

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2012-22

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, EXPRESSING SUPPORT FOR PALM BEACH STATE COLLEGE’S NEW LOXAHATCHEE GROVES CAMPUS WITHIN THE TOWN, AND STRONG OPPOSITION TO THE INITIATIVE EFFORT TO REPEAL THE TOWN ORDINANCES 2012-04 AND 2012-05 WHICH COLLECTIVELY AMENDED THE TOWN’S COMPREHENSIVE PLAN PURSUANT TO THE EXCLUSIVE PROCEEDINGS IN CHAPTER 163, FLORIDA STATUTES, APPROVED THE CHANGE IN LAND USE FOR THE SUBJECT PROPERTY TO ACCOMMODATE THE NEW CAMPUS AND CREATED SPECIAL POLICIES TO REGULATE THE DEVELOPMENT OF THE CAMPUS; URGING THE PETITION COMMITTEE TO DISBAND AND RESCIND THE EFFORT; ADVISING THE RESIDENTS AND COMMUNITY OF THE ADVERSE IMPACTS ON THE TOWN AND ITS RESIDENTS AND PROPERTY OWNERS SHOULD THE REFERENDUM PROCEED; REQUESTING THAT A COPY OF THIS RESOLUTION BE POSTED ON THE TOWN’S WEBSITE, AND THAT COPIES BE DELIVERED TO PALM BEACH STATE COLLEGE AND MEDIA OUTLETS; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS, Palm Beach State College (“PBSC”) intends to develop a new campus within the Town of Loxahatchee Groves, Florida; and,

WHEREAS, in order to effectuate its intent, PBSC entered into a contract to purchase approximately 75 acres of land within the Town, at Southern Boulevard and “B” Road (the “Property”), conditioned on obtaining appropriate Comprehensive Plan Amendments from the Town; and,

WHEREAS, the Property had a Multiple Land Use (MLU) Designation to accommodate approximately 91,000 square feet of commercial retail, 130,000 square feet of commercial office and 19 residential units; and,

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WHEREAS, a proposed amendment to the Town’s Comprehensive Plan was submitted to rescind the MLU designation, revert the Property back to the RR-5 designation that it had prior to the MLU designation being approved by the Town Council, and then changing the land use on approximately 25 acres of adjacent property to Commercial Low land use;

WHEREAS, a separate application was made by PBSC for special policy language to be inserted in the Town’s Comprehensive Plan to enable PBSC to develop its campus over a period of up to 50 years; and,

WHEREAS, both applications were the subject of multiple workshops and public hearings prior to consideration by the Town Council; and,

WHEREAS, the amendment to change the land use on the Property was the subject of Ordinance 2012-04 and the amendment to create special policies for the development of the proposed campus by PBSC was the subject of Ordinance 2012-05; and,

WHEREAS, the Town’s Planning and Zoning Board, as the Town’s designated Land Planning Agency, conducted a public hearing on April 12, 2012, and recommended approval of both applications; and,

WHEREAS, pursuant to the requirements of Chapter 163, Florida Statutes, the Town Council conducted a public hearing on June 26, 2012, on both Ordinances 2012-04 and 2012-05, and authorized the transmittal of the ordinances to all reviewing agencies, including the Florida Department of Economic Opportunity and the Treasure Coast Regional Planning Council; and,

WHEREAS, after receiving no negative comments from reviewing agencies, the Town Council, pursuant to Chapter 163, Florida Statutes, conducted a second public hearing on August

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21, 2012, to adopt Ordinances 2012-04 and 2012-05 and amend the Comprehensive Plan, and unanimously approved both ordinances; and,

WHEREAS, Section 163.3184, Florida Statutes, sets forth the exclusive method for adopting comprehensive plan amendments, and no challenges to the Town’s approvals of Ordinance 2012-04 and 2012-05 pursuant to that section were filed; and,

WHEREAS, upon the expiration of the period to challenge the Town’s adoption of the Comprehensive Plan Amendments through Ordinances 2012-04 and 2012-05, PBSC closed on the purchase of the Property; and,

WHEREAS, a week after PBSC closed on the Property, the Town Clerk received Notice of Initiation of Proceedings for a Citizens’ Initiative pursuant to Section 8 of the Town’s Charter to repeal Ordinances 2012-04 and 2012-05, which would be a referendum on the land use amendments; and,

WHEREAS, Section 163.3167(8), Florida Statutes, expressly prohibits “[a]n initiative or referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment,” except that any local charter that had an initiative process as of June 1, 2011, “in regard to development orders or in regard to local comprehensive plan amendments or map amendments may be retained and implemented”; and,

WHEREAS, Section 8 of the Town’s Charter, which provides for the Initiative Process, does not include a referendum or initiative process in regard to developments orders, local comprehensive plan amendments or map amendments; and,

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WHEREAS, the original Citizens' Initiative Committee had the required ten (10) members, but several members have resigned from the Committee leaving it with less than ten (10) members; and,

WHEREAS, the Town Council approved Ordinances 2012-04 and 2012-05 in the best interest of the Town, and continues to believe that the new PBSC campus will benefit the community and avoid excessive commercial development in the Town along Southern Boulevard; and,

WHEREAS, the Town Council wishes to express its continued support for the new PBSC campus within the Town, and its desire to continue to work in partnership with PBSC on a positive development of the new campus; and,

WHEREAS, the Town Council believes that the electorate has the right to petition its elected officials, but that such petitions should be responsible and not detrimental to the Town and its reputation, and should not expose the Town to significant claims and liabilities in the event that it is successful; and,

WHEREAS, the Town Council believes that members of the Initiative Committee were not fully apprised of the meaning of the Initiative and potential consequences to the Town should the ordinances be rescinded, resulting in the resignations of several of the members once they learned of such; and,

WHEREAS, the Town Council is concerned that Town electors being requested by the Initiative Committee to sign the Initiative Petition are not being advised that by signing the petition they are agreeing to place land use approvals for a community college at risk, and other potential

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consequences such as exposing the Town to litigation and significant liability, and a reversion of the Property to a land use that would permit the entire 99 +/- acre to develop hundreds of thousands of square feet of commercial and commercial low office use, and 19 residential units, which would mean a much larger commercial development on the Property; and,

WHEREAS, the proposed Initiative to rescind Ordinances 2012-04 and 2012-05 is detrimental to the Town, as it creates uncertainties for PBSC as it moves forward with the development of the campus, unnecessarily exposes the Town to potential claims in the millions of dollars, adversely affects the reputation of the Town, and detracts time and resources from important business of the Town; and,

WHEREAS, given the prior approvals, the lack of challenges to the approvals, the PBSC purchase of the Property subsequent to expiration of the appeal period for the approvals, the positive impact to the Town by the development of the new campus by PBSC, the alternative for development of the property, the detrimental impact on the Town and its reputation caused by the proposed Initiative, the potential liabilities should the ordinances be rescinded, and the fact that the subject matter of the Initiative is inconsistent with state statutes, the Town Council expresses its grave concerns over the proposed Initiative, and further finds that it is in the best interest of the Town, and its residents and property owners, to oppose the Initiative, urge the Committee to cease its efforts, and urge the Town's electors not to support it so that litigation, a referendum and potential liabilities, are avoided.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Loxahatchee Groves, Florida, as follows:

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Section 1. That 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 of the Town of Loxahatchee Groves fully supports PBSC, and its proposed new campus, and looks forward to working with PBSC on the successful development of the new campus that benefits and enhances both PBSC and the Town.

Section 3. The Town Council expresses its grave concerns over the proposed Initiative to rescind Ordinances 2012-04 and 2012-05, for reasons that include the following:

- a. The Town conducted numerous workshops and public hearings during the approval process, including one public hearing before the Town’s Planning and Zoning Board, and two (2) public hearings before the Town Council;
- b. No person or entity filed any challenges to the approvals of Ordinance 2012-04 and 2012-05 pursuant to Chapter 163, Florida Statutes;
- c. The development of the Property as a campus for PBSC provides the Town with a unique opportunity to foster educational opportunities for the Town and surrounding communities, and avoid unbridled commercial and retail growth along Southern Boulevard;
- d. PBSC has advised the Town that it purchased the Property only after the expiration of the challenge period and in reliance on the Town’s approvals of Ordinances 2012-04 and 2012-05, and that should the ordinances be rescinded it would be damaged in an amount at least equaling its purchase price of \$4.5 million dollars;

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- e. In addition to exposure to potential liability, the rescission of Ordinances 2012-04 and 2012-05 will return the Property to a Multipurpose Land Use category that could permit hundreds of thousands of square feet of commercial retail and office development on the Property;
- f. It appears from recent resignations from the Initiative Committee, and the form of petition provided to the Town, that the organizers of the effort have not explained Ordinances 2012-04 and 2012-05, that it involves the development of a college campus, and the ramifications for any rescission of the ordinances, and
- g. The Town Council believes that persons are being requested to sign the Initiative Petition without full information about Ordinances 2012-04 and 2012-05, that it involves the development of a college campus, and the ramifications for any rescission of the ordinances.
- h. The subject matter of the Initiative is contrary to state law, in that Florida Statutes prohibit referendum or initiative processes in regard to comprehensive plan amendments and map amendments, the Town's charter does not provide for a referendum or initiative process in regard to comprehensive plan amendments and , the Initiative is inconsistent with Florida Statutes that provide the exclusive proceedings for adopting comprehensive plan amendments.

Section 4. The Town Council affirms its support for the right of citizens to petition their government, but that such should be exercised in a responsible manner. The Town Council does not believe that the proposed Initiative is a responsible exercise of that right, as it threatens

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property rights and exposes the Town to potentially significant legal and other expenses, including the costs of a special election and litigation, and most critically exposes the Town to potential liability to PBSC. To that end, the Town Council opposes the proposed Initiative, urges the Initiative Committee to cease its efforts, and urges Town electors to not support such and not sign the petitions.

Section 5. The Town Council directs that a copy of this Resolution shall be posted on the Town's website, and that copies shall be sent to PBSC, as well as local newspaper, television and media outlets so that the electors of the Town can be fully informed and advised of the Town Council's position and of all relevant information when they are deciding whether or not to support the petition.

Section 6. Severability. 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 part or application shall be considered as eliminated, and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

Section 7. Conflicts. All Resolutions or parts of Resolutions in conflict herewith are to the extent of such conflicts hereby repealed.

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Section 8. Effective Date. This Resolution shall take effective immediately upon its adoption.

ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, FLORIDA, this 4th day of December, 2012.

ATTEST:

TOWN CLERK

APPROVED AS TO LEGAL FORM:

Office of the Town Attorney

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

Mayor David Browning

Vice Mayor Jim Rockett

Council Member

Council Member

Council Member

MDC

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