

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2008-017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA AUTHORIZING THE TERMINATION OF THE INTERLOCAL AGREEMENT BETWEEN THE TOWN OF LOXAHATCHEE GROVES AND THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT DATED JUNE 11, 2007 FOR THE FUNDING OF CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE OF ROADS LOCATED WITHIN THE TOWN OF LOXAHATCHEE GROVES; MAKING CERTAIN FINDINGS AND CONCLUSIONS; AUTHORIZING THE TOWN MANAGER, TOWN ATTORNEY AND AUTHORIZED TOWN STAFF TO TAKE ALL APPROPRIATE LEGAL ACTIONS CONSISTENT WITH THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 11, 2007, the Town of Loxahatchee Groves ("Town") entered into an Agreement with the Loxahatchee Groves Water Control District ("District") for the purpose of funding the construction, reconstruction, and maintenance of roads located within the Town of Loxahatchee Groves through the use of gas tax revenue provided to the Town pursuant to Section 336.025, Florida Statutes; and

WHEREAS, pursuant to the Town's Charter, the distribution of gas tax revenue for the fiscal year of 2007-08 was pursuant to the Town's population; and

WHEREAS, the distribution of the gas tax revenue authorized pursuant to Section 336.025, Florida Statutes during the upcoming 2008-2009 fiscal year is based upon public lane miles that the Town is responsible for maintenance; and

WHEREAS, on June 3, 2008, the Town Council adopted Resolution No. 2008-014, whereby the Town ratified the public lane miles within the Town of Loxahatchee Groves for which the Town has road maintenance responsibility, and whereby the Town approved the

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Interlocal Agreements with Palm Beach County for the distribution of the gas tax revenue authorized pursuant to Section 336.025, Florida Statutes; and

WHEREAS, the Palm Beach County League of Cities and Palm Beach County, have raised questions regarding the language within the existing Interlocal Agreement with the District as being inconsistent with the Town's maintenance responsibilities concerning the public roads located within the jurisdiction of the Town of Loxahatchee Groves; and

WHEREAS, the Town has been advised that if the existing Interlocal Agreement with the District remains in place, that the Town will likely not receive the gas tax revenues that would otherwise be distributed to the Town pursuant to Section 336.025, Florida Statutes as well as the applicable Interlocal Agreements entered into between the Town and Palm Beach County; and

WHEREAS, the Town Council finds that in the event the Town were not to receive the share of the gas tax revenue for which the Town would otherwise be entitled to that the Town Council would not be exercising their fiduciary responsibility to insure that the residents of the Town receive all the benefits associated with the incorporation of the Town in 2006; and

WHEREAS, in the event the Town Council did not terminate the Interlocal Agreement with the District, the Town would likely not receive any gas tax revenues pursuant to Section 336.025, Florida Statutes, and as such, neither the Town nor the District would be capable of performing their contractual obligations as provided in the Interlocal Agreement; and

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WHEREAS, for the above-stated reasons, the Town Council finds that the termination of the Interlocal Agreement with the District is for cause, is necessary and appropriate, and is in the best interest of the citizens, residents, and businesses within the Town of Loxahatchee Groves

WHEREAS, the Town Council finds that it is in the best interest of the citizens and residents of the Town of Loxahatchee Groves to take such action with respect to the Interlocal Agreement with the Water Control District, and hereby authorize the appropriate Town officials to take any and all action necessary to terminate the Interlocal Agreement between the Town and the District for the Funding of Construction, Reconstruction, and Maintenance of Roads Located within the Town of Loxahatchee Groves.

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 made a specific part of this Resolution.

Section 2. The Town Council makes the following findings:

A. The amount of gas tax revenue to be distributed to the Town commencing in the 2008-2009 fiscal year will be based not only on the Town's population, but also on the public lane miles for which the Town has road maintenance responsibility.

B. Furthermore, the current Interlocal Agreement dated June 11, 2007 between the Town and the District appears to be inconsistent with the Town's ability to qualify for gas tax revenue pursuant to Section 336.025, Florida Statutes, and the Interlocal Agreements for Gas Tax Revenue Distribution between the Town and Palm Beach County.

C. In the event the Town does not terminate the Interlocal Agreement

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with the District, neither the Town nor the District will be able to perform their obligations under the Interlocal Agreement due to the fact that the Town will not receive any gas tax revenue, and as a result, the Interlocal Agreement will become ineffective, and of no further force or effect.

Section 3. Based upon the above findings, the Town Council hereby authorizes the Town Manager, Town Attorney and authorized Town staff to take all appropriate action to terminate the Interlocal Agreement with the Loxahatchee Groves Water Control District for the Construction, Reconstruction, and Maintenance of Roads Located within the Town of Loxahatchee Groves.

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 or application of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid in 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.

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ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 17th day of June, 2008.

TOWN OF LOXAHATCHEE GROVES, FLORIDA

ATTEST:

Matthew Lygman
TOWN CLERK

David Browning
Mayor David Browning

Marge Herzog
Vice Mayor Marge Herzog

APPROVED AS TO LEGAL FORM:

DNT
Office of the Town Attorney

[Signature]
Council Member

[Signature]
Council Member

[Signature]
Council Member

DNT:js
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STATE OF FLORIDA
COUNTY OF Palm Beach

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of:
Resolution 2008-017
as recorded in the Office of the Town Clerk.

WITNESS my hand and official seal this 17th day of June, A.D. 2008.

TOWN OF Loxahatchee Groves
BY: Matthew Lygman

