

VILLAGE COUNCIL WORKSHOP MEETING OF OCTOBER 28, 2015

The Village of Estero Council Workshop was held on this date at the Estero Fire Rescue District Meeting Room, 21500 Three Oaks Parkway, Estero, Florida.

Present: Mayor Nick Batos - District 6, Vice-Mayor Howard Levitan - District 2, Councilmember Bill Ribble, District 1, Councilmember Donald Brown - District 3, Councilmember Katy Errington - District 4, Councilmember Jim Boesch - District 5, and Councilmember Jim Wilson - District 7.

Also present: Village Manager Peter Lombardi, Village Attorney Burt Saunders, and Village Clerk Kathy Hall.

1. CALL TO ORDER

Mayor Batos called the meeting to order at 10:00 a.m.

2. PLEDGE OF ALLEGIANCE

Mayor Batos led the Pledge of Allegiance.

3. ROLL CALL

Village Clerk Kathy Hall called the roll; all members were present.

4. APPROVAL OF AGENDA

Councilmember Brown moved approval of the agenda, seconded by Councilmember Errington, called and carried unanimously.

5. COUNCIL BUSINESS

(A) Conservancy of Southwest Florida - Estero River Presentation - April Olson

April Olson, Growth Management Specialist, Conservancy of Southwest Florida, through a PowerPoint presentation, spoke regarding the Estero Bay Watershed; headwaters; flows; history of the river; historic groves of Estero; Estero Bay store; Pre-Development Conditions 1944, 1953, 1998; flow data; 1953 and 2007 Hydropatterns; vegetation; wildlife; water quality; watershed problems; economic significance; trails and parks; and Conservancy recommendations.

Council discussion followed.

Public Comment:

Charles Dauray provided a handout entitled Estero River Conditions East of US 41, and spoke regarding the Estero Historic Preservation Citizens Committee mission; the committee's focus on the Estero River; digitizing records; the delicate balance between preservation and private property rights; and water flows.

Genelle Grant, Board President, Happehatchee Center, spoke regarding the importance of preserving the land and offered the Center's cooperation and help to work with the Village.

Holley Rauen, Board Vice President, Happehatchee Center, stated that they would like to partner with anyone that wants to save the river and to work on a task force. She also invited everyone to view a video on the Happehatchee website.

Bob Lienesch, Shadow Wood resident, addressed the need for a land acquisition program to allow for better access to the river.

Stephanie Miller, Rookery Pointe resident, spoke regarding the importance of land acquisition.

Don Eslick, ECCL, stated that he served on the zoning panel when Estero and the river were zoned and he believed that a 50 foot setback existed on the south side of the river from the top of the bank in order to accommodate a walking and biking path, and spoke to the importance of maintaining the access to the river. He also spoke regarding assisting with the Koreshan State Park long term plan update; voluntary easements from property owners along the river; and the ECCL's interest in participating in a task force.

Charles Dauray noted that some of the most wonderful walking paths in South Florida were located at the Koreshan State Park and spoke regarding the possibility of an annual pass for Estero residents.

Councilmember Wilson spoke regarding attending the Farmer's Market at the Koreshan State Park and recalled that there was no fee required.

Jean Pryal, Vice President, Estero Historical Society, spoke regarding Mimi Straub, visionary to the Estero community.

Councilmember Ribble spoke regarding the upcoming Halloween party at the Koreshan State Park.

Mayor Batos expressed appreciation to April Olson for the presentation and to everyone that participated in the discussion.

(B) Fracking Discussion

Caitlin Weber, Policy Analyst, Conservancy of Southwest Florida, through a Power Point presentation, spoke regarding oil in Estero; mineral right ownership; extraction techniques; and surface impacts of concern.

Ralf Brookes, Attorney, Conservancy of Southwest Florida, continuing with the Power Point presentation, spoke regarding legal aspects of local ordinances; well stimulation ordinance language; water wells are not captured; no permit for well stimulation; municipal authority to review drilling permits - Section 377.24 F.S.; other government actions; local government action in Florida - use of local zoning; proposed preemption in

State Legislation - HB 191 and SB 318; and recommendations for well stimulation ordinance.

Public Comment:

Peter Cangialosi, ECCL, addressed concern regarding fracking and urged Council to adopt an ordinance.

Phil Douglas, Lighthouse Bay resident, urged Council to adopt an ordinance immediately and asked that letters be written to Representative Rodrigues and Senator Richter. He also spoke regarding the low economic value of the oil that would come out of this area.

Dr. Karen Dwyer and Dr. John Dwyer, Naples residents, addressed concerns regarding fracking and urged Council to adopt an ordinance.

Clara Anne Graham, President, League of Women Voters of Lee County, addressed concern regarding fracking and urged Council to adopt an ordinance.

Ray Judah, Florida COC, addressed concern regarding fracking and the proposed bills, and urged Council to adopt an ordinance.

Ruth McGregor, Sierra Club Calusa Group, addressed concern regarding fracking and urged Council to adopt an ordinance.

Patty Whitehead, Old Estero resident, spoke regarding fracking, the Constitution, Florida Statutes, HB 191 and SB 318.

Greg Toth, Naples resident, agreed with adoption of a local ordinance and stated that the majority of Lee County wells were due east of Estero. He encouraged the Village Council to get involved with the County and the State in order to prevent fracking from happening east of Estero.

Ms. Weber provided written comments from the public to add to the record.

Councilmember Errington conveyed appreciation to the Conservancy for the inaugural Fracking Summit. She also spoke regarding information she gathered from research relating to fracking, read from notes that she prepared related to HB 191 and SB 318, and asked that an ordinance be placed on the November 4, 2015 Council agenda.

Attorney Saunders spoke regarding Lee County's pre-emption from regulations of the oil industry; they rely on implied pre-emptions. He also read the pre-emption language from the proposed bills and addressed opposition. He also addressed the Village's Home Rule authority to adopt an ordinance banning fracking, which could be taken away if legislation passed; liability; the possibility of Burt Harris claims; and the options of passing an ordinance, resolution, or both.

Discussion followed regarding the sample ordinance; the commitment from Earth Justice to help intervene and defend any ordinances; concern about non-conventional oil drilling; lack of information about the status of mineral rights in Estero and the means to obtain the information.

Council consensus was for staff to prepare an ordinance banning fracking and a resolution urging the Legislature to ban fracking and to preserve Home Rule; and the ordinance to be scheduled to allow for adoption prior to the end of 2015.

In response to an inquiry regarding Representative Rodrigues, Attorney Saunders responded that he was unable to attend the workshop due to Special Session in Tallahassee; however, he had expressed an interest in being at the workshop.

The Workshop went into recess at 12:17 and reconvened at 1:00 p.m.

(C) Village Vision Presentation: Seth Harry and Bill Spikowski

Vice Mayor Levitan, through a PowerPoint presentation entitled Estero Planning Initiative, provided an overview of what would be discussed along with information to assist in answering the questions why was Estero doing this and what the Village was trying to achieve. Topics in the presentation included: What is Estero? What do people identify with? Mission statement dated October 2014 from the Estero Community Plan; Community Plan: Policy 19.2.2; Wants and Needs Identified in the Village Center Areas; The Vision so Far; Overall Goal; and Tiered Weighted Incentive System.

Utilizing a second PowerPoint presentation, Vice Mayor Levitan addressed the steps taken thus far: Community planning initiative, 2013-14; Zoning in progress resolution, April 2015; Planning contract with Spikowski/Harry, May 2015; Public meeting on interim Comprehensive Plan amendments, August 2015; Process paused to consider objections; and Meetings to discuss counter proposals including density incentive structure, October 2015.

Continuing through the PowerPoint presentation, Seth Harry addressed the following topics: How is what's left different; Zoning Mismatch; Possible Anchors; Place-type Attributes; Complete Streets; Diversity of Residential Types Serving Different Housing and Care Needs; Street Networks; and Place-making Neighborhood Structure.

Bill Spikowski continued with the PowerPoint presentation, addressing: Conventional Zoning; Planned Development Zoning; Recent adjustments for Village Center will create new categories on the future Land Use Map for the Village Center; categories will allow Village Council to authorize density bonuses for above and beyond commitments such as design, landscaping, river access, public spaces; a framework plan will ensure connectivity of streets and paths, replacing earlier idea for the Village to create conceptual regulating plans.

Vice Mayor Levitan stated that there was a lot of work ahead to get from the conceptual idea. He spoke to working on a collaborative basis to reach as many of objectives as possible. He also spoke regarding the Comprehensive Plan.

Public Comment:

Jim Wallace, representing Genova, provided suggestions and urged the Council to continue the productive collaborative process. He made the following points: be certain that the menu of incentives was realistic; the program must represent the wants of the

Village but also what makes sense for the project involved; be pragmatic and find common ground in an expeditious way.

Carolyn Mijokovic, Bella Terra resident, addressed concern regarding obtaining approval from Lee County. Mayor Batos responded that the Council would make the decisions. Ms. Mijokovic also inquired regarding “smart” streets.

Howard Gutman and Katie Sproul from North Point, conveyed appreciation to Council regarding meeting with landowners and coming up with a good plan that was incentive based. Concern was addressed regarding creating the type of project that was economically feasible based on some of the things that Seth Harry presented. It was noted that they have sold over 3,000 units in Southwest Florida and only sold to two millennials. They also believed that flexibility and alternative options were needed.

Greg Toth, land owner, spoke to economic feasibility, road network, water network, and greenspace. He noted that the present market place was residential and financing could not be obtained if a project included more than 25% commercial.

Andy Djamoos, representing Village Partners, Estero on the River, comprising approximately 87 acres, cut into quadrants, abutting Estero River and railroad tracks. He addressed concern regarding creating a walkable community. He indicated support, noted that he had only been invited to one developer’s meeting, and encouraged Council to let him know how he can get more involved.

Sylvia Busch, Villa Palmeras resident, inquired whether Council had considered a budget for the Village Center. Mayor Batos responded that, at this point, it was premature due to the lack of a plan.

Don Eslick, ECCL, spoke to the importance of being collaborative. He hoped that henceforth the process would be open to the public. He also spoke to the need for an assessment of all the things in the two areas, how the community could capitalize on the use, and having a sense of place.

Glenna Rohrbach, Estero Art League, addressed concern regarding cultural aspects.

Roger Strelow, Planning and Zoning Board, expressed optimism about how the Village was progressing and believed that the dialogue was encouraging.

Al O’Donnell, Design Review Board, believed that incentive based was a good idea and spoke to creativity of developers.

Hollie Rauen, spoke regarding environment; trees; quality of Estero River; and the challenge to developers.

Doug Saxton, The Reserve resident, addressed his hope that the Village Center would be not only a place to live but a destination as well, and that part of the corridor be reserved for trails.

Cliff Fleming, attorney representing developers, spoke regarding respect for the developers and preserving the community for the long term.

Patty Whitehead, Old Estero resident, addressed concern for a bikeable/walkable community in order to go from one amenity to the next.

Councilmember Ribble addressed concern regarding the lack of information related to the meetings between the developers and Vice Mayor Levitan. He noted that he had spoken with a developer at the walkable communities' symposium as well as two developers at Village Hall. He was hopeful that, moving forward, more information would be shared. He also spoke regarding Joe Minicozzi, a presenter at the walkable communities' symposium; he would like to have the new Village Manager reach out to him to determine whether the Village was on the right track.

Councilmember Brown noted that everyone had worked long and hard to become a community; the developers had invested a lot of money without a return; he hoped that the process could be expedited; and appreciated everyone's efforts.

Councilmember Errington echoed Councilmember Ribble's comments regarding sharing information. She spoke regarding the idea of having a non-working rail system, which needed to be cleared up. She also noted that the northeast corner of US 41 and Corkscrew Road should be included in the plan and spoke regarding opportunities for several amenities.

Councilmember Boesch agreed regarding reaching out to Mr. Minicozzi; was pleased that the developers were in attendance; and believed that a good attitude would bring about positive results.

Councilmember Wilson believed he had a better understanding through the presentations and agreed regarding speaking to Mr. Minicozzi about coming to speak with the Council.

Mayor Batos stated that the ideas brought forward were preliminary and that everything had to be successful for both sides. He encouraged the developers to reach out to each of the Councilmembers in order to get clarification of their ideas.

9. PUBLIC INPUT ON NON-AGENDA ITEMS

Mayor Batos called for public input on any issue and no one came forward.

10. COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS

None.

11. VILLAGE MANAGER'S COMMENTS

None.

12. VILLAGE ATTORNEY'S COMMENTS

None.

13. ADJOURN

A motion to adjourn was duly made, called and carried unanimously.

Mayor Batos adjourned the meeting at 2:54 p.m.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: _____

By: _____

Kathy Hall, MMC
Village Clerk

Nicholas Batos
Mayor