 2012.

AGENDA

Lake Park Town Commission
Town of Lake Park, Florida
Regular Commission Meeting
Wednesday, December 5, 2012,
Immediately Following the
CRA Board Meeting
Lake Park Town Hall
535 Park Avenue

James DuBois	—	**Mayor**
Kendall Rumsey	—	**Vice-Mayor**
Steven Hockman	—	**Commissioner**
Jeanine Longtin	—	**Commissioner**
Tim Stevens	—	**Commissioner**
Dale S. Sugerman, Ph.D.	—	**Town Manager**
Thomas J. Baird, Esq.	—	**Town Attorney**
Vivian Mendez Lemley, CMC	—	**Town Clerk**

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A. CALL TO ORDER

B. INVOCATION

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. ADDITIONS/DELETIONS - APPROVAL OF AGENDA

F. PUBLIC and OTHER COMMENT:
This time is provided for audience members to address items that do not appear on the Agenda. Please complete a comment card and provide it to the Town Clerk so speakers may be announced. Please remember comments are limited to a TOTAL of three minutes.

G. CONSENT AGENDA: All matters listed under this item are considered routine and action will be taken by one motion. There will be no separate discussion of these items unless a Commissioner or person so requests, in which event the item

will be removed from the general order of business and considered in its normal sequence on the Agenda. Any person wishing to speak on an Agenda item is asked to complete a public comment card located on either side of the Chambers and given to the Town Clerk. Cards must be submitted before the item is discussed.

Recommended For Approval:

1. Regular Commission Meeting Minutes of November 7, 2012 — Tab 1
2. Award of Bid 107-2012 Custodial Services Term Contract for Town Hall, PBSO District 10 Substation, Public Works Department, Lake Park Harbor Marina, and Lake Shore Park Bathrooms — Tab 2

H. BOARD MEMBERSHIP:

3. Board Membership Appointment for the Planning and Zoning Board — Tab 3
4. A Regular Membership Position Opened in the Library Board and One of The Alternate Members will be Chosen to Fill — Tab 4

I. ORDINANCE ON FIRST READING:

5. Ordinance 10-2012 Small Scale Land Use Amendment for 711, 725 and 761 Foresteria Drive Proposing a Public Buildings and Grounds Land Use Designation — Tab 5

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE FUTURE LAND USE MAP AND THE FUTURE LAND USE DESIGNATION OF PARCELS OF REAL PROPERTY HAVING THE PROPERTY ADDRESSES OF 711, 725, AND 761 FORESTERIA DRIVE AND OWNED BY THE TOWN'S COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

6. Ordinance 11-2012 Request for Rezoning for 711, 725 and 761 Foresteria Drive For a Public Zoning District Designation — Tab 6

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REZONING THREE PARCELS OF REAL PROPERTY LOCATED AT 711, 725, AND 761 FORESTERIA DRIVE FROM RESIDENTIAL 2 (R2) TO PUBLIC DISTRICT (P); PROVIDING FOR AN AMENDMENT TO SECTION 78-32 OF THE TOWN CODE WHICH INCORPORATES BY REFERENCE THE ZONING MAP OF LAKE PARK REFLECTING THE CHANGE IN ZONING TO THE PUBLIC ZONING DISTRICT OF THE PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

J. DISCUSSION AND POSSIBLE ACTION:

7. Creation of a Memorial Tree Planting Program at Pre-determined Town Locations — Tab 7

K. TOWN MANAGER REPORT:

Update on fireworks
Update on dog park locations
CDBG grant opportunities

Photo release form-Lake Park Harbor Marina

L. COMMISSIONER COMMENTS, TOWN ATTORNEY, TOWN MANAGER:

M. ADJOURNMENT:

Minutes
Town of Lake Park, Florida
Regular Commission Meeting
Wednesday, December 5, 2012, 7:47 p.m.
Town Commission Chamber, 535 Park Avenue

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, December 5, 2012 at 7:47 p.m. Present were Mayor James DuBois, Vice-Mayor Kendall Rumsey, Commissioners Steve Hockman, and Tim Stevens, Town Manager Dale S. Sugerman, Town Attorney Thomas Baird, and Town Clerk Vivian Lemley. Commissioner Jeanine Longtin was absent.

Vice-Mayor Rumsey led the invocation and Mayor DuBois led the pledge of allegiance. Town Clerk Vivian Lemley performed the Roll Call

ADDITIONS/DELETIONS/APPROVAL OF AGENDA:

Town Manager Sugerman requested item # 2, Award of Bid 107-2012 Custodial Services Term Contract for Town Hall, PBSO District 10 Substation, Public Works Department, Lake Park Harbor Marina, and Lake Shore Park Bathrooms, be pulled from the agenda. He explained that one of the bidders has protested the recommended award decision and under the Town's rules they are entitled to protest. The protest has been filed timely and the Town's rules regarding the protest are being followed. The Town's rules state that the Commission cannot take action on the item at this point.

Motion: A motion was made by Commissioner Hockman to approve the Agenda as amended; Commissioner Stevens made the second.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin			Absent
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 4-0.

PUBLIC and OTHER COMMENT:

None

CONSENT AGENDA ITEMS:

1. **Regular Commission Meeting Minutes of November 7, 2012**
2. **Award of Bid 107-2012 Custodial Services Term Contract for Town Hall, PBSO District 10 Substation, Public Works Department, Lake Park Harbor Marina, and Lake Shore Park Bathrooms (was pulled from the agenda)**

Motion: A motion was made by Commissioner Hockman to approve item #1 on the Consent Agenda; Commissioner Stevens made the second.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin			Absent
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 4-0.

BOARD MEMBERSHIP:

3. **Board Membership Appointment for the Planning and Zoning Board**

Town Clerk Lemley advised that James Lloyd had been selected (see attached Exhibit "A") as a regular member of the Planning and Zoning Board.

4. **A Regular Membership Position Opened in the Library Board and One of The Alternate Members will be Chosen to Fill**

Town Clerk Lemley advised that Elizabeth Auld had been selected (see attached Exhibit "B") as a regular member of the Library Board.

ORDINANCE ON FIRST READING:

5. **Ordinance 10-2012 Small Scale Land Use Amendment for 711, 725 and 761 Foresteria Drive Proposing a Public Buildings and Grounds Land Use Designation**

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

Community Development Director Nadia DiTommaso stated that there is one correction to the staff recommendation portion of the staff report to correct the language from "Public Grounds and Facilities" to Public Buildings and Grounds".

Motion: A motion was made by Commissioner Hockman to approve Ordinance No. 10-2012 on First Reading; Commissioner Stevens made the second.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin			Absent
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 4-0.

Attorney Baird read the title of the Ordinance into the record.

6. Ordinance 11-2012 Request for Rezoning for 711, 725 and 761 Foresteria Drive For a Public Zoning District Designation

Town Manager Sugerman explained that this item is a compatible action to item #7 and is a request to rezone the property from the Residential (R-2) District to the Public (P) District (see attached Exhibit "D").

Mayor DuBois asked what is the address of the western most parcel.

Town Manager Sugerman stated 761 is the western most parcel.

Motion: A motion was made by Commissioner Hockman to approve Ordinance No. 11-2012 on First Reading; Commissioner Stevens made the second.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin			Absent
Commissioner			

Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 4-0.

Attorney Baird read the title of the Ordinance into the record.

Town Manager Sugerman stated that there is a conflict between the title on the staff report and the title in the Ordinance and asked if the 78-32 or 78-76 is the correct Code reference.

Community Development Director DiTommaso stated that the correct Code reference is 78-76.

Town Manager Sugerman asked if the change is substantive.

Attorney Baird stated no and to correct the Ordinance for second reading.

DISCUSSION AND POSSIBLE ACTION:

7. Creation of a Memorial Tree Planting Program at Pre-determined Town Locations

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

Vice-Mayor Rumsey asked how many residents have asked about having a memorial tree.

Town Manager Sugerman stated that there have been at least three (3) since he has been the Town Manager.

Vice-Mayor Rumsey asked what happens if a tree is planted and then it dies and who would be responsible to replace the tree.

Town Manager Sugerman stated that the trees would come with a one (1) year warranty and if the tree dies within the first (1) year the provider of the tree will replace the tree at no charge. If the tree dies after one (1) year the tree would not be replaced.

Vice-Mayor Rumsey stated that there would be a memorial plaque at a dead tree.

Town Manager Sugerman stated that so far staff has been good at making sure our trees are not dying and so the assumption is that the Town would be utilizing a reputable nursery with a good product.

Vice-Mayor Rumsey stated that he thinks it is a good program but spending $3,000 for an arborist for three (3) requests seems a bit excessive to him. He thinks that staff knows

where the spaces are that trees could be planted and then if the program becomes popular it would make more sense to spend the funds on an arborist or landscape artist. He stated that he does not see a problem moving forward with the program but that he does have a problem with spending $3,000.

Town Manager Sugerman felt that Vice-Mayor Rumsey provided very valuable feedback.

Mayor DuBois stated that there are a number of areas in Kelsey Park that need a reset and to those should be on a list. He stated that it would be valuable in replanting the dead trees and that he would prioritize this area as first on the list for replanting before moving on to other areas. He suggested that the program be expanded for tree donation and not just memorial trees.

Commissioner Stevens agreed with Vice-Mayor Rumsey and Mayor DuBois comments and thinks that the program should include the donation of trees also.

Commissioner Hockman agreed with Vice-Mayor Rumsey regarding not spending the $3,000 at this time and expanding the program to other areas like Flagler Boulevard and other islands throughout the Town were trees have been lost over the years.

Mayor DuBois asked if a motion is needed.

Town Manager Sugerman requested a motion and a vote at minimum endorsing a tree planting program.

Motion: A motion was made by Vice-Mayor Rumsey to endorse a tree planting program without the expenditure of the $3,000 and to expand the program to the possibility of other areas throughout the Town; Commissioner Stevens made the second.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin			Absent
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 4-0.

TOWN MANAGER REPORT:

Update on fireworks

Town Manager Sugerman stated that he received a proposal from the Zambelli Fireworks Company and they are so far the only company to respond to his request for a quotation. He stated that the proposal is for a fifteen (15) minute firework display for $25,000, $5,000 for a barge on the Intercoastal and $20,000 for fireworks. He stated that the proposal does not include any detail on the type of fireworks. He stated that he is still working on other quotations.

Update on dog park locations

Town Manager Sugerman stated that at the last Commission meeting staff was requested to look at other existing parcels in Town for a dog park and that staff has not been able to identify any other parcel large enough, convenient enough or with enough parking to support a dog park. He stated that while staff was brainstorming these other location a concept was developed to try to a run pilot program. A major property owner has been contacted who has a major parcel in Town that is unimproved and a local business with a national presence who has indicated that they would be willing to support the Town in installing a six (6) month pilot program where the property would be fenced and the parking lot of the adjacent business can be used for parking. He stated quotes for fencing has been obtained for a 4,000 square foot fenced area with two gates and the cost would be approximately $5,000 for the rental of that fencing install for a six (6) month period. He stated that staff thought this would be a good solution rather than committing to a permanent dog park in a place that has no parking and difficult to locate. He stated that both parties are encouraged to participate however a deal have not been finalized and that he hopes to have it finalized and be able to report the specifics to the Commission next month.

Mayor DuBois asked what is the height of the proposed fence because he thinks that four (4) foot would probably do.

Town Manager Sugerman stated that it is a six (6) foot high fence with two twelve (12) foot wide gates.

Mayor DuBois suggested that a lower fence would be fine and that his concern is creating a visual barricade and that it would look offal.

Town Manager Sugerman stated that he would look into a shorter fence that would be available and appropriate for a dog park.

Commissioner Stevens asked about the type of fencing.

Town Manager Sugerman stated that fence would be chain link.

Community Development Block Grant (CDBG) grant opportunities

Town Manager Sugerman provided a letter regarding what the Town is entitled to receive from the CDBG program (see attached Exhibit "F"). He stated that he has spoken with Carlos Serrano, Director of Strategic Planning and Operation Department of Economic Sustainability, and he requested that the Town advise by the end of December whether they wish to participate in the CDBG program and explained that project specifics are not requested at this time. He stated that the projects must be CDBG eligible and that eligible projects include: real property acquisition for a public purpose, infrastructure installation and improvements, public facilities and improvements, demolition/clearance and historic preservation and that funds cannot be used for operating expenses or personnel costs. He requested suggestions from the Commission on how the funds could be utilized.

Commissioner Stevens asked if there is a match or other requirements.

Town Manager Sugerman stated that there are no match requirements but that there are other non-monetary requirements.

Mayor DuBois stated that he supports receiving the grant funds and suggested that funds be utilized for the Marina parking lot project or parking at the property located at 761 Foresteria Drive .

Town Manager Sugerman stated that the Marina parking lot would probably not be grant eligible because he does not think that the Marina would be considered a low and/or moderate income neighborhood and that the parking at 761 Foresteria probably would qualify.

Vice-Mayor Rumsey supports receiving the funding and asked if the dog park or infrastructure at the community garden would be grant eligible.

Town Manager Sugerman stated "yes".

Commissioner Hockman stated that he would be in favor of using the funding for the Marina parking lot improvements and that he does not understand why the funds could not be used there since the Town is classified as low and/or moderate income.

Mayor DuBois suggested any design or work at the vacant property next to the fire station to make the property look ready for a railroad station.

Town Manager Sugerman stated that it would be grant eligible.

Mayor DuBois stated that having a location where a bus can pull off the roadway to meet passengers and passengers related to a train would be advantageous from a transit prospective.

Vice-Mayor Rumsey stated that once last week and twice this week the train that passes through Town at approximately 8:00 a.m. has stopped traffic going both ways on Park Avenue and Northlake Boulevard and asked what is going on.

Town Manager Sugerman stated that he does not know the answer and that he would find out.

Mayor DuBois stated that he has been attending the Metropolitan Planning Organization (MPO) meetings and that there is a big issue related to the port. He explained that there is a complicated system related to the trains coming and going from the port and that part of the problem is that the port does not operate the train line and that the Florida East Coast (FEC) Railway lines are utilized for the trains entering and leaving the port. He stated that there is an MPO meeting on December 10, 2012 at 9:00 am and a Treasure Coast Regional Planning meeting on December 14, 2012 and at all of these meetings different types of railroad services are going to be discussed.

Vice-Mayor Rumsey asked if Mayor DuBois could take these questions to those meetings.

Mayor DuBois stated "yes" and explained that these questions have been asked a lot and that a lot depends on what is coming out of the port. He stated that the FEC is down to seven (7) trains a day from eleven (11) trains a day.

Commissioner Stevens stated that all of the suggestions are good ways to utilize the grant funds and that he especially supports the community garden infrastructure, dog park and railroad related suggestions. He asked when the Commission would be discussing the tearing down of the wall in the Marina parking lot.

Town Manager Sugerman stated that the tearing down of the wall at the Marina is an item being discussed by the Marina Task Force and is expected to be a recommendation that will come from the Marina Task Force.

Commissioner Stevens stated that the sooner the better on the remove of the wall at the Marina because the Marina cannot be seen from US1 and asked when that will be coming forward.

Town Manager Sugerman stated that the Task Force is working on the item and that he will be bring forward a recommendation based on the Task Force's work. He stated that the final meeting for the Task Force is in February and then they would be sunsetted and a report would be anticipated in February or March with a set of plans.

Commissioner Stevens stated that he would prefer February over March but that he understands the time constraints.

<u>Photo release form-Lake Park Harbor Marina</u>

Town Manager Sugerman stated that a member of the Marina Task Force, Brent Headberg has offered the Town and in particular the Marina photographx and video which the Town can use in promotional and marketing material. He stated that Mr. Headberg has asked that the Town sign a release so that he and the Town are protected and that Attorney Baird has recommended that Mayor or Town Manager could execute

the agreement and that he feels more comfortable that the Commission authorize the Mayor or Town Manager to sign the release.

Mayor DuBois stated that the Marina is public property and doesn't Mr. Headberg have the right to photograph the Marina.

Town Manager Sugerman stated "yes", but he is giving the photographs to the Town.

Mayor DuBois stated that he does not understand why a release is needed.

Vice-Mayor Rumsey explained that Mr. Headberg is giving to the Town the photographs to utilize in promotional material and that Mr. Headberg wants to be released from any damages or trademark infringements that may come from the photos.

Town Manager Sugerman concurred and explained that Mr. Headberg will also be taking additional photographs for the Town pro bono.

Mayor DuBois stated that he understands now and that he is glad Mr. Headberg is doing it.

Town Manager Sugerman asked the Commission to determine whether the Town Manager or the Mayor should sign the release.

Mayor DuBois stated that he would be happy to sign the release if that is the direction of the Commission.

Commissioner Stevens and Vice-Mayor Rumsey stated that Mayor DuBois should sign the release.

COMMENTS BY COMMISSION, TOWN MANAGER, TOWN ATTORNEY

Attorney Baird provided an update on the Inspector General litigation. He stated that the Inspector General filed a motion to intervene in the litigation between the Municipalities and the County. The Inspector General office took the position that because it is an independent County office that it had some kind of special standing that other County offices did not have as related to the litigation. He stated that the Judge flatly denied the motion. He stated that the Inspector General's office has filed an appeal of the denial of the motion to intervene to the Fourth District Court of Appeals and that this appeal will further delay these proceedings. He stated that from a legal prospective that he would be surprised if the Fourth District Court of Appeals gives the appeal any consideration and that he expects the appeal to be denied. He stated that Municipalities have argued their motion for partial summary judgment. He explained that a summary judgment is that the party bringing the motion states that there are no facts that are in dispute and that they want the judge to decide the case based on law and the issues of law that they have raised. He explained that the issues of law in this case are whether or not the County has the authority constitutionally to require a Municipality to contribute to a County-wide program. He stated that in an attempt to create a factual issue to defeat the summary judgment and he supposes at a tactical measure rather than argue strictly on the law the

County elected to file four (4) affidavits to try and create a factual issue and that the affidavits came from Assistant County Administrator Brad Merriman, Inspector General Sheryl Steckler, Assistant Inspector General of Dade County, and County Commissioner Jess Santamaria. He stated that his opinion of the affidavits was that they created no material facts, however they were interesting to read because they gave the reasons why the County got to the point of having an Inspector General and a Commission on Ethics. But they did not go to the issue of funding and the fundamental legal issue. He stated that the judge can decide that the affidavits do form some type of reason for a trial which would be the effect of the decision of the judge determining that there are facts in dispute and the affect of that decision would be to delay the answer to the legal question before the Court and force the Municipalities and the County into a trial. He explained all the things that come with a trial and it is costly to the participants. He stated that it is ironic that the Inspector General's Office, that is charged with fiscal responsibility in rooting out waste in government, and the County itself has taken the tact that rather then get the honest answer to the legal question we seem to be going through some legal gymnastics that are only going to extend the time before which the answer to the legal question will be provided. He stated that the most telling thing about the argument is what the Municipalities have been saying all along which, is that there were five (5) other amendments to the County Charter to create County-wide programs and none of those County-wide programs were the Municipalities asked to share in the fund of the program and that it should not be expected because it is a County-wide program administered by the County and created by a County Ordinance. In response the County argued that just because the County did not ask the Municipalities to help fund those other programs doesn't mean that the County might not ask for the Municipalities to fund those programs or other programs that might be created on a County-wide basis. The central issue why the Municipalities felt they needed to protect the home rule authority because if the County is permitted to pass along an unfunded mandate in this Inspector General program that one could certainly expect that any opportunity that the County would have to do that with any other County-wide program existing or to be created the County would do so just as the State does to Counties and Municipalities and the Federal Government does to the States. He stated that the whole reason the Municipalities filed the litigation has been admitted to by the County Attorney in open court and that there could be other unfunded mandates that the County will pass along to the Municipalities.

Town Manager Sugerman stated that the Tree Lighting Ceremony will be on Friday, December 7, 2012 from 6:00 p.m. to 8:00 p.m. on the Town Green. He explained that a variety of activities will be available, that Santa is expected to arrive between 6:00 p.m. and 6:15 p.m. and the Holiday Tree will be illuminated at 7:00 p.m.

Vice-Mayor Rumsey read from a prepared statement (see attached Exhibit "H")

Commissioner Stevens had no comments.

Commissioner Hockman wished everyone Happy Holidays.

Mayor DuBois thanked Gerry Raposa for taking him along on a Citizen on Patrol (COP) ride and that he appreciates all the hard work that Mr. Raposa does for the Town on a volunteer basis. He stated that there are many opportunities for residents to volunteer for

the Town including COP, Lake Park Community Development Corporation, Lake Park Community Garden, Lake Park Kiwanis, After School Homework Club, Neighborhood Watch, Bridges of Lake Park, Friends of the Library, Lake Park Library Board, Relay for Life, and others and encouraged residents to volunteer.

DRAFT

ADJOURNMENT

There being no further business to come before the Commission and after a motion to adjourn by Vice-Mayor Rumsey and seconded by Commissioner Hockman, and by unanimous vote, the meeting adjourned at 8:52 p.m.

_____
Mayor James DuBois

_____
Deputy Town Clerk, Shari Canada, CMC

_____
Town Clerk, Vivian Mendez Lemley, CMC

Town Seal

Approved on this _____ of _____, 2012

DRAFT

Exhibit "A"

BALLOT

Runny

MAYOR/COMMISSIONER

THE TOWN COMMISSION MAY APPOINT A FIVE MEMBER PLANNING & ZONING BOARD WITH TWO ALTERNATES. WE HAVE A NEW APPLICANT FOR THIS BOARD AS A REGULAR MEMBER.

	Yes	No
James Lloyd	X	

- NO OTHER APPLICATIONS HAVE BEEN RECEIVED

BALLOT

Hoekman

MAYOR/COMMISSIONER

THE TOWN COMMISSION MAY APPOINT A FIVE MEMBER PLANNING & ZONING BOARD WITH TWO ALTERNATES. WE HAVE A NEW APPLICANT FOR THIS BOARD AS A REGULAR MEMBER.

	Yes	No
James Lloyd	✓	

- NO OTHER APPLICATIONS HAVE BEEN RECEIVED

BALLOT

MAYOR/COMMISSIONER

THE TOWN COMMISSION MAY APPOINT A FIVE MEMBER PLANNING & ZONING BOARD WITH TWO ALTERNATES. WE HAVE A NEW APPLICANT FOR THIS BOARD AS A REGULAR MEMBER.

	Yes	No
James Lloyd	✓	

- NO OTHER APPLICATIONS HAVE BEEN RECEIVED

BALLOT

Tim Stevens

MAYOR/COMMISSIONER

THE TOWN COMMISSION MAY APPOINT A FIVE MEMBER PLANNING & ZONING BOARD WITH TWO ALTERNATES. WE HAVE A NEW APPLICANT FOR THIS BOARD AS A REGULAR MEMBER.

	Yes	No
James Lloyd	____	____

- NO OTHER APPLICATIONS HAVE BEEN RECEIVED

Exhibit "B"

BALLOT

Jim Stevens

MAYOR/COMMISSIONER

THE TOWN COMMISSION MAY APPOINT A FIVE MEMBER LIBRARY BOARD WITH TWO ALTERNATES. WE HAVE ONE APPLICANT FOR THIS BOARD AS A MEMBER.

Member

	Yes	No
Elizabeth Auld	X	____

BALLOT

Ruesy

MAYOR/COMMISSIONER

THE TOWN COMMISSION MAY APPOINT A FIVE MEMBER LIBRARY BOARD WITH TWO ALTERNATES. WE HAVE ONE APPLICANT FOR THIS BOARD AS A MEMBER.

Member

	Yes	No
Elizabeth Auld	X	

BALLOT

Hoelcman

MAYOR/COMMISSIONER

THE TOWN COMMISSION MAY APPOINT A FIVE MEMBER LIBRARY BOARD WITH TWO ALTERNATES. WE HAVE ONE APPLICANT FOR THIS BOARD AS A MEMBER.

Member

	Yes	No
Elizabeth Auld	✓	

BALLOT

_____
MAYOR/COMMISSIONER

THE TOWN COMMISSION MAY APPOINT A FIVE MEMBER LIBRARY BOARD WITH TWO ALTERNATES. WE HAVE ONE APPLICANT FOR THIS BOARD AS A MEMBER.

Member

	Yes	No
Elizabeth Auld	✓	

Exhibit "C"

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: December 5, 2012 **Agenda Item No.** Tab S

Agenda Title: Request for a small-scale land use amendment for 711, 725 and 761 Foresteria Drive to redesignate from Medium Density Residential to the Public Buildings and Grounds land use designation.

[ ]	CONSENT AGENDA	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[ ]	RESOLUTION
[ ]	PUBLIC HEARING	[X]	**ORDINANCE ON 1st READING**
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager _____ **Date:** 11/27/12

Nadia Di Tommaso / *Community Development Director*
Name/Title

Originating Department: **Community Development**	Costs: $ 0.00 Funding Source: Acct. # [ ] Finance _____	**Attachments:** ➔ **Staff Report** ➔ **Ordinance 10-2012** ➔ **Exhibit "A"-Legal Descriptions** ➔ **Exhibit "B"-Future Land Use Map/Location Map**
Advertised: Date: ***N/A for 1st reading*** Paper: _____ [ ] 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___*ND*____ or Not applicable in this case ____ **Please Initial one.**

Summary Explanation/Background:

See Staff Report.

Town of Lake Park
Community Development Department

Meeting Date: *December 5, 2012*

To: TOWN COMMISSION **Re: Small-Scale Land Use Amendment**

Applicant: **Town of Lake Park**
Address: **711, 725, 761 Foresteria Drive**
Re: **Small-scale land use amendment from Medium Density Residential to Public Buildings and Grounds**

SUMMARY

In early 2009, the Town of Lake Park's CRA purchased three parcels of real property located at 711, 725, and 761 Foresteria Drive (the Property). See Legal Descriptions (Exhibit "A") and Future Land Use Map/Location Map (Exhibit "B"). The three parcels comprise approximately 1.26 acres. These parcels were purchased with the long-term vision of providing additional parking for the businesses within the Park Avenue Downtown District. As a short-term use, the CRA Board (the Board) authorized the Community Development Corporation, a not for profit corporation to use two of the three parcels (the Property) for the Seeds of Hope Community Garden. The two parcels upon which the community garden is being operated have a future land use designation of "Medium Density Residential." The use of the Property as a community garden is not consistent with the Medium Density Residential future land use designation. The Town's classification system defines residential land uses as being exclusive to residential dwellings and light community related uses, excluding government owned sites. Thus, if the use of the Property is going to remain as a community garden, it is appropriate to amend the future land use designation so that its use is consistent with the Town's Comprehensive Plan.

The Comprehensive Plan's Future Land Use Element Section 3.4.3, defines Public Buildings and Grounds as the following:

"Lands and structures that are owned, leased, or operated by a government entity(...)or operated by a private entity and used for a public purpose...."

In accordance with the above section of the Comprehensive Plan, the appropriate future land use designation of the Property should be "Public Buildings and Grounds." Although the Property is being operated as a community garden, staff believes that the operation of the community garden for public purposes is still compatible with the surrounding residential area and does not negatively impact the nearby Park Avenue Downtown District. The use serves a community purpose allowing residents, business and property owners to take advantage of the garden for their everyday use. Currently, it is a placeholder for any future public use the CRA envisions and may require.

LOCAL PLANNING AGENCY RECOMMENDATION

Approved 4-0. There was some discussion as to the eventual fate of the subject property. At this time, the use will remain a Community Garden.

STAFF RECOMMENDATION

Staff recommends that the Town Commission recommend a motion to **APPROVE** the small-scale land use amendment on first reading to change the future land use of the Property from Residential Medium Density to Public Grounds and Facilities.

Town of Lake Park Town Commission

Exhibit "D"

Agenda Request Form

Meeting Date: December 5, 2012 **Agenda Item No.** Tab 6

Agenda Title: Request to Rezone 711, 725 and 761 Foresteria Drive from Residential-2 to the P-Public District zoning designation.

[ ]	CONSENT AGENDA	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[ ]	RESOLUTION
[ ]	PUBLIC HEARING	[X]	**ORDINANCE ON 1st READING**
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager DSS **Date:** 11/27/12

Nadia Di Tommaso / *Community Development Director* ND
Name/Title

Originating Department: **Community Development**	Costs: **$ 0.00** Funding Source: Acct. # [ ] Finance _____	**Attachments:** ➔ **Staff Report** ➔ **Ordinance 11-2012** ➔ **Exhibit "A"- Legal Descriptions** ➔ **Exhibit "B"- Location Map**
Advertised: Date: ***N/A for 1st reading*** Paper: _____ [ ] 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___*ND*____ or Not applicable in this case ____ **Please Initial one.**

Summary Explanation/Background:

See Staff Report.

TOWN LAKE OF PARK
TOWN COMMISSION
Meeting Date: December 5, 2012

DESCRIPTION: Request to rezone 711 Foresteria, 725 Foresteria, and 761 Foresteria from the Residential-2 (R-2) District to Public District (P-District).

APPLICANTS REQUEST: This is an application by the Town of Lake Park proposing the rezoning of three parcels of land (the Property) owned by the Town of Lake Park's Community Redevelopment Agency. See Legal Descriptions (Exhibit "A") and Location Map (Exhibit "B"). The parcels are 0.17, 0.86, and 0.23 acre, respectively, which are currently operated by the Community Development Corporation as the Seeds of Hope Community Garden. The Property is located on Foresteria Drive between 7th and 8th Street and is within the Residential-2 (R-2) zoning district. Staff recommends that the Property be rezoned to the P-Public District as provided for in Section 78-76 of the Town of Lake Park Code of Ordinances (the Code).

P&Z RECOMMENDATION: November 5, 2012 – 4-0 Motion to approve.

STAFF RECOMMENDATION: APPROVAL

BACKGROUND INFORMATION:

Applicant(s):	Town of Lake Park
Owner:	Lake Park Community Redevelopment Agency (CRA)
Address :	711, 725 and 761 Foresteria Drive, Lake Park FL 33403
Lot Sizes:	0.17, 0.86, and 0.23 acres respectively for a total of 1.26 acres
Parcel Control Numbers:	36-43-42-20-01-010-0440, 36-43-42-20-01-010-0290, 36-43-42-20-01-010-0250
Existing Zoning :	Residential-2(R-2)

Adjacent Zoning

North:	Park Avenue Downtown District (PADD)
South:	Residential-1 (R-1)
East:	Resdiential-1 (R-1)
West:	Residential-2 (R-2)

Adjacent Land Uses

North:	Downtown
South:	Single Family Residential
East:	Single Family Residential
West:	Medium Density Residential

CONSISTENCY WITH THE TOWN OF LAKE PARK ZONING CODE
Section 78-76 states in part:

Within P public districts, the following regulations shall apply:

(3)

All property owned by or acquired by the town shall be included in P public districts

The subject parcels were acquired by the Lake Park CRA in early 2009. Their zoning designations were never changed to reflect the P-Public District. Staff is recommending that these parcels be rezoned to reflect their appropriate zoning district designation. The permitted uses in the public district may range from recreation facilities, parks and playgrounds, museums, just to name a few. A community garden is in conformance with this zoning district designation.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

A small-scale land use amendment is being concurrently processed. The proposed small-scale plan amendment would change the future land use designation of the Property from Residential Medium Density to Public Buildings and Grounds.

The proposed rezoning would implement the future land use designation by zoning the Property so that it will be consistent with the Property's new future land use designation pursuant to the amendment to the Town's Comprehensive Plan. The proposed rezoning is consistent with Policy 1.1 of the Future Land Use Element of the Town's Comprehensive Plan:

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 at 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.

The Property is owned by the CRA and is between a residential district and the Park Avenue Downtown District (PADD). The Property is being operated by the Community Development Corporation, a not for profit corporation and serves a community purpose. In order to make the zoning of the Property consistent with the new future land use designation of Public Buildings and Grounds, a rezoning to Public District is required.

STAFF RECOMMENDATION:
Staff recommends that the Town Commission entertain a motion to **APPROVE** the rezoning to P-Public District for this Ordinance on first reading.

Exhibit "E"

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: December 5, 2012 **Agenda Item No.** Tab 7

Agenda Title: Creation of a Memorial Tree Planting Program at Pre-determined Town Locations

[ ]	CONSENT AGENDA	[X]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[ ]	RESOLUTION
[ ]	PUBLIC HEARING	[ ]	ORDINANCE ON ____ READING
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager _____ **Date:** 11/20/12

11/19/12
David Hunt / Public Works Director

Originating Department: **Public Works**	**Costs: Approximately $3,000.00** **Funding Source: To Be Determined** Acct. # X Finance _____	**Attachments:** **Memorial Tree Planting Program Draft Brochure**
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_____ or **Not applicable in this case** ___ **Please initial one.**

Summary Explanation/Background: Residents of Lake Park would like to be provided the opportunity to plant a tree in honor of a loved one. The gift of a Memorial Tree is not only symbolic and enduring, it beautifies the community.

Three different locations have been identified as being suitable for additional tree planting. They are the Sixth Street median between Bayberry Drive and Evergreen Drive, Lottie Mae Miller Park (Date Palm Drive at Second Street), and the Seminole Boulevard median between Greenbriar Drive and Crescent Drive. A pre-approved tree can be selected for planting in one of the three locations based upon a master plan. An optional, grey granite marker can be engraved and placed at the

base of the newly planted tree. The Town shall be responsible for planting the tree and placing a marker.

A Master Tree Placement Plan should be prepared by a certified arborist or landscape architect to ensure that each tree will have enough space to grow to maturity. A Master Plan will provide the guidance to creating a coherent planted space as trees get donated. A Master Plan can also be used to submit for grants. Potential donors may view the available planting locations and recommended tree species detailed in the Master Plan before making their site selection. A Master Plan could be created for the three locations listed above for approximately $3,000.

The total cost to a donor would be $570 if the tree and monument are purchased together, however, the tree may be purchased by itself. The cost of the program consists of the following components:

$350 which would cover the expense of planting a tree to minimum standards (45 gallon pot, 12 to 14 feet high, and three inch caliper); and $220 which would cover the cost of a standard grey granite marker with engraved, polished face, installed.

Brochures would be printed (see attached draft) and distributed from Town Hall.

With Commission approval, a Memorial Tree Planting Program, with tree locations, designated species, and price schedule will be created and codified by Resolution.

Recommended Motion:

- Approve the Concept of a Town Memorial Tree Planting Program.
- Designate Funds for the Development of a Master Tree Placement Plan.
- Direct Staff to Bring a Resolution Back Before the Commission Which Creates a Program Referencing the Master Plan and Establishing Donation Rates.

Exhibit "F"

Department of Economic Sustainability

Administration

100 Australian Avenue South - Suite #500

West Palm Beach, FL 33406

(561) 233-3600

FAX: (561) 656-7543

www.pbcgov.com\des

Palm Beach County Board of County Commissioners

Shelley Vana, Chair

Steven L. Abrams, Vice Chairman

Karen T. Marcus

Paulette Burdick

Burt Aaronson

Jess R. Santamaria

Priscilla A. Taylor

County Administrator

Robert Weisman, P.E.

"An Equal Opportunity Affirmative Action Employer"

November 9, 2012

Dale S. Sugerman, Ph.D., Town Manager
Town of Lake Park
535 Park Avenue
Lake Park, FL 33403

Dear Dr. Sugerman:

As a participating municipality in the County's Community Development Block Grant (CDBG) Program, the Town of Lake Park is entitled to receive a sum of $37,294 under the FY 2012-2013 CDBG Program to undertake eligible community development activities. These activities should generally be located in the Town's CDBG target area and must predominantly benefit low and moderate income persons.

Only the following activities are eligible for funding: acquisition of real property for a public purpose, infrastructure installation and improvements, public facilities and improvements, demolition/clearance and historic preservation.

Previously, the Town has used CDBG funds to reconstruct storm drains, and to improve parks and ball fields.

If the Town would like to proceed with using CDBG funding for an eligible activity, or wishes to further discuss the use of these funds, please contact Michael Sklar, Planner II at (561) 233-3623 or msklar@pbcgov.org within the next 30 days.

Sincerely,

Carlos Serrano, Director of Strategic Planning and Operations
Department of Economic Sustainability

cc: Edward Lowery, Director, DES
Sherry Howard, Deputy Director, DES
Clement Clarke, Principal Planner, DES

S:\2012-13\CDBG\Entitlement Municipalities\Lake Park.docx

Exhibit "G"

Brent Headberg
Harbor View Photos
220 Lake Shore Dr #3
Lake Park, FL 33403

Town Of Lake Park, Florida
Dale Sugarman
535 Park Ave
TownManager@lakeparkflorida.gov
561-881-3304

Permission for Photography

For good and valuable consideration herein acknowledged as received, the undersigned, being the legal owner of, or having the right to permit the taking and use of photographs, still or moving, of certain property designated as Lake Park Harbor Marina, grants to Brent Headberg ("Photographer") and his legal representatives and assigns, the irrevocable right to use and publish photographs of the listed property, for the restricted purposes of self-promotion, including advertising the Photographerâ€™s business, in any manner and medium; and to alter and composite the same without restriction and without my inspection or approval. I hereby release Photographer and his legal representatives and assigns from all claims and liability relating to the use of said photographs for said purposes.

11/12/2012
Date

Signature

Dale Sugerman
Name

105 Lake Shore Dr
Address

Lake Park, Fl 33403
City/State/Zip

561-881-3353
Phone Number

Witness Signature

James Hart
Witness Name

105 Lake Shore Dr
Address

Lake Park, Fl 33403
City/State/Zip

Exhibit "H"

Last week a series of emails were distributed to all elected officials and department heads that originated between myself and the Town Manager. Tonight I would like to respond to the emails and I request that madam Clerk record my comments verbatim into the record. I will have a copy for you at the end of the meeting.

At our last Commission meeting on Wednesday, November 7th I made a request for additional information on three discussion items. None of these items appeared to be overly complex and I would have thought that within a couple of weeks I could have reasonably expected a response.

On Wednesday, November 28th three weeks after making my requests I sent an email to the Town Manager asking for details. I also included a request on an issue that Commissioner Longtin had asked about as I was also interested in the response and had seen nothing on her issue either. Admittedly, I was disappointed that I had heard nothing from the Town Manager in the preceding three weeks and expressed my frustration.

On the following day, I received an email back from Mr. Sugerman with the answer to two of the questions, and the statement that the other two would be answered in his upcoming end of the month report.

Mr. Sugerman then went on to say "Finally, it is clear to me that you are dissatisfied with my performance as town manager, especially as it relates to the timeliness of communications. Frankly, I am dissatisfied with the imperious tone of not only this e-mail, but virtually all of your e-mail communications with me. To that end, it appears that the best course of action to ameliorate your dissatisfaction with my performance is for you to offer a motion at

the December 5th Town Commission meeting to terminate my employment with the Town. Once you receive a second to your motion, I will support the same."

It is with this response that I feel it is important for me to respond publicly.

Over the past four years I have worked diligently to represent the Town of Lake Park in the best way I know how. I may not have always made the right decision, but I assure you nothing I have done here has been decided randomly or without thought.

In the years that I have been a Commissioner, I have served with six other commissioners, two mayors, one attorney and three town managers. I have worked with numerous staff members and been open to discussions with virtually any resident who wanted to discuss an item.

I have made it a priority to respond to the residents and employees in a timely manner. I think it is my job to be responsive to the people who employ me.

Over the years I have had amazing relationships with residents and even most of those who disagree with me on items respect the work I have put into this position.

I have had a great relationship with the staff and they know I have been one of their biggest cheerleaders from this dais.

While sometimes strained, my relationships with my fellow Commissioners has been good for the majority and I think that even Jeanine and I have found a common respect for each other although we probably wouldn't agree on many issues.

I have been fortunate to serve with two wonderful Mayors. Desca Dubois was my friend and I miss her greatly, sadly when she passed away my role was forced to change for a short time and it saddens me that some people misrepresented that short term change. James Dubois was elected shortly after Desca's death and his knowledge of the issues and passion for our Town has been admirable.

I enjoyed working with Maria Davis as Town Manager. I will always believe her tenure was filled with more good than bad and it pained me to call on her to resign, although I knew it was the right thing for our Town.

We were fortunate to have Jamie Titcomb join us on a temporary basis and I will continue to be grateful for his service to Lake Park.

When it came time to hire a new Town Manager, I was impressed with Mr. Sugerman's knowledge of the community and his history of service, plus he came highly recommended. While Mr. Sugerman played coy in the interview process, I still felt he was the right man for the job and voted to hire him and even went above the pay rate that we had planned for the position because I felt strongly he could lead us forward.

I still believe we made the right decision in hiring Mr. Sugerman.

Let me be clear, I believe Dale Sugerman can be a good employee for the Town of Lake Park and I believe he is on the right path in many areas. However, Mr. Sugerman's lack of response, flippant responses and condescension trouble me and quite frankly residents who have approached me with concerns.

After receiving Mr. Sugerman's email, I couldn't help but think back to a conversation he and I had shortly after he was hired over lunch at Yard House at Downtown at the Gardens.

We were discussing Mr. Titcomb's service as acting Town Manager and I made the comment that one of the things I so appreciate from Jamie was his attempts to make the Town Commission be more civil to each other and through his efforts I felt that we had made progress.

When I made the comment, Mr. Sugerman stated "sometimes a little conflict within the Commission can be fun." When I saw the private email Mr. Sugerman had shared with my fellow Commissioners and Town Staff I couldn't help but think back to that comment and wonder, if Mr. Sugerman were trying to stir up conflict.

Either way, I would like to remind my fellow Commissioners and residents of the words I used when I called on Maria Davis to resign:

Last evening, a fellow Commissioner presented allegations related to Town Manager, Maria Davis. In presenting the documents it was stated that the charges warrant "termination with cause." At the time I stated that I have not had time to review the documents and would not be able to make a judgment.

After reflection, I have come to the conclusion that in the best interest of the citizens of the Town of Lake Park, we must make a change.

For almost two years our Town Commission has been struggling over the Town Manager as some have expressed a lack of confidence in her leadership. We can no longer engage in this struggle if we want to move our Town forward. Too many important matters face

us to be distracted by this conflict. We must unite as a community and work together if we are ever to achieve our Town's potential.

With that said, I ask Town Manager Maria Davis to resign her position. It is with a heavy heart that I make this request. I do so because, no one person is greater than the Town as a whole and our future is too important to continue divided.

I believe those words as much today as I did then. No one person is greater than the Town as a whole and our future is too important to continue divided.

With that let me say publicly. Mr. Sugerman, I have a bit over two months remaining on my term in office. I have no desire to have a public or private battle going with you. I have worked too hard during these past four years to provide a service to this Town; I will not be drug into the mud with an employee for conflict.

The Town of Lake Park has been through many years of turmoil, I will not be a party to creating another one. The residents of this town deserve better.

As I have said on numerous occasions, I think you have provided a service to our Town and hope you will continue to do so. I will not tonight be asking for your resignation, if you were to choose that path it would be your choice, but I have no intention of asking.

What I do ask is that you provide timely information on issues that I request, you may think a month is enough time to respond, quite frankly I don't and if you do find that additional time will be needed the professional thing to do in the future would be to advise me "hey, I am working on this, I don't have an answer but will get it to you as soon as I have it."

Communication would go a long way here and quite frankly I am tired of asking questions, getting curt responses or partial comment.

Mr. Sugerman, I trust that you and I can develop a working relationship that moves this Town forward, l manage a large staff, I have dedicated my time to this Town as a public servant for four years, I would appreciate the basic respect as Town Manager of reasoned timely responses.

I wish you well moving forward and commit to the Town of Lake Park that I will continue to ask tough questions and work until my last day in office to make our Town the best it can possibly be.

To my fellow neighbors, commissioners, attorney, Mayor and staff, I apologize that this private email exchange had to become a public matter.

I now conclude my comments on this issue.

TAB 2

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: **December 19, 2012** **Agenda Item No.** Tab 2

Agenda Title: Revised Supervisor of Elections Agreement for Vote Processing Equipment Use and Election Services

[X]	**CONSENT AGENDA**	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[ ]	RESOLUTION
[ ]	PUBLIC HEARING	[ ]	ORDINANCE ON ____ READING
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager DSS **Date:** 12/10/12

Vivian Lemley, Town Clerk
Name/Title

Originating Department: **Town Clerk**	Costs: **$ 11,000** Funding Source: Acct. # **106-33000** **[X]** Finance BKR	**Attachments:** **Revised Supervisor of Elections Agreement**
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_____ or Not applicable in this case ***V.M.L*** **Please initial one.**

Summary Explanation/Background: At the November 7, 2012 Regular Commission meeting the Supervisor of Elections (SOE) annual Agreement with the Town of Lake Park was approved striking out the following language:

> *10. By signing this contract, you and your municipality approve the contract as a form of legal sufficiency and certify that this contract has met all of the legal requirements of your Municipal Charter and all other related laws.*

The Town Attorney advised the Commission that by the Mayor signing the Agreement with the current language, it certified that the Mayor had reviewed the document and that the document met all of the legal requirements of the Town's Charter and all other related laws. Therefore the Town Attorney advised the Commission to approve the Agreement striking out the above referenced language.

Other Palm Beach County municipalities encountered the same difficulty with the above language and the Town of Jupiter removed the language from their Agreement and inserted a signature line for the Town Attorney's signature approving the Agreement as to form and legal sufficiency. Attached is the revised version of the Agreement patterned after the Town of Jupiter Agreement.

We are asking the Commission to approve the revised Agreement with the above mentioned language stricken.

Recommended Motion: Approve the revised attached Agreement with the SOE.

AGREEMENT FOR VOTE PROCESSING EQUIPMENT USE AND ELECTION SERVICES BY AND BETWEEN THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS AND THE TOWN OF LAKE PARK

THIS AGREEMENT, is made and entered into this day of _____,2012, effective January 1, 2013, by and between the Palm Beach County Supervisor of Elections, an elected county officer pursuant to Article VIII, Sec.1(d) of the *Florida Constitution*, hereinafter referred to as the "**SOE**", and the **Town of Lake Park** a municipal corporation, chartered and organized in accordance with the laws of the State of Florida, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, Chapters 97 to 106, *Florida Statutes*, constitute the Florida Election Code (the "Code") which applies to municipalities where expressly so stated; and

WHEREAS, Sec 100.3605, *Florida Statutes*, states that "[T]he Florida Election Code, chapters 97-106 shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision"; and

WHEREAS, the Municipality and the SOE desire to work together to provide for municipal elections and to allocate certain responsibilities and expenses between the two parties to ensure that the provisions of the Code are followed during municipal elections; and

WHEREAS, the SOE and the Municipality wish to enter into this Agreement to set out the terms of this coordinated program.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter contained to be kept and performed by the parties hereto, and for the mutual benefit of the Municipality, its constituents and the SOE, it is agreed as follows:

1. **PURPOSE:**

The purpose of this Agreement is to set forth the terms and conditions under which services will be provided by the SOE and staff to the Municipality for municipal elections and to set forth the responsibilities of both parties so that there is a clear understanding of the rights and responsibilities of all parties. Such rights and responsibilities shall apply to the General, Run-Off, Special and Recount elections as necessary as well as the Post Election Audit, unless otherwise stated hereinbelow.

2. **DATE OF GENERAL MUNICIPAL ELECTION:**

The date of the **Town of Lake Park** General Municipal election is **March 12, 2013.** It is hereby acknowledged and agreed that if the date listed is the same as most other municipalities in March or November, there will be a cost sharing among municipalities for costs incurred by the SOE. Such costs shall be allocated on a pro-rata share basis; otherwise,

it is hereby acknowledged and agreed upon by the municipality that it is responsible for all costs of the election, incurred by the office of the SOE.

3. **FEES AND CHARGES TO BE PAID BY THE MUNICIPALITY:**

The SOE hereby agrees not to charge Municipalities for taxpayer purchased equipment and supplies; (i.e. voting machines, tables, chairs, etc.) and associated maintenance and contract fees related to such equipment in return for which the Municipality hereby agrees not to charge the SOE for polling places within its dominion and control. Examples of municipal elections charges related to certain services performed by the SOE to be passed through to the Municipality on a shared pro rata basis for all municipalities holding elections on a general election day (i.e. 2nd Tuesday in March or November) are attached hereto as Exhibit A. All items to be paid or reimbursed to the SOE will be paid by the Municipality within thirty (30) days of receipt of an invoice from the SOE with documentation verifying the charges.
Examples of total costs to small, medium and large municipalities are attached hereto as Exhibit B.

4. **RESPONSIBILITIES OF BOTH THE MUNICIPALITY AND THE SOE FOR MUNICIPAL ELECTIONS:**

A. **Notice and Advertisement**

(1) **Municipality**

(a) Properly call and advertise the election according to statutes and charter at its own expense.
(b) Issue a resolution or ordinance to the SOE requesting that the Supervisor of Elections conduct the municipality's election and act as a member of the Municipality's Canvassing Board, which may or may not include the SOE.
(c) certify that the registered voter information provided by the SOE to the municipality Reflects the proper boundaries of the city and notify the SOE of any changes.

(2) SOE

(a) Publish legal notices for Logic & Accuracy testing, absentee ballot canvass, Post Election Audit and news releases on book closing.

B. **Qualifying Candidates**

(1) **Municipality**

(a) Provide qualifying packets to candidates and accept and process all qualifying papers and fees.
(b) Collect Name and Pronunciation Guides from the candidates at the time of qualifying and submit to SOE.
(c) Respond to all candidate inquiries and questions.
(d) Respond to all legal inquiries and questions.
(e) Respond to all media inquiries.

(2) **SOE**

(a) Verify signatures on any qualifying petitions submitted by candidates and notify the Municipality of such results upon the close of the candidate qualifying deadline.

C. **Ballots**

(1) **Municipality**

(a) Review, amend (if necessary) and approve ballot proof prepared by SOE.
(b) Place an order with the SOE for a sufficient quantity of ballots as applicable.
(c) Pay ballot design costs to the SOE as incurred.
(d) Pay the ballot printer directly for the cost of said ballots.
(e) Reimburse the SOE for costs incurred for translation and audio recording of ballot.
(f) Reimburse SOE for preparation of Absentee Ballot, Edge layout and Sample Ballot.

(2) **SOE**

(a) Layout, check, proof and deliver ballot layout to the printer.
(b) Receive, securely store and account for all ballots until disbursed to polling places.
(c) Contract to have audio recorded for Touch Screen ballot.
(d) Control all access to unvoted ballots while in the possession of the SOE.

D. **Equipment Testing**

(1) **Municipality**

(a) Provide that a representative will be present during the Logic and Accuracy testing as noticed by SOE.

(2) **SOE**

(a) Develop a unique test script and manually mark ballots to be used in public Logic & Accuracy test.
(b) Conduct public Logic & Accuracy test.

E. **Early Voting – Optional**

(1) **Municipality**

(a) Reimburse the SOE for staff overtime hours due to weekend and/or evening hours for Early Voting.
(b) Pay SOE for Early Voting supplies.
(c) Contract with, schedule and pay poll workers directly.
(d) Deliver voted ballots to SOE daily at a location designated by SOE.
(e) Designate Early Voting sites thirty (30) days prior to each Election and notify SOE in writing of locations.

(2) **SOE**

(a) Prepare and provide all supplies needed for each Early Voting site.

(b) Provide the Municipality with a list of poll workers.
(c) Train poll workers.
(d) Provide staffing to accept voted ballots daily at a location designated by SOE.

F. **Absentee Voting**

(1) **Municipality**

(a) Reimburse SOE for all postage costs incurred at the current postal rate.
(b) Pay SOE for materials and handling of each absentee ballot.
(c) Pay SOE $.10 per absentee ballot for verifying signatures on returned voted ballot certificates.
(d) Refer all requests for absentee ballots to SOE.

(2) **SOE**

(a) Determine eligibility and compile Absentee Ballot file.
(b) Accept all requests for Absentee Ballots by telephone, mail or in person.
(c) Prepare and mail Absentee Ballots.
(d) Deliver Absentee Ballots to the Post Office.
(e) Receive voted Absentee Ballots.
(f) Verify signatures on returned voted Absentee Ballot certificates.
(g) Prepare and open Absentee Ballots for tabulation.
(h) Account for all Absentee Ballots.
(i) Notify Absentee Ballot voter and provisional voters of the disposition of the Canvassing Board as required by law.
(j) Record Absentee Ballot returns to voter history.
(k) Conduct public testing of Logic and Accuracy for Absentee Ballot tabulating equipment.
(l) Provide qualified staff to operate tabulation equipment to count Absentee Ballots.

G. **Polling Places**

(1) **Municipality**

(a) Arrange for the use of an adequate number of polling places.
(b) Confirm polling place accessibility and ADA compliance.
(c) Notify SOE in writing thirty (30) days prior to election of the need for tables and chairs if necessary.
(d) Notify SOE of polling locations to be used no later than noon the Friday after the municipal candidate qualifying deadline.
(e) Notify the SOE not less than 30 days prior to the election that a polling place will be moved to another site.
(f) Notify voters, as required by law, if their regular polling place is to be temporarily relocated.

(2) **SOE**

(a) Provide the Municipality with a list of polling places and SOE contract.
(b) Provide tables and chairs upon written notice from the Municipality when required.

(c) Provide polling place supplies, i.e. signs, cones, etc.
(d) Notify voters and the Municipality of permanent polling place change(s).

H. **Precinct Supplies**

(1) **Municipality**

(a) Pay SOE for precinct supplies provided.
(b) Provide a secure place for precinct clerks to return supplies and voted ballots on election night.
(c) Pay SOE for the production of Precinct Registers.
(d) Pay directly to the SOE's contracted moving company to have voting equipment delivered and picked up from polling place no later than the day before the election and returned after the election.

(2) **SOE**

(a) Provide Precinct Registers for each polling place location.
(b) Provide Master CD compilation of registered voters for precinct advisors.
(c) Provide certification of registered voters after book closing.
(d) Prepare equipment, cabinets and routing of voting equipment delivery.
(e) Provide laptop computer at each polling place.
(f) Provide CD of voter file database for each polling place.
(g) Provide poll worker Clerks with cell phones.
(h) Provide Provisional Ballot envelopes and affidavit forms for each polling place.
(i) Provide secrecy sleeves in a number and amount appropriate for each polling place.

I. **Poll Workers**

(1) **Municipality**

(a) Contact, contract with and pay poll workers directly (using only poll workers who are currently on the SOE list, or individuals who have successfully completed required training).
(b) Schedule and notify poll workers of training classes.
(c) Reimburse SOE for expenses incurred for delivery and pick up of equipment to training locations.
(d) Reimburse SOE for expenses incurred in printing training material.
(e) Reimburse SOE for expenses incurred for trainers to train poll workers.
(f) Reimburse SOE for expenses incurred for contracted training locations.

(2) **SOE**

(a) Provide the Municipality with a list of current poll workers.
(b) Develop poll worker training schedule.
(c) Plan and contract for training classes and locations.
(d) Contract with and pay trainers to train poll workers.
(e) Provide printed training materials for poll workers.

J. **Election Day Support**

(1) **Municipality**

(a) Verify that all polling places are available to poll workers no later than 6:00 a.m. and open for voting promptly at 7:00 a.m. on Election Day.
(b) Ensure that all polling places remain open until 7:00 p.m. or until all voters who are in line to vote at 7:00 p.m. have completed voting.
(c) Reimburse SOE for all phone bank costs.

(2) **SOE**

(a) Assist in finding poll worker replacements if needed.
(b) Provide technical support personnel as needed.
(c) Provide phone bank support to respond to poll workers and voters on Election Day.

K. **Ballot Tabulation/Counting of Election Results**

(1) **Municipality**

(a) Deliver all voted ballots and other necessary election related items to a place designated by the SOE after the polling places have closed on Election Day.
(b) Deliver **all** voting machine cartridges to a place designated by the SOE after the polling places have closed on Election Day.
(c) Reimburse the SOE for any staff overtime and other expenses in relation to the tabulation and processing of ballots on Election Day.
(d) Act as member of Canvassing Board.

(2) **SOE**

(a) Provide technical staff and required equipment to administer tabulation and election results.
(b) Assist and act, or appoint a designee to assist and act on the SOE's behalf, as a member of the Municipality's Canvassing Board if desired by the municipality or act as a member of the County Canvassing Board if it canvasses the municipality's election, if allowed by law.
(c) Post election results on SOE WEB site and provide the same to Channel 20.
(d) Provide the Municipal Clerk with unofficial election results upon conclusion of tabulation and canvassing of ballots cast on Election Day.

L. **Post Election Day**

(1) **Municipality**

(2) **SOE**

(a) Provide the Municipal Clerk with an official certification of election results if allowed by law.
(b) Store all necessary election records and ballots until the expiration of retention period prescribed by statutes.
(c) Process polling place affirmation forms.

(d) Sort, inventory, pack and store all election materials for retention and disposition.
(e) Notify voters of the disposition of their Absentee or Provisional Ballots after the determination by the Canvassing Board, as required by law.
(f) Respond to public records requests regarding records kept on behalf of the Municipality.
(g) Record voting history for each voter who voted on Election Day.

M. **Audit**

(1) **Municipality**

(a) Provide that the Municipal Clerk will be responsible for the administration of the audit.
(b) Reimburse SOE for any staff time or other related expenses as may result from conducting the manual audit.

(2) **SOE**

(a) Organize precinct information to allow the Municipal Clerk to randomly select the race and precinct(s) that shall be audited.
(b) Organize and prepare ballots for manual audit.
(c) Provide SOE staff to conduct manual audit.
(d) Ascertain and publically post manual audit result to SOE WEB site.

N. **Recount**

(1) **Municipality**

(a) Provide that the Municipal Clerk will be responsible for the administration of the Recount, with support and guidance from the SOE.
(b) Act as a member of the Canvassing Board.
(c) Notify the candidates of the time and date of the Recount.
(d) Post public notice(s) of the Recount with the time and location.
(e) Cause to have the Recount recorded and minutes kept and approved by the Canvassing Board.
(f) Review with the Canvassing Board and the counting teams the statutes and rules of the Division of Elections, specifically Rule 1S-2.031. Recount Procedures; and Rule 1S-2.027. Standards for Determining Voter's Choice on a Ballot.
(g) Reimburse the SOE for all staff salaries/overtime, facility and other expenses required to conduct the Recount.

(2) **SOE**

(a) Post public notice(s) of the Recount with the time and location.
(b) Test tabulating equipment as required by Sec. 101.5612, *Florida Statues*.
(c) Provide counting teams for examining out stacked ballots.
(d) Prepare and organize ballots for Recount processing.
(e) Tabulate ballots and provide professional staff for equipment operations.
(f) Provide official certification as determined by the Canvassing Board.

5. **INDEMNITY:**

Each party to this agreement shall be liable for its own actions and negligence. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless SOE against any actions, claims or damages arising out of the Municipality's negligence in connection with performance under this Agreement; and the SOE shall indemnify, defend and hold harmless the Municipality against any actions, claims or damages arising out of the negligence of SOE in connection with its performance under this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth at Sec. 768.28, *Florida Statutes.* In no case shall such limits for the Municipality extend beyond $200,000 for any one person or beyond $300,000 for any judgment which, when totaled with all other judgments, arises out of the same incident or occurrence. These provisions shall not be construed to constitute agreement by either party to indemnify the other for such other's negligent, willful or intentional acts or omissions. In the event of litigation, trial or appellate, between the Municipality and the SOE relating to a municipal election governed by this Agreement, or otherwise in connection with the interpretation or application of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. Notwithstanding the above, the municipality shall defend legal challenges relating to its municipal election and shall be fully responsible for all legal costs including attorneys' fees for such defense of the Municipality and the SOE. The municipality shall be responsible for damages, if any, assessed by virtue of such lawsuit, up to the monetary limits provided for hereinabove without recourse to the SOE.

6. **TERM:**

This Agreement shall begin on the effective date January 1, 2013 and continue for a term of one year in order to cover Special Elections, if any, and may be modified by mutual agreement of the parties. Any proposed changes to this Agreement shall be provided to the municipalities no later than August 1 of the applicable year, or as soon as practicable.

7. **CHANGE IN LAW:**

In the event any change in law abrogates or modifies any provisions or applications of this Agreement, the parties hereto agree to enter into good faith negotiations and use their best efforts to reach a mutually acceptable modification of this Agreement.

8. **NOTICES:**

All formal notices affecting the provisions of this Agreement may be delivered in person or be sent by facsimile, registered mail, or by a recognized overnight courier such as FedEx, to the individual designated below, until such time as either party furnishes the other party written instructions to contact another individual.

For the SOE:	For the Municipality:
Supervisor of Elections 240 S. Military Trail West Palm Beach, Florida 33415 Attention: Susan Bucher	Town of Lake Park 535 Park Avenue Lake Park, FL 33403 Attention: Dale Sugerman

9. **SEVERABILITY:**

If any clause, section, or provision of this Agreement shall be declared to be unconstitutional,

invalid or unenforceable for any cause or reason, or is abrogated or negated by a change in law, the same shall be eliminated from this Agreement, and the remaining portion of this Agreement shall be in full force and effect and be valid as if such invalid portions thereof had not been incorporated herein.

~~10. By signing this contract, you and your municipality approve the contract as a form of legal sufficiency and certify that this contract has met all of the legal requirements of your Municipal Charter and all other related laws.~~

~~11~~. 10. **NO MODIFICATION EXCEPT IN WRITING:**

This is the complete and final agreement between the parties. No representations other than those set forth herein shall be binding upon the parties. No modification of this agreement shall be effective unless submitted in writing and signed by both parties, or their duly authorized representatives.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective January 1, 2013.

As to the SOE:

WITNESSES:

_____

_____

SUPERVISOR OF ELECTIONS
PALM BEACH COUNTY

_____
Susan Bucher

Date: _____

As to the MUNICIPALITY:

ATTEST:

Town of Lake Park, FLORIDA

_____
Vivian Mendez Lemley, Town Clerk

_____
James DuBois, Mayor

(Affix Municipal Seal)

Date: _____

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
Thomas J. Baird, Town Attorney

TAB 3

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: **December 19, 2012** **Agenda Item No.** Tab 3

Agenda Title: Resolution No. -12-12 In support of the Palm Beach County Health Department Effort to Urge Local Tobacco Retailers to Refrain from Marketing and Selling Flavored Tobacco Products

[X]	**CONSENT AGENDA**	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[X]	**RESOLUTION**
[ ]	PUBLIC HEARING	[ ]	ORDINANCE ON ____ READING
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager DSS **Date:** 12/7/12

Vivian Mendez Lemley – Town Clerk on behalf of Mayor James DuBois
Name/Title

Originating Department: **Town Clerk/Mayor**	Costs: $ **0.00** Funding Source: Acct. # [ ] Finance _____	**Attachments:** **Resolution** **Emails from Janiece Davis, Mayor DuBois and Town Manager Sugerman;** **Resolutions of support from other municipalities**
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 VNL or Not applicable in this case ____ **Please initial one.**

Summary Explanation/Background. At the November 5, 2012 Regular Commission meeting Caitlyn Johnston, a student from Matlock Preparatory, approached the podium, and urged the support of the Commission to urge local tobacco retailers to refrain from marketing and selling flavored tobacco products. The attached Resolution is simply a measure of support for the Palm Beach County Health Department's Tobacco Prevention and Control Program a component of which is a youth advocacy program dedicated to raising awareness about the marketing tactics used by the tobacco industry to gain youth smokers.

Recommended Motion: Adopt the attached Resolution.

RESOLUTION NO. 34-12-12

A RESOLUTION BY TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA URGING LOCAL RETAILERS SELLING TOBACCO PRODUCTS, TO REFRAIN FROM SELLING AND MARKETING FLAVORED TOBACCO PRODUCTS, WHICH TEND TO PROMOTE AND INFLUENCE UNDERAGE AND/OR YOUTHFUL CONSUMPTION.

WHEREAS, tobacco use is the leading cause of preventable death in both the United States and in the State of Florida, and nearly 90 percent of tobacco users initiated use before they were 18 years old; and

Whereas, each day in the United States, more than 4,000 youth try smoking for the first time, and another 2,000 become regular daily smokers; and

Whereas, the Campaign for Tobacco-Free Kids estimates that 28.7 million packs of cigarettes are purchased or consumed by minors in Florida annually; and

Whereas, tobacco industry advertising and promotional activities directly account for approximately one third of adolescent experimentation with smoking; and

Whereas, the 1998 Tobacco Master Settlement Agreement (MSA) strictly forbids cigarette manufactures from directly or indirectly targeting youth in the advertising, marketing, and promotion of tobacco productions aimed at initiating, maintaining, or increasing youth smoking; and

Whereas, internal tobacco industry documents strongly suggest that manufacturers intentionally target youth through use of candy-like and sweet flavors in tobacco products and also show that tobacco companies think it is unfair that they cannot directly market their products to youth; and,

Whereas, a 2004 study by the Food and Drug Administration (FDA) found that while only 6.7 percent of adults ages 25 years and older reported smoking flavored tobacco products, 22.8 percent of teens reported using them; and,

Whereas, candy flavoring masks the initial harsh reactions that occur when experimenting with tobacco products and advertising and marketing campaigns downplay the harmful effects of these products; and,

Whereas, a study found that youth believe candy-flavored tobacco products are "safer" and "taste better" than traditional tobacco products; and,

Whereas, surveys conducted by the Students Working Against Tobacco youth identified tobacco products flavored with grape, wine, cream, apple, cherry, and numerous other flavors in various retailers throughout Palm Beach County, and;

Whereas, surveys conducted by the Students Working Against Tobacco youth identified tobacco products flavored with grape, wine, cream, apple, cherry, and numerous other flavors in various retailers throughout Palm Beach County, and;

Whereas, some of these tobacco products, specifically flavored cigars, cigar rolling papers, and hookah products are also used as drug paraphernalia for smoking marijuana, and;

Whereas, in 2010, 7.5 percent of Palm Beach County middle school students and 20.5 percent of Palm Beach County high school students reported current tobacco use.

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

That the Town Commission of the Town of Lake Park urges all local retailers who sell tobacco products where youth have access to their stores or products to cease the sale and marketing of all flavored tobacco products, including but not limited to cigars, cigarillos, bidis, smokeless tobacco products, hookah tobacco, and cigar/cigarette rolling papers, in order to reduce the exposure and use of tobacco products in Lake Park, Florida.

Vivian Lemley

From: Dale Sugerman
Sent: Tuesday, November 20, 2012 11:39 AM
To: Vivian Lemley
Cc: James DuBois
Subject: FW: Potential Resolution for Consideration
Attachments: Town of Lake Park Resolution.doc; West Palm Beach Signed Resolution 6-25-12.pdf; Jupiter Signed Resolution 8-4-11.pdf; Pahokee Signed Resolution 8-23-11.pdf; Palm Springs November 10 2011 Agenda.pdf; Riviera Beach Signed Resolution 1-18-12.pdf; South Bay Signed Resolution 9-20-11.pdf; PBC Flavored Fact Sheet - Print.pdf; CFT Resolution Map 9-30-2012.ppt

Vivian-

As you can see herein, the Mayor has provided us with a variety of resolutions (including one crafted for the Town of Lake Park) on the topic of flavored tobacco products. The Lake Park example needs a little bit of work, but not much. I'll leave it up to you to determine if we should put this on the 12/5 agenda or the 12/19 Agenda. I'm fine with either one. Please let me know your thoughts.

Thanks,

Dale

From: James DuBois
Sent: Tuesday, November 20, 2012 10:59 AM
To: Dale Sugerman
Cc: 'janiece_davis@doh.state.fl.us'
Subject: FW: Potential Resolution for Consideration

Hi Dale, regarding our discussion yesterday, I believe the word doc attached is the template for the proposed resolution. I don't know if there is urgency suggesting the Dec. 5th meeting would be a preferred date or if the Dec 19th meeting will suffice? Have we missed the deadline for the 12/5/12 agenda?

At this point might we simply move forward with this as a Town initiated resolution and notify Ms. Davis, and others of our preferred agenda date. I have copied Ms. Davis with this email.

Thanks, jdb

James DuBois
Mayor, Town of Lake Park
561-718-8989 cell

From: janiece_davis@doh.state.fl.us [mailto:janiece_davis@doh.state.fl.us]
Sent: Thursday, October 25, 2012 10:53 AM
To: James DuBois; Kendall Rumsey
Cc: caitlyn4795@gmail.com; johnston27@bellsouth.net
Subject: Potential Resolution for Consideration

Good morning Mayor DuBois and Vice Mayor Rumsey:

My name is Janiece Davis and I am the Tobacco Prevention Specialist for the Palm Beach County Health Department's Tobacco Prevention and Control Program. Two major components of our program are the Tobacco Free Partnership of Palm Beach County and Students Working Against Tobacco (SWAT), a youth advocacy program dedicated to raising awareness about the marketing tactics used by the tobacco industry to gain youth smokers.

In recent months, Matlock Preparatory student Caitlyn Johnston and members of the Partnership have been working to increase awareness of the harm caused by the marketing and selling of flavored tobacco products. Many people do not realize that tobacco products come in many flavors, including "candy" flavors, such as grape, strawberry, chocolate, and caramel. These flavors tobacco products tend to promote and influence underage consumption.

Caitlyn and the Tobacco-Free Partnership would like the Town of Lake Park to support us in our efforts to urge local tobacco retailers to refrain from marketing and selling flavored tobacco products. In particular, we would like the Council to consider passing the attached non-binding resolution. This action would align with those of several other Palm Beach County municipalities, including West Palm Beach, Jupiter, South Bay, Pahokee, Palm Springs, and Riviera Beach. The resolution is simply a measure of support for our program's efforts to reduce youth exposure to tobacco products that are developed specifically to target underage youth, and will not require removal of any products from retailers. Attached you will find signed copies thereof. I have also attached a map of Florida that shows which counties and cities across the state have passed resolutions related to flavored tobacco products, as well as a fact sheet about these products.

Caitlyn is available to meet to present further information on this issue if need be and has been copied on this email. Please advise as to possible next steps. If such a resolution has passed, please notify us so we can notify Tallahassee and add it to our statewide map. Thank you for your time and consideration.

Sincerely,

Janiece N. Davis, MPH
Health Educator Consultant
Palm Beach County Health Department
800 Clematis Street, Room 3301
West Palm Beach, FL 33401
Phone: 561-671-4094
Fax: 561-837-5200
Cell: 561-578-1909
Email: Janiece_Davis@doh.state.fl.us

Learn more about the "Champions for the Healthiest Community in the Nation" at www.pbchd.com.

RESOLUTION NO. 12-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, URGING LOCAL RETAILERS SELLING TOBACCO PRODUCTS TO REFRAIN FROM SELLING AND MARKETING FLAVORED TOBACCO PRODUCTS, WHICH TEND TO PROMOTE AND INFLUENCE UDNERAGE AND YOUTHFUL CONSUMPTION OF THESE PRODUCTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, tobacco use is the leading cause of preventable death in both the United States and the State of Florida, with nearly 90 percent of tobacco users beginning to smoke before their 18th birthdays; and

WHEREAS, every day in the United States, more than 4,000 young people under age 18 are estimated to sample smoking for the first time, with half of them becoming regular daily smokers; and

WHEREAS, the Campaign for Tobacco-Free Kids estimates that 28.7 million packs of cigarettes are purchased or consumed by minors in the State of Florida each year; and

WHEREAS, in Palm Beach County, 7.5 percent of middle school students and 20.5 percent of high school students report current tobacco use; and

WHEREAS, the 1998 Tobacco Master Settlement Agreement strictly forbids cigarette manufacturers from targeting youth in advertising, marketing and promotion of tobacco products;

WHEREAS, according to internal tobacco industry documents, manufacturers appear to be intentionally targeting minors through the use of candy-like and sweet-flavored tobacco products; and

WHEREAS, the Food and Drug Administration found in 2004 that less than seven percent of adults aged 25 or older reported smoking flavored tobacco products, while nearly 30 percent of teens reported using them, believing these products are "safer" and "taste better"; and

WHEREAS, surveys conducted by the statewide group Students Working Against Tobacco discovered tobacco products with grape, cream, apple, cherry and other flavorings were being sold in various retail outlets throughout Palm Beach County and the State of Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA THAT:

Section 1: The City Council hereby urges all local retailers who sell tobacco products to cease the sale and marketing of all flavored tobacco products in order to reduce the exposure and use of tobacco products by minors in the City.

Section 2: This resolution shall take effect immediately upon its passage and approval.

PASSED and APPROVED this 18TH day of JANUARY, 2012.

RESOLUTION NO. 12-12
PAGE 3

APPROVED:

THOMAS A. MASTERS
MAYOR

JUDY L. DAVIS
CHAIRPERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

BILLIE E. BROOKS
CHAIR PRO-TEM

CEDRICK A. THOMAS
COUNCILPERSON

DAWN S. PARDO
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: C. THOMAS

J. DAVIS	AYE
B. BROOKS	AYE
C. THOMAS	AYE
D. PARDO	AYE
S. LOWE	AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 1/11/12

RESOLUTION NO. 44-11

A RESOLUTION BY THE JUPITER TOWN COUNCIL URGING LOCAL RETAILERS SELLING TOBACCO PRODUCTS, TO REFRAIN FROM SELLING AND MARKETING FLAVORED TOBACCO PRODUCTS, WHICH TEND TO PROMOTE AND INFLUENCE UNDERAGE AND/OR YOUTHFUL CONSUMPTION.

WHEREAS, tobacco use is the leading cause of preventable death in both the United States and in the State of Florida, and nearly 90 percent of tobacco users initiated use before they were 18 years old; and

WHEREAS, each day in the United States, more than 4,000 youth try smoking for the first time, and another 2,000 become regular daily smokers; and

WHEREAS, the Campaign For Tobacco-Free Kids estimates that 28.7 million packs of cigarettes are purchased or consumed by minors in Florida annually; and

WHEREAS, tobacco industry advertising and promotional activities directly account for approximately one third of adolescent experimentation with smoking; and

WHEREAS, the 1998 Tobacco Master Settlement Agreement (MSA) strictly forbids cigarette manufactures from directly or indirectly targeting youth in advertising, marketing, and promotion of tobacco productions aimed at initiating, maintaining, or increasing youth smoking; and

WHEREAS, internal tobacco industry documents strongly suggest that manufacturers intentionally target youth through use of candy-like and sweet flavors in tobacco products and also show that tobacco companies think it is unfair that they cannot directly market their products to youth; and,

WHEREAS, a 2004 study by the Food and Drug Administration (FDA) found that while only 6.7 percent of adults ages 25 years and older reported smoking flavored tobacco products, 22.8% of teens reported using them; and,

WHEREAS, candy flavoring masks the initial harsh reactions that occur when experimenting with tobacco products and advertising and marketing campaigns downplay the harmful effects of these products; and,

WHEREAS, a study found that youth believe candy-flavored tobacco products are "safer" and "taste better" than traditional tobacco products; and,

WHEREAS, surveys conducted by the Students Working Against Tobacco youth identified tobacco products flavored with Grape, Wine, Cream, Apple, cherry, and numerous other flavors in various retailers throughout Palm Beach County, and;

WHEREAS, some of these tobacco products, specifically flavored cigars, cigar rolling papers, and hookah products are also used as drug paraphernalia for smoking marijuana, and;

WHEREAS, in 2010, 7.5% of Palm Beach County middle school students and 20.5% of Palm Beach County high school students reported current tobacco use.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL

OF THE TOWN OF JUPITER, FLORIDA

Section 1. The Whereas clauses are incorporated herein as the findings of the Town Council.

Section 2. The Town Council hereby urges all local retailers who sell tobacco products where youth have access to their store or products to cease the sale and marketing of all flavored tobacco products, including but not limited to cigars, cigarillos, bidis, smokeless tobacco products, hookah tobacco, and cigar/cigarette rolling papers, in order to reduce the exposure and use of tobacco products in Jupiter, Florida.

Section 3. This Resolution shall take effect upon adoption.

July 25, 2011

The foregoing Resolution was offered by Councilor Todd R. Wodraska, who moved its adoption. The motion was seconded by Councilor Robert M. Friedman, and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR KAREN J. GOLONKA	X	
VICE-MAYOR JIM KURETSKI	X	
COUNCILOR ROBERT M. FRIEDMAN	X	
COUNCILOR WENDY HARRISON	Absent	
COUNCILOR TODD R. WODRASKA	X	

The Mayor thereupon declared the foregoing Resolution 44-11 duly passed and adopted this 4th day of August, 2011.

TOWN OF JUPITER, FLORIDA

BY: _____
KAREN J. GOLONKA
MAYOR

ATTEST:

_____
SALLY M. BOYLAN, MMC
TOWN CLERK

(TOWN SEAL)

_____
THOMAS J. BAIRD, ESQ.
Approved as to form and legal sufficiency

RESOLUTION 2011-53

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE URGING LOCAL RETAILERS SELLING TOBACCO PRODUCTS, TO REFRAIN FROM SELLING AND MARKETING FLAVORED TOBACCO PRODUCTS, WHICH TEND TO PROMOTE AND INFLUENCE UNDERAGE AND/OR YOUTHFUL CONSUMPTION.

WHEREAS, tobacco use is the leading cause of preventable death in both the United States and in the State of Florida, and nearly 90 percent of tobacco users initiated use before they were 18 years old; and

WHEREAS, each day in the United States, more than 4,000 youth try smoking for the first time, and another 2,000 become regular daily smokers; and

WHEREAS, the Campaign For Tobacco-Free Kids estimates that 28.7 million packs of cigarettes are purchased or consumed by minors in Florida annually; and

WHEREAS, tobacco industry advertising and promotional activities directly account for approximately one third of adolescent experimentation with smoking; and

WHEREAS, the 1998 Tobacco Master Settlement Agreement (MSA) strictly forbids cigarette manufactures from directly or indirectly targeting youth in advertising, marketing, and promotion of tobacco productions aimed at initiating, maintaining, or increasing youth smoking; and

WHEREAS, internal tobacco industry documents strongly suggest that manufacturers intentionally target youth through use of candy-like and sweet flavors in tobacco products and also show that tobacco companies think it is unfair that they cannot directly market their products to youth; and,

WHEREAS, a 2004 study by the Food and Drug Administration (FDA) found that while only 6.7 percent of adults ages 25 years and older reported smoking flavored tobacco products, 22.8% of teens reported using them; and,

WHEREAS, candy flavoring masks the initial harsh reactions that occur when experimenting with tobacco products and advertising and marketing campaigns downplay the harmful effects of these products; and,

WHEREAS, a study found that youth believe candy-flavored tobacco products are "safer" and "taste better" than traditional tobacco products; and,

WHEREAS, surveys conducted by the Students Working Against Tobacco youth identified tobacco products flavored with Grape, Wine, Cream, Apple, cherry, and numerous other flavors in various retailers throughout Palm Beach County, and;

WHEREAS, some of these tobacco products, specifically flavored cigars, cigar rolling papers, and hookah products are also used as drug paraphernalia for smoking marijuana, and;

WHEREAS, in 2010, 7.5% of Palm Beach County middle school students and 20.5% of Palm Beach County high school students reported current tobacco use.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE:

That the City Commission of the City of Pahokee urges all local retailers who sell tobacco products where youth have access to their store or products to cease the sale and marketing of all flavored tobacco products, including but not limited to cigars, cigarillos, bidis, smokeless tobacco products, hookah tobacco, and cigar/cigarette rolling papers, in order to reduce the exposure and use of tobacco products in Pahokee, Florida.

ATTESTED:

J.P. SASSER, MAYOR

ANIKA SINCLAIR, INTERIM CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

GARY M. BRANDENBURG, CITY ATTORNEY

Mayor Sasser	yes
Commissioner Babb	yes
Commissioner Biggs	yes
Vice Mayor Crawford	abs
Commissioner Walker	yes

CITY OF PAHOKEE

I hereby certify that this is a true and correct copy of an original document which is on file with the City of Pahokee, Florida

City Clerk

8/23/11
Date

The City of West Palm Beach

"The Capital City of the Palm Beaches"

CITY CLERK
P.O. Box 3366
West Palm Beach, FL 33402
Telephone: 561/822-1210Fax: 561/822-1214

June 29, 2012

Janiece Davis
Palm Beach County Health Department
800 Clematis Street
Room 3-301
West Palm Beach, FL 33401

SUBJECT: Resolution No. 160-12

Dear Ms. Davis:

Enclosed is a certified copy of Resolution No. 160-12, which was adopted by the West Palm Beach City Commission on June 25, 2012. It is being forwarded to you as directed in Section 2 of the resolution. The resolution is urging local retailers selling tobacco products where youth have access, to cease the sale and marketing of all flavored tobacco products to such youths.

If you have any questions, please do not hesitate to contact us.

Sincerely,

City Clerk's Office

Enclosure

RESOLUTION NO. 160-12

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, URGING LOCAL RETAILERS SELLING TOBACCO PRODUCTS WHERE YOUTH HAVE ACCESS, TO CEASE THE SALE AND MARKETING OF ALL FLAVORED TOBACCO PRODUCTS TO SUCH YOUTHS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

****

WHEREAS, tobacco use is the leading cause of preventable death in both the United States and in the State of Florida, and nearly 90 percent of tobacco users initiated use before they were 18 years old; and

WHEREAS, each day in the United States, more than 4,000 youth try smoking for the first time, and another 2,000 become regular daily smokers; and

WHEREAS, the Campaign For Tobacco-Free Kids estimates that 28.7 million packs of cigarettes are purchased or consumed by minors in Florida annually; and

WHEREAS, tobacco industry advertising and promotional activities directly account for approximately one third of adolescent experimentation with smoking; and

WHEREAS, the 1998 Tobacco Master Settlement Agreement (MSA) strictly forbids cigarette manufactures from directly or indirectly targeting youth in advertising, marketing, and promotion of tobacco productions aimed at initiating, maintaining, or increasing youth smoking; and

WHEREAS, a 2004 study by the Food and Drug Administration (FDA) found that while only 6.7 percent of adults ages 25 years and older reported smoking flavored tobacco products, 22.8% of teens reported using them; and

WHEREAS, candy flavoring masks the initial harsh reactions that occur when experimenting with tobacco products and advertising and marketing campaigns downplay the harmful effects of these products; and

WHEREAS, a study found that youth believe candy-flavored tobacco products are "safer" and "taste better" than traditional tobacco products; and

WHEREAS, surveys conducted by the Students Working Against Tobacco use identified tobacco products flavored with Grape, Wine, Cream, Apple, cherry, and numerous other flavors in various retailers throughout Palm Beach County; and

WHEREAS, some of these tobacco products, specifically flavored cigars, cigar rolling papers, and hookah products are also used as drug paraphernalia for smoking marijuana; and

WHEREAS, in 2010, 7.5% of Palm Beach County middle school students and 20.5% of Palm Beach County high school students reported current use of tobacco and the City Commission supports the efforts of The Palm Beach County Health Department's Tobacco Prevention and Control Program in discouraging tobacco use by underage persons.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, THAT:

SECTION 1: That the City Commission of the City of West Palm Beach urges all local retailers who sell tobacco products where youth have access to cease the sale and marketing of all flavored tobacco products, including but not limited to cigars, cigarillos, bidis, smokeless tobacco products, hookah tobacco, and cigar/cigarette rolling papers, in order to reduce the exposure and use of tobacco products by underage persons.

SECTION 2: Upon execution of two originals of this Resolution by the Mayor, one original shall be forwarded to Janiece Davis, Palm Beach County Health Department 800 Clematis Street, Room 3-301, West Palm Beach, Florida. One fully executed original shall be retained by the City Clerk as a Public Record of the City of West Palm Beach.

SECTION 3: This Resolution shall take effect as provided by Law.

PASSED AND ADOPTED THIS 25th DAY OF June, 2012.

CITY OF WEST PALM BEACH
BY THE CITY COMMISSION

Geraldine Muna
PRESIDING OFFICER

ATTEST:

Interim Laura J. Burch
CITY CLERK

CITY ATTORNEY'S OFFICE
Approved as to form and legal sufficiency
By: SAT

Last printed 6-14-12

STATE OF FLORIDA
COUNTY OF PALM BEACH
CITY OF WEST PALM BEACH

This copy is a true copy of the original on file in this office. WITNESS my hand and Official Seal. This 29th day of June 20 12.

City of West Palm Beach
By: Patricia Johnson Deputy Clerk

RESOLUTION NO. 13R-2319

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SARASOTA, FLORIDA, URGING LOCAL VENDORS TO CEASE THE SALE AND MARKETING OF ALL CANDY FLAVORED TOBACCO PRODUCTS IN THE CITY OF SARASOTA, FLORIDA; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, tobacco use is the single most avoidable cause of death in the United States; and,

WHEREAS, almost 90 percent of tobacco users started before they were 18 years old; and,

WHEREAS, each day, more than 4,000 young people try smoking for the first time, and another 2,000 youth become regular daily smokers; and,

WHEREAS, the United States Surgeon General has concluded that tobacco advertising greatly contributes to youth smoking rates; and,

WHEREAS, an estimated one-third of adolescent experimentation with smoking can be directly attributed to tobacco advertising and promotional activities; and,

WHEREAS, the Master Settlement Agreement (MSA) of 1998 between the state Attorney General and major tobacco companies forbids cigarette manufacturers from directly or indirectly targeting youth in advertising, marketing and promotion of tobacco products aimed at initiating, maintaining or increasing youth smoking; and

WHEREAS, internal tobacco industry documents strongly suggest that manufacturers Intentionally target youth through use of candy-like flavors in tobacco products; and,

WHEREAS, research from the Harvard School of Public Health (published November 2005) found that cigarette makers are targeting young smokers with new candy and liqueur flavored brands that mask the harsh and toxic properties found in tobacco smoke. Tobacco companies use youth-oriented colorful and stylish packing, and exploit adolescents' attraction to candy flavors; and,

WHEREAS, national studies have found that the vast majority of people who are using these flavored tobacco products are youth and young adults; and

WHEREAS, the Florida Youth Tobacco Survey shows that over 85% of tobacco obtained by the youth in Sarasota County is obtained through social sources rather than direct, underage purchases by the minors themselves; and, therefore, existing age

restrictions are inadequate protection to keep these flavored products out of the hands of the primary users, youth; and,

WHEREAS, some of these tobacco products, especially flavored cigars and blunt wraps are also used as drug paraphernalia for smoking of marijuana; and,

WHEREAS, flavored tobacco products are defined as loose tobacco including snuff flour, plug and twist tobacco, fine cuts, chewing tobacco, snus, shisha tobacco, smoking or snuffing tobacco products, and all other kinds and forms of tobacco, including but not limited to cigarettes, cigars, smokeless tobacco products and blunt wraps prepared in such a manner with the purpose for chewing, inhaling, smoking or ingesting in any manner in which the product or any of its component parts (including the tobacco, filter, or paper) contain, as a constituent (including a smoking constituent) or additive, an artificial or nature flavor (other than tobacco or menthol) or an herb or spice, including but not limited to, strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, coffee, or alcohol flavors, that is a characterizing flavor of the tobacco smoke.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SARASOTA, FLORIDA:

Section 1. That the City Commission urges local vendors in the City of Sarasota who sell tobacco products to cease the sale and marketing of all flavored tobacco products, which are defined as loose tobacco including snuff flour, and fine cuts of plug and twist tobacco, chewing tobacco, snus, smoking or snuffing tobacco products, and all other kinds and forms of tobacco, including but not limited to cigarettes, cigars, smokeless tobacco products and blunt wraps, prepared in such a manner with the purpose for chewing, inhaling, smoking or ingesting in any manner which have been flavored through the addition of natural or artificial flavorings, herbs, spices or other means with flavors characterizing fruit, candy, alcohol or other similar flavorings with the exception that menthol will not be included in this definition.

Section 2. That the City Commission urges residents and visitors not to purchase or use flavored tobacco products, as described above.

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

ADOPTED by the City Commission of the City of Sarasota, Florida upon reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to adoption, as authorized by Article IV, Section 2 of the Charter of the City of Sarasota this _____ day of _____, 2012.

CITY OF SARASOTA

_____
Suzanne Atwell, Mayor

Attest:

_____
Pamela M. Nadalini
City Auditor and Clerk

___ Mayor Atwell
___ Vice Mayor Shaw
___ Commissioner Caragiulo
___ Commissioner Snyder
___ Commissioner Turner

cityatty/rmf/lg/resolutions/13R-2319/(CandyFlavoredTobacco)10-05-12

TAB 4

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: **December 19, 2012** **Agenda Item No.** Tab 4

Agenda Title: **Establishing the General Election**

[X]	**CONSENT AGENDA**	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[X]	**RESOLUTION**
[ ]	PUBLIC HEARING	[ ]	ORDINANCE ON ____ READING
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager DSS **Date:** 12/7/12

Vivian Mendez Lemley – Town Clerk
Name/Title

Originating Department: **Town Clerk**	Costs: **$ 11,000.00** Funding Source: **Elections** Acct. # **106-33000** **[X]** Finance BKR	**Attachments:** **Resolution** **Supervisor of Election Agreement**
Advertised: Date: **1/13/2013** Paper: **Palm Beach Post** [ ] 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 VML **Please initial one.**

Summary Explanation/Background: The Town of Lake Park will have four Commission seats up for the General Municipal Election on March 12, 2013. The attached Resolution establishes the election and expresses the Town's desire to have the Supervisor of Elections (SOE) office conduct the election. The Town Clerk or designee and the SOE will be on the canvassing board for the Town.

Recommended Motion: Approve the Resolution Establishing the General Municipal Election.

RESOLUTION NO. 35-12-12

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, ESTABLISHING THE TIME AND PLACE OF A GENERAL ELECTION WHICH SHALL BE HELD ON TUESDAY, MARCH 12, 2013 FOR THE PURPOSE OF ELECTING FOUR COMMISSIONERS TO THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA; ESTABLISHING THE QUALIFYING/FILING PERIOD FOR SUCH GENERAL ELECTION AS BEGINNING AT 12 NOON ON TUESDAY JANUARY 29, 2013 AND CONTINUING DURING THE TOWN'S BUSINESS HOURS THROUGH TUESDAY FEBRUARY 12, 2013 AND ENDING AT 12 NOON; REQUESTING THE SUPERVISOR OF ELECTIONS TO CONDUCT THE TOWN'S MARCH 12, 2013 ELECTION AND IF NECESSARY THE MARCH 26, 2013 RUN-OFF ELECTION; PROVIDING FOR THE PROCESSING OF ABSENTEE BALLOTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2009, the Palm Beach County League of Cities, Inc. ("League") formed an Ad Hoc Committee on Municipal Elections to work with the Palm Beach County Supervisor of Elections (SOE) establishing uniform terms and conditions under which services will be provided by the SOE to the municipalities for municipal elections and the respective responsibilities of the SOE and the municipalities; and

WHEREAS, the Agreement negotiated between the SOE and the League which is entitled "Agreement for Vote Processing Equipment Use and Election Services" (the Agreement) was presented and approved by the Town of Lake Park Commission at its Regular Commission Meeting of November 7, 2012; and

WHEREAS, the Town of Lake Park desires the SOE to conduct the Town's election scheduled for March 12, 2013 and if necessary the March 26, 2013 run-off election consistent with the terms of the Agreement; and

WHEREAS, the Agreement requires the Town of Lake Park to name the individuals who will serve as members of the Town's Canvassing Board for said election(s).

BE IT RESOLVED BY THE COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AS FOLLOWS;

Section 1. A General Election shall be held in the Town of Lake Park, Palm Beach County, Florida, ("Town") between the hours of 7:00 a.m. and 7:00 p.m. on Tuesday, the 12th day of March, 2013, and if necessary the Tuesday, on the 26th day of March, 2013 run-off election, between the hours of 7:00 a.m. and 7:00 p.m. for the purpose of electing Commissioners to the Commission of the Town.

Section 2. Tuesday, January 29, 2013 at 12:00 noon, is hereby designated as the opening date for those persons interested in qualifying for the office of Commissioners, for the General Election to be held on Tuesday, March 12, 2013; and establishing Tuesday, February 12, 2013 at 12:00 noon as the closing date for candidates for the office of Commissioner to file with the Town Clerk for the March 12, 2013 General Election.

Section 3. At least 30 days before Tuesday, February 12, 2013, but not more than 45 days before Tuesday, March 12, 2013, the Town Clerk of the Town shall post in three conspicuous places in the Town, one of which shall be at the front door of Town Hall, 535 Park Avenue, the notice of the General Election, and the offices on the Town Commission to be filled in the election.

Section 4. The SOE or her designee and the Town Clerk or her designee are hereby designated as members of the Town's Canvassing Board, enabling the designee to represent the Town at the Logic and Accuracy ("L&A") testing of the voting equipment prior to the General Election. The SOE is also hereby requested to prepare absentee ballots for the Town, to be distributed to those electors who are unable to vote on the day of the General Election. The SOE is hereby requested to count the absentee ballots and include the Town in the canvassing advertisement.

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

DRAFT

AGREEMENT FOR VOTE PROCESSING EQUIPMENT USE AND ELECTION SERVICES BY AND BETWEEN THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS AND THE TOWN OF LAKE PARK

THIS AGREEMENT, is made and entered into this day of _____,2012, effective January 1, 2013, by and between the Palm Beach County Supervisor of Elections, an elected county officer pursuant to Article VIII, Sec.1(d) of the *Florida Constitution*, hereinafter referred to as the "**SOE**", and the **Town of Lake Park** a municipal corporation, chartered and organized in accordance with the laws of the State of Florida, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, Chapters 97 to 106, *Florida Statutes*, constitute the Florida Election Code (the "Code") which applies to municipalities where expressly so stated; and

WHEREAS, Sec 100.3605, *Florida Statutes*, states that "[T]he Florida Election Code, chapters 97-106 shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision"; and

WHEREAS, the Municipality and the SOE desire to work together to provide for municipal elections and to allocate certain responsibilities and expenses between the two parties to ensure that the provisions of the Code are followed during municipal elections; and

WHEREAS, the SOE and the Municipality wish to enter into this Agreement to set out the terms of this coordinated program.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter contained to be kept and performed by the parties hereto, and for the mutual benefit of the Municipality, its constituents and the SOE, it is agreed as follows:

1. **PURPOSE:**

The purpose of this Agreement is to set forth the terms and conditions under which services will be provided by the SOE and staff to the Municipality for municipal elections and to set forth the responsibilities of both parties so that there is a clear understanding of the rights and responsibilities of all parties. Such rights and responsibilities shall apply to the General, Run-Off, Special and Recount elections as necessary as well as the Post Election Audit, unless otherwise stated hereinbelow.

2. **DATE OF GENERAL MUNICIPAL ELECTION:**

The date of the **Town of Lake Park** General Municipal election is **March 12, 2013.** It is hereby acknowledged and agreed that if the date listed is the same as most other municipalities in March or November, there will be a cost sharing among municipalities for costs incurred by the SOE. Such costs shall be allocated on a pro-rata share basis; otherwise,

it is hereby acknowledged and agreed upon by the municipality that it is responsible for all costs of the election, incurred by the office of the SOE.

3. **FEES AND CHARGES TO BE PAID BY THE MUNICIPALITY:**

The SOE hereby agrees not to charge Municipalities for taxpayer purchased equipment and supplies; (i.e. voting machines, tables, chairs, etc.) and associated maintenance and contract fees related to such equipment in return for which the Municipality hereby agrees not to charge the SOE for polling places within its dominion and control. Examples of municipal elections charges related to certain services performed by the SOE to be passed through to the Municipality on a shared pro rata basis for all municipalities holding elections on a general election day (i.e. 2nd Tuesday in March or November) are attached hereto as Exhibit A. All items to be paid or reimbursed to the SOE will be paid by the Municipality within thirty (30) days of receipt of an invoice from the SOE with documentation verifying the charges.
Examples of total costs to small, medium and large municipalities are attached hereto as Exhibit B.

4. **RESPONSIBILITIES OF BOTH THE MUNICIPALITY AND THE SOE FOR MUNICIPAL ELECTIONS:**

A. **Notice and Advertisement**

(1) **Municipality**

(a) Properly call and advertise the election according to statutes and charter at its own expense.
(b) Issue a resolution or ordinance to the SOE requesting that the Supervisor of Elections conduct the municipality's election and act as a member of the Municipality's Canvassing Board, which may or may not include the SOE.
(c) certify that the registered voter information provided by the SOE to the municipality Reflects the proper boundaries of the city and notify the SOE of any changes.

(2) SOE

(a) Publish legal notices for Logic & Accuracy testing, absentee ballot canvass, Post Election Audit and news releases on book closing.

B. **Qualifying Candidates**

(1) **Municipality**

(a) Provide qualifying packets to candidates and accept and process all qualifying papers and fees.
(b) Collect Name and Pronunciation Guides from the candidates at the time of qualifying and submit to SOE.
(c) Respond to all candidate inquiries and questions.
(d) Respond to all legal inquiries and questions.
(e) Respond to all media inquiries.

(2) **SOE**

(a) Verify signatures on any qualifying petitions submitted by candidates and notify the Municipality of such results upon the close of the candidate qualifying deadline.

C. **Ballots**

(1) **Municipality**

(a) Review, amend (if necessary) and approve ballot proof prepared by SOE.
(b) Place an order with the SOE for a sufficient quantity of ballots as applicable.
(c) Pay ballot design costs to the SOE as incurred.
(d) Pay the ballot printer directly for the cost of said ballots.
(e) Reimburse the SOE for costs incurred for translation and audio recording of ballot.
(f) Reimburse SOE for preparation of Absentee Ballot, Edge layout and Sample Ballot.

(2) **SOE**

(a) Layout, check, proof and deliver ballot layout to the printer.
(b) Receive, securely store and account for all ballots until disbursed to polling places.
(c) Contract to have audio recorded for Touch Screen ballot.
(d) Control all access to unvoted ballots while in the possession of the SOE.

D. **Equipment Testing**

(1) **Municipality**

(a) Provide that a representative will be present during the Logic and Accuracy testing as noticed by SOE.

(2) **SOE**

(a) Develop a unique test script and manually mark ballots to be used in public Logic & Accuracy test.
(b) Conduct public Logic & Accuracy test.

E. **Early Voting – Optional**

(1) **Municipality**

(a) Reimburse the SOE for staff overtime hours due to weekend and/or evening hours for Early Voting.
(b) Pay SOE for Early Voting supplies.
(c) Contract with, schedule and pay poll workers directly.
(d) Deliver voted ballots to SOE daily at a location designated by SOE.
(e) Designate Early Voting sites thirty (30) days prior to each Election and notify SOE in writing of locations.

(2) **SOE**

(a) Prepare and provide all supplies needed for each Early Voting site.

(b) Provide the Municipality with a list of poll workers.
(c) Train poll workers.
(d) Provide staffing to accept voted ballots daily at a location designated by SOE.

F. **Absentee Voting**

(1) **Municipality**

(a) Reimburse SOE for all postage costs incurred at the current postal rate.
(b) Pay SOE for materials and handling of each absentee ballot.
(c) Pay SOE $.10 per absentee ballot for verifying signatures on returned voted ballot certificates.
(d) Refer all requests for absentee ballots to SOE.

(2) **SOE**

(a) Determine eligibility and compile Absentee Ballot file.
(b) Accept all requests for Absentee Ballots by telephone, mail or in person.
(c) Prepare and mail Absentee Ballots.
(d) Deliver Absentee Ballots to the Post Office.
(e) Receive voted Absentee Ballots.
(f) Verify signatures on returned voted Absentee Ballot certificates.
(g) Prepare and open Absentee Ballots for tabulation.
(h) Account for all Absentee Ballots.
(i) Notify Absentee Ballot voter and provisional voters of the disposition of the Canvassing Board as required by law.
(j) Record Absentee Ballot returns to voter history.
(k) Conduct public testing of Logic and Accuracy for Absentee Ballot tabulating equipment.
(l) Provide qualified staff to operate tabulation equipment to count Absentee Ballots.

G. **Polling Places**

(1) **Municipality**

(a) Arrange for the use of an adequate number of polling places.
(b) Confirm polling place accessibility and ADA compliance.
(c) Notify SOE in writing thirty (30) days prior to election of the need for tables and chairs if necessary.
(d) Notify SOE of polling locations to be used no later than noon the Friday after the municipal candidate qualifying deadline.
(e) Notify the SOE not less than 30 days prior to the election that a polling place will be moved to another site.
(f) Notify voters, as required by law, if their regular polling place is to be temporarily relocated.

(2) **SOE**

(a) Provide the Municipality with a list of polling places and SOE contract.
(b) Provide tables and chairs upon written notice from the Municipality when required.

(c) Provide polling place supplies, i.e. signs, cones, etc.
(d) Notify voters and the Municipality of permanent polling place change(s).

H. **Precinct Supplies**

(1) **Municipality**

(a) Pay SOE for precinct supplies provided.
(b) Provide a secure place for precinct clerks to return supplies and voted ballots on election night.
(c) Pay SOE for the production of Precinct Registers.
(d) Pay directly to the SOE's contracted moving company to have voting equipment delivered and picked up from polling place no later than the day before the election and returned after the election.

(2) **SOE**

(a) Provide Precinct Registers for each polling place location.
(b) Provide Master CD compilation of registered voters for precinct advisors.
(c) Provide certification of registered voters after book closing.
(d) Prepare equipment, cabinets and routing of voting equipment delivery.
(e) Provide laptop computer at each polling place.
(f) Provide CD of voter file database for each polling place.
(g) Provide poll worker Clerks with cell phones.
(h) Provide Provisional Ballot envelopes and affidavit forms for each polling place.
(i) Provide secrecy sleeves in a number and amount appropriate for each polling place.

I. **Poll Workers**

(1) **Municipality**

(a) Contact, contract with and pay poll workers directly (using only poll workers who are currently on the SOE list, or individuals who have successfully completed required training).
(b) Schedule and notify poll workers of training classes.
(c) Reimburse SOE for expenses incurred for delivery and pick up of equipment to training locations.
(d) Reimburse SOE for expenses incurred in printing training material.
(e) Reimburse SOE for expenses incurred for trainers to train poll workers.
(f) Reimburse SOE for expenses incurred for contracted training locations.

(2) **SOE**

(a) Provide the Municipality with a list of current poll workers.
(b) Develop poll worker training schedule.
(c) Plan and contract for training classes and locations.
(d) Contract with and pay trainers to train poll workers.
(e) Provide printed training materials for poll workers.

J. **Election Day Support**

(1) **Municipality**

(a) Verify that all polling places are available to poll workers no later than 6:00 a.m. and open for voting promptly at 7:00 a.m. on Election Day.
(b) Ensure that all polling places remain open until 7:00 p.m. or until all voters who are in line to vote at 7:00 p.m. have completed voting.
(c) Reimburse SOE for all phone bank costs.

(2) **SOE**

(a) Assist in finding poll worker replacements if needed.
(b) Provide technical support personnel as needed.
(c) Provide phone bank support to respond to poll workers and voters on Election Day.

K. **Ballot Tabulation/Counting of Election Results**

(1) **Municipality**

(a) Deliver all voted ballots and other necessary election related items to a place designated by the SOE after the polling places have closed on Election Day.
(b) Deliver **all** voting machine cartridges to a place designated by the SOE after the polling places have closed on Election Day.
(c) Reimburse the SOE for any staff overtime and other expenses in relation to the tabulation and processing of ballots on Election Day.
(d) Act as member of Canvassing Board.

(2) **SOE**

(a) Provide technical staff and required equipment to administer tabulation and election results.
(b) Assist and act, or appoint a designee to assist and act on the SOE's behalf, as a member of the Municipality's Canvassing Board if desired by the municipality or act as a member of the County Canvassing Board if it canvasses the municipality's election, if allowed by law.
(c) Post election results on SOE WEB site and provide the same to Channel 20.
(d) Provide the Municipal Clerk with unofficial election results upon conclusion of tabulation and canvassing of ballots cast on Election Day.

L. **Post Election Day**

(1) **Municipality**

(2) **SOE**

(a) Provide the Municipal Clerk with an official certification of election results if allowed by law.
(b) Store all necessary election records and ballots until the expiration of retention period prescribed by statutes.
(c) Process polling place affirmation forms.

(d) Sort, inventory, pack and store all election materials for retention and disposition.
(e) Notify voters of the disposition of their Absentee or Provisional Ballots after the determination by the Canvassing Board, as required by law.
(f) Respond to public records requests regarding records kept on behalf of the Municipality.
(g) Record voting history for each voter who voted on Election Day.

M. **Audit**

(1) **Municipality**

(a) Provide that the Municipal Clerk will be responsible for the administration of the audit.
(b) Reimburse SOE for any staff time or other related expenses as may result from conducting the manual audit.

(2) **SOE**

(a) Organize precinct information to allow the Municipal Clerk to randomly select the race and precinct(s) that shall be audited.
(b) Organize and prepare ballots for manual audit.
(c) Provide SOE staff to conduct manual audit.
(d) Ascertain and publically post manual audit result to SOE WEB site.

N. **Recount**

(1) **Municipality**

(a) Provide that the Municipal Clerk will be responsible for the administration of the Recount, with support and guidance from the SOE.
(b) Act as a member of the Canvassing Board.
(c) Notify the candidates of the time and date of the Recount.
(d) Post public notice(s) of the Recount with the time and location.
(e) Cause to have the Recount recorded and minutes kept and approved by the Canvassing Board.
(f) Review with the Canvassing Board and the counting teams the statutes and rules of the Division of Elections, specifically Rule 1S-2.031. Recount Procedures; and Rule 1S-2.027. Standards for Determining Voter's Choice on a Ballot.
(g) Reimburse the SOE for all staff salaries/overtime, facility and other expenses required to conduct the Recount.

(2) **SOE**

(a) Post public notice(s) of the Recount with the time and location.
(b) Test tabulating equipment as required by Sec. 101.5612, *Florida Statues*.
(c) Provide counting teams for examining out stacked ballots.
(d) Prepare and organize ballots for Recount processing.
(e) Tabulate ballots and provide professional staff for equipment operations.
(f) Provide official certification as determined by the Canvassing Board.

5. **INDEMNITY:**

Each party to this agreement shall be liable for its own actions and negligence. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless SOE against any actions, claims or damages arising out of the Municipality's negligence in connection with performance under this Agreement; and the SOE shall indemnify, defend and hold harmless the Municipality against any actions, claims or damages arising out of the negligence of SOE in connection with its performance under this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth at Sec. 768.28, *Florida Statutes.* In no case shall such limits for the Municipality extend beyond $200,000 for any one person or beyond $300,000 for any judgment which, when totaled with all other judgments, arises out of the same incident or occurrence. These provisions shall not be construed to constitute agreement by either party to indemnify the other for such other's negligent, willful or intentional acts or omissions. In the event of litigation, trial or appellate, between the Municipality and the SOE relating to a municipal election governed by this Agreement, or otherwise in connection with the interpretation or application of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. Notwithstanding the above, the municipality shall defend legal challenges relating to its municipal election and shall be fully responsible for all legal costs including attorneys' fees for such defense of the Municipality and the SOE. The municipality shall be responsible for damages, if any, assessed by virtue of such lawsuit, up to the monetary limits provided for hereinabove without recourse to the SOE.

6. **TERM:**

This Agreement shall begin on the effective date January 1, 2013 and continue for a term of one year in order to cover Special Elections, if any, and may be modified by mutual agreement of the parties. Any proposed changes to this Agreement shall be provided to the municipalities no later than August 1 of the applicable year, or as soon as practicable.

7. **CHANGE IN LAW:**

In the event any change in law abrogates or modifies any provisions or applications of this Agreement, the parties hereto agree to enter into good faith negotiations and use their best efforts to reach a mutually acceptable modification of this Agreement.

8. **NOTICES:**

All formal notices affecting the provisions of this Agreement may be delivered in person or be sent by facsimile, registered mail, or by a recognized overnight courier such as FedEx, to the individual designated below, until such time as either party furnishes the other party written instructions to contact another individual.

For the SOE:	For the Municipality:
Supervisor of Elections 240 S. Military Trail West Palm Beach, Florida 33415 Attention: Susan Bucher	Town of Lake Park 535 Park Avenue Lake Park, FL 33403 Attention: Dale Sugerman

9. **SEVERABILITY:**

If any clause, section, or provision of this Agreement shall be declared to be unconstitutional,

invalid or unenforceable for any cause or reason, or is abrogated or negated by a change in law, the same shall be eliminated from this Agreement, and the remaining portion of this Agreement shall be in full force and effect and be valid as if such invalid portions thereof had not been incorporated herein.

~~10. By signing this contract, you and your municipality approve the contract as a form of legal sufficiency and certify that this contract has met all of the legal requirements of your Municipal Charter and all other related laws.~~

~~11~~. 10. **NO MODIFICATION EXCEPT IN WRITING:**

This is the complete and final agreement between the parties. No representations other than those set forth herein shall be binding upon the parties. No modification of this agreement shall be effective unless submitted in writing and signed by both parties, or their duly authorized representatives.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective January 1, 2013.

As to the SOE:

WITNESSES:

_____

_____

SUPERVISOR OF ELECTIONS
PALM BEACH COUNTY

_____
Susan Bucher

Date: _____

As to the MUNICIPALITY:

ATTEST:

Town of Lake Park, FLORIDA

_____
Vivian Mendez Lemley, Town Clerk

(Affix Municipal Seal)

_____
James DuBois, Mayor

Date: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
Thomas J. Baird, Town Attorney

TAB 5

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: December 19, 2012 **Agenda Item No.** Tab 5

Agenda Title: Discussion Regarding the Advisability of Holding the Regularly Scheduled January 2nd, 2013 Commission Meeting on the Day after New Year's Day.

[X]	**CONSENT AGENDA**	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[ ]	RESOLUTION
[ ]	PUBLIC HEARING	[ ]	ORDINANCE ON ____ READING
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager DSS **Date:** 12/10/12

Dale S. Sugerman/Town Manager
Name/Title

Originating Department: Town Manager	Costs: $ 0.00 Funding Source: Acct. # [ ] Finance _____	**Attachments:** None
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_____ or Not applicable in this case DSS **Please initial one.**

Summary Explanation/Background:

The first regularly scheduled meeting of the Town Commission during the month of January 2013 falls on Wednesday, January 2, 2013. This is the day after the New Year's Eve holiday. This agenda item is being placed before the Town Commission for purposes of discussing the advisability of holding the meeting the night after a holiday celebration.

The Town staff will be prepared to coordinate all of the materials for the meeting and will be in attendance at the meeting to answer any questions on pending agenda items.

On the other hand, the Commission might want to be sensitive to the issue of citizens not being able to attend this meeting because they are possibly out of town and traveling for the holiday weekend.

Should the Town Commission decide to cancel the meeting, staff will make sure than any agenda items that might have normally come up during the first week in January will be carried over to the second meeting of the month (January 16th).

Recommended Motion: Move to cancel the Town Commission meeting of January 2, 2013.

Ordinance on Second Reading

TAB 6

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: December 19, 2012 **Agenda Item No.** Tab 6

Agenda Title: Request for a small-scale land use amendment for 711, 725 and 761 Foresteria Drive to re-designate from Medium Density Residential to the Public Buildings and Grounds land use designation.

[ ]	CONSENT AGENDA	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[ ]	RESOLUTION
[ ]	PUBLIC HEARING	**[X]**	**ORDINANCE ON 2nd READING**
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager DJS **Date:** 12/11/12

Nadia Di Tommaso / *Community Development Director* ND
Name/Title

Originating Department: **Community Development**	Costs: $ 258.00 (for 2 ord.) Funding Source: **Town Clerk** Acct. # 106-48100 [X] Finance BK	**Attachments:** → **Staff Report** → **Ordinance 10-2012** → **Exhibit "A"-Legal Descriptions** → **Exhibit "B"-Future Land Use Map/Location Map** → **Legal Ad**
Advertised: Date: **12/09/2012** Paper: **Palm Beach Post** [ ] 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___*ND*____ or Not applicable in this case ____ **Please initial one.**

Summary Explanation/Background:

See Staff Report.

Town of Lake Park
Community Development Department

Meeting Date: *December 19, 2012*

To: TOWN COMMISSION (2nd Reading) **Re: Small-Scale Land Use Amendment**

Applicant: **Town of Lake Park**
Address: **711, 725, 761 Foresteria Drive**
Re: **Small-scale land use amendment from Medium Density Residential to Public Buildings and Grounds**

SUMMARY

In early 2009, the Town of Lake Park's CRA purchased three parcels of real property located at 711, 725, and 761 Foresteria Drive (the Property). See Legal Descriptions (Exhibit "A") and Future Land Use Map/Location Map (Exhibit "B"). The three parcels comprise approximately 1.26 acres. These parcels were purchased with the long-term vision of providing additional parking for the businesses within the Park Avenue Downtown District. As a short-term use, the CRA Board (the Board) authorized the Community Development Corporation, a not for profit corporation to use two of the three parcels (the Property) for the Seeds of Hope Community Garden. The two parcels upon which the community garden is being operated have a future land use designation of "Medium Density Residential." The use of the Property as a community garden is not consistent with the Medium Density Residential future land use designation. The Town's classification system defines residential land uses as being exclusive to residential dwellings and light community related uses, **excluding** government owned sites. Thus, if the use of the Property is going to remain as a community garden, it is appropriate to amend the future land use designation so that its use is consistent with the Town's Comprehensive Plan.

The Comprehensive Plan's Future Land Use Element Section 3.4.3, defines Public Buildings and Grounds as the following:

"Lands and structures that are owned, leased, or operated by a government entity(...)or operated by a private entity and used for a public purpose...."

In accordance with the above section of the Comprehensive Plan, the appropriate future land use designation of the Property should be "Public Buildings and Grounds." Although the Property is being operated as a community garden, staff believes that the operation of the community garden for public purposes is still compatible with the surrounding residential area and does not negatively impact the nearby Park Avenue Downtown District. The use serves a community purpose allowing residents, business and property owners to take advantage of the garden for their everyday use. Currently, it is a placeholder for any future public use the CRA envisions and may require.

LOCAL PLANNING AGENCY RECOMMENDATION
Approved 4-0. There was some discussion as to the eventual fate of the subject property. At this time, the use will remain a Community Garden.

TOWN COMMISSION MOTION ON 1st READING
Approved 4-0

STAFF RECOMMENDATION
Staff recommends that the Town Commission approve a motion on second reading to amend the future land use designation of the Property from Residential Medium Density to Public Buildings and Grounds.

ORDINANCE NO. 10-2012

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE FUTURE LAND USE MAP AND THE FUTURE LAND USE DESIGNATION OF PARCELS OF REAL PROPERTY HAVING THE PROPERTY ADDRESSES OF 711, 725 AND 761 FORESTERIA DRIVE AND OWNED BY THE TOWN'S COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town Commission of the Town of Lake Park, Florida (Town) , has adopted a Comprehensive Plan pursuant to Chapter 163, Part II, Florida Statutes, entitled the "Local Government Comprehensive Planning and Land Development Regulation Act" (the Act); and,

WHEREAS, the Town's Comprehensive Plan has been determined to be "in compliance" with the Act; and,

WHEREAS, the parcels of real property with the addresses of 711, 725, and 761 Foresteria Drive (the Properties), consisting of 1.26+/- acres of land, and which are legally described in **Exhibit "A"**, are all owned by the Town's Community Redevelopment Agency; and,

WHEREAS, the locations of the Properties are shown in **Exhibit "B"** which is also attached; and,

WHEREAS, the Properties currently have a Future Land Use Designation of "Medium Density Residential" and are depicted as such on the Town's Future Land Use Map which is contained within the Town's Comprehensive Plan; and,

WHEREAS, pursuant to the Act, the Town's Local Planning Agency (the LPA) has conducted a public hearing, as required by Section 163.3174(4)(a), Florida Statutes, to consider the Town staff's proposed amendment of the future land use designation of the Properties from Medium Density Residential to Public Buildings and Grounds, and to reflect this change on the Future Land Use Map which is contained within the Town's Comprehensive Plan.

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 the legislative findings of the Town Commission.

Section 2. The Medium Density Residential future land use designations of the Properties which are legally described in Exhibit A and depicted in Exhibit B, both of which Exhibits are attached hereto and incorporated herein, are hereby amended to a future land use designation of Public Buildings and Grounds.

Section 3. The Future Land Use Map which is contained in the Town's Comprehensive Plan is hereby amended to reflect the change in the Properties future land use designation from Medium Density Residential to Public Buildings and Grounds.

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. Effective Date. The provisions of this Ordinance shall become effective pursuant to Section 163.3184(3)(c)4., Florida Statutes.

Attachments: Exhibit "A" - Legal Descriptions of the Subject Properties
Exhibit "B" – Future Land Use Map/Location Map

EXHIBIT "A" – Legal Descriptions

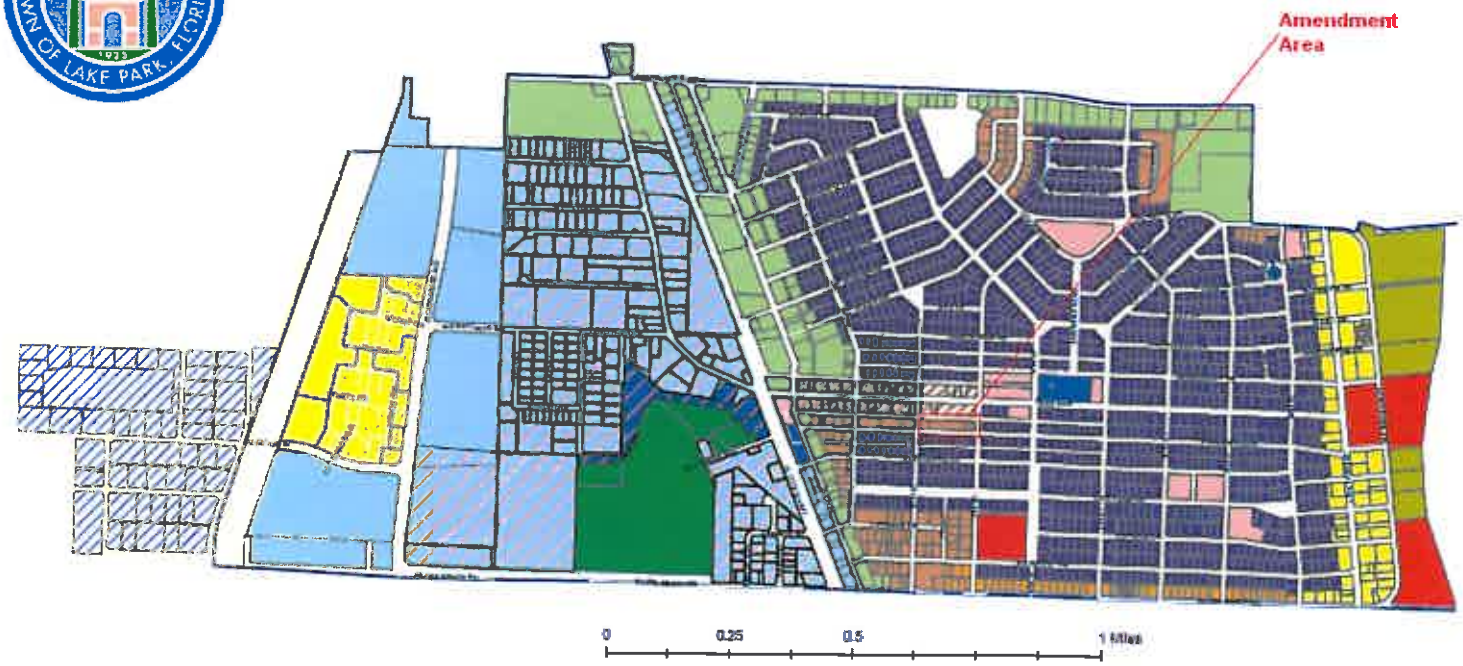
711 Foresteria Drive: KELSEY CITY LTS 44 TO 46 INC BLK 10

725 Foresteria Drive: KELSEY CITY LTS 29 TO 43 INC BLK 1

761 Foresteria Drive: KELSEY CITY LTS 25 TO 28 INC BLK 10

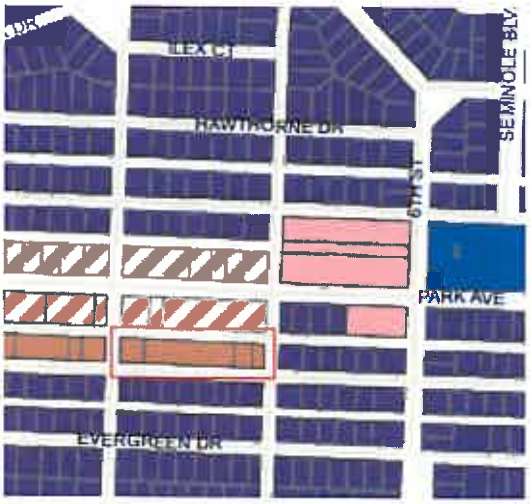
EXHIBIT "B" – Town of Lake Park Future Land Use Map/Location Map

Lake Park Future Land Use Map



Legend

- Bioscience_2
- Conservation
- Annexation
- Downtown
- Comm_Lt_Industrial
- Comm_Residential
- Commercial
- Condo_density
- Resl_Low_Density
- Resl_medium
- Single_Fam
- Lake_Park_Boundary
- Pub_Bldg_Grounds
- Rec_Lands
- Other_Pub_Facilities



NO. 72233
LEGAL NOTICE OF
PROPOSED ORDINANCE
TOWN OF LAKE PARK

Please take notice that on Wednesday, December 19, 2012 at 7:00 p.m., or soon thereafter the Town Commission, of the Town of Lake Park, Florida in a regular session to be held in the Commission Chambers, Town Hall, 535 Park Avenue, Lake Park, Florida will consider the following Ordinances on second reading and proposed adoption thereof:

ORDINANCE NO. 10-2012

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE FUTURE LAND USE MAP AND THE FUTURE LAND USE DESIGNATION OF PARCELS OF REAL PROPERTY HAVING THE PROPERTY ADDRESSES OF 711, 725 AND 761 FORESTERIA DRIVE AND OWNED BY THE TOWN'S COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE NO. 11-2012

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REZONING THREE PARCELS OF REAL PROPERTY LOCATED AT 711, 725, AND 761 FORESTERIA DRIVE FROM RESIDENTIAL 2 (R2) TO PUBLIC DISTRICT (P); PROVIDING FOR AN AMENDMENT TO SECTION 78-76 OF THE TOWN CODE WHICH INCORPORATES BY REFERENCE THE ZONING MAP OF LAKE PARK REFLECTING THE CHANGE IN ZONING TO THE PUBLIC ZONING DISTRICT OF THE PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

If a person decides to appeal any decision made by the Town Commission with respect to any matter, 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 Lemley, Town Clerk at 561-881-3311.

Vivian Mendez Lemley, Town Clerk
Town of Lake Park, Florida
PUB: The Palm Beach Post
December 9, 2012

$258.00 for both Ordinances.

NO. 72233

LEGAL NOTICE OF
PROPOSED ORDINANCE
TOWN OF LAKE PARK

Please take notice that on Wednesday, December 19, 2012 at 7:00 p.m. or soon thereafter the Town Commission of the Town of Lake Park, Florida in a regular session to be held in the Commission Chambers, Town Hall, 535 Park Avenue, Lake Park, Florida will consider the following Ordinances on second reading and proposed adoption thereof:

ORDINANCE NO. 10-2012

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE FUTURE LAND USE MAP AND THE FUTURE LAND USE DESIGNATION OF PARCELS OF REAL PROPERTY HAVING THE PROPERTY ADDRESSES OF 711, 725 AND 761 FORESTERIA DRIVE AND OWNED BY THE TOWN'S COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE NO. 11-2012

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REZONING THREE PARCELS OF REAL PROPERTY LOCATED AT 711, 725, AND 761 FORESTERIA DRIVE FROM RESIDENTIAL 2 (R2) TO PUBLIC DISTRICT (P); PROVIDING FOR AN AMENDMENT TO SECTION 78-76 OF THE TOWN CODE WHICH INCORPORATES BY REFERENCE THE ZONING MAP OF LAKE PARK REFLECTING THE CHANGE IN ZONING TO THE PUBLIC ZONING DISTRICT OF THE PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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Vivian Mendez Lemley, Town Clerk
Town of Lake Park, Florida

PUB: The Palm Beach Post
December 9, 2012

TAB 7

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: December 19, 2012 **Agenda Item No.** Tab 7

Agenda Title: Request to Rezone 711, 725 and 761 Foresteria Drive from Residential-2 to the P-Public District zoning designation.

[ ]	CONSENT AGENDA	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[ ]	RESOLUTION
[ ]	PUBLIC HEARING	**[X]**	**ORDINANCE ON 2nd READING**
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager _____ **Date:** 12/11/12

Nadia Di Tommaso / *Community Development Director*
Name/Title

Originating Department: **Community Development**	Costs: $ 258.00 (for 2 ord.) Funding Source: **Town Clerk** Acct. # 406-4810 X Finance _____	**Attachments:** ➔ **Staff Report** ➔ **Ordinance 11-2012** ➔ **Exhibit "A"- Legal Descriptions** ➔ **Exhibit "B"- Town of Lake Park Zoning Map/Location Map** ➔ **Legal Ad**
Advertised: Date: **12/09/2012** Paper: **Palm Beach Post** [ ] 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___*ND*____ or Not applicable in this case ____ **Please initial one.**

Summary Explanation/Background:

See Staff Report.

TOWN LAKE OF PARK
TOWN COMMISSION (2nd Reading)
Meeting Date: December 19, 2012

DESCRIPTION: Request to rezone 711 Foresteria, 725 Foresteria, and 761 Foresteria from the Residential-2 (R-2) District to Public District (P-District).

APPLICANTS REQUEST: This is an application by the Town of Lake Park proposing the rezoning of three parcels of land (the Property) owned by the Town of Lake Park's Community Redevelopment Agency. See Legal Descriptions (Exhibit "A") and Location Map (Exhibit "B"). The parcels are 0.17, 0.86, and 0.23 acre, respectively, which are currently operated by the Community Development Corporation as the Seeds of Hope Community Garden. The Property is located on Foresteria Drive between 7th and 8th Street and is within the Residential-2 (R-2) zoning district. Staff recommends that the Property be rezoned to the P-Public District as provided for in Section 78-76 of the Town of Lake Park Code of Ordinances (the Code).

P&Z RECOMMENDATION: November 5, 2012 – 4-0 Motion to approve.

TOWN COMMISSION MOTION ON 1st READING: Approved 4-0

STAFF RECOMMENDATION: ADOPT ORDINANCE 11-2012 ON 2nd READING.

BACKGROUND INFORMATION:

Applicant(s):	Town of Lake Park
Owner:	Lake Park Community Redevelopment Agency (CRA)
Address :	711, 725 and 761 Foresteria Drive, Lake Park FL 33403
Lot Sizes:	0.17, 0.86, and 0.23 acres respectively for a total of 1.26 acres
Parcel Control Numbers:	36-43-42-20-01-010-0440, 36-43-42-20-01-010-0290, 36-43-42-20-01-010-0250
Existing Zoning :	Residential-2(R-2)

Adjacent Zoning

North:	Park Avenue Downtown District (PADD)
South:	Residential-1 (R-1)
East:	Resdiential-1 (R-1)
West:	Residential-2 (R-2)

Adjacent Land Uses

North:	Downtown
South:	Single Family Residential
East:	Single Family Residential
West:	Medium Density Residential

CONSISTENCY WITH THE TOWN OF LAKE PARK ZONING CODE
Section 78-76 states in part:

Within P public districts, the following regulations shall apply:

(3)

All property owned by or acquired by the town shall be included in P public districts

The subject parcels were acquired by the Lake Park CRA in early 2009. Their zoning designations were never changed to reflect the P-Public District. Staff is recommending that these parcels be rezoned to reflect their appropriate zoning district designation. The permitted uses in the public district may range from recreation facilities, parks and playgrounds, museums, just to name a few. A community garden is in conformance with this zoning district designation.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

A small-scale land use amendment is being concurrently processed. The proposed small-scale plan amendment would change the future land use designation of the Property from Residential Medium Density to Public Buildings and Grounds.

The proposed rezoning would implement the future land use designation by zoning the Property so that it will be consistent with the Property's new future land use designation pursuant to the amendment to the Town's Comprehensive Plan. The proposed rezoning is consistent with Policy 1.1 of the Future Land Use Element of the Town's Comprehensive Plan:

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 at 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.

The Property is owned by the CRA and is between a residential district and the Park Avenue Downtown District (PADD). The Property is being operated by the Community Development Corporation, a not for profit corporation and serves a community purpose. In order to make the zoning of the Property consistent with the new future land use designation of Public Buildings and Grounds, a rezoning to Public District is required.

STAFF RECOMMENDATION :
Staff recommends that the Town Commission entertain a motion to **ADOPT** Ordinance 11-2012 which proposes the rezoning to P-Public District.

ORDINANCE NO. 11-2012

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REZONING THREE PARCELS OF REAL PROPERTY LOCATED AT 711, 725, AND 761 FORESTERIA DRIVE FROM RESIDENTIAL 2 (R2) TO PUBLIC DISTRICT (P); PROVIDING FOR AN AMENDMENT TO SECTION 78-76 OF THE TOWN CODE WHICH INCORPORATES BY REFERENCE THE ZONING MAP OF LAKE PARK REFLECTING THE CHANGE IN ZONING TO THE PUBLIC ZONING DISTRICT OF THE PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Lake Park Community Redevelopment Agency is the owner of three parcels of property in the Town of Lake Park, Florida (Town), the addresses of which are 711, 725, and 761 Foresteria Drive, (the Properties); and,

WHEREAS, the Properties are legally described in Exhibit "A" and generally located as shown on Exhibit "B"; and,

WHEREAS, the Town Commission of the Town has previously assigned the zoning district of Residential-2 (R-2) to the Properties, and this zoning is currently shown on the Town's Official Zoning Map; and,

WHEREAS, the Properties are now maintained by the Community Development Corporation and operated as the Seeds of Hope Community Garden; and

WHEREAS, the Town staff recommends that the Properties be rezoned from the Residential-2 zoning district to the P-Public zoning district as required by Section 78-76 of the Town Code; and,

WHEREAS, the Town's Planning and Zoning Board has reviewed staff's proposed rezoning and has made its recommendation to the Town Commission; and,

WHEREAS, the Town Commission has determined that the assignment of the Public District zoning classification to the Properties would be consistent with the Future Land Use designation of the Properties under the Town's Comprehensive Plan;

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 true and correct.

Section 2. The Town Commission hereby assigns a zoning classification of Public District to the Properties which are legally described in Exhibit A and shown in Exhibit B, both of which Exhibits are attached hereto and incorporated herein.

Section 3. Section 78-76, which is incorporated by reference, and the Zoning Map of Lake Park indicating the boundaries of the various zoning districts are hereby amended to reflect the assignment of a Public District zoning classification to the Properties.

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

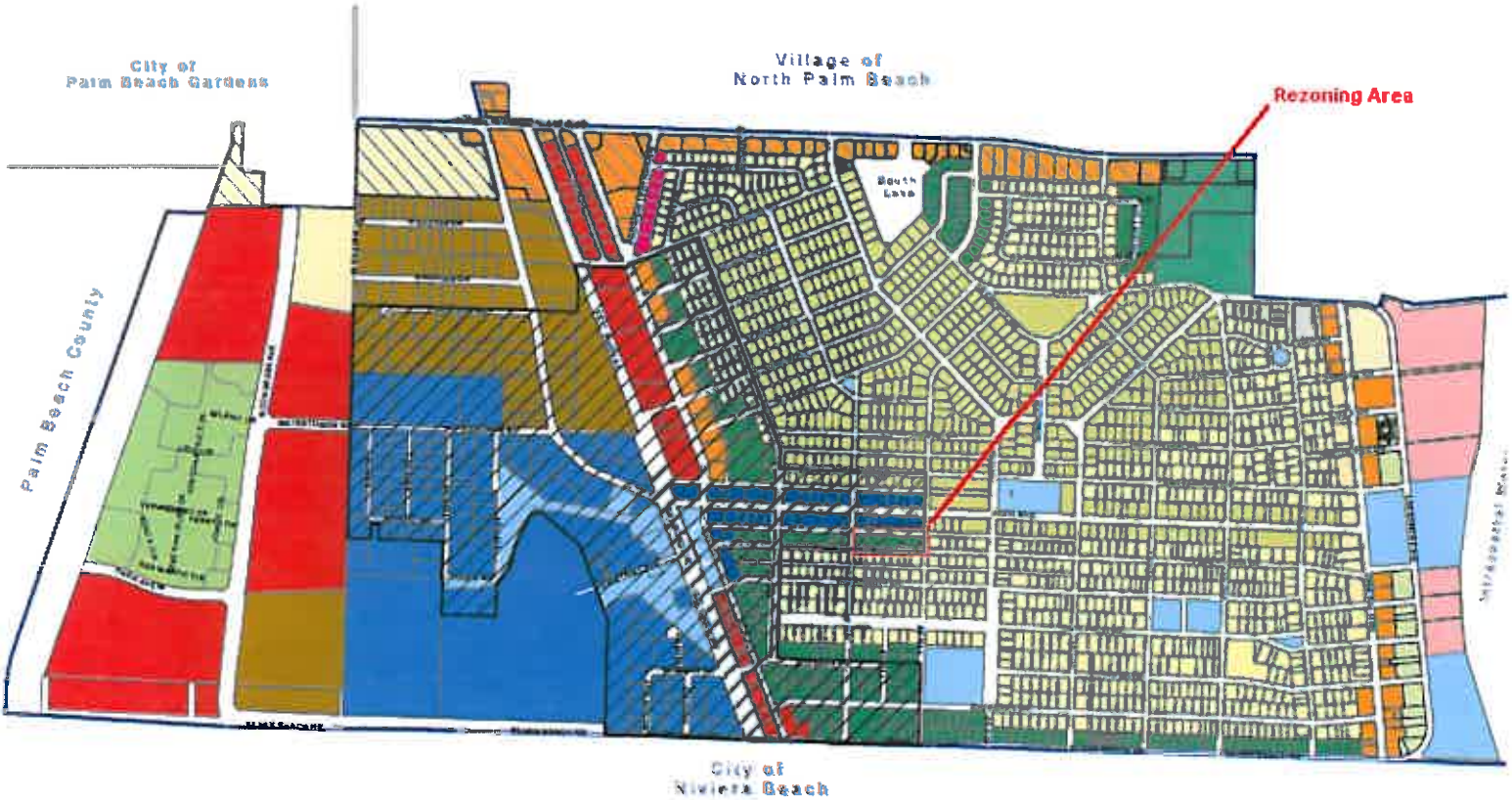
EXHIBIT "A" – Legal Descriptions

711 Foresteria Drive: KELSEY CITY LTS 44 TO 46 INC BLK 10

725 Foresteria Drive: KELSEY CITY LTS 29 TO 43 INC BLK 1

761 Foresteria Drive: KELSEY CITY LTS 25 TO 28 INC BLK 10

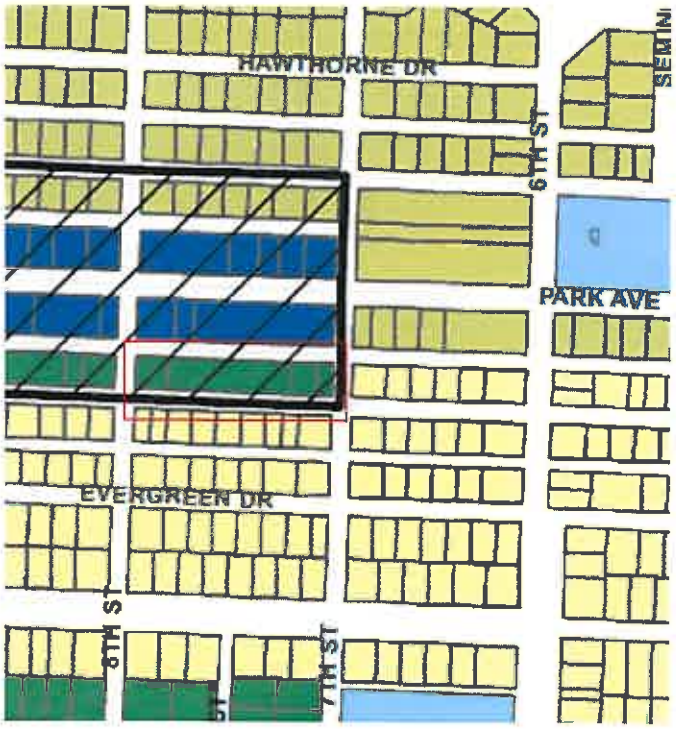
EXHIBIT "B" – Town of Lake Park Zoning Map/Location Map



Legend

CRA Boundaries

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



NO. 71233

LEGAL NOTICE OF
PROPOSED ORDINANCE
TOWN OF LAKE PARK

Please take notice that on Wednesday, December 19, 2012 at 7:00 p.m., or soon thereafter the Town Commission of the Town of Lake Park, Florida is a regular Session to be held in the Commission Chambers, Town Hall, 535 Park Avenue, Lake Park, Florida will consider the following Ordinances on second reading and proposed adoption thereof:

ORDINANCE NO. 10-2012

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE FUTURE LAND USE MAP AND THE FUTURE LAND USE DESIGNATION OF PARCELS OF REAL PROPERTY HAVING THE PROPERTY ADDRESSES OF 711, 725 AND 761 FORESTERIA DRIVE AND OWNED BY THE TOWN'S COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE NO. 11-2012

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REZONING THREE PARCELS OF REAL PROPERTY LOCATED AT 711, 725, AND 761 FORESTERIA DRIVE FROM RESIDENTIAL 2 (R2) TO PUBLIC DISTRICT (P); PROVIDING FOR AN AMENDMENT TO SECTION 78-76 OF THE TOWN CODE WHICH INCORPORATES BY REFERENCE THE ZONING MAP OF LAKE PARK REFLECTING THE CHANGE IN ZONING TO THE PUBLIC ZONING DISTRICT OF THE PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

If a person desires to appeal any decision made by the Town Commission with respect to any matter, 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 Lemley, Town Clerk at 561-881-3311.

Vivian Mendez Lemley, Town Clerk
Town of Lake Park, Florida
PUB: The Palm Beach Post
December 9, 2012

$258.00 for both Ordinances.

Ordinance on First Reading

TAB 8

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: December 19, 2012 **Agenda Item No.** Tab 8

Agenda Title: Request for a text amendment to Section 78-148 (a) to reduce the distance separation between gas stations from 1,200 feet to 500 feet.

[ ]	CONSENT AGENDA	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[ ]	RESOLUTION
[ ]	PUBLIC HEARING	**[X]**	**ORDINANCE ON 1st READING**
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager DSS **Date:** 12/10/12

Nadia Di Tommaso / *Community Development Director* ND
Name/Title

Originating Department: **Community Development**	Costs: $ **0.00** Funding Source: Acct. # [ ] Finance _____	**Attachments:** ➔ **Staff Report** ➔ **Exhibit "A" – Existing Code Sections** ➔ **Exhibit "B" – Environmental Letter** ➔ **Exhibit "C" – Existing Gas Stations Spreadsheet** ➔ **Ordinance 12-2012**
Advertised: Date: ***N/A for 1st reading*** Paper: _____ [ ] 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___*ND*____ or Not applicable in this case ____ **Please initial one.**

Summary Explanation/Background:

See Staff Report.

Town of Lake Park
Community Development Department

Meeting Date: *December 19, 2012*

To: TOWN COMMISSION

Re: Text Amendment to Section 78-148 (a) to reduce the distance separation between gas stations from 1,200 feet to 500 feet.

Applicant: Town of Lake Park

SUMMARY

At the Town Commission meetings of October 3 and 17, 2012, Mr. Nader Salour, as the agent for Congress Avenue Properties Ltd., asked the Town Commission to modify Section 78-148 (a) (Exhibit "A") of the Town Code to modify the Code's requirement of a 1,200 foot separation between gasoline/oil filling stations. An environmental consultant, Mr. Roberto Balbis, also addressed the Commision regarding this Code requirement and submitted a letter dated September 6, 2012, providing justification for Congress Avenue Properties Ltd.'s request (Exhibit "B").

Staff has prepared a spreadsheet outlining the various gas stations in Town and their distances from one another (Exhibit"C"). Staff has determined that there are three existing gas stations within the Town's boundaries that do not currently comply with the 1,200 foot distance separation as required by the Town Code. Two of these stations were built prior to the effective date (1966) of the Town Code's separation requirement. The third station, Sunoco at 980 Northlake Boulevard, was constructed in 1983, after the effective date of the Code provision which requires separation between facilities. There is no written variance or development order which exists to justify the siting of this gas station in conflict with the Code. It is important to note that with respect to the siting of gas stations along Northlake Boulevard, the zoning regulations contained within the Northlake Boulevard Overlay Zone (NBOZ) apply. Specifically, Chapter 78, Appendix A, Section 2-3(2) of the Town of Lake Park Code of Ordinances requires that automobile service stations located on Northlake Boulevard be separated by a minimum of 500 feet.

At the October 17th, 2012 Town Commission meeting, the Town Commission made a motion directing staff to pursue a Code text amendment to Section 78-148(a) reducing the distance **between two gasoline and oil filling station or service station** from 1,200 feet to 600 feet. However, because the NBOZ section referenced herein above establishes a separation of 500 feet between auto service stations, staff is recommending that Section 78-148(a) be amended to require only a 500 foot separation between gasoline and oil filling or service stations.

P&Z RECOMMENTATION: Approved 4-0.

Recommended Motion: Staff recommends that the Town Commission approve a motion to amend Section 78-148(a) to reduce the distance separation **between gasoline and oil filling station or service station** from 1,200 feet to 500 feet.

Exhibit "A" – Existing Code Sections

Proposal to reduce from 1,200 to 500 feet.

Sec. 78-148. - Gasoline and filling stations—Prohibited near certain uses.

(a)

Prohibition. No gasoline and oil filling station and no service station shall be erected within 1,200 feet of any church, hospital, school or other similar institution, **or within 1,200 feet of location of another gasoline and oil filling station or service station located within the town**.

(b)

Method of measurement. The method of measurement that shall apply in such cases shall be by measurement of the air-line distance made or taken from the nearest boundary of the lot or premises where such existing station is located to such building or structure used as a church, hospital, school or other similar institution or to the boundary of the lot or premises where another station is to be erected. Nothing in this section shall prohibit the operation of existing gasoline or reconstruction of any presently existing gasoline and oil filling stations or service stations.

(c)

Exception. This section shall not apply to any automobile service station and permitted ancillary uses located in the C-3 zoning district.

Northlake Boulevard Overlay Zone (NBOZ) Regulations

Sec. 2-3. - Use definitions and supplemental regulations.

(2)

Automotive service station means an establishment engaged in the retail sale of gasoline or other motor fuels, which may include accessory activities such as the sale of automotive accessories or supplies, the lubrication of motor vehicles, the minor adjustment or minor repair of motor vehicles. An automotive service station shall be subject to the following supplementary use standards:

(c)

There shall be a minimum separation distance of **500 feet from the nearest points of property lines for a parcel developed for use as an automobile service station** and a parcel occupied by a church, school or hospital.

For reference only.

Exhibit "B" – Environmental Letter

Ardaman & Associates, Inc.

Geotechnical, Environmental and
Materials Consultants

AAI File No. 12-2179
September 6, 2012

Congress Avenue Properties
4500 PGA Boulevard, Suite 207
Palm Beach Gardens, Florida 33418

Attention: Nader Salour

ENVIRONMENTAL ISSUES
PARCEL 34.03D SERVICE STATION PROJECT
LAKE PARK, FLORIDA

The captioned project consists of the construction of a service station for distribution of vehicular fluids and other goods on the east side of Congress Avenue, north of the future extension of Park Avenue, in Lake Park, Florida. The location of this service station will be less than 1,200 feet from the location of the existing Murphy USA #7362 station which is located on the west side of Congress Avenue.

It is our understanding that Lake Park has a stipulation that no gasoline dispensing station can be established within 1,200 feet of an existing one. It is believed that this restriction was made in consideration to the concentration of potential sources of contamination in a small area of the town. This restriction was apparently set more than 40 years ago. It is apparent that it has not been uniformly applied (if at all), since some stations in Lake Park are closer than 1,200 feet apart.

Contamination in service stations is mainly caused by leakage from aging, single wall underground steel tanks and distribution lines which tend to corrode. Gasoline products tend to remain at the top of the groundwater table and move in the direction of groundwater flow. Certain products persist and may reach hundreds of feet from the source pending the velocity of groundwater flow.

We note that drastic changes took place in the 1990's in regards to the use of underground storage tanks because of concerns with regards to the deterioration of surficial aquifers due to contamination from petroleum products. Thus, Chapter 62-761, Florida Administrative Code called for the replacement of all single wall underground steel tanks pending their age, so that very old tanks would be replaced by 1998 and newer tanks by 2009. New technology has permitted the replacement of such tanks with double-walled fiberglass tanks. These are basically a regular storage tank inside a larger, empty tank, with the space between the walls serving as containers of any spill from the interior container where the fluid is stored. Sensors are installed to detect leaks as soon as possible. Distribution lines are similarly protected.

New service stations such as the nearby Murphy USA #7362 and the proposed service station are constructed with double wall appurtenances and sensors. Stations are inspected regularly by the Florida Department of Environmental Protection to check for violations in operating procedures.

Exhibit "C" – Existing Gas Stations Spreadsheet

GAS STATION DISTANCE SEPARATION RESEARCH

Name	Address	Year Building Constructed	Date of Opening	Distance *(Measured to the closest station IN LAKE PARK)*
Murphy Oil USA #7362 (WALMART)	103 N. Congress	2006	7/23/2008	Walmart to B.P.: **7392 feet**
Hess Express #09240 (B.P. GAS)	1216 Northlake	2001	8/23/2002	
Northlake AutoCare	1000 Northlake	1965	9/16/2003	B.P. to Northlake Auto Care: **528 feet**
Assume 1st Inc. (SUNOCO)	980 Northlake	1983	9/12/2008	Northlake Auto Care to SUNOCO: **272 feet**
Pit Stop Food Mart (VALERO)	1401 10th St	1961	3/1/2006	SUNOCO to VALERO: **1056 feet**
Hayma Enterprise (TEXACO)	917 10th St	1964	5/17/2011	VALERO to TEXACO: **1584 feet**
Longrun Oil Corp (VALERO)	140 N. Fed. Hwy	1960	7/3/2003	TEXACO to VALERO (US.1) : **8976 feet**
Chaves Lakes Park Corp (7-ELEVEN)	1220 N. Federal	1990	9/5/2006	VALERO (US.1) to 7-ELEVEN: **3696 feet**

ORDINANCE NO. 12-2012

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING SECTION 78-148(a) OF THE TOWN OF LAKE PARK CODE OF ORDINANCES TO REDUCE THE DISTANCE SEPARATION BETWEEN GASOLINE AND FILLING STATIONS USES FROM 1,200 FEET TO 500 FEET; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, the Town Commission has also adopted supplemental district regulations pertaining to gasoline and filling station uses which have been codified in Chapter 78, Article V of the Code of Ordinances of the Town of Lake Park; and

WHEREAS, Town staff is recommending a zoning Code text amendment to Chapter 78, Article V, Section 78-148(a) to reduce the distance separation between gas stations from 1,200 feet to 500 feet; and

WHEREAS, Town staff has reviewed the zoning Code text amendment and has recommended that Town Code Section 78-148(a) be amended to reduce the distance separation between gas stations from 1,200 feet to 500 feet; and

WHEREAS, the Town's Planning and Zoning Board, following a public hearing, has recommended that the Town Code be amended to reduce the separation requirement between gasoline and filling station uses from 1,200 feet to 500 feet; and

WHEREAS, the Town Commission has considered and accepted the

recommendations of the Town staff and the Planning and Zoning Board and has determined that a reduction in the distance separation between gasoline and filling station uses would further the public health, safety and general welfare.

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

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

Section 2. Chapter 78, Article V, Section 78-148(a) of the Code of Ordinances of the Town of Lake Park, Florida is hereby amended to read as follows:

Sec. 78-148(a) - Gasoline and filling stations—Prohibited near certain uses.

(a)

Prohibition. No gasoline and oil filling station and no service station shall be erected within 1,200 feet of any church, hospital, school or other similar institution, or within ~~1,200~~ 500 feet ~~of location~~ of another gasoline and oil filling station or service station located within the town.

Section 3. **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 4. **Repeal of Laws in Conflict**. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 5. **Codification.** The provision of this Ordinance shall become and be made a part of the Code of Ordinances for the Town of Lake Park. The Sections of the Ordinance may be re-numbered or re-lettered to accomplish such.

Section 6. **Effective date.** This Ordinance shall take effect immediately upon passage.

TAB 9

Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: December 19, 2012 **Agenda Item No.** Tab 9

AGENDA TITLE: Request for a text amendment in the Park Avenue Downtown District (PADD) Sign Code to modify the language whereby it would increase the permitted awning signage height in Table 78-70-7 from 6 inches to 10 inches and provide for uniformity throughout contiguous plazas.

[ ]	CONSENT AGENDA	[ ]	DISCUSSION/POSSIBLE ACTION
[ ]	PRESENTATION/PROCLAMATION	[ ]	RESOLUTION
[ ]	PUBLIC HEARING	**[X]**	**ORDINANCE ON 1st READING**
[ ]	BID/RFP AWARD	[ ]	OTHER:

Approved by Town Manager DJS **Date:** 12/10/12

Nadia Di Tommaso / *Community Development Director* ND
Name/Title

Originating Department: **Community Development**	Costs: **$ 0.00** Funding Source: Acct. # [ ] Finance _____	**Attachments:** ➔ **Staff Report** ➔ **Ordinance 13-2012**
Advertised: Date: ***N/A for 1st reading*** Paper: _____ [ ] 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___*ND*____ or Not applicable in this case ____ **Please initial one.**

Summary Explanation/Background:

See Staff Report.

Town of Lake Park
Community Development Department

Meeting Date: **December 19, 2012**

To: TOWN COMMISSION

Re: Text Amendment- Amending the language in the Park Avenue Downtown District (PADD) Sign Code

Applicant: **Town of Lake Park**
Address: **Park Avenue Downtown District**
Re: **Amending the PADD Sign Code to increase the permitted awning signage height in Table 78-70-7 of Section 78-70 from 6 inches to 10 inches and provide for uniformity throughout contiguous plazas.**

SUMMARY

The Town staff recommends an amendment to the text contained in Table 78-70-7 which sets forth the permitted signs within the Park Avenue Downtown District (PADD).

Currently, Section 78-70 does not permit the letters of awning signs to exceed 6 inches. Some of the plazas off of Park Avenue and 10th Street have fixed awning signs with 10 inch letters. It may be that some of these signs were installed quite some time ago and possibly under different codes. When the PADD was adopted, it did not provide for an amortization schedule which would have required the signs of these businesses to be brought into compliance with the regulations established in the PADD. Consequently, the businesses which had signs prior to the adoption of the PADD were never required to replace their signs with signs which conformed to the PADD regulations. New businesses, however, are required to meet the requirements of the PADD which limits the letters of signs to six inches thereby creating a conflict between businesses.

Staff proposes a text amendment to change the 6 inch sizing limitation to 10 inches for awning signs in the PADD sign code. The 10 inches would remain consistent with the Town's overall signage as long as the sign area is in proportion to the size of the awning. It is important to take note that the 10 inches is a *maximum* and this size is dependent on the size of the awning and the proposed sign's proportionality to the awning.

Staff is of the opinion that perhaps this inconsistency between sign codes was overlooked when the PADD signage code was adopted. Rather than requiring the businesses which have signs with letters which exceed six inches to conform to the PADD, **staff is recommending a text amendment to allow awning signs with letters of up to 10 inches. The proposed amendment is for the section of the Code shown on page 2.**

Planning and Zoning Board (P&Z) RECOMMENDATION: The P&Z heard this item at its November 5th, 2012 meeting. The Board members voted unanimously to approve the amendment to Table 78-70-7 in Section 78-70 to increase the awning size limitation from 6 inches to 10 inches. Additionally, the motion included a provision to incorporate "uniformity" language in this same section of the Code to ensure that all contiguous awnings, regardless of building ownership, are required to match. Staff expanded on this proposal in its recommended motion on the following page.

Recommended Motion:

Staff recommends that the Town Commission adopt a motion to amend Table 78-70-7 of Section 78-70 to allow the letters of awning signs within the PADD to have a maximum height of 10 inches and provide for uniformity throughout contiguous plazas. Uniformity would apply to all buildings that abut one another. The criteria to determine uniformity would include, but is not limited to: color scheme, pattern selection, size of awning and size of signage.

(Sec. 78-70)

PROPOSED
TEXT AMENDMENT

Table 78-70-7

Sign Type	Maximum Size	Maximum Number	Copy Limit	Other Limits
Awning Sign	In proportion to the size of the awning	-	Business name, address, phone number, and logo, and words depicting the nature of the business (letters shall not be more than 50% of the height of the letters depicting the business name)	*Letters, numbers, and logo shall not exceed ~~6~~ 10-inches in height and shall remain uniform throughout all contiguous plazas. Uniformity would apply to all buildings that abut one another. The criteria to determine uniformity would include, but is not limited to: color scheme, pattern selection, size of awning and size of signage.
-	-	-	-	*Located only on a valance

ORDINANCE NO. 13-2012

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING TABLE 78-70-7, WHICH IS CONTAINED WITHIN SECTION 78-70 OF THE TOWN'S CODE OF ORDINANCES WHICH PERTAINS TO AWNING SIGNS, BY INCREASING THE SIZE OF LETTERS, NUMBERS, AND LOGOS FROM SIX INCHES TO TEN INCHES AND PROVIDING FOR UNIFORMITY THROUGHOUT CONTIGUOUS PLAZAS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Town Commission has adopted zoning districts which pertain to the development of land, and these districts have been codified in Chapter 78 of the Code of Ordinances of the Town of Lake Park; and

WHEREAS, the Town Commission has codified the Park Avenue Downtown District (PADD) in Chapter 78, as Article III, Section 78-70 of the Code of Ordinances of the Town of Lake Park; and

WHEREAS, Town staff is recommending the amendment of Chapter 78, Article III, Section 78-70, pertaining to awning signs; and

WHEREAS, the Town staff has recommended that Table 78-70-7 which is contained within Section 78-70 be amended to increase the size of letters, numbers, and logos in awning signs from six inches to ten inches and provide for uniformity throughout contiguous plazas; and

WHEREAS, the Town's Planning and Zoning Board has recommended that the Town Commission accept the staff's recommendation and amend Town Code Section 78-70, Table 78-70-7; and

WHEREAS, the Town Commission, after review of the recommendations from Town staff and the Planning and Zoning Board, and after due notice and public hearings, deems it to be in the interest of the public health, safety and general welfare to amend the Town's Code to provide for such additional regulations.

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

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

Section 2. Chapter 78, Article III, Section 78-70, Table 78-70-7 of the Code of Ordinances of the Town of Lake Park, Florida is hereby amended to read as follows:

TABLE 78-70-7 – Permitted Signs

Sign Type	Maximum Size	Maximum Number	Copy Limit	Other Limits
Awning Sign	In proportion to the size of the awning	-	Business name, address, phone number, and logo, and words depicting the nature of the business (letters shall not be more than 50% of the height of the letters depicting the business name)	*Letters, numbers, and logo shall not exceed ~~6~~ 10-inches in height and shall remain uniform throughout all contiguous plazas. Uniformity would apply to all buildings that abut one another. The criteria to determine uniformity would include, but is not limited to: color scheme, pattern selection, size of awning and size of signage.
-	-	-	-	*Located only on a valance

Section 3. **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 4. **Repeal of Laws in Conflict**. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 5. **Codification.** The provision of this Ordinance shall become and be made a part of the Code of Ordinances for the Town of Lake Park. The Sections of the Ordinance may be re-numbered or re-lettered to accomplish such.

Section 6. **Effective date.** This Ordinance shall take effect immediately upon passage.