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BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY  
REC 44.00

RESOLUTION  
NUMBER 2004- 248

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, PERTAINING TO THE TRANSFER OF DENSITY UNITS IN REAL PROPERTY THAT DO NOT HAVE AN IDENTIFIABLE SENDING ZONE; PROVIDING FOR THE ESTABLISHMENT OF A LAND ACQUISITION TRUST FUND; ESTABLISHING POLICIES AND PROCEDURES FOR THE ADMINISTRATION OF THE FUND; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, on August 28, 2001, the Board of County Commissioners of Charlotte County, Florida (the "**Board**"), enacted Ordinance No. 01-050, enacting Article XX, Code of Laws and Ordinances, Charlotte County, Florida (hereinafter "**County Code**") which established the process for the transferring of development rights in Charlotte County; and

WHEREAS, in conjunction with the passage of this Resolution, the Board will enact an ordinance that repeals the text of Article XX of the Code in its entirety and replaces the text of Article XX of the Code with an up-dated ordinance that shall govern the transfer of density units ("**TDU**") in Charlotte County (the "**TDU Code**"); and

WHEREAS, Section 3-5-457 of the County Code provides that the Board would establish a land acquisition trust fund and procedures governing the land acquisition trust fund by resolution; and

WHEREAS, the land acquisition trust fund provides a mechanism by which density can be increased on an eligible receiving zone (or "**RZ**" as defined in the TDU Code) without the benefit of a property that qualifies as an accompanying sending zone

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(or "**SZ**" as defined in the TDU Code) by serving as a repository for a contribution fee in lieu of the use of an SZ; and

WHEREAS, funds contributed to the land acquisition trust fund from a contribution fee for TDU or any other source shall be used to acquire and manage properties that qualify as SZs; and

WHEREAS, the Board hereby establishes a land acquisition trust fund pursuant to the new Article XX of the County Code.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

1. Pursuant to Section 3-5-457 of the County Code, the Charlotte County Land Acquisition Trust Fund (the "**LATF**") is hereby created.

2. If a petitioner does not choose to include an SZ with a proposed TDU, the petitioner shall pay a contribution fee to be deposited in the LATF. The payment of the contribution fee will be required prior to Preliminary Plat approval, or, in the event a Preliminary Plat will not be requested by the applicant, prior to request for other "**Development Permits**" (as defined in the TDU Code) for any portion of the property. If a Preliminary Plat is to be submitted in phases, the petitioner may pay only the contribution fee for those "**Density Units**" (as defined in the TDU Code) required for development of the phase. The timing of the payments shall be included as part of the Resolution adopting the TDU.

3. The amount of the fee shall be equal to the number of Density Units approved for the RZ multiplied by the unit price equivalent for a Density Unit to be

established by resolution of the Board. The petitioner shall be issued a Certificate in accordance with Sec. 3-5-456 of the County Code.

4. The amount of the fee required upon payment shall be the unit price equivalent for a Density Unit at the time of payment, which may not be the same price as would have been paid by the petitioner at the time of approval of the TDU by the Board.

5. A petitioner who is proposing to transfer density onto property located in a Tropical Storm Surge or Category 1 Hurricane Storm Surge zone or who is proposing to increase density on property within the West County Planning District, which constitutes all property west of the Myakka River, can not utilize the Land Acquisition Trust Fund option.

6. Funds contributed to the LATF as a contribution fee pursuant to Sec. 3-5-444 shall be used to acquire and manage properties that qualify as SZs.

7. Prior to any expenditure of LATF funds for the purchase of a parcel of land, the County Administrator shall review any proposal for such purchase of land and shall coordinate the provision of input from County staff to the Board regarding any such proposal. Use of environmentally sensitive lands purchased with LATF monies shall be managed by the County so as to maintain or enhance their ecological functions and values.

8. Nothing shall be construed to prevent the Board from combining and re-selling property acquired with money from the LATF, provided such property does not contain environmentally sensitive resources, and provided further that the densities assigned to such property at the time of sale comply with the Comprehensive Plan and

County Code, and provided further that the proceeds from any re-selling are deposited into the LATF.

9. Notwithstanding subparagraph 8 above, the Board may sell lands purchased using LATF funds to other government entities or private, non-government conservation organizations (such as, for example, The Nature Conservancy, the Lemon Bay Conservancy, or other such organization whose mission is the preservation of environmentally sensitive, historic, or archeological resources) if:

(1) Such a sale would result in an expansion or enhancement of an existing preserve owned by the agency to whom the land is sold; or

(2) Such a sale would result in better management of the environmentally sensitive, historic or archeological resources on the land than that provided by the County as demonstrated to the satisfaction of the Board; or

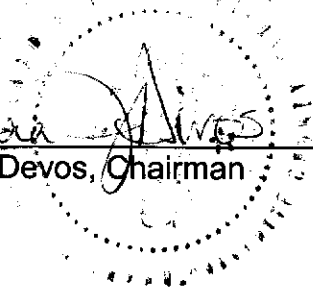
(3) Other considerations favor such a sale which the Board determines to be both clearly in the public interest and in the best interest of the environmentally sensitive or historic or archeological resources found on the property.

10. This resolution shall be deemed effective upon its adoption.

PASSED AND DULY ADOPTED this 13<sup>TH</sup> day of DECEMBER, 2004.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By: Sara J. Devos  
Sara J. Devos, Chairman



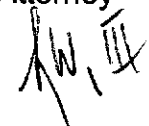
ATTEST:

Barbara T. Scott, Clerk of Circuit  
Court and Ex-officio Clerk to the  
Board of County Commissioners

By: Anne L. Pfahler  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By: Brendan Brodley  
Janette S. Knowlton, County Attorney



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