


MEMORANDUM

To: Mayor and Members of the Village Council
From: Donald J. Lunny, Jr. Esq. 
Date: July 25, 2019
Subject: Adoption of a Proposed Resolution at the Village Council Special Meeting of July 30, 2019 for the Property Appraiser's Trim Notice.
Copy: Lisa Tayar, Village Administrative Assistant

I. Introduction.

Each year, Florida's municipalities go through a certain procedure to impose property taxes to fund their budgets. As the Village Council may know, each municipality like the Village that relies on Ad Valorem Taxation to fund a portion of its budgetary requirements must provide the Property Appraiser with certain information which the Property Appraiser then is required to include in the TRIM notice which it prepares and sends to the persons listed on the Property Appraiser's assessment roll for properties with each municipality. At the July 30, 2019 Village Council Special Meeting, the Village Council will need to make decisions concerning the information the Village sends to the Property Appraiser.

The information the Village is to provide the County Property Appraiser includes:

1. The date and time and place the municipality will conduct a first public hearing to consider a tentative property tax millage rate and a tentative budget;
2. The proposed property tax millage rate (calculated based on an estimate of budgetary expenses and revenues) to be imposed in the ensuing year; and
3. A disclosure of the calculated "Rolled Back Rate"¹.

A draft Resolution for this purpose is attached to this Memorandum.

¹ The "Rolled Back Rate" is designed to approximate the tax millage rate which, if imposed, would produce the same ad valorem tax revenue in the current year as was levied for the prior year; however, because each year the assessment roll valuations change, the law sets forth a special formula for the "Rolled Back Rate." Fla. Stat. § 200.065 (1) (2018) states that the Property Appraiser's certification documents will ". . . include instructions to each taxing authority describing the proper method of computing a millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year's total taxable value, and any dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value. That millage rate shall be known as the "rolled-back rate." **Based upon the valuation information provided by the Property Appraiser and the formulas inherent in the Department of Revenue secure on-line draft DR-420 Form for the Village, the Rolled Back Rate this year is 4.5833 Mills (see Exhibit "1").**

II. Discussion.

1. The Mayor has advised that he will provide for the Council's review at the July 30, 2019 Meeting, a budgetary estimate of revenue and expenses, a proposed millage rate, and a proposed date, time, and place for the first required public hearing. The Village has been advised by the Property Appraiser that this information is required to be received and updated into the secure on-line Department of Revenue Forms for the Village by August 2, 2019. Thus, once the Village Council reviews this topic and determines what proposed millage rate and first hearing date will be used to advise the Property Appraiser to advertise, it will be important that the "blanks" in the Resolution be completed, that the Resolution be adopted, and that the Resolution be signed as soon as possible. The Resolution directs the Administrative Assistant to send a copy of the Resolution to the Property Appraiser and directs the Mayor (or his designee) to update the secure on-line Department of Revenue Forms by August 2, 2019.
2. After July 30, 2019, there will be two additional public hearings required to complete the Ad Valorem taxation process. The first public hearing will be to consider and approve a "*tentative*" millage rate and "*tentative*" budget, and the second public hearing will be to consider a "*final*" millage rate and a "*final*" budget (while this second public hearing will be set with certainty after the first hearing concludes and will be the subject of newspaper advertisements, the Mayor will identify a "target hearing date" for the second public hearing). It is strongly encouraged that all persons serving as elected officials of the Village attend both additional public hearings in person. The law and regulations applicable to this subject this year are such that the Property Appraiser has advised the Village that the first public hearing must take place in the September 2-18 timeframe, and that the Village may not schedule its hearing on a day that either the School Board or County Commission conduct their respective hearings. Given that it is desirable for local governments to complete the Ad Valorem taxation and budget approval process in advance of the commencement of the applicable fiscal year (October 1, 2019), a relatively tight timeframe exists. The Village has been advised that the School Board first hearing has been concluded and that the School Board second hearing has been scheduled for September 4, 2019; furthermore, the Village has been advised that the County Commission hearing dates are September 10, 2019 and September 24, 2019. As of this Memorandum's writing, the Mayor's proposed hearing dates are September 5, 2019 and September 19, 2019, and Property Appraiser's Office has indicated that such dates are feasible.
3. It will be difficult to *increase* the millage rate from the proposed rate which is sent to the Property Appraiser to advertise in the TRIM Notice in the event the Village Council decides it is necessary to do so at a future point in the taxation process². Thus, the proposed Millage rate established on July 30, 2019 and given to the Property Appraiser should be treated for practical

² While this is theoretically possible, it would require the Property Appraiser sending out notices by First class mail, and would further affect an already very tight window within which the Village can conduct its two additional required taxation hearings.

purposes as a “maximum” rate for the next ensuing tax year. On the other hand, it is not difficult to *reduce* the proposed millage rate at any future point in the taxation process.

4. There are always a number of factors and considerations that bear on governmental decisions to propose and levy taxes. I thought it would be helpful for me to identify some significant matters that have legal implications to keep in mind when weighing all of the applicable factors and considerations:
 - a. It will continue to be burdensome to the Village’s small tax base for the Village to comply with all the modern protocols applicable to municipalities. The Village will need to continue the process of determining whether or not: (i) it will operate effectively, or (ii) become part of another municipality, or (iii) become unincorporated and part of a municipal service taxing unit of Broward County. This will be time-intensive from a managerial, political, and legal perspective.
 - b. In terms of the Village’s ongoing effective operation, I note that the persons serving as the Village’s Mayor and Council are “lay persons,” and are volunteers, and I have made some recent recommendations to the Mayor.
 - (1) Of importance, I have recommended to the Mayor that the Village retain on a consulting basis a CPA Firm with extensive local governmental accounting experience to assist the Village in preparing a tentative and final budget for the upcoming two hearings which are in proper form, and to assist the Village in complying with requirements for governmental entity financial accounting and reporting. I also believe that it will be very important for the Village to continue the process of collecting, organizing and managing its records, so that the Village can quickly respond to records requests. Notably, I have been advised that the Village continues to receive records requests from its citizens and others on an increasingly frequent basis, which will require increased effort of its Administrative Assistant and increased Village expenses. Additionally, there will likely be required increased efforts to document compliance with Ethics laws and regulations.
 - (2) There are some other matters I am aware of that will also need to be addressed, some of which also relate to local governmental protocols³.

³ For example, the Village has received a notice from the State Department of Economic Opportunity that the Village did not timely complete its Comprehensive Plan Evaluation and Appraisal Report (which is required at least once every 7 years to determine that such Plan complies with State requirements coming into effect since the Plan’s last update), and thus, the State has advised the Village that the Village will not be able to amend its Comprehensive Plan until such Report is complete, and there may be additional legal or practical implications from this non-compliance which need to be examined. Additionally, the Village received a request from a sister City as to whether the Village will participate in a proposed Memorandum of Understanding Regarding the Collaborative Study and Subsequent Development of an Integrated Solid Waste and Recycling System.

- c. In the upcoming Fiscal Year, it is reasonably certain the Village will incur election costs, and costs associated with the enactment of Ordinances and specialized intergovernmental arrangements related to governance. Since these costs and expenses are in large part “effort dependent” and the required effort is not solely within the Village’s control, it is difficult to reliably forecast these costs and expenses.
 - (1) At the present time, it is uncertain whether the Florida Attorney General will render an Opinion that the persons serving as the Mayor and Members of the City Council can continue to do so pursuant to the *de facto* officer legal doctrine. In view of the Village’s desire to provide on-going municipal services to its residents, the persons serving as Mayor and Members of the Village Council determined that the Village should continue to operate pending the receipt of an Opinion from the Florida Attorney General. If the Florida Attorney General concludes that the doctrine should not apply, then to continue to operate, the Village will need to conduct a Special Election – notwithstanding that the next general election cycle is in March of next year. Thus, the Village may want to budget for a Special Election. The Attorney General might initiate some sort of action or review procedure in addition to rendering an Opinion which may need to be addressed.
 - (2) Regardless of whether the Florida Attorney General Opinion indicates that a Special Election be required, the Village will need to incur expenses of a general election in the upcoming Fiscal Year.
 - (3) If the Village and Wilton Manors agree on the terms of a proposed Merger, Fla. Stat. § 165.041 (2) provides that the proposed Charter for Merger be enacted by Ordinance and approved by a referendum of each municipality. Thus, this process will require either a Special or General Election depending on the timetable for both local governing bodies to approve the Charter of Merger by Ordinance. By the same token, if the Village decides to pursue dissolution, it will be likely that the Village would desire the County to establish a Municipal Service Taxing Unit so that the County can provide the “municipal” level of services to be provided to the Village residents after dissolution, and a Special Act of the Legislature or Village Ordinance approved by additional voter-referendum (election) will be required pursuant to the provisions of Fla. Stat. §165.051 (2018).
5. It will be important for the Council to keep in mind when approving the TRIM advertised proposed millage rate the various majority vote, supermajority vote, and unanimous vote requirements for various levels of millage. It would be unwise for the Council to instruct the Property Appraiser to advertise a millage rate in the TRIM Notice that would not be likely receive the required number of approving votes at the next ensuing public hearing. Subject to

being verified by a governmental Certified Public Accountant, I believe a *reasonable estimate* of the amount of millage that can be approved in the future public hearings by a majority vote, super-majority vote, and unanimous vote of the Village Council are as follows:

- a. By a majority vote (3 votes of the Council) the Village may levy a maximum millage equal to its rolled-back rate adjusted for the change in per capita Florida personal income, which "*majority vote maximum millage*" is estimated as being 4.7386 mils.⁴
 - b. By Super Majority (two-thirds) vote (4 votes of the Council), the Village may levy a millage equal to 110% of the majority vote maximum millage rate, which "*super majority vote maximum millage*" is estimated as being 5.2124 mils⁵.
 - c. By a unanimous vote of all the Members of the Village Council, the Village may levy any millage up to its constitutional or statutory maximum millage (10.0 mils).
6. If the Village does not timely provide the Property Appraiser with a proposed millage rate to be included in the Property Appraiser TRIM Notice, Fla. Stat. § 200.065 (2) (b) (2018) provides that the Village will be prohibited from levying a millage rate in excess of its Rolled Back Rate, which will be calculated by the Property Appraiser and included in the TRIM Notice provided by the Property Appraiser. Even if this were to occur, the Village would nevertheless need to advise the Property Appraiser of the date, time, and place for the first public hearing to consider a tentative budget and a tentative millage rate.

Conclusion.

The draft Resolution is now ready to be considered as a legislative item.

018862-18001 [3489823]

⁴ 1.0339 is the adjustment for the change in per capita Florida personal income as reported by the State Department of Revenue Form DR-420MM-P. Thus, the estimated maximum millage rate which can be approved by a majority vote of the Village Council is estimated to be $(4.5833 \times 1.0339 =) 4.7386$ mils.

⁵ $4.7386 \text{ mils} \times 1.10 = 5.2124 \text{ Milis.}$

Entity	Description	Type	County
Principal Authority	VILLAGE OF LAKE LAKE	City	16
Township Authority	VILLAGE OF LAKE LAKE	Principal Authority	16
Levy	CEREBRAL FUND	Local	16

Statute 420: 15 Principal Authority 420 in Progress Statute 422: (1) Property Appraiser 422 Assigned

Don't forget to complete the DR-420TF and DR-420MSP forms.

Proposed millage should match on DR-420 and DR-420 MAP forms.

	DR-420 Form Section I	Save	Back	Print PDF	Print All PDFs	Millage Cap
1	Current Year taxable value of real property for operating purposes					7,271,020
2	Current Year taxable value of personal property for operating purposes					257,286
3	Current Year taxable value of capital assets assessed property for operating purposes					0
4	Current Year gross taxable value for operating purposes (Line 1 plus Line 2 plus Line 3)					7,528,306
5	Current Year net new taxable value (Add new construction, additions, rehabilitative improvements increasing assessed value by at least 100%, annexations, and tangible personal property value over 115% of the previous year's value. Subtract deletions)					14,790
6	Current Year adjusted taxable value (Line 4 minus Line 5)					7,513,566
7	Prior Year FINAL gross taxable value (From prior year applicable Form DR-403 series)					7,183,418
8	Number of TIF Work Sheets					0
9	Number of DEBT Work Sheets					0
10	Prior Year operating millage levy (If prior year millage was adjusted then use adjusted millage from Form DR-423)					4.7940
11	Prior Year ad valorem proceeds (Line 7 multiplied by Line 10 divided by 1000)					34,937
12	Amount, if any, paid or signed in prior year because of an obligation measured by a dedicated increment value (Sum of either Line 6C or Line 7A for all DR-420TF forms)					0
13	Adjusted prior year ad valorem proceeds (Line 11 minus Line 12)					34,937
14	Dedicated increment value, if any (Sum of either line 6C or Line 7A for all DR-420TF forms)					0
15	Adjusted current year taxable value (Line 6 minus Line 14)					7,513,566
16	Current year rolled-back rate (Line 13 divided by Line 15, multiplied by 1.000)					4.5932
17	Current year proposed operating millage rate					4.7940
18	Total taxes to be levied at proposed millage rate (Line 17 multiplied by Line 4, divided by 1.000)					36,091
21	Is millage levied in more than one county? (check one)					Yes No

SNIP OF DR-420
FORM AS OF 7/25/2019

Exhibit 11/11

RESOLUTION NO. _____

A RESOLUTION OF THE VILLAGE OF LAZY LAKE, FLORIDA PERTAINING TO THE SUBJECT OF TAXATION; ADVISING THE BROWARD COUNTY PROPERTY APPRAISER OF THE VILLAGE'S PROPOSED AD VALOREM TAXATION MILLAGE RATE, THE VILLAGE'S CALCULATED "ROLLED BACK RATE," AND OF THE TIME, DATE, AND PLACE AT WHICH A PUBLIC HEARING WILL BE HELD TO CONSIDER THE PROPOSED, TENTATIVE MILLAGE RATE AND THE VILLAGE'S TENTATIVE BUDGET FOR THE VILLAGE'S 2019-2020 FISCAL YEAR - - ALL SO THAT THE PROPERTY APPRAISER CAN USE SUCH INFORMATION IN PROVIDING CERTAIN REQUIRED NOTICES RELATING TO AD VALOREM TAXATION (E.G. THE "TRIM NOTICE"); SETTING FORTH THE TIME, DATE, AND PLACE AT WHICH THE PUBLIC HEARING HAS BEEN SCHEDULED TO CONSIDER THE PROPOSED, FINAL MILLAGE RATE AND THE VILLAGE'S FINAL BUDGET FOR THE VILLAGE'S 2019-2020 FISCAL YEAR, WHICH TIME, DATE, OR PLACE MAY BE CHANGED BY FUTURE VILLAGE RESOLUTION; DIRECTING THE MAILING OF A COPY OF THIS RESOLUTION TO THE BROWARD COUNTY PROPERTY APPRAISER AND THE UPDATING OF THE DEPARTMENT OF REVENUE DRAFT TAXATION FORMS BY AUGUST 2, 2019; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

WHEREAS, the Village of Lazy Lake is required by Fla. Stat. § 200.065(2)(b) (2018) to advise the Broward County Property Appraiser, within thirty-five (35) days of receiving from such Property Appraiser certain information concerning the taxable value of property within the Village, of: (a) the Village's proposed millage rate, (b) the Village's "rolled back rate" which is required to be computed in accordance with Fla. Stat. §200.065(1) (2018) (herein, the "Rolled Back Rate"), and (c) the time, date, and place at which a public hearing will be held to consider: (i) the Village's tentative millage rate and (ii) the Village's tentative budget for the Village's next ensuing Fiscal Year (which budget commences October 1, 2019 and continues through September 30, 2020 [herein, the "2019-2020 Fiscal Year"]); and,

WHEREAS, there has been prepared by the Mayor and submitted to the Village Council: (a) a budget estimate of the revenue and expenditures for the Village of Lazy Lake's 2019-2020 Fiscal Year, (b) a disclosure of the "Rolled Back Rate", (c) a calculation of the proposed millage rate to fund the budget estimates for the 2019-2020 Fiscal Year, and (d) a proposed time, date, and place at which a public hearing will be held to consider: (i) the Village's proposed, tentative millage rate and (ii) the Village's tentative budget for the Village's 2019-2020 Fiscal Year; and,

49 **WHEREAS**, the Village Council has reviewed the aforesaid information at a July
50 30, 2019 Village Council Special Meeting, has considered any public comment thereto, has
51 made any revisions to the proposed millage rate and the estimate of budgetary expenses
52 and revenue as the Village Council desired, and now wishes to adopt this Resolution so as
53 to provide information to the Property Appraiser as required by Fla. Stat. §200.065 (2) (b)
54 (2018); and,

55
56 **WHEREAS**, the Village of Lazy Lake does not have facilities within the Village
57 for its Village Council Meetings; and,

58
59 **WHEREAS**, Fla. Stat. §166.0213 (1) (2018) authorizes the Village Council of
60 Lazy Lake, Florida to hold Village Council Meetings within five (5) miles of the exterior
61 boundary of the Village, provided the time and place for such meetings are authorized by
62 Resolution; and,

63
64 **WHEREAS**, this Resolution is adopted to comply with Fla. Stat. §166.0213 (1)
65 (2018) for the required public hearings for the Village Council to consider and approve the
66 tentative millage rate and tentative budget, and the final millage rate and the final budget;

67
68 **NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE**
69 **VILLAGE OF LAZY LAKE, FLORIDA, THAT:**

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71 **Section 1:** A Public Hearing shall be held by the Village Council at 6:30 PM. on
72 September 5, 2019 in the Hagen Park Community Center, 2020 Wilton Drive, Wilton
73 Manors, Broward County, Florida to consider: (i) the Village's tentative millage rate which
74 will be necessary to fund the Village's 2019-2020 Fiscal Year tentative budget from
75 sources other than Ad Valorem taxes, and (ii), the Village's 2019-2020 Fiscal Year
76 tentative budget. This Section 1 is included in this Resolution for the purpose of complying
77 with the requirements of Fla. Stat. § 200.065(2) (b) (2018) and Fla. Stat. §166.0213 (1)
78 (2018), and the Broward County Property Appraiser is requested to use such identified
79 Public Hearing Date for the for purposes of the notice provided by the Property Appraiser
80 pursuant to Fla. Stat. §200.069 (2018).

81
82 **Section 2:** The Village "Rolled Back Rate," as defined by Fla. Stat. § 200.065 (1)
83 (2018), is 4.5833 mills. This calculation is based upon on the valuation information
84 provided by the Broward County Property Appraiser and the formulas inherent for
85 calculating the Rolled Back Rate as set forth in the Florida Department of Revenue draft
86 DR-420 form.

87
88 **Section 3:** The Village's proposed millage rate for the imposition of millage necessary
89 to fund the Village of Lazy Lake's 2019-2020 Fiscal Year Budget from sources other than
90 Ad Valorem Taxes is [REDACTED] mills, and the Broward County Property Appraiser is
91 requested to use such identified millage for the for purposes of the notice provided by the
92 Property Appraiser pursuant to Fla. Stat. §200.069 (2018).

93
94 **Section 4:** The Village Administrative Assistant is directed to send a copy of this
95 Resolution to the Broward County Property Appraiser's Office by August 2, 2019. The

DRAFT

Mayor (or his designee) is directed to update the on-line Department of Revenue Forms for the Village with the information in Sections 1, 2, and 3 by August 2, 2019.

Section 5: A Public Hearing shall be held by the Village Council at 6:30 PM. on September 19, 2019 in the Hagen Park Community Center, 2020 Wilton Drive, Wilton Manors, Broward County, Florida to consider: (i) the Village's final millage rate which is necessary to fund the Village's 2019-2020 Fiscal Year Budget from sources other than Ad Valorem Taxes, and (ii), the Village's 2019-2020 Fiscal Year final budget. The date, time, and place for this public hearing may be re-scheduled by Resolution of the Village Council. This Section 5 is included in this Resolution for the purpose of complying with the requirements of Fla. Stat. §166.0213 (1) (2018).

Section 6: Should any section, paragraph, sentence, clause, phrase or other part of this Resolution be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Resolution as a whole or any portion or part thereof, other than the part so declared to be invalid.

Section 7: This Resolution shall become effective immediately after passage by the Village Council and by signature by the Mayor.

PASSED AND ADOPTED BY THE VILLAGE COUNCIL this 30th day of July, 2019.

Council Member	Voice Vote	Absent
John Boisseau	Yea ___ Nay ___	___
Sally Boisseau	Yea ___ Nay ___	___
Patrick Kaufman	Yea ___ Nay ___	___
Carlton Kirby	Yea ___ Nay ___	___
Ray Nyhuis	Yea ___ Nay ___	___

SIGNED BY THE MAYOR this ____ day of July, 2019.

MAYOR EVAN ANTHONY

ATTEST:

VILLAGE ADMINISTRATIVE ASSISTANT

APPROVED

DATE

REQUESTED BY: _____

ATTY. OK: _____

AS TO FORM ONLY

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145 RECORD ENTRY:

146

147 I HEREBY CERTIFY that the Original of the foregoing signed Resolution was received by the Village
148 Administrative Assistant and entered into the Public Record this ____ day of July, 2019.

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Village Administrative Assistant, Lisa Tayar

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156 018862-18001[3488555,v4]