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**APPROVED BY COUNCIL  
DECEMBER 7, 2016**

**FINAL ACTION AGENDA/MINUTES**

**Village of Estero  
9401 Corkscrew Palms Circle  
Estero, FL 33928  
Village Council Meeting  
November 16, 2016 9:30 a.m.**

- 1. OPENING EXERCISES:** (Includes call to order, roll call, pledge of allegiance, announcements, proclamations, and ceremonial presentations)

**Call to Order:** 9:30 a.m.

**Pledge of Allegiance:** Led by Vice Mayor Levitan.

**Invocation:** Offered by Pastor Tim Carson from Estero United Methodist Church.

**Roll Call:** Present: Vice Mayor Howard Levitan - District 2, Councilmember Bill Ribble, District 1, Councilmember Katy Errington - District 4, Councilmember Jim Boesch - District 5, and Councilmember Jim Wilson - District 7.

Absent: Councilmember Donald Brown - District 3 and Mayor Nick Batos - District 6.

Also present: Village Manager Steve Sarkozy, Village Attorney Burt Saunders, Village Land Use Counsel Nancy Stroud, Village Clerk Kathy Hall, Finance Director Lisa Roberson, and Community Development Director Mary Gibbs.

- 2. APPROVAL OF AGENDA, ADDITIONS, AND DELETIONS:**

**Motion:** Move to approve the agenda.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Boesch

**Action:** Approved the agenda.

**Vote:**

**Aye:** Unanimous (Councilmember Brown and Mayor Batos absent)

**Nay:**

**Abstentions:**

### 3. CONSENT AGENDA:

- (a) Approval of November 2, 2016 Council Meeting Minutes

**Motion:** Move to approve the Consent Agenda.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Errington

**Action:** Approved the Consent Agenda.

**Vote:**

Aye: Unanimous (Councilmember Brown and Mayor Batos absent)

Nay:

Abstentions:

### 4. ORDINANCES:

#### (a) FIRST READING AND PUBLIC HEARING:

- (1) Ordinance No. 2016-14 An Ordinance of the Village Council of the Village of Estero, Florida, Establishing a Temporary Moratorium on Cannabis Dispensing Businesses as Further Defined Herein; Providing for Geographic Area Covered; Providing for Penalties; Providing a Savings Clause, a General Repealer Clause, and an Effective Date

Village Clerk Hall read the title of Ordinance No. 2016-14. Village Attorney Saunders provided an explanation of the ordinance. Community Development Director Gibbs reported that the Planning and Zoning Board recommended that the Council adopt the ordinance.

Village Land Use Counsel Stroud noted a minor revision to page 2 with reference to the ballot measure, which would be revised prior to the second reading/hearing.

**Public Comment:** None.

**Motion:** Move to pass first reading of Ordinance No. 2016-14.

**Motion by:** Councilmember Errington

**Seconded by:** Councilmember Ribble

**Action:** Passed first reading of Ordinance No. 2016-14.

**Vote:**

Aye: Unanimous (roll call; Councilmember Brown and Mayor Batos absent)

Nay:

Abstentions:

**Motion:** Move to schedule second reading and public hearing for 9:30 a.m. on December 7, 2016.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Errington

**Action:** Scheduled second reading and public hearing for 9:30 a.m. on December 7, 2016.

**Vote:**

**Aye:** Unanimous (roll call; Councilmember Brown and Mayor Batos absent)

**Nay:**

**Abstentions:**

## **5. ACTION ITEMS:**

- (a)** Resolution No. 2016-35 A Resolution of the Village Council of the Village of Estero, FL, Approving the Fourth and Final Budget Amendment for Fiscal Year 2015-2016; and Providing an Effective Date

Village Clerk Hall read the title of Resolution No. 2016-35. Village Manager Sarkozy provided brief comments and Finance Director Roberson provided an explanation of the resolution to establish a special revenue fund for the building activity in fiscal year 2015-2016 and transferring budgeted revenues and expenditures.

**Questions or Comments:** Councilmember Wilson and Vice Mayor Levitan.

Discussion included clarification of the origin of the funds and budgeted figures rather than actual figures.

**Public Comment:** None.

**Motion:** Move to adopt Resolution No. 2016-35, creating a Special Revenue Fund for the building activity in fiscal year 2015-2016 and transfer \$885,600 in budgeted revenue and \$790,000 in budgeted expenditures from the General Fund to the Building Fee Special Revenue Fund.

**Motion by:** Councilmember Wilson

**Seconded by:** Councilmember Errington

**Action:** Adopted Resolution No. 2016-35, creating a Special Revenue Fund for the building activity in fiscal year 2015-2016 and transfer \$885,600 in budgeted revenue and \$790,000 in budgeted expenditures from the General Fund to the Building Fee Special Revenue Fund.

**Vote:**

**Aye:** Unanimous (roll call; Councilmember Brown and Mayor Batos absent)

**Nay:**

**Abstentions:**

- (b) Resolution No. 2016-36 A Resolution of the Village Council of the Village of Estero, FL, Amending Resolution No. 2016-09 Adopting Personnel Policies; and Providing an Effective Date

Village Clerk Hall read the title of Resolution No. 2016-36 and Finance Director Roberson provided a brief explanation of the resolution clarifying the effective date of October 1, 2015 for paid time off (vacation) and retirement contributions as provided in the 2015-2016 Budget and in the personnel policies.

**Questions or Comments:** None.

**Public Comment:** None.

**Motion:** Move to adopt Resolution No. 2016-36, clarifying the effective date of October 1, 2015 for paid time off (vacation) and retirement contributions as provided in the 2015-2016 Budget and in the personnel policies.

**Motion by:** Councilmember Boesch

**Seconded by:** Councilmember Ribble

**Action:** Adopted Resolution No. 2016-36, clarifying the effective date of October 1, 2015 for paid time off (vacation) and retirement contributions as provided in the 2015-2016 Budget and in the personnel policies.

**Vote:**

Aye: Unanimous (roll call; Councilmember Brown and Mayor Batos absent)

Nay:

Abstentions:

- (c) Southwest Florida Regional Planning Council

Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council, provided details regarding the Planning Council's functions, bylaws and membership. She noted that, at the present time, there was one free membership available for the Village of Estero.

**Questions or Comments:** Councilmembers Boesch, Ribble, and Vice Mayor Levitan.

Discussion included grant writing possibilities; self-directed and law-directed responsibilities; economic opportunities; advisory comments related to matters such as Development of Regional Impact and Comprehensive Plan amendments.

**Public Comment:** None.

**Motion:** Move that the Village join the organization based on the fee waiver for the first year.

**Motion by:** Councilmember Boesch

**Seconded by:** Councilmember Wilson

**Action:** The Village will join the organization based on the fee waiver for the first year.

**Vote:**

Aye: Unanimous (roll call; Councilmember Brown and Mayor Batos absent)

Nay:

Abstentions:

**Motion:** Move to appoint Councilmember Wilson as the Village Council liaison to the Southwest Florida Regional Planning Council.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Boesch

**Action:** Appointed Councilmember Wilson as the Village Council liaison to the Southwest Florida Regional Planning Council.

**Vote:**

Aye: Unanimous (roll call; Councilmember Brown and Mayor Batos absent)

Nay:

Abstentions:

**6. COMPREHENSIVE PLAN AMENDMENT TRANSMITTAL AND REZONING ORDINANCES FIRST READINGS AND PUBLIC HEARINGS:**

**(a) Comprehensive Plan Amendment Transmittal First Reading and Public Hearing**

Ordinance No. 2016-15 An Ordinance of the Village Council of the Village of Estero, Florida, Approving an Amendment to the Village Transitional Comprehensive Plan to add Policy 19.3.4 Providing for the Option to Convert a Commercial Planned Development of not more than 5.5 acres within the Urban Community Future Land Use Designation and Mixed-Use Overlay to a Residential Planned Development when Combined with an Existing Adjacent Residential Planned Development under Certain Conditions for a Density not to Exceed Eight Dwelling Units Per Gross Acre across the Resulting Residential Planned Development Comprised of Both Parcels; Providing for Transmittal Pursuant to State Statute; Providing for Conflicts; Providing for Severability; and Providing for an Effective Date

Village Clerk Hall read the title of Ordinance No. 2016-15 and all audience members and staff providing testimony were sworn in. Ex parte communications were disclosed by Vice Mayor Levitan, Village Land Use Attorney Stroud, and Community Development Director Gibbs, based on meetings with the applicant and their team.

Community Development Director Gibbs provided an explanation of the request and revisions made to the staff report that went before the Planning and Zoning Board, noting that the staff report in the Council packet was the revised version.

**Presentations by:**

Kate English, Attorney, provided an explanation of the proposed Comprehensive Plan text amendment, which did not change the map; the zoning amendment (Ordinance 2016-16) depended upon the Comprehensive Plan amendment being successful.

Kate English provided background information related to Kathleen Berkey, AICP, in order to provide for her to be considered an expert witness. After brief discussion, Ms. Berkey was accepted as an expert witness.

Kathleen Berkey, AICP, utilizing a PowerPoint presentation, made the following statements: The proposed development is compatible with the existing or planned uses in the surrounding area. The requests are consistent with the goals, objectives, and policies of the Comprehensive Plan, as amended. The proposed development meets or exceeds the Land Development Code requirements. The proposed development will not place an undue burden on existing transportation or planned infrastructure and there will be adequate streets with sufficient capacity. The proposed mixture of uses are appropriate at this location.

**Questions or Comments:** Councilmembers Ribble and Errington addressed concern regarding stormwater runoff.

Joe McHarris, McHarris Planning and Design, accepted as an expert witness, stated that the site, located adjacent to student housing, was not appropriate for commercial use. He spoke to the proposed enhanced buffer along Estero Parkway, as well as the design and architecture.

**Questions or Comments:** Vice Mayor Levitan and Councilmember Boesch addressed concern regarding student housing facilities.

The meeting went into recess at 11:13 and reconvened at 11:20 a.m.

Joe McHarris, McHarris Planning and Design, provided detailed information related to the pattern book.

**Questions or Comments:** Councilmembers Errington, Wilson and Vice Mayor Levitan.

Discussion included ~~manipulating~~<sup>KH</sup> revising the Comprehensive Plan language; density and wetlands; the original zoning resolution; and an inquiry regarding existing sidewalk on Estero Parkway.

Norman Trebilcock, Certified Planner and Professional Engineer, accepted as an expert witness, addressed the traffic analysis for the project.

Kate English, Attorney, addressed the Master Concept Plan from the 2002 zoning; flow ways on Parcel C; conservation easement; headwaters; and Parcel A.

Parke Lewis, Environmental Consultant, W. Dexter Bender & Associates, Inc., accepted as an expert witness, addressed the Army Corp of Engineers determination regarding wetlands; remnant farm ditches; and the Corkscrew wildlife mitigation bank.

**Questions or Comments:** Councilmembers Boesch, Errington, Ribble, Wilson, and Vice Mayor Levitan.

Discussion regarding wetlands concerns followed.

Jay Westondorf, Omega Consulting Group, LLC, addressed utilities, stormwater, and outfall control structures. He also responded to inquiries regarding cleaning the water that flows to the Estero River and vehicles affecting water quality.

Brief discussion followed regarding the Comprehensive Plan amendment.

Kate English spoke regarding the proposed shuttle bus service and condition #17.

**Public Comment:**

Jeanette Igoe, Broker, Igoe Realty, addressed flooding that ceased when Phase 1 was constructed.

**Motion:** Move to pass first reading and transmit amendments to the state for further review.

**Motion by:** Councilmember Wilson

**Seconded by:** Councilmember Ribble

**Questions or Comments:** Councilmembers Errington, Ribble, and Vice Mayor Levitan.

Discussion included concern regarding opening up for future development issues; communications from residents in the nearby residential communities that were asking for separate student housing; water management and wetlands were broader issues for Estero; configuration of the buildings were not conducive to families.

**Action:** Passed first reading and approved transmitting amendments to the state for further review.

**Vote:** (roll call; Councilmember Brown and Mayor Batos absent)

**Aye:** Councilmembers Ribble, Boesch, Wilson and Vice Mayor Levitan

**Nay:** Councilmember Errington

**Abstentions:**

**(b) Rezoning for The Reef Phase II First Reading and Public Hearing**

Ordinance No. 2016-16 An Ordinance of the Village Council of the Village of Estero, Florida, Approving a Rezoning from Commercial Planned Development to Residential Planned Development with One Deviation to Allow a 60 Unit Multiple Family Project for Property Located at Three Oaks Parkway Consisting of Approximately 5.32 Acres; Providing for Severability; and Providing an Effective Date

Village Clerk Hall read the title of Ordinance No. 2016-16. Village Land Use Counsel Stroud made a statement that the public hearing for this ordinance was covered under agenda item 6 (a).

**Public Comment:** None.

**Motion:** Move to pass first reading of Ordinance No. 2016-16.

**Motion by:** Councilmember Wilson

**Seconded by:** Councilmember Ribble

**Action:** Passed first reading of Ordinance No. 2016-16.

**Vote:** (roll call; Councilmember Brown and Mayor Batos absent)

**Aye:** Councilmembers Ribble, Boesch, Wilson and Vice Mayor Levitan

**Nay:** Councilmember Errington

**Abstentions:**

7. **UNFINISHED BUSINESS:** None.

8. **PUBLIC COMMENT ON NON-AGENDA ITEMS:** None.

9. **COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS:**

Councilmember Ribble: reported that he recently spoke with Commissioner Kiker regarding the sand transport issue.

Councilmember Boesch: asked that Village Manager Sarkozy request that the Sheriff increase patrols on Corkscrew Road.

Vice Mayor Levitan: addressed concern regarding the treatment by the Design Review Board Members to the public and wanted to make certain they know. He also believed the cross examining of the public at a recent public hearing before the Planning and Zoning Board to be unacceptable; the Chairmen of those meetings have to take control.

Brief discussion followed regarding conflicts of interest for Board members.

10. **VILLAGE ATTORNEY'S REPORT:**

None.

11. **VILLAGE MANAGER'S REPORT:**

(a) Stormwater Master Plan Update

Village Manager Sarkozy reported that the review committee met and have come up with four recommended firms; a report will come back to Council on December 7. Regarding water quality comments, he stated that a review of the ordinances as they apply to fertilizers, retention of water on-site, and septic systems may be included for review.

Brief discussion followed.





A motion to adjourn was duly made and passed.

**12. ADJOURNMENT:** 12:52 p.m.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By:   
Kathy Hall, MMC, Village Clerk

By:   
Nicholas Batos, Mayor