



**TOWN OF LOXAHATCHEE GROVES**  
**TOWN COUNCIL MEETING AGENDA**  
**TUESDAY, MARCH 1, 2016 @ 7:00 P.M.**

**ADDENDUM #1: Item #8a Attachment to Agenda Item Report (AIR)**

**ADDENDUM #2 Item #11.a.2 Palm Beach State College – Proposed Horse Trail**

*Mayor David Browning (Seat 4)*  
*Vice Mayor Ron Jarriel (Seat 1)*  
*Councilman Tom Goltzené (Seat 5)*  
*Councilman Ryan Liang (Seat 3)*  
*Councilman Jim Rockett (Seat 2)*



Our File Number: 0003378-00001  
Writer's Direct Dial Number: 561-650-0621  
Writer's E-Mail Address: bseymour@gunster.com

March 1, 2016

**VIA ELECTRONIC MAIL AND U.S. MAIL**

Michael D. Cirullo, Jr.  
Loxahatchee Groves Town Attorney  
Goren, Cherof, Doody & Ezrol  
3099 East Commercial Blvd., Suite 200  
Fort Lauderdale, FL 33308

**Re: Palm Beach State College – Proposed Horse Trail**

Dear Mike:

We have become aware that the Town of Loxahatchee Groves (“Town”) intends to consider accepting a “permit” for horse trails over property owned by Palm Beach State College (“College”). We understand that the Loxahatchee Groves Water Control District (“District”) proposes these easements pursuant to Chapter 2014-247, Laws of Florida, amending Chapter 99-425, Laws of Florida. Palm Beach State College objects to any horse trail on or over its property.

As you may know, the College does not believe that the District has any rights to a maintenance easement over College property. There are several legal and factual bases for these objections. Without going into each of them in detail, and without waiving any such bases, two are unique to the College. First, as a factual matter, the District has not maintained the property over which they claim an easement. We have reviewed historical aerial photography and discussed the property conditions with those who are familiar with the history of the property. It is clear that the District did not use the property claimed. For instance, there was significant overgrowth, including tree growth, in the area claimed that could not have occurred if District had used the property.

Second, as a legal matter, the District cannot acquire a prescriptive easement over the College's property as they have attempted to do. The College is a subdivision of the state of Florida, a governmental entity. It has long been the law of Florida that one cannot acquire interests in state owned lands by adverse possession or prescription. *See, Pearce v. Cone*, 2 So.2d

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360 (Fla. 1941)(“One acquires no rights by possession against the title of the State”). Even assuming *arguendo* that the law is otherwise valid, it cannot apply to the College’s property.

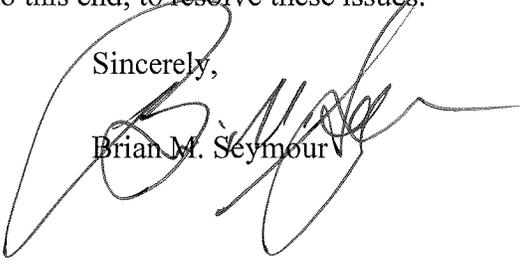
The District has no right to a maintenance easement and cannot provide a permit to the Town for horse trails over the College’s property. However, it is not the College’s objective to be obstructionist. We have had several conversations over the course of the past several months and have met with the District staff and its attorneys. We have explained in detail the College’s objections and concerns regarding this issue. We have further continued to offer to work with the District to provide them with appropriate maintenance easements. We are very disappointed to find that the District, knowing of our position and despite our offer to work together, has put the Town in the position to consider accepting a horse trail over the College’s property. We hope that the Town does not take the bait and add to the District’s improper actions.

We appreciate everything the Town has done to date to work with us on these issues. As you know, the College has always worked to be a good neighbor and to work with the Town. The College remains willing to do so. The College would appreciate the opportunity to work with the Town and the District to resolve this issue collaboratively.

As you may recall, during the process of the development approvals for the College property, there were several discussions about horse trails on the College property. The College explained, and we believe the Town understood, that this would create significant concerns for the students, faculty, and visitors to the College. These issues remain. Safety and security of the students, faculty, and visitors being paramount, the College cannot agree to horse trails on its property. Although we would prefer not to do so, if the Town moves forward with horse trails as proposed on the College property, we will have no choice but to file suit to seek a declaration of our rights.

We request that the Town take no action regarding any horse trail on or over the College property. This will provide us the opportunity to work with the Town and the District, and we request a meeting of all three parties to this end, to resolve these issues.

Sincerely,

  
Brian M. Seymour

cc: Client

BMS/cs

Enclosure

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Gunster, Yoakley & Stewart, P.A.  
ATTORNEYS AT LAW