

3J-1

Agenda Item #:

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: June 7, 2011

Consent Regular
 Workshop Public Hearing

Department: Planning, Zoning & Building

Submitted By: Building Division

Submitted For: Building Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an amendment to the Interlocal Agreement (R2007-1026) with the Town of Loxahatchee Groves providing general conditions, building permitting, and construction inspection within the municipal limits of the Town of Loxahatchee Groves, Florida, by Palm Beach County Planning, Zoning and Building Department.

Summary: The Town of Loxahatchee Groves has adopted their own Land Development codes that affect the Interlocal Agreement with Palm Beach County Planning, Zoning and Building Department providing building plan review/permitting and inspection services. The zoning reviews for single family dwellings and their accessory structures will be performed by the Town, instead of the Building Division. There will be no cost to the County, and no change in staff is needed. Permit fees will continue to pay for the full cost of services for the continued building review. This amendment to the Interlocal Agreement shall be in effect immediately. The amended Interlocal Agreement shall be automatically renewed thereafter from fiscal year (October 1 to September 30), unless either party shall notify the other in writing of the party's desire to terminate all or part of this Agreement.

District 6, (GB)

Background and Justification: The Planning, Zoning and Building Department currently provides building plan review/permitting and construction inspection services for the Town of Loxahatchee Groves. Loxahatchee Groves has recently adopted their own Land Development Codes and so necessitated a revision to the Interlocal Agreement to eliminate those services, for work within their municipal boundaries. There will be no adjustment to permit fees as a result of the revision. The proposed Interlocal Agreement revision is consistent with Section 163.01 of Florida Statutes, known as the Florida Interlocal Cooperation Act of 1969.

Attachments:

1. Amended Interlocal Agreement
2. Letter from Loxahatchee Groves

Recommended by:

Burlin Allen
Executive Director

5/12/11
Date

Approved By:

J. Baker
Deputy County Administrator

5/31/11
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included In Current Budget?	Yes _____	No <u>X</u>			
Budget Account No.:	Fund _____	Department _____	Unit _____	Object _____	
		Program _____			

B. Recommended Sources of Funds/Summary of Fiscal Impact: This item is a procedural update to the current interlocal agreement; therefore there is no fiscal impact.

C. Departmental Fiscal Review: Pat Higgins

III. REVIEW COMMENTS

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

OFMB
 WS 5/17/11
 5/17/11
 5/17/11

Contract Dev. and Control
 Dr. J. Joubert 5/20/11
 This amended Interlocal Agreement complies with our review requirements. At the time of our review it was not executed.

B. Legal Sufficiency:
Assistant County Attorney
 5/23/11

C. Other Department Review:

 Department Director

AMENDED INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE TOWN OF LOXAHATCHEE GROVES PROVIDING FOR GENERAL CONDITIONS, BUILDING PERMITTING AND INSPECTION, WITHIN THE MUNICIPAL LIMITS OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA BY THE PALM BEACH COUNTY PLANNING, ZONING AND BUILDING DEPARTMENT.

This Amended Agreement is entered into this _____ day of _____, 2011, by and between:

THE TOWN OF LOXAHATCHEE GROVES, a municipal corporation organized and existing under the laws of the State of Florida, whose permanent address is ~~P.O. Box 1202~~ 14579 Southern Blvd., Suite 2, Loxahatchee Groves, Florida 33470, hereinafter referred to as "Town"

AND

PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "County". The TOWN and COUNTY are jointly referred to as "parties".

WITNESSETH:

WHEREAS, Chapter 2006-328, Laws of Florida, set forth the Charter of the TOWN; and

WHEREAS, on October 10, 2006, Chapter 2006-328 was approved by a majority of the voters in a referendum election; and

WHEREAS, Chapter 2006-328 provided that the TOWN came into existence on November 1, 2006 and provided that the TOWN becomes operational on March 30, 2007; and

WHEREAS, Section 163.01, Florida Statutes, known as the Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into Interlocal Agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the health, safety, and welfare of the residents of both the TOWN and COUNTY will best be served by THE COUNTY providing certain governmental services; and

WHEREAS, the TOWN is desirous of contracting with the COUNTY to provide governmental services within the corporate limits of the TOWN;

WHEREAS, this Agreement evidences the intentions of the respective parties to cooperate with each other in furtherance of the public's interest; and

NOW, THEREFORE, in consideration of the mutual obligations and undertakings described below, the parties do hereby agree as follows:

**ARTICLE 1
GENERAL CONDITIONS**

1. Purpose of Agreement

This Agreement is for the purpose of the TOWN contracting with the COUNTY to provide certain public services for the TOWN, more particularly set forth in the Articles hereof.

2. COOPERATION/LIAISON

To facilitate this Agreement, the COUNTY shall have the full cooperation and assistance of the TOWN's liaison to work with the COUNTY's Departments for the coordination of services and the handling of complaints. Each affected COUNTY Department shall designate in writing a staff person who shall serve as the contract liaison. The COUNTY's representative/contract monitor during the term of this Agreement shall be Rebecca D. Caldwell, Building Official, whose phone number is (561) 233-5101. The TOWN's liaison during the term of this Agreement shall be Mayor David Browning, whose phone number is (561) 985-2103.

3. ADMINISTRATION/IMPLEMENTATION OF AGREEMENT

Oversight of the COUNTY's performance of these public services will be performed by the Town Manager or designee, in conformance with the policies of the Town Council. Rendition of service, standards of performance, discipline of officers and employees, and other matters incidental to performance of services and control of personnel shall remain with the COUNTY. This Agreement does not make officers and employees of the COUNTY agents, employees, or legal representatives of the TOWN, for any purpose whatsoever, and they are in no way authorized to make any contract, agreement, warranty, or representation on behalf of the TOWN, or to create any obligation on behalf of the TOWN.

4. LIABILITY

The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, and negligence of the other party. Further, nothing herein shall be construed as a waiver of sovereign immunity by either party, pursuant to §768.28, Florida Statutes.

5. INDEMNIFICATION

The TOWN agreed to protect, defend, reimburse, indemnify and hold the COUNTY, its agents, employees and elected officers, and each of them free and harmless at all times from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of whatsoever kind or nature whether arising in any manner directly or indirectly caused, occasioned or contributed to in whole or in part, by reason of any act, omission or fault whether active or passive of the TOWN, or anyone acting under its direction or control, or on its behalf in connection with or incident to the performance of this Agreement. The TOWN's aforesaid indemnity and hold harmless agreement shall apply to the fullest extent permitted by law but in no event shall it apply to liability caused by negligence or willful misconduct of the COUNTY, its respective agents, servants, employees or officers, nor shall the liability limits set forth in §768.28(5), Florida Statutes, be waived.

6. INSURANCE

Without waiving the right to sovereign immunity as provided by s.768.28 f.s., the Town acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event the Town maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under s.768.28 f.s., the Town shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage

The Town agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

When requested, the Town shall agree to provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which the COUNTY agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve the Town of its liability and obligations under this Interlocal Agreement.

The TOWN expressly understands and agrees that any insurance protection furnished by the TOWN in no way limits its responsibility to indemnify and hold harmless the COUNTY under the provisions of this Agreement.

7. TERM OF CONTRACT

This Interlocal Agreement shall be in effect from March 30, 2007 to September 30, 2007, and shall be automatically renewed thereafter from fiscal year to fiscal year (October 1 to September 30), unless either party hereto shall notify the other in writing of the party's desire to terminate all or part of this Agreement six (6) months in advance, no later than April 1 of the previous fiscal year except the first year of the agreement when such notice shall be provided no later than July 1, 2008 for termination on September 30, 2008. This Agreement shall not be terminated except at the expiration of the contract term, or at the expiration of any renewal, unless agreed upon in writing sixty (60) days in advance of both parties. If neither party gives notice of its intent to terminate the parties shall negotiate the terms of any revisions to the renewal no later than May 15 of each fiscal year. In the event the terms of the renewal are not agreed to, the contract remains in force with the existing terms.

8. LEVEL OF SERVICE

The level of service provided by the COUNTY pursuant to this Agreement shall be the same level of service provided by the COUNTY for the unincorporated area for each service outlined in this Agreement. The COUNTY staff will not attend the TOWN's public hearings or public meetings to carry out this Agreement.

9. ADOPTION OF ORDINANCES

The TOWN shall adopt all ordinances necessary to effectuate this Agreement.

10. NOTICE

All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail to the following:

THE COUNTY	THE TOWN
Name: Rebecca D. Caldwell, Building Official	Name: David Browning, Mayor
Address: 2300 N. Jog Rd.	Address: <u>P.O. Box 1202 14579 Southern Blvd., Suite 2</u>
City, State, Zip: West Palm Beach, Florida 33411	City, State, Zip: Loxahatchee Groves, Florida 33470

11. DELEGATION OF DUTY

Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of the COUNTY or the TOWN officers.

12. PAYMENT FOR SERVICES

The COUNTY shall collect all building inspection fees from permit applicants. Such fees shall serve as payment for the Building Division's services.

13. ANNUAL APPROPRIATION

Each party's performance and obligation to pay under this agreement is contingent upon an annual budgetary appropriation by its respective governing body for subsequent fiscal years.

14. AMENDMENTS

This Agreement may be amended only by formal action of the Board of County Commissioners of the COUNTY and the Town Council of the TOWN.

15. REMEDIES

This Agreement shall be construed and governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement shall be filed in Palm Beach County, Florida.

16. HEADINGS

The headings contained in this Agreement are for convenience of reference only, and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

17. EXECUTION OF AGREEMENT

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original. All of which shall constitute one (1) and the same instrument.

18. FILING

A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

19. ENFORCEMENT COSTS

Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and/or conditions of this Agreement shall be borne by the respective parties, provided, however, that this clause pertains only to the parties to this Agreement.

20. ENTIRE AGREEMENT

This Agreement represents the entire understanding and agreement between the parties with respect to the matter hereof.

21. BINDING EFFECT

All of the terms and provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors and permitted assigns.

22. ASSIGNABILITY

The responsibility for carrying out any responsibility assumed by any party to this Agreement may not be assigned.

23. SEVERABILITY

If any part of this Agreement is contrary to, prohibited by or deemed invalid under applicable law or regulation, such provision shall be inapplicable and omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect.

24. EFFECTIVE DATE

The provisions of this Agreement shall become effective upon the execution of this Agreement by both parties.

**ARTICLE II.
BUILDING PERMITTING AND INSPECTION SERVICES**

1. DEFINITIONS

Building Official: Where used herein the term "Building Official" shall mean the Director of the Palm Beach County Building Division.

Code: When used herein the term "Code" shall mean the current editions of the Florida Building Code, including Palm Beach County Amendments, as adopted by Palm Beach County.

Department: Where used herein the term "Department" shall mean the Palm Beach County Planning, Zoning and Building Department.

Fees: Where used herein the term "fee" or "fees" shall mean the fee (s) charges as a condition for a building, electrical, construction or plumbing permit; and/or the inspection fee charged for inspection of work; both made a part hereof, as they are enumerated in the Palm Beach County Building/Construction Fee Ordinance, currently adopted edition, or as revised by action of the Board of County Commissioners.

Inspector: Where used herein the term "inspector" shall mean any Building Construction Inspector in the employ of Palm Beach County Building Division.

Permit: Where used herein the term "permit" shall mean the permit issued by the COUNTY, for the Town for any construction work described by the codes and ordinances pursuant to codes.

Permittee: Where used herein the term “permittee” shall mean any individual, corporation or other business entity applying for and/or holding a valid permit.

Structures: When used herein the term “structures” shall mean any and all above-ground, in ground, and/or underground structures, and any and all construction, structural, mechanical, electrical, and/or plumbing work for which a permit must be obtained.

2. OPERATIONS

A. The COUNTY shall provide the TOWN with the expertise and assistance of the COUNTY’s Planning, Zoning and Building Department for the review of building permit applications and the inspection of certain construction projects within the TOWN’s municipal boundaries.

B. The method by which this purpose will be accomplished is as follows:

(1) The TOWN shall adopt an ordinance which:

(a) Incorporates by reference the provisions of the applicable Codes as defined in Article II, 1. Codes, as presently in full force and effect in the COUNTY and adopted by the State of Florida, and as amended by the COUNTY, and implemented by the Department

(b) Transfers the responsibility for reviewing plans for compliance with applicable construction codes, issuing permits, and inspecting structures within the TOWN to the COUNTY’s Building Official or his/her agent; and

(c) Upon adoption by the COUNTY of any amendments to said Codes, the TOWN shall upon notice by the COUNTY immediately amend its ordinance to accurately reflect such changes, consistent with adoption procedures established by law.

(2) The COUNTY’s Building Division shall review and process all plans, submitted in duplicate, checking the same for compliance with the Building Codes, after the TOWN has approved for all Zoning Codes. The review and processing of permit applications shall also be inclusive of the Unified Land Development Code (ULDC) in the manner outlined below.

~~(a) The COUNTY shall review and process proposed construction for single family dwellings and their accessory structures for setbacks and simple ULDC requirements.~~

~~(b) (a) The COUNTY shall review and process for the assessment and collection of Impact Fees.~~

~~(c) The COUNTY shall determine the subsidiary permits necessary and the amount of fees. For processing and the inspection services, the COUNTY shall receive one hundred percent (100%) of the permit fee. Said fees shall be collected by the COUNTY prior to the delivery of any permit to the applicant. This shall not prevent the TOWN from adopting and imposing plan review fees, which may be collected by the TOWN prior to the distribution of the Certificate of Occupancy.~~

~~(d) After reviewing and processing said construction plans, the COUNTY shall retain one set of the permitted plans for records purposes, to be kept by the County for the duration of this Agreement with the TOWN, and deliver the other set to the applicant, upon payment of all assessed fees.~~

~~(e)(b) The Building Division shall route all applicable permit applications to the Palm Beach County Department of Environmental Resources Management and the State of Florida/Palm Beach County Health Department for their approval prior to the issuance of said permit.~~

~~(f) Any permit subject to ULDC requirements for multi-residential or non-residential development, and issues such as platting and right of way matters shall be held for~~

~~approval by the TOWN, other agency appointed by the town, or agency with County wide jurisdiction as applies, prior to permit issuance.~~

~~(3) The COUNTY shall determine the subsidiary permits necessary and the amount of fees. For processing and the inspection services, the COUNTY shall receive one hundred percent (100%) of the permit fee. Said fees shall be collected by the COUNTY prior to the delivery of any permit to the applicant. This shall not prevent the TOWN from adopting and imposing plan review fees, which may be collected by the TOWN prior to the distribution of the Certificate of Occupancy.~~

~~(4) After reviewing and processing said construction plans, the COUNTY shall retain one set of the permitted plans for records purposes, to be kept by the County for the duration of this Agreement with the TOWN, and deliver the other set to the applicant, upon payment of all assessed fees.~~

~~(3) (5) Applications for all permits shall be submitted to the COUNTY on the COUNTY approved forms. Prior to submittal to the COUNTY, approval shall be secured from the TOWN, and denoted on the construction documents with an "Approval Stamp" applied adjacent to any other relevant notations of the TOWN, such as required setbacks. The COUNTY shall process and prepare all permits for construction within the TOWN. Any authorized individual may request the Department to inspect a project on a given date, for any business date falling after the date of the request. The permit inspection card and plans shall be on the construction site at all times and the inspector, upon the completion of his/her inspection, will mark the card either as to his/her acceptance or rejection for code compliance, and the date thereof. Upon satisfactory completion of the project and final inspection, the Building Official will prepare and forward the Certificate of Occupancy to the TOWN. The TOWN will issue the Certificate of Occupancy to the permittee following inspection for compliance with the non-construction requirements of the TOWN, by agents of the TOWN or authorized agent thereof, with a copy to the TOWN.~~

~~(4) (6) The COUNTY shall be solely responsible for the enforcement of violations of the Code provisions on permitted construction by persons, firms or corporations engaged in permitted construction within the TOWN, so long as the TOWN contracts with the COUNTY for Building Permitting and Inspection Services.~~

~~(5) (7) The TOWN shall assume responsibility for the administration of all consumer inquiries. The Town shall forward to the Building Official only those inquiries concerning the plan review and inspection process, set forth above, and all other inquiries shall be the responsibility of the TOWN.~~

~~(6) (8) The Building Official shall have the right to refuse to inspect any structure within the TOWN for health, safety and welfare reasons should he/she deem it in the best interest of the COUNTY, or to issue a "Stop Work" order as prescribed by Code.~~

~~(7) (9) The Building Official shall have the authority to revoke any development order issued pursuant to this Agreement.~~

3. PERMIT INFORMATION

The COUNTY agrees to provide electronic access to a monthly report for the TOWN which details the permits issued and locations of inspection activities occurring within the TOWN, and permit revenues received by the COUNTY from construction activity within the TOWN. At a minimum, this report shall include information and a format similar to the monthly reports prepared by the Building Official for monitoring overall Building Division activities.

4. DURATION

In the event the Agreement is terminated, pursuant to Article I, Section 7, the COUNTY shall complete all inspections and services related to permit applications that have been delivered to THE

COUNTY before the termination date, unless either the TOWN or the COUNTY makes a written request, and accepted by both parties. The COUNTY shall retain all permit fees.

IN WITNESS THEREOF, PALM BEACH COUNTY, Florida, has caused this Interlocal Agreement to be executed by the Chair of its Board of County Commissioners and the seal of said Board to be affixed to and attested to by the Clerk of said Board, pursuant to authority granted by said Board; and the TOWN OF LOXAHATCHEE GROVES, Florida, has caused this Interlocal Agreement to be executed in its corporate name by its Mayor and its corporate seal to be affixed hereto, attested by the TOWN's Clerk, the date and year first written above.

Attest:

Town Clerk

TOWN OF LOXAHATCHEE GROVES

By _____

____ day of _____, ____ (date)

APPROVED AS TO FORM:

By _____
Town Attorney

Attest:

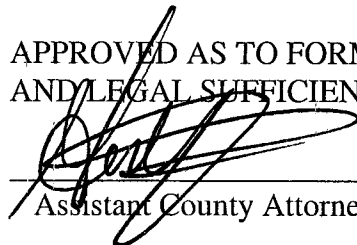
SHARON R. BOCK,
Clerk & Comptroller

By: _____
Deputy Clerk

PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS:

By _____
Karen T. Marcus, Chair

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



Assistant County Attorney



Town of Loxahatchee Groves

14579 Southern Boulevard, Suite 2 • Loxahatchee Groves, Florida 33470 • (561) 793-2418 Phone • (561) 793-2420 Fax • clerk@loxahatcheegroves.org

April 11, 2011

Rebecca Caldwell
Planning Zoning & Building Dept.
Palm Beach County
200 Vista Parkway
West Palm Beach, Florida

Re: Town of Loxahatchee Groves Assuming Zoning Review

Dear Rebecca:

As you know, the County Commission approved the termination of the interlocal agreement between the Town and the County whereby the County provided Zoning Services for the Town. This termination and transfer of functions is officially scheduled to take place on May 31, 2011.

In the face of a major project (Vinceramos Therapeutic Riding Center) needing to be built before the hurricane season begins, the Town is willing to take over all zoning review services and requests immediately.

If there is any way to accomplish this administratively we would certainly appreciate it. Perhaps our meeting scheduled for April 11, 2011 can accomplish this.

Sincerely

A handwritten signature in black ink, appearing to read "Frank R. Spence".

FRANK R. SPENCE
Town Manager

Cc: Robert Banks, Esq.
Jon MacGillis