

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: March 17, 2009

Consent Regular
 Public Hearing

Department:

Submitted By: **ADMINISTRATION**

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file:

A) Resolution No. 2009-003 of the Town of Loxahatchee Groves, Florida expressing its support for the Florida Legislature to repeal Section 10(5) of Chapter 2007-67, Laws of Florida, which enacted a moratorium on the ability of a municipality, county, or other unit of local government's right to adopt regulations governing the right to purchase, sell, use, or possess consumer fireworks;

B) Resolution No. 58-08 of the City Commission of the City of Delray Beach, Florida, opposing and protesting the efforts of Palm Beach County to deny the City's water and sewer utility the same rate-setting authority granted to all municipalities in the State of Florida that operate water or sewer utilities outside their municipal boundaries; and

C) Resolution No. 2009-1682 of the City Commission of the City of Lighthouse Point, Florida, supporting House Bill 189 and Senate Bill 922, pertaining to the regulation of specific breeds of dogs, urging municipalities throughout Broward County and the State of Florida to support House Bill 189 and Senate Bill 922; urging greater efforts to protect the general public from dangerous dogs; directing the City Clerk to transmit a copy of this Resolution to the Governor, the Broward Legislative Delegation, and other members of the Florida Legislature, as well as all municipalities located within Broward and Palm Beach counties and the Board of County Commissioners for Palm Beach and Broward counties.

Summary: N/A

Background and Justification: N/A

Attachments: Original Documents

Recommended By: Patty Hndle

Agenda Coordinator

Date

2/19/09

Approved By: N/A

Assistant County Administrator

Date



Town of Loxahatchee Groves

14579 Southern Boulevard • Suite 2 • Loxahatchee Groves, Florida 33470 • Phone: 561.793.2418 • clerk@loxahatcheegroves.org

February 6, 2009

RECEIVED

FEB 17 2009

DENISE M. NIEMAN
P.B. COUNTY ATTORNEY

Commissioner Addie Greene
Palm Beach County Commission
301 North Olive Avenue
Suite 1201
West Palm Beach, FL 33401

Dear Commissioner Greene,

On behalf of the Town Council of the Town of Loxahatchee Groves, I hereby transmit Resolution 2009-003 for your consideration.


The Town Council is expressing its support for the Florida Legislature to repeal Section 10(5) of Chapter 2007-67, Laws of Florida, which enacted a moratorium on the ability of a municipality, county, or other unity of local government's right to adopt regulations governing the right to purchase, sell, use or possess consumer fireworks.

As you will see with the attached Palm Beach Post article, this issue has had a direct impact on the Town of Loxahatchee Groves.

We are requesting your support on this very important issue.

Should you need any addition information, please contact the Town Management office of the Town of Loxahatchee Groves at 561-793-2418.

Thank you,


Matthew Lippman,
Town Clerk, Loxahatchee Groves

cc: Governor Charlie Crist, State of Florida
Larry Cretul, Speaker of the Florida House of Representatives
Jeff Atwater, President of the Florida Senate
Bill McCollum, Office of the Florida Attorney General
U.S. Senator Mel Martinez
U.S. Senator Bill Nelson
U.S. Representative Tom Rooney
State Representative Joseph Abruzzo
Florida League of Cities
Palm Beach County League of Cities
Members of the Palm Beach County Legislative Delegation
Robert Weisman, Palm Beach County Administrator
Members of the Palm Beach County Commission
Mayors of Palm Beach County Municipalities
Michele Damon, President of Indian Trails Improvement District
Clete Saunier, Administrator of Loxahatchee Groves Water Control District

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2009-003

A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA EXPRESSING ITS SUPPORT FOR THE FLORIDA LEGISLATURE TO REPEAL SECTION 10(5) OF CHAPTER 2007-67, LAWS OF FLORIDA WHICH ENACTED A MORATORIUM ON THE ABILITY OF A MUNICIPALITY, COUNTY, OR OTHER UNIT OF LOCAL GOVERNMENT'S RIGHT TO ADOPT REGULATIONS GOVERNING THE RIGHT TO PURCHASE, SELL, USE, OR POSSESS CONSUMER FIREWORKS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2007, the Florida Legislature passed Chapter 2007-67, Laws of Florida, which, in part, established the Consumer Fireworks Task Force ("Task Force") to study issues relating to the use of fireworks; and

WHEREAS, in addition to the establishment of the Task Force, Section 10(5) of Chapter 2007-67, Laws of Florida, specifically prohibited a municipality, county, or other unit of local government from adopting "... an ordinance, rule, or regulation, or other law after May 8, 2007, which directly prohibits or directly interferes with safety standards established by state law or the right to purchase, sell, use, or possess consumer fireworks in this state." (the "Moratorium"); and

WHEREAS, pursuant to Chapter 2007-67, Laws of Florida, if the Legislature had enacted legislation to provide for the comprehensive regulation of fire prevention and safety standards for the use of consumer fireworks on or before July 1, 2008, a municipality would have been permitted to adopt an ordinance regulating the right to purchase, sell, use or possess consumer fireworks; and

WHEREAS, on January 15, 2008, the Task Force submitted its final report; however, the Florida Legislature has not passed legislation to repeal the Moratorium, and as a result municipalities, counties, and other units of local government are unable to properly regulate the purchase, use, sale, and possession of consumer fireworks within their respective jurisdiction; and

WHEREAS, the Town of Loxahatchee Groves (the "Town"), like other local governments within the State of Florida has the authority under its home rule power to adopt regulations that are not inconsistent with the Florida Constitution or Florida Statutes; and

WHEREAS, the Town is a rural municipality, with many of its residents raising birds, horses, and other animals which are adversely affected by the use of fireworks; and

WHEREAS, the residents of the Town also seek peace and quiet, and would like to limit

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2009-003

the unauthorized use of consumer fireworks within the Town; and

WHEREAS, the Town Council finds that it would be in the best interest of the citizens and residents of the Town to have the legislature repeal the Moratorium which is currently in place with respect to a local government's ability to enact an ordinance which would regulate an individual's right to purchase, sell, use, or possess consumer fireworks; and

WHEREAS, the Town Council of the Town of Loxahatchee groves desires to communicate its findings to the Governor, the Senate President, and the Speaker of the House of the State of Florida, in an effort to have the Legislature repeal the Moratorium.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA AS FOLLOWS:

Section 1. The foregoing "WHEREAS" clauses are confirmed and ratified as being true and correct and are hereby incorporated herein.

Section 2. The Town Council of the Town of Loxahatchee Groves, Florida hereby expresses its support for the repeal of the moratorium contained in Section 10(5) of Chapter 2007-67, Laws of Florida, in order to provide municipalities, counties, and other units of local government to adopt ordinances or other regulations governing the purchase, sale, use, or possession of consumer fireworks in the State of Florida, and respectfully requests that the Florida Legislature consider the adoption of such legislation during the 2009 legislative session.

Section 3. The Town Clerk is directed to forward a copy of this Resolution to Governor Charlie Crist, the President of the Florida Senate, the Speaker of the House of the Florida State House of Representatives, the Chair and Members of the Palm Beach County Legislative Delegation, the Executive Director of the Palm Beach County Legislative Delegation, the Chair of the Palm Beach County Board of County Commissioners, each County Commissioner, the County Administrator, and the President of the Florida League of Cities.

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2009-003

Section 4. All Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5. If any clause, section, or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and will in no way affect the validity of the remaining portions or applications remaining in full force and effect.

Section 6. This Resolution shall become effective immediately upon its passage and adoption.

ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 3rd day of February 2009.

TOWN OF LOXAHATCHEE GROVES,
FLORIDA


ATTEST:


TOWN CLERK

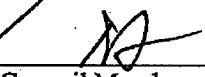

Mayor David Browning


Vice Mayor Marge Herzog

APPROVED AS TO LEGAL FORM:


Office of the Town Attorney


Council Member


Council Member


Council Member

SSG:DNT:dnt

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Rare bird, spooked by fireworks, thrashes itself to death

By DON JORDAN

Palm Beach Post Staff Writer

Thursday, January 01, 2009

LOXAHATCHEE GROVES — Fireworks used to ring in the New Year instead led to a horrific scene at a local wildlife conservation center, officials said.

Workers at the Rare Species Conservatory Foundation doing a routine morning check-up today discovered a dead red-browed Amazon parrot with severe head and face injuries.



Red-browed Amazon
parrot

It was obvious from the bird's injuries that it had thrashed itself to death against its enclosure, said Paul Reillo, director of the conservation center.

The parrot was part of a recovery project to breed the rare species and reintroduce it to its natural habitat in the lowland humid forests of Brazil. The wild population is estimated to be between 1,000 and 2,500 birds, according to Birdlife International, an international conservation organization.

Reillo said the birds and other animals always get spooked by the fireworks, but this is the first time an animal has reacted so violently.

"We're doing everything we can to save these species and the lack of enforcement on fireworks regulations is basically undoing our best efforts," he said. "In the middle of the night, they're not expecting blasts and fireworks and gunshots. It's getting worse every year."

All but two of the entire North American population of the bird in captivity live at the conservation center. The male parrot that died was healthy and "essential to the breeding program," Reillo said.

"It's genetics were well-documented," he said. "This guy could have lived to be 50 or 60 years old and could have produced a generation of wildlife. The tragedy is that this animal's life is sacrificed for absolutely no reason."

Law enforcement officials said they are aware of the fireworks problem in the western communities, where the loud blasts agitate horses and other animals, but have a hard time enforcing the regulations. Fireworks that leave the ground or explode are illegal, but loopholes exist, such as using the fireworks to frighten birds away from agricultural areas.

An officer must observe a person firing off illegal fireworks in order to take action, Palm Beach County Sheriff's Office spokeswoman Teri Barbera said.

Deputies often meet with local homeowners associations before the Fourth of July to discuss fireworks regulations and safety, she said.

"It's been an ongoing problem out there," said Barbera, adding that there were more fireworks going off near her Royal Palm Beach home on New Year's Eve than she had "ever seen in years past."

Wellington resident Kathy Bozich counted down to the New Year from her horse Kapoen's stable on Draft Horse Lane Wednesday night, fearing a repeat of the "major issues" she had this summer.

"The Fourth of July was like bombs going off," Bozich said. "He went berserk."

Reillo said the public needs to be aware of the potential consequences of shooting off illegal fireworks.

"Any excuse for a holiday, and it's like Baghdad out here," he said. "It comes at a terrible cost."

RECEIVED FEB 10 2009

CITY OF DELRAY BEACH



100 N.W. 1st AVENUE • DELRAY BEACH, FLORIDA 33444 • 561/243-7000

OT
FEB - 5 2009

February 3, 2009

The Honorable Jeff Koons
County Commissioner
301 N. Olive Ave., 12th Floor
West Palm Beach, 33401

Dear Commissioner Koons:

Please find attached **Resolution No. 58-08** objecting to efforts by Miami-Dade County to modify Section 180.191, Florida Statutes, to eliminate the rights of a municipal utility to assess surcharges to customers outside its municipal boundaries. The City Commission passed and adopted Resolution No. 58-08 at the Regular Commission Meeting of November 18, 2008.

If we can be of any assistance to you, please call the office 8:00 a.m. - 5:00 p.m. Monday through Friday at (561) 243-7050.

Sincerely,

Handwritten signature of Chevelle D. Nubin.

Chevelle D. Nubin, CMC
City Clerk

CDN/kw

Attachment

RESOLUTION NO. 58-08

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, OPPOSING AND PROTESTING THE EFFORTS OF PALM BEACH COUNTY TO DENY THE CITY'S WATER & SEWER UTILITY THE SAME RATE-SETTING AUTHORITY GRANTED TO ALL MUNICIPALITIES IN THE STATE OF FLORIDA THAT OPERATE WATER OR SEWER UTILITIES OUTSIDE THEIR MUNICIPAL BOUNDARIES.

WHEREAS, Section 180.191, Florida Statutes, grants every municipality in Florida that operates water & sewer systems outside their own boundaries the right to establish water & sewer rates for outside city customers that include a surcharge up to 25% without a special public hearing and up to 50% with a special public hearing; and

WHEREAS, the surcharge permitted by the state recognizes and justifiably offsets the capital costs and burden carried by a municipality's tax paying citizens to enable the acquisition, maintenance and operation of its water & sewer utility and, therefore, provide quality water & sewer services for non residents and non-municipal taxpayers; and

WHEREAS, the City of Delray Beach has been appropriately collecting the statutory surcharge pursuant to §180.191 since 1998; and

WHEREAS, the City of Delray Beach's water & sewer utility continues to provide high quality water & sewer service to outside city customers, which enables economic development in its service area and enhances the quality of life of its customers.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are true and correct.

Section 2. The City of Delray Beach opposes any change in the city's water & sewer utility rate making authority as established by the Florida Legislature in §180.191, Florida Statutes.

Section 3. The City of Delray Beach opposes any discriminatory action that would treat its water & sewer utility rate making authority differently from the authority granted every other municipality in the state that operates a water & sewer utility outside its corporate boundaries.


Section 4. The City Clerk is hereby directed to send a copy of this Resolution to the Board of County Commissioners, the Legislative Delegation, the Florida Senate, Speaker of the House of Representatives, Florida Governor Charlie Crist, and the legislative leadership at the Florida League of Cities, Inc.

PASSED AND ADOPTED in regular session on the 18th day of November, 2008



MAYOR

ATTEST:


City Clerk

CITY OF DELRAY BEACH



1993
2001

100 N.W. 1st AVENUE • DELRAY BEACH, FLORIDA 33444 • 561/243-7000

CERTIFICATION

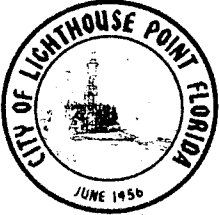
I, **CHEVELLE D. NUBIN**, City Clerk of the City of Delray Beach, do hereby certify that the attached document is a true and correct copy of **Resolution No. 58-08**, as the same was passed by the Delray Beach City Commission in regular session on the 18th of November 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the City of Delray Beach, Florida, on this the 3rd day of February, 2009.

A handwritten signature in black ink, appearing to read "Chevelle D. Nubin".

Chevelle D. Nubin, CMC
City Clerk
City of Delray Beach, Florida

(SEAL)



City of Lighthouse Point, Florida

www.lighthousepoint.com

2200 N.E. 38th Street • Lighthouse Point, FL 33064 • Phone 954-943-6500 • Fax 954-784-3446

February 11, 2009

Dear Elected Official:

Attached is a certified copy of Resolution 2009-1682, approved by the City Commission of Lighthouse Point on February 10, 2009, which expresses the City Commission's support for proposed House Bill 189 and Senate Bill 922, pertaining to the regulation of specific breeds of dogs. The proposed legislation would lift the ban on the prohibition of breed-specific regulations.

The City Commission of Lighthouse Point urges all elected officials and all municipalities throughout Broward County and West Palm Beach to join in this support.

Sincerely,

CITY OF LIGHTHOUSE POINT, FLORIDA

Carol Landau, MMC
City Clerk

**CITY OF LIGHTHOUSE POINT
FLORIDA**

RESOLUTION NO. 2009- 1682

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, SUPPORTING HOUSE BILL 189 AND SENATE BILL 922, PERTAINING TO THE REGULATION OF SPECIFIC BREEDS OF DOGS; URGING MUNICIPALITIES THROUGHOUT BROWARD COUNTY AND THE STATE OF FLORIDA TO SUPPORT HOUSE BILL 189 AND SENATE BILL 922; URGING GREATER EFFORTS TO PROTECT THE GENERAL PUBLIC FROM DANGEROUS DOGS; DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE GOVERNOR, THE BROWARD LEGISLATIVE DELEGATION AND OTHER MEMBERS OF THE FLORIDA LEGISLATURE, AS WELL AS ALL MUNICIPALITIES LOCATED WITHIN BROWARD AND PALM BEACH COUNTIES AND THE BOARD OF COUNTY COMMISSIONERS FOR PALM BEACH AND BROWARD COUNTY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Broward County, including the City of Lighthouse Point, Florida (hereinafter referred to as the "City"), has experienced a significant number of attacks by vicious dogs; and

WHEREAS, many of these attacks have resulted in the severe injury or death of the victims; and

WHEREAS, Section 767.14, Florida Statutes, expressly prevents local governments, including municipalities, from regulating against specific breeds of dogs; and

WHEREAS, Representative Perry Thurston filed House Bill 189 and Senator Tony Hill filed Senate Bill 922 proposing to lift the ban on the prohibition of breed-specific regulations; and

WHEREAS, in 2001 and 2008, similar bills were considered by the House of Representatives; however, they failed to garner enough support to be adopted; and

WHEREAS, high-profile dog attacks result in a heightened awareness of the dangers such animals pose, but there is still a great need to protect the general public from dangerous dogs; and

WHEREAS, the City Commission of the City of Lighthouse Point, Florida deems it to be in the best interests of the citizens and residents of the City and Broward County to support House Bill 189 and Senate Bill 922, proposing to lift the ban on breed-specific regulations; and further urges greater protection of the general public from dangerous dogs.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA THAT:

CITY OF LIGHTHOUSE POINT
FLORIDA

RESOLUTION NO. 2009- 1682

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

Section 2. The City Commission of the City of Lighthouse Point, Florida hereby supports House Bill 189 and Senate Bill 922, proposing to lift the statutory ban on breed-specific regulations, and urges all municipalities to join in this support. The City Commission hereby further acknowledges the need for greater protection of the general public from dangerous dogs.

Section 3. The City Clerk is hereby directed to provide a certified copy of this Resolution to the Governor of the State of Florida, the Broward County Legislative Delegation and other members of the Florida Legislature, all municipalities in Broward County and Palm Beach County, and the Board of County Commissioners for Broward County and Palm Beach County.

Section 4. All resolutions or parts of resolutions in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

Section 5. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 6. This Resolution shall become effective immediately upon its passage and adoption.

PASSED this 10th day of February, 2009.

BY: Sandy Johnson
Sandy Johnson, Commission President

ATTEST:

BY: Carol Landau
Carol Landau, MMC, City Clerk

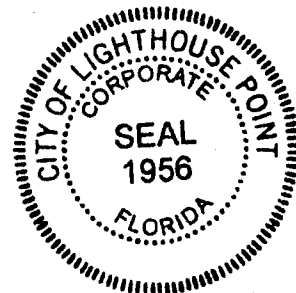
APPROVED AS TO FORM:

[Signature]
Office of the City Attorney

CERTIFICATION

I certify this to be a true and correct copy of the record in my office. WITNESSETH my hand and official seal of the City of Lighthouse Point, Florida, this the 11 day of FEBRUARY, 2009
Carol Landau City Clerk

| | Yes | No | Absent |
|--------------------------------|----------|-----|--------|
| Commission President Johnson | <u>x</u> | ___ | ___ |
| Commission Vice President Long | <u>x</u> | ___ | ___ |
| Commissioner Gordon | <u>x</u> | ___ | ___ |
| Commissioner Hasis | <u>x</u> | ___ | ___ |
| Commissioner LaMarca | <u>x</u> | ___ | ___ |



F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

HB 189

2009

1 A bill to be entitled
2 An act relating to dangerous dogs; amending s. 767.14,
3 F.S.; eliminating the prohibition of breed-specific local
4 government regulation of dangerous dogs; providing an
5 effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 767.14, Florida Statutes, is amended to
10 read:

11 767.14 Additional local restrictions authorized.--Nothing
12 in this act shall limit any local government from placing
13 further restrictions or additional requirements on owners of
14 dangerous dogs or developing procedures and criteria for the
15 implementation of this act, provided that ~~no such regulation is~~
16 ~~specific to breed and that~~ the provisions of this act are not
17 lessened by such additional regulations or requirements. This
18 section shall not apply to any local ordinance adopted prior to
19 October 1, 1990.

20 Section 2. This act shall take effect July 1, 2009.

By Senator Hill

1-00823-09

2009922

A bill to be entitled

An act relating to dangerous dogs; amending s. 767.14, F.S.; eliminating the prohibition of breed-specific local government regulation of dangerous dogs; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 767.14, Florida Statutes, is amended to read:

767.14 Additional local restrictions authorized.—Nothing in this act shall limit any local government from placing further restrictions or additional requirements on owners of dangerous dogs or developing procedures and criteria for the implementation of this act, provided that ~~no such regulation is specific to breed and that~~ the provisions of this act are not lessened by such additional regulations or requirements. This section shall not apply to any local ordinance adopted prior to October 1, 1990.

Section 2. This act shall take effect July 1, 2009.