

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

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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.

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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 Council of the TOWN OF LOXAHATCHEE GROVES,
Florida this 21st day of [REDACTED] 2009.

ATTEST:

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

David Browning

Mayor David Browning

Marge Herzog

Vice Mayor Marge Herzog

[Signature]
Council Member

[Signature]
Council Member

[Signature]
Council Member

APPROVED AS TOWN ATTORNEY
D. C. [REDACTED]

Office of the Town Attorney

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."