

VILLAGE COUNCIL REGULAR MEETING OF AUGUST 10, 2015

The Village of Estero Council Regular Meeting 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, Village Clerk Kathy Hall, Village Finance Director Lisa Pace, and Village Community Development Director Mary Gibbs.

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

5. CONSENT AGENDA

(A) **Approval of June 24, 2015 Workshop Minutes**

(B) **Approval of June 26, 2015 Special Meeting Minutes**

(C) **Approval of July 1, 2015 Regular Meeting Minutes**

Councilmember Ribble noted a correction to page 7, paragraph 5, second sentence of the June 24, 2015 minutes. The reference to Brooks Town Center was corrected to Corkscrew Palms building.

Councilmember Brown moved approval of the June 24, 2015 minutes as corrected, June 26, 2015 minutes as presented, and July 1, 2015 minutes as presented, seconded by Councilmember Wilson, called and carried unanimously.

6. COUNCIL BUSINESS

(A) Resolution No. 2015-50 Approving the Interlocal Agreement for Services between the Village of Estero and Lee County; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date

Mayor Batos read the title of Resolution 2015-50, indicated that negotiations finalized last week and everyone felt that an agreement had been reached.

Village Attorney Burt Saunders noted that there were a few technical changes that would need to be made to the agreement.

Councilmember Ribble congratulated the Mayor for his leadership on the negotiations. He questioned whether the County expounded on "Engineering and general traffic analysis and right-of-way permitting (mostly driveways)" listed at the top of page 3 of the agreement, and whether they were going to assist the Village with the traffic analysis. Mayor Batos responded that there was conversation regarding the traffic study but not as it pertained to the Interlocal Agreement.

Councilmember Errington referred to Major Maintenance on page 3 and Natural Resources on page 2 that indicated updates as needed for major maintenance and questioned whether that was when someone felt compelled that they needed to work on one of the rivers or creeks. Mayor Batos responded he understood that those items were reviewed with a combination of the Natural Resources and the South Florida Water Management District; when they determined that the condition was such that the flow of water was impeded, the body of water would need maintenance.

Councilmember Wilson referred to Community Development on page 3 that indicated "These services can be provided to the Village past this date..." and inquired whether that meant they were willing to work with the Village as long as needed. Mayor Batos responded "yes" and added that the Village would have needed to provide a 60 day notice on August 1, 2015 (60 days prior to October 1) if the Council decided to break away Community Development from the County. Councilmember Wilson referred to Transfer Notice on page 4 and inquired whether that was related to Community Development. Mayor Batos responded that it referred to any Municipal Service including Community Development.

Vice Mayor Levitan stated that he believed the zoning and administrative work had already been taken out of the agreement as of the beginning date of October 1, 2015. Mayor Batos responded that Council would still need to provide 60 days' notice.

Attorney Saunders stated the intention was that Lee County would continue to handle all Community Development issues and when the Village was ready to take it over, 60 days' notice would be provided to the County; the Village was obligated to continue to work with Lee County until a 60 days' notice was provided. He noted that there would be a transition period in order to get up to speed on everything. Vice Mayor Levitan added that there was the possibility of duplication of services during the transition period.

Village Manager Lombardi noted a change to the Interlocal Agreement on page 3, Section IV – A., second sentence to read: "Said sum shall be paid in four installments as listed below."

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

Councilmember Ribble moved to adopt Resolution No. 2015-50 and authorize the Village Mayor to execute the agreement with the revision on page 3, seconded by Councilmember Brown, called and carried unanimously.

(B) Resolution No. 2015-52 Approving the Interlocal Agreement between the Village of Estero and Lee County Pertaining to the Collection of Impact Fees; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-52. He stated that the agreement with Lee County was necessary to authorize the payment of collected impact fees by the County Clerk from January 1, 2015 through approximately July 31, 2015; quarterly payments would follow.

Village Manager Lombardi noted changes to the agreement: page 1, the second "Whereas" was revised to include "schools"; page 2, item number 3 was revised to read "The County will collect and remit road, community and regional park impact fees on behalf of the Village at the impact fee rate adopted by the Village"; page 2, item number 4, first sentence was revised to read "The County is entitled to charge and collect an amount up to three percent of impact fees it collects in cash..."; page 3, item number 14, first sentence was revised to read "The County will maintain all records of impact fees collected from permitting activities on development with the Village by reference to the fee payer's name and address and STRAP number."

Councilmember Errington inquired whether the Estero Park was considered a regional park or community park. Village Manager Lombardi responded "regional park."

Regarding page 2, item 3 and page 3, item 15, Councilmember Wilson inquired whether the County would get all of the money and when would it be turned over to the Village. Mayor Batos responded that the County would get all of the money up until this point. Village Manager Lombardi responded that the Village would receive impact fees for roads, regional parks, and community parks. He noted that the first payment would be made five days after the execution of the Interlocal Agreement, retroactively from the first of the year. Mayor Batos added that the County would continue to collect and pay the Village until the Village took over the permitting process. Discussion followed regarding percentages of payments.

Vice Mayor Levitan noted that the Village was required by State law to review justification for the impact fee levels. He noted that the County adopted a new report from Duncan Associates in February. He stated that, with the Interlocal Agreement ready for approval, the Village would need a similar adoption of the findings of the Duncan report update, the basis for the impact fee levels, which was the actual dollars per cost level for each different type of development. He indicated that a proposal for adoption would probably come before the Council in September. Mayor Batos asked that the Village Manager arrange to have this on an upcoming agenda.

Mayor Batos called for public comment and no one came forward.

Councilmember Levitan moved to adopt Resolution No. 2015-52 and authorize the Village Mayor to execute the agreement with the revisions as submitted, seconded by Councilmember Errington, called and carried unanimously.

(C) Resolution No. 2015-51 Approving the Interlocal Agreement between the Village of Estero and the Lee County Property Appraiser for Certain Shared Data and Services; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-51. Village Manager Lombardi explained that this was an Interlocal Agreement that the property appraiser's office had with the City of Cape Coral; the appraiser offered it to the Village. He explained that the property appraiser's office was responsible for the management of the GIS operation (mapping) in Lee County; through the Interlocal Agreement, the property appraiser would make GIS services available to the Village and likewise, if the Village developed a database, the Village would agree to share the database with the property appraiser. He added that there was no cost to the Village and recommended approval of the Interlocal Agreement.

Mayor Batos called for public comment and no one came forward.

Councilmember Wilson moved to adopt Resolution No. 2015-51 and authorize the Village Mayor to execute the agreement, seconded by Councilmember Errington, called and carried unanimously.

(D) Florida Power & Light Company Electric Franchise Agreement

Village Manager Lombardi introduced Ms. Charlotte Miller.

Charlotte Miller, Florida Power & Light External Affairs, Southwest Florida contact, introduced Pat Bryan, Florida Power & Light Senior Counsel, and Juliette Roulhac, Regional Affairs Manager. Ms. Miller provided an explanation of franchise basics, stating that it would be a 30 year agreement providing FPL the non-exclusive right to be the electric energy provider and the Village would agree not to generate electric power for sale purposes; in exchange for the non-exclusive right, FPL would collect a monthly franchise fee from the customer electric bills not to exceed 6% of FPL customer revenues. She continued that the franchise fees would be paid to the Village on a monthly basis. Ms. Miller stated that Lee County's franchise was currently set at a rate of 4.5%; there was future flexibility to increase or decrease the franchise fee amount, with a maximum of 6%. She indicated that, based on the past 12 months, 4.5% would provide the Village with an annual revenue of approximately \$791,000, and noted that there was a large percentage of seasonal residents.

Discussion followed regarding solar products, the length of the franchise agreement, seasonal residency, planting trees in the right-of-way, tree roots affecting underground lines, and the franchise ordinance hearing process. Village Manager Lombardi stated that the hearings would be held on September 3 and 16, the franchise agreement would be effective October 1, 2015, the first check would be received by the Village on January 1, 2016, with monthly payments thereafter. Consensus was for the franchise rate to continue at 4.5%.

Mayor Batos called for public comment and no one came forward.

(E) Review the Qualifications and Rank the Respondents to RFQ #2015-01 for General Planning Services for the Village's Community Development Department

Resolution No. 2015-49 Approving the Qualifications and Ranking of Firms for RFQ 2015-01 for General Planning Services; Authorizing the Village Manager to Negotiate Terms; and Providing an Effective Date

Village Manager Lombardi stated that four submittals were received by the deadline: CH2M; Calvin, Giordano & Associates, Inc.; LaRue Planning & Management Services, Inc.; and Turrell, Hall & Associates, Inc. Mr. Lombardi indicated that he and Community Development Director Mary Gibbs reviewed the proposals and determined that CH2M and Calvin, Giordano & Associates Inc. met the requirements of the RFQ; both of the firms were highly qualified and their recommendation to Council was to select Calvin, Giordano & Associates, Inc. due to their extensive list of clients that they currently serve. Brief discussion followed.

Mayor Batos invited comments from all four firms. The following representatives came forward and provided information: Jim LaRue, LaRue Planning & Management Services, Inc; Jay Sweet, CH2M; and Shelly Eichner, Calvin, Giordano & Associates, Inc. A representative from Turrell, Hall and Associates was not in attendance.

Mayor Batos called for public comment and no one came forward.

Vice Mayor Levitan moved to approve Resolution No. 2015-49 approving the qualifications and ranking of firms for RFQ 2015-01 for general planning services and authorizing the Village Manager to negotiate terms, seconded by Councilmember Boesch. Discussion ensued. Councilmember Boesch withdrew his second and Councilmember Ribble seconded the motion. Discussion followed regarding whether a team should be involved in the negotiating process; staff's ranking of the firms; and the qualities of each firm. Consensus was to revise sections of the resolution to indicate authorizing authority to a team consisting of the Village Manager and Vice Mayor.

Mayor Batos called for public comment and no one came forward. A vote on the motion approving Resolution No. 2015-49 as revised was called and carried unanimously.

(F) Resolution No. 2015-48 To Appoint the Audit Selection Committee for the Request for Proposals for Financial Audit Services (RFP 2015-02); and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-48. Village Manager Lombardi explained that the purpose of the resolution was to appoint an audit selection committee; his recommendation for committee members were the Village Manager, Finance Director, and resident and retired CPA Bob Lienesch. He further explained that the committee would review the RFP and, if satisfactory, the RFP would be advertised.

Mayor Batos called for public comment and no one came forward.

Councilmember Ribble moved to adopt Resolution No. 2015-48, seconded by Councilmember Brown, called and carried unanimously.

Brief discussion followed regarding the timeline.

(G) Final Plat Approvals:

(1) Resolution No. 2015-44 Approving the Oaks of Estero Plat; and Providing an Effective Date

Village Attorney Saunders read the title of Resolution No. 2015-44 and explained that the resolutions were routine approvals for plats of existing developments; there were no issues associated with the plats. Community Development Director Mary Gibbs stated that this was the final step in the approval process; there were legal and technical requirements to make certain that bonds and sureties were in place. Vice Mayor Levitan provided further explanation of the requirements that Attorney Derek Rooney reviewed, in particular the methods for cost sharing for roads, water, sewer, etc., and inquired who reviewed the homeowner association agreements from a fairness standpoint and scope of issues that may come up. Community Development Director Gibbs provided an explanation. Councilmember Boesch addressed concern regarding sidewalks and inquired whether the plats required sidewalks. Ms. Gibbs responded that it depended on the language in the land development code. Discussion followed. Vice Mayor Levitan added that these plats dealt with internal sidewalks and the land development code now had a provision requiring sidewalks external to the communities along the right-of-way. Brief discussion ensued.

Village Attorney Saunders noted that these were technical reviews and explained the process undertaken by Lee County and the attorney's office. He added that legal review included making certain there was nothing inconsistent with approved development orders and homeowner's association documents. He stated that this was not the stage to make changes. Vice Mayor Levitan stated that plat approvals may not need to come to the Council for formal approval and suggested that staff enter this on their list of items that Council ultimately may want to change and adopt Lee County's process; once plats went through legal and staff review, the Mayor would sign off. Mayor Batos said that for at least the time being, the plat approvals could have been put on the consent agenda. Brief discussion followed along with an inquiry regarding a sidewalk issue related to this plat.

Public Comment:

Alexis Crespo, Waldrop Engineering, stated that the existing sidewalk was not ADA compliant; as part of the construction plans, the sidewalk was relocated and upgraded to be fully ADA compliant. She added that they have also worked with the neighbors on a replanting plan to correct issues where old sidewalk had been removed.

Councilmember Brown moved to adopt Resolution No. 2015-44, seconded by Councilmember Errington, called and carried unanimously.

(2) Resolution 2015-45 Approving the Autumn Leaves Re-Plat; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-45.

Councilmember Wilson moved to adopt Resolution 2015-45, seconded by Councilmember Ribble, called and carried unanimously.

(3) Resolution 2015-47 Approving the University Highland Tract 3 Re-Plat; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-47.

Vice Mayor Levitan inquired whether there was a sidewalk running along the new road in the subdivision.

David Hurst, Peninsula Engineering, responded that there were sidewalks on both sides of the roadway.

Mayor Batos called for public comment and no one came forward.

Councilmember Errington moved to adopt Resolution No. 2015-47, seconded by Vice Mayor Levitan, called and carried unanimously.

7. PUBLIC INPUT ON NON-AGENDA ITEMS

Mayor Batos called for public input on any issue.

Jay Sweet, CH2M, conveyed appreciation for Vice Mayor Levitan's comments related to the Respondents to RFQ #2015-01 for General Planning Services for the Village's Community Development Department.

8. COUNCIL COMMUNICATIONS AND FUTURE AGENDA ITEMS

Councilmember Ribble provided an update regarding negotiations on the Corkscrew Palms building. He indicated that the Council chambers may be larger than originally expected and the installation of a generator for the building was being reviewed.

Councilmember Brown conveyed appreciation to everyone for well wishes and cards.

Councilmember Errington reported that she had a conversation with Village Manager Lombardi regarding providing a link on the Village website to the Lee County Library website, which had been accomplished. She provided a brief report regarding the latest Estero Historic Preservation Citizens Committee meeting and reported on the first Southwest Regional Planning Council meeting that she attended. She alerted Council regarding an online survey that would be available soon.

Councilmember Boesch provided a brief report regarding the Metropolitan Planning Organization meeting that he attended.

Councilmember Wilson spoke to an email sent by Village Manager Lombardi to the Council that indicated over 70 applications had been received for the permanent Village Manager position. Mr. Lombardi also indicated in the email that he had decided not to file an application and, if it were the wish of Council, he would remain on the job until appointment of a new Village Manager and allow for a seamless transition. Councilmember Wilson stated that he hoped Mr. Lombardi would stay and work to be certain that there was a transfer of knowledge to the new Village Manager. He suggested that a retirement bonus be determined based on his performance between now and when Mr. Lombardi completed his service with the Village.

Village Attorney Saunders cautioned that there was a State statute that limited the amount of compensation to be paid for services that had already been provided; he stated that a copy of the statute would be made available to the Council. Councilmember Ribble believed the bonus was an excellent suggestion and would like Mr. Lombardi to remain available until completion of the real estate development transaction. Brief discussion followed along with remarks of appreciation for Mr. Lombardi.

Mayor Batos stated that the Interlocal Agreement negotiation team went through a long process, there were many ups and downs, neither party got everything they wanted, and there were compromises involved. He conveyed appreciation for everyone's work and hoped that this was the first step in a long and healthy relationship between the County and the Village.

9. VILLAGE MANAGER COMMENTS

Village Manager Lombardi reported there were two additional Interlocal Agreements to wrap up, road/transportation and solid waste franchise fee. Vice Mayor Levitan noted that the two Interlocal Agreements with the Fire Districts were still outstanding. Mayor Batos inquired whether it would be advantageous to receive information from the other five cities regarding the solid waste franchise fee Interlocal Agreement as well their arrangements related to roads. Mr. Lombardi responded that he would request the information. Brief discussion followed.

Mr. Lombardi referred to the budget report for July 31, 2015 and noted that the report included a revenue estimate for impact fees of \$695,700 and the anticipated project fund balance of \$1,226,170 by the end of this year.

10. VILLAGE ATTORNEY COMMENTS

Village Attorney Burt Saunders reported: he received documentation from the Sheriff's Department related to a false alarm ordinance; he spoke with Peter Winton regarding the solid waste franchise agreement and the issue was to make certain that whatever formula was used for the Village was the same formula used elsewhere; and he was working on the master transportation agreement.

11. ADJOURN

Councilmember Brown moved to adjourn the meeting, seconded by Councilmember Errington, called and carried unanimously. Mayor Batos adjourned the meeting at 11:38 a.m.

ATTEST:

By: Kathy Hall

Kathy Hall, MMC
Village Clerk

VILLAGE OF ESTERO, FLORIDA

By: Nicholas Batos

Nicholas Batos
Mayor

Minutes approved as presented: September 16, 2015