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**APPROVED BY COUNCIL  
MARCH 1, 2017**

## **FINAL ACTION AGENDA/MINUTES**

**Village of Estero  
9401 Corkscrew Palms Circle  
Estero, FL 33928  
Village Council Meeting  
February 15, 2017 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 Mayor Batos.

**Invocation:** Offered by Pastor Doug Warren from Gulf Coast Presbyterian Church

**Roll Call:** 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 Steve Sarkozy, Village Attorney Burt Saunders, Assistant to Village Manager Kyle Coleman, Village Clerk Kathy Hall, Finance Director Lisa Roberson, and Community Development Director Mary Gibbs.

**RECOGNITION:** Peggy Phillips, Master Naturalist, College of Life Foundation.

Councilmember Errington recognized Peggy Phillips for her love, work and passion for the Estero River. Among her many accomplishments, Ms. Phillips has served as the Florida State Director of the American Canoe Association since 2015 and received the Director of the Year Award in 2016. Brandy Minchew was also recognized for her work with Ms. Phillips through the College of Life Foundation. Because of their collective involvement with the Estero River, they were responsible for the College of Life Foundation receiving the Prestigious President's Award.

**PRESENTATION:** Lee County Commissioner Larry Kiker

Councilmember Boesch provided an introduction. Commissioner Kiker stated that the purchase of Edison Farms was one of the most important purchases in Lee County. He spoke regarding the property recently coming on the market; a meeting was arranged with Representative Rodriguez and Land Solutions; all County Commissioners supported efforts to explore funding options and utilizing Conservation 20/20 funds, noting that utilizing this funding limited the land to remain for preservation purposes in perpetuity. He also spoke to the property appraisals; concerns regarding possible competitors and the property being used for an extension of County Road 951; he noted that there has been no discussion regarding that or splitting the property. Commissioner Kiker added that any changes to the property would require a super majority vote. He also spoke briefly regarding maintenance of the property. Brief discussion followed.

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

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

**Motion by:** Councilmember Errington  
**Seconded by:** Councilmember Brown

**Action:** Approved the agenda.

**Vote:**

Aye: Unanimous

Nay:

Abstentions:

**3. CONSENT AGENDA:**

**(a) Approval of February 1, 2017 Council Meeting Minutes**

Councilmember Wilson addressed concern regarding the roll call of the February 1, 2017 meeting indicating Councilmember Brown on an excused absence. Discussion followed regarding approval of excused absences. Village Attorney Saunders stated that the Council had not objected to the roll call at each of the meetings when Councilmember Brown was absent and it was announced as an excused absence, as well as approving the minutes. Discussion ensued.

**Motion:** Move to correct the February 1, 2017 Council meeting minutes by reflecting that Councilmember Brown's absence as an unexcused absence.

**Motion by:** Councilmember Wilson  
**Seconded by:** Councilmember Ribble

**Action:** Motion failed.

**Vote:**

Aye: Councilmembers Ribble, Wilson, and Vice Mayor Levitan

Nay: Councilmembers Brown, Errington, Boesch, and Mayor Batos

Abstentions:

**Motion:** Move to approve the February 1, 2017 Council meeting minutes as presented.

**Motion by:** Councilmember Errington

**Seconded by:** Councilmember Boesch

**Action:** Approved the February 1, 2017 Council meeting minutes as presented.

**Vote:**

**Aye:** Councilmembers Brown, Errington, Boesch, and Mayor Batos

**Nay:** Councilmembers Ribble, Wilson, and Vice Mayor Levitan

**Abstentions:**

Village Attorney Saunders advised that the Council may want to be a little more formal in terms of dealing with excused absence. He added that this has been an ongoing process, it has always been announced that Councilmember Brown's absence was excused, and the Council has acquiesced; from now on, since this has become an issue, the Council may want to take a formal vote.

Discussion ensued regarding previous Councilmembers' excused absences and the method in which the Village Clerk announced Councilmember Brown's excused absence. It was suggested that the topic be discussed at the Council workshop next week.

**4. ACTION ITEMS:**

- (a)** Resolution No. 2017-05 A Resolution of the Village Council of the Village of Estero, Florida, Supporting Lee County's Acquisition of Edison Farms Using Lee County's Conservation 20/20 Funds and Other Available Funding Sources; Appointing Councilmember Jim Boesch as the Liaison; and Providing an Effective Date

Village Clerk Hall read the title of Resolution No. 2016-05. Village Manager Sarkozy provided a brief explanation of the resolution.

**Questions or Comments by:** Vice Mayor Levitan noted that, consistent with the summary sheet and discussion at the previous Council meeting, the words "in perpetuity" needed to be added to the third "Whereas." He also requested that the resolution be revised to the extent that Councilmember Boesch not be named as the liaison; that the Council vote on the resolution be in two parts – one vote to adopt the resolution and another vote to appoint a liaison.

**Motion:** Move that the "Whereas" clause appointing a liaison have no name in it and that the clause will indicate that the Council will appoint a liaison for the project.

**Motion by:** Vice Mayor Levitan

**Seconded by:** Councilmember Ribble

**Action:** The “Whereas” clause appointing a liaison will have no name in it and the clause will indicate that the Council will appoint a liaison for the project.

**Vote:** (roll call)

Aye: Councilmembers Ribble, Brown, Wilson, and Vice Mayor Levitan

Nay: Councilmembers Errington, Boesch, and Mayor Batos

Abstentions:

**Public Comment:**

Phil Douglas, The Brooks

Meredith Barnard, Conservancy of SW Florida

Joe Miceli, Rookery Pointe

Don Eslick, ECCL

Bill Carr, Riverwoods Plantation

Michael Langella, Marsh Landing

**Questions or Comments by:** Vice Mayor Levitan and Councilmember Boesch.

Discussion included the importance of the property remaining for preservation purposes in perpetuity; putting people on notice that any private group or developer would have to go through the Village first; the Village has the power to fight any development that comes forward; people have to understand that this is the beginning of a process; and this is probably one of the most important things that the Council will have to vote on.

**Motion:** Move to adopt Resolution No. 2017-05 as amended: the third “Whereas” to read “Whereas, the Village Council of the Village of Estero supports Lee County in its efforts to acquire Edison Farms for preservation purposes in perpetuity” and the fourth “Whereas” to read “Whereas, the Village Council will appoint a Councilmember to act as liaison for the project.”

**Motion by:** Councilmember Wilson

**Seconded by:** Vice Mayor Levitan

**Action:** Adopted Resolution No. 2017-05 as amended: the third “Whereas” to read “Whereas, the Village Council of the Village of Estero supports Lee County in its efforts to acquire Edison Farms for preservation purposes in perpetuity” and the fourth “Whereas” to read “Whereas, the Village Council will appoint a Councilmember to act as liaison for the project.”

**Vote:**

Aye: Unanimous (roll call)

Nay:

Abstentions:

**Motion:** Move to table the appointment of a liaison to another meeting.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Wilson

**Questions or Comments by:** Councilmember Errington and Mayor Batos.

In response to an inquiry on what would happen if a liaison was not appointed today and there was a need for one in the near future, Mayor Batos responded that the Village would have nobody as a liaison; he had understood from the previous Council meeting that there was agreement that Councilmember Boesch would be the liaison.

**Action:** Motion failed.

**Vote:** (roll call)

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

**Nay:** Councilmembers Brown, Errington, Boesch, and Mayor Batos

**Abstentions:**

**Motion:** Move to appoint Councilmember Jim Boesch as liaison for the project.

**Motion by:** Councilmember Errington

**Seconded by:** Mayor Batos

**Action:** Appointed Councilmember Jim Boesch as liaison for the project.

**Vote:** (roll call)

**Aye:** Councilmembers Brown, Errington, Boesch, and Mayor Batos

**Nay:** Councilmembers Ribble, Wilson, and Vice Mayor Levitan

**Abstentions:**

- (b) Resolution No. 2017-06 A Resolution of the Village Council of the Village of Estero, Florida, Approving the Funding Agreement Between the Village of Estero and the City of Punta Gorda on Behalf of the Charlotte Harbor National Estuary Program for the Fiscal Year 2016-2017; Appointing Councilmember Katy Errington as the Liaison; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date

Village Clerk Hall read the title of Resolution No. 2016-05. Village Manager Sarkozy stated that the resolution was the result of a discussion at the last Council meeting.

**Questions or Comments by:** Vice Mayor Levitan addressed an amendment to Section 4 of the resolution, changing Village Manager to Mayor, and adding the word “fiscal” in the last sentence of Section 1 of the funding agreement: “The Council may extend this Agreement for two additional fiscal years...” Village Attorney Saunders stated that the amendments were fine.

**Public Comment:** None.

**Motion:** Move to adopt Resolution No. 2017-06 as amended supporting the Village of Estero membership in the Charlotte Harbor National Estuary Program for a three year period, to be reauthorized annually, with an annual membership fee of \$5,000, and appointing Councilmember Katy Errington as liaison; amending Section 4 of the resolution, changing Village Manager to Mayor, and adding the word “fiscal” in the last sentence of Section 1 of the funding agreement: “The Council may extend this Agreement for two additional fiscal years...”

**Motion by:** Councilmember Ribble  
**Seconded by:** Councilmember Boesch

**Action:** Adopted Resolution No. 2017-06 supporting the Village of Estero membership in the Charlotte Harbor National Estuary Program for a three year period, to be reauthorized annually, with an annual membership fee of \$5,000, and appointing Councilmember Katy Errington as liaison; amended Section 4 of the resolution, changed Village Manager to Mayor, and added the word “fiscal” in the last sentence of Section 1 of the funding agreement: “The Council may extend this Agreement for two additional fiscal years...”

**Vote:**

Aye: Unanimous (roll call)

Nay:

Abstentions:

The meeting went into recess at 10:43 a.m. and reconvened at 10:50 a.m.

**(c) Stormwater Master Plan CN 2016-02 Consultant Agreement**

Village Manager Sarkozy provided a brief explanation and introduced the consultant, Josh Evans, J.R. Evans Engineering.

Elizabeth Fountain and Roger Kopp offered a PowerPoint presentation: existing data to be utilized; new data collection efforts; fixes of known drainage problems within Village; proposed hydrologic/hydraulic modeling approach; surface water boundaries; and groundwater boundary conditions.

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

Discussion included swales; the use of acronyms in the presentation; importance of the DR/GR being part of the study; the need to know whether we were contributing to the problem or helping the problem; and concerns regarding wording in the contract.

**Public Comment:** None.

Moved this agenda item to the March 1, 2017 Council meeting.

**(d) Amendment to the Village of Estero Legislative Agenda**

Village Manager Sarkozy explained that the previously-approved agenda was communicated to the legislature; subsequently, the issue to support State funding of \$3,550,000 for a Visitor and Environmental Education Center at Lovers Key State Park was brought to his attention. It was noted that this issue was brought before the Council in 2015.

**Public Comment:** None.

**Motion:** Move to amend the recently approved Village Council Legislative Agenda to add support for State funding of \$3,550,000 for a Visitor and Environmental Education Center at Lovers Key State Park.

**Motion by:** Councilmember Boesch  
**Seconded by:** Councilmember Errington

**Action:** Amended the recently approved Village Council Legislative Agenda to add support for State funding of \$3,550,000 for a Visitor and Environmental Education Center at Lovers Key State Park.

**Vote:**  
**Aye:** Unanimous (roll call)  
**Nay:**  
**Abstentions:**

Mark Generales provided comment and conveyed appreciation to the Council.

Vice Mayor Levitan commented regarding boat access from his community to the park and the need for opening up to the general public.

## **5. ORDINANCES:**

### **(a) FIRST READING:**

- (1)** Ordinance No. 2017-02 An Ordinance of the Village Council of the Village of Estero, Florida, (Approving) (Denying) Zoning and DRI Development Order Amendments for the Coconut Point Mixed Use Planned Development and Development of Regional Impact for Property Bounded by US 41 on the West, Williams Road on the North, Seminole Gulf Railroad Right-of-Way on the East and the Southern Boundary for the Village of Estero Limits, all in the Village of Estero, Florida; Providing for Severability; and Providing an Effective Date

Village Clerk Hall read the title of Ordinance No. 2017-02. Community Development Director Gibbs explained that this was Coconut Point Tract 1A; proposal for a Planned Development amendment of the Coconut Point Mixed Use Planned Development / Development of Regional Impact to allow a multifamily development of 200 dwelling units. She noted that the request was reviewed by the Planning and Zoning Board in November 2016; the Board recommended denial. In the meantime, the applicant had met with Village staff. Ms. Gibbs explained the revisions in general and spoke to three options on how Council could proceed.

**Questions or Comments by:** Vice Mayor Levitan suggested that Council continue first reading and then make a decision whether to remand to Planning and Zoning Board. Councilmember Ribble inquired what the applicant wanted to do. Neale Montgomery,

Pavese Law Firm, responded that the applicant was seeking to decrease the level of impact and that it should not go back to Planning and Zoning Board.

**Public Comment:** None.

**Motion:** Move to continue first reading of Ordinance No. 2017-02.

**Motion by:** Vice Mayor Levitan

**Seconded by:** Councilmember Boesch

**Action:** Continued first reading of Ordinance No. 2017-02.

**Vote:**

Aye: Unanimous (roll call)

Nay:

Abstentions:

Mayor Batos commented regarding the amount of pages received in the Council meeting packet. Community Development Director Gibbs responded that staff erred on the side of caution. She also suggested that staff could reduce some of the information for first reading and provide more information at second reading. Vice Mayor Levitan said he thought the Council was not provided enough information. Brief discussion followed.

6. **UNFINISHED BUSINESS:** None.

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

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

Councilmember Ribble: Noted that he would be attending the upcoming Southwest Florida League of Cities meeting. He also reported that he would be meeting next week with the Village Manager and Community Development Director regarding Calvin Giordano and Associates. He also addressed concerns regarding counter personnel turnover.

Vice Mayor Levitan: Addressed the discussion at the beginning of the meeting; he believed that, due to circumstances, there was a vacancy that occurred and the Charter required Council to take action within a period of time. His hope was that Council could discuss this fully and completely at a future point and address whether Mr. Brown was capable of doing the job that he was elected to do.

Councilmember Errington: Stated that she believed that everyone needed to look within and ask whether what Council was asking was morally right. She disagreed with what she experienced at today's meeting. She also believed that this should have been addressed months ago.

Councilmember Boesch: Stated that he was stunned by the method the liaison issue was handled today. He noted that very successful meetings regarding Edison Farms have been held since the last Council meeting. He also commented regarding a traffic backup on Three Oaks Parkway that occurred yesterday. He suggested that Mayor Batos write a



letter regarding Edison Farms as other local Mayors have done. Mayor Batos responded that, due to today's motion on Resolution No. 2017-05, he would write a letter.

Councilmember Wilson: Conveyed congratulations to the Design Review Board for a landscape plan that they worked on with a developer.

Mayor Batos: Referred to information regarding a future Metropolitan Planning Organization meeting and noted that if anyone had anything to add to let him know. He spoke regarding Councilmember Brown, noting his service to the community. He also said that he has attended every meeting that he could and he was looking forward to continuing to serve the community. He believed that Councilmember Brown's goal to come back to Council had given him the strength to continue his fight against cancer. In conclusion, he asked Council to treat Mr. Brown with compassion and brotherhood and let him decide when he can no longer serve the community.

**9. VILLAGE ATTORNEY'S REPORT:** None.

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

Introduced Bob Franceschini, who will be working on Village contracts on a part time basis.

**(a) Lee Health - Coconut Point Medical Center Truck Route and Management Plan**

Village Manager Sarkozy provided information regarding the sand trucks route to minimize impacts due to the Lee Health Coconut Point project construction.

Vice Mayor Levitan addressed concern regarding the traffic light at Corkscrew Road and US 41 and the impacts of vehicles turning left from the Publix shopping center and inquired regarding asking the county to suspend the left out. Mayor Batos spoke to a concern regarding the round-about on Williams Road in the morning and afternoon. Brief discussion followed.

A motion to adjourn was duly made and passed.

**11. ADJOURNMENT:** 12:20 p.m.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: Kathy Hall  
Kathy Hall, MMC, Village Clerk

By: Nicholas Batos  
Nicholas Batos, Mayor