

Agenda Item #:

4A

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: May 19, 2009

☐ Consent ☐ Regular
☒ Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: COUNTY ATTORNEY

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE, SECTION 6-21 THROUGH 6-23, CODIFYING PALM BEACH COUNTY ORDINANCE NO. 95-51, PERTAINING TO CERTAIN VESSELS IN THE LOXAHATCHEE RIVER, TO INCLUDE CERTAIN VESSELS IN LITTLE LAKE WORTH; AMENDING SECTION 6-21, DECLARATION OF LEGISLATIVE INTENT; AMENDING SECTION 6-22, DEFINITIONS; AMENDING SECTION 6-23, PROHIBITIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Summary: Residents of Palm Beach County have raised health, safety, and other concerns with regard to people living in boats in the Little Lake Worth area of the Lake Worth Lagoon. Accordingly, the Board of County Commissioners (BCC) directed staff to draft an amendment to Ordinance 95-51 to prohibit the use of boats as living quarters and restricting commercial activity on boats in Little Lake Worth. (SF)

Background and Policy Issues: On November 11, 2005, the BCC enacted Ordinance 95-51 to prohibit mooring and anchoring of live-aboard vessels in the Loxahatchee River to preserve the biological, aesthetic, and scientific value of the River. [Cont'd]

Attachments:

1. Amended Ordinance
2. Exhibit "A" – Little Lake Worth Location Map
3. Exhibit "B" – Loxahatchee River Location Map

Recommended by: _____

County Attorney

Date

5/11/09

Approved by: _____

N/A

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>X</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

* The net fiscal impact associated with this item is indeterminable at this time.

[Signature] 5/15/09
OFMB
5/15/09

[Signature] 5/15/09
Contract Development and Control

B. Legal Sufficiency:

[Signature]
Assistant County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

Background and Policy Issues, Cont'd: Recently, County and municipal residents have become concerned with the use of live-aboard vessels in the Little Lake Worth area of the Lake Worth Lagoon. Little Lake Worth is primarily located within the limits of unincorporated Palm Beach County, with a small portion lying within the municipal limits of Palm Beach Gardens. The land use surrounding the Little Lake Worth area is entirely residential. This Ordinance will prohibit the use of boats as living quarters and restrict commercial activity on boats in Little Lake Worth but will not affect the use of the area for recreational purposes.

ORDINANCE NO. 2009 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE, SECTION 6-21 THROUGH 6-23, CODIFYING PALM BEACH COUNTY ORDINANCE NO. 95-51, PERTAINING TO CERTAIN VESSELS IN THE LOXAHATCHEE RIVER, TO INCLUDE CERTAIN VESSELS IN LITTLE LAKE WORTH; AMENDING SECTION 6-21, DECLARATION OF LEGISLATIVE INTENT; AMENDING SECTION 6-22, DEFINITIONS; AMENDING SECTION 6-23, PROHIBITIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 327.60, Florida Statutes, authorizes local government authorities to enact and enforce regulations to prohibit or restrict the mooring and anchoring of live-aboard vessels used as residences and commercial places of business within their jurisdictions; and

WHEREAS, in 1995, Palm Beach County enacted Ordinance 95-51 to prevent the mooring of live-aboard vessels in the Loxahatchee River, and the Board of County Commissioners now wishes to extend that prohibition to the Little Lake Worth area of the Lake Worth Lagoon; and

WHEREAS, in order to prevent the health and safety hazards caused by the use of live-aboard vessels in Little Lake Worth, it is necessary to regulate such use; and

WHEREAS, the Board of County Commissioners desires to amend the Palm Beach Code Sections 6-21 through 6-23 as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION 1. Palm Beach County Code Chapter 6, Article II, "Vessels Prohibited in Designated Areas in Loxahatchee River", Section 21, "Declaration of legislative intent", is amended as set forth below:

(a) The Loxahatchee River area is of special and substantial public interest because of the relationship of the uses on the Loxahatchee River to the vistas, environmental character and public health, safety and welfare of the adjacent property. It is in the best interests of the public that certain vessels be prohibited or restricted because the Loxahatchee River is of unique character historically and environmentally, and requires control of these vessels as to

1 navigability in preventing potential hazards to the surrounding areas and other vessels. A
2 particular hazard is presented to public health and safety by reason of wastewater, other
3 discharges and other uses from these vessels into the Loxahatchee River when used as
4 residences or businesses. Such vessels represent a visual obstacle on the Loxahatchee River
5 and a visual intrusion that interferes with the tranquility otherwise enjoyed by adjacent
6 residential property.

7 (b) A particular hazard is presented to public health and safety by reason of
8 wastewater, other discharges and other uses from certain vessels into Little Lake Worth when
9 used as residences or businesses. Such vessels represent a visual obstacle in Little Lake Worth
10 and a visual intrusion that interferes with the tranquility otherwise enjoyed by adjacent
11 residential property.

12
13 **SECTION 2.** **Palm Beach County Code Chapter 6, "Vessels Prohibited in**
14 **Designated Areas in Loxahatchee River", Section 22, "Definitions",**
15 **is amended as set forth below:**

16 As used in this article, unless some other meaning is plainly intended:

17 Little Lake Worth means the area shown on attached Exhibit A, including all navigable
18 sections of Little Lake Worth.

19 ~~Live-aboard vessel means:~~ shall be defined as provided in Section 327.02, Florida Statutes, as
20 amended from time to time.

21 ~~(1) Any vessel used solely as a residence; or~~

22 ~~(2) Any vessel represented as a place of business, a professional or other commercial~~
23 ~~enterprise, or a legal residence.~~

24 ~~A fishing boat that is used for commercial fishing is expressly excluded from the term "live-~~
25 ~~aboard vessel."~~

26 Loxahatchee River means the area shown on attached Exhibit B A*, including all navigable
27 sections of the Loxahatchee River, but excluding the areas of the Loxahatchee River located
28 within the boundaries of a municipality.

29 Moor means to secure or attach a vessel to a fixed location by way of lines, cables or anchors,
30 or by way of beaching or grounding.

31 Person means any individual, partnership, firm, corporation, association, or other entity.

1 *Vessel* is synonymous with boat, and includes every description of watercraft, barge, and air
2 boat, other than a seaplane on the water, used or capable of being used as a means of
3 transportation on water.

4
5 **SECTION 3.** **Palm Beach County Code Chapter 6, "Vessels Prohibited in**
6 **Designated Areas in Loxahatchee River", Section 23, "Prohibitions",**
7 **is amended as set forth below:**

8 No person shall moor or anchor a live-aboard vessel in or upon the Loxahatchee River or Little
9 Lake Worth. However, it shall not be a violation of this article to moor or anchor a live-aboard
10 vessel in or upon the Loxahatchee River or Little Lake Worth:

11 (1) When the activities of the vessel's owner, operator, and any occupant are solely
12 recreational and not commercial or retail; or

13 (2) If it is necessary to moor or anchor the vessel for the sole purpose of performing
14 bona-fide emergency repairs to the vessel, and the owner, operator, or occupant of the
15 vessel uses due diligence to ensure that the bona-fide emergency repairs are completed
16 within a reasonable time; or

17 (3) If it is necessary to moor or anchor a tow vessel in connection with performing
18 bona-fide emergency repairs upon a vessel, or during preparations to tow a vessel, that
19 is incapable of moving under its own power; or

20 (4) If it is necessary to moor or anchor the vessel for the sole purpose of performing
21 dredging, or construction or repair work upon, or in connection with, adjacent upland
22 uses, when such dredging, construction or repair work is pursuant to valid applicable
23 permits.

24 (5) If the vessel is used for navigation and not solely as a residence; or

25 Notwithstanding any other provision of this section, no person shall occupy any vessel ~~as a~~
26 ~~dwelling or lodging for which a declaration of domicile has been filed pursuant to Section~~
27 ~~222.17, Florida Statutes,~~ in or upon the Loxahatchee River or Little Lake Worth, and no person
28 shall conduct any retail or other commercial activity from a vessel ~~or represent any vessel as a~~
29 ~~place of business or a professional or commercial enterprise moored or anchored~~ in the
30 Loxahatchee River or Little Lake Worth.

1 **SECTION 4. REPEAL OF LAWS IN CONFLICT:**

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3 All local laws and ordinances in conflict with any provisions of this Ordinance are
4 hereby repealed to the extent of such conflict.

5
6 **SECTION 5. SEVERABILITY:**

7 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
8 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void,
9 such holding shall not affect the remainder of this Ordinance.

10
11 **SECTION 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

12 The provisions of this Ordinance shall become and be made a part of the Palm Beach
13 County Code. The sections of this Ordinance may be renumbered or relettered to accomplish
14 such, and the word "ordinance" may be changed to "section", "article" or any other appropriate
15 word.

16
17 **SECTION 7. ENFORCEMENT:**

18 This Ordinance is enforceable by all means provided by law. Additionally, the County
19 may choose to enforce this Ordinance by seeking injunctive relief in the Circuit Court of Palm
20 Beach County.

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22 **SECTION 8. PENALTY:**

23 Any violation of any portion of this Ordinance shall be punishable as provided by law.

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25 **SECTION 9. CAPTIONS:**

26 The captions, section headings, and section designations used in this Ordinance are for
27 convenience only and shall have no effect on the interpretation of the provisions of this
28 Ordinance.

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30 **SECTION 10. EFFECTIVE DATE:**

31 The provisions of this Ordinance shall become effective upon filing with the
32 Department of State.

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APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
County, Florida, on this the ____ day of _____, 20 ____.

SHARON R. BOCK, CLERK

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
John F. Koons, Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Mark T. [Signature]
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of
_____, 20 ____.



Exhibit A: Little Lake Worth Location Map



Little Lake Worth

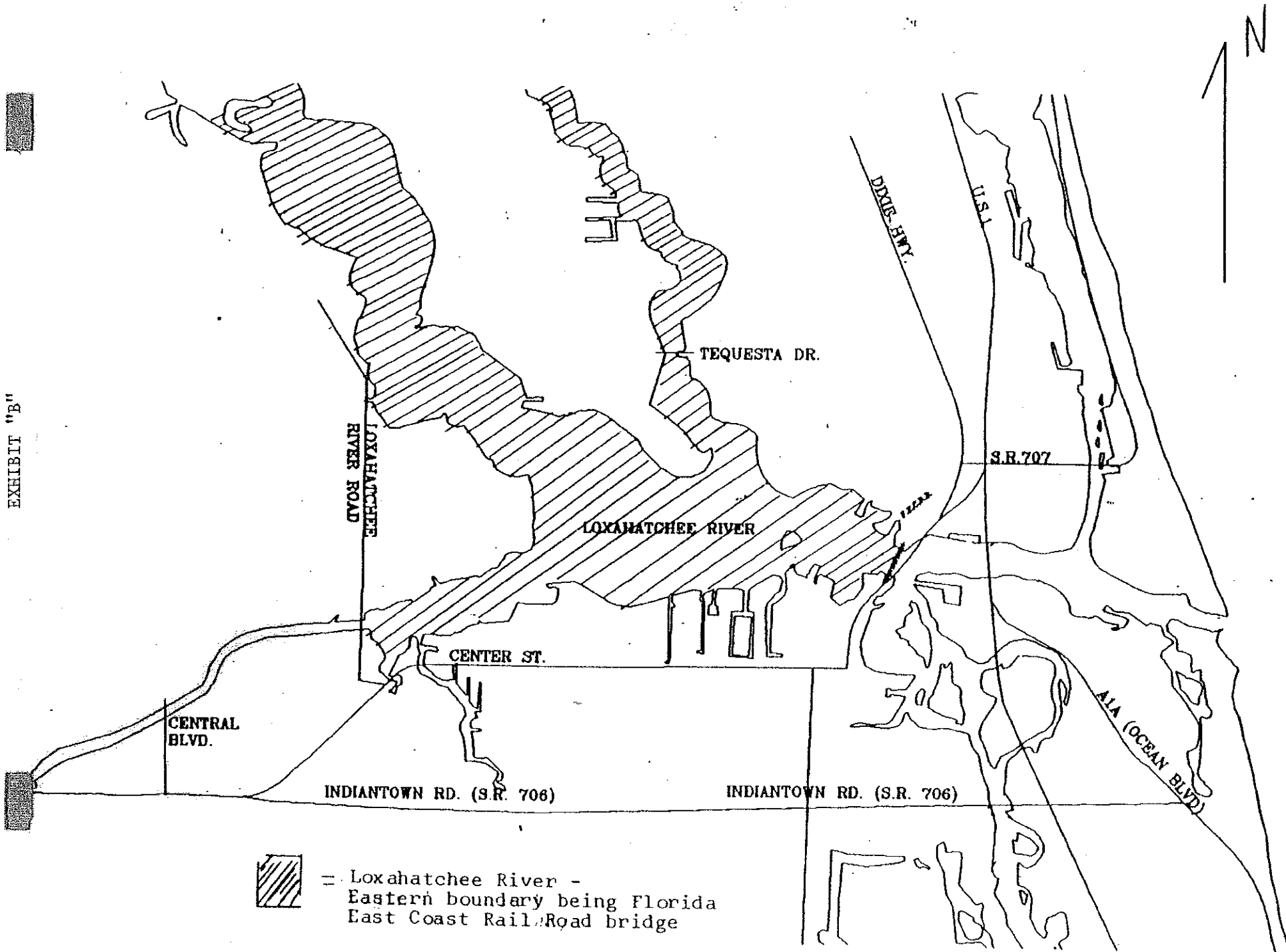
Lake Worth Lagoon

PBC Major Roads



0 500 1,000 2,000 Feet

2007 PBC Aerial Photography



FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM (CODRS) CODING FORM

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (850)245-6270 or Suncom 205-6270.

COUNTY: (Palm Beach) COUNTY ORDINANCE # ()
(e.g., 00-001)

PRIMARY KEYFIELD
DESCRIPTOR: (Live-aboard Vessels)

SECONDARY KEYFIELD
DESCRIPTOR: ()

OTHER KEYFIELD
DESCRIPTOR: ()

ORDINANCE DESCRIPTION: (Live-aboard Vessel Ordinance)
(25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT # 1: (95-51) AMENDMENT # 2: ()

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL # 1: () REPEAL # 3: ()

REPEAL # 2: () REPEAL # 4: ()

(Others repealed: List all that apply):

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: ()

KEYFIELD 1 CODE: () KEYFIELD 2 CODE: ()

KEYFIELD 3 CODE: () Rev. 4/10/04