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**APPROVED BY COUNCIL
OCTOBER 18, 2017**

FINAL ACTION AGENDA/MINUTES

Village Council Meeting

**Village of Estero Council Chambers
9401 Corkscrew Palms Circle
Estero, FL 33928
August 2, 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 Boesch

Invocation: Mayor Boesch and Father Hugh McGuigan from Our Lady of Light Catholic Community

Roll call: Present: Mayor Jim Boesch - District 5, Vice Mayor Bill Ribble - District 1 (via telecommunications), Councilmember Howard Levitan - District 2, Councilmember Jon McLain - District 3, Councilmember Katy Errington - District 4, and Councilmember Nick Batos - District 6. Absent: Councilmember Jim Wilson - District 7, excused absence.

Also present: Village Manager Steve Sarkozy, Village Attorney Burt Saunders, Assistant to Village Manager Kyle Coleman, Finance Director Lisa Roberson, Community Development Director Mary Gibbs, and Executive Assistant Carol Sacco.

Motion: Move to authorize Vice Mayor Ribble to participate via telecommunications.

Motion by: Councilmember Batos

Seconded by: Councilmember McLain

Action: Authorized Vice Mayor Ribble to participate via telecommunications.

Vote:

Aye: Unanimous (Councilmember Wilson excused absence)

Nay:

Abstentions:

2. APPROVAL OF AGENDA, ADDITIONS, AND DELETIONS:

Councilmember Errington requested that an item be added to the agenda for clarification of her role as Parks liaison. Discussion ensued regarding whether it was appropriate to add this to the agenda or place it on an upcoming agenda in order to have it as a posted agenda item and allow for Council to be prepared for discussion.

Motion: Move to add agenda item 6 (g) Clarification of the Parks and Recreation Liaison Role.

Motion by: Vice Mayor Ribble
Seconded by: Councilmember Errington

Action: Agenda item 6 (g) Clarification of the Parks and Recreation Liaison Role was added to the agenda.

Vote: (Roll call)

Aye: Councilmembers McLain, Errington, Batos, and Vice Mayor Ribble

Nay: Councilmember Levitan and Mayor Boesch

Abstentions: (Councilmember Wilson excused absence)

Motion: Move to approve the agenda as revised.

Motion by: Councilmember Batos
Seconded by: Councilmember Errington

Action: Approved the agenda as revised.

Vote:

Aye: Unanimous (Councilmember Wilson excused absence)

Nay:

Abstentions:

3. PUBLIC COMMENT ON NON-AGENDA ITEMS:

George Molnar, Villages at Country Creek, addressed concerns regarding activity and conditions on Broadway Avenue East, Groveline Court and Tanglewood Lane, and inquired whether the Village or Lee County could assist. Village Manager Sarkozy agreed that there is a problem at the end of East Broadway and that there is no need for the public to enter there. He indicated that he would take a look at this and get back to the surrounding associations. Assistant to the Village Manager Coleman obtained Mr. Molnar's contact information to arrange a meeting with the Village Manager.

Barbara Saxton, The Reserve of Estero, representing friends of River Oaks Park, addressed strong community interest in support of the Village acquiring the River Oaks property, owned by Paul Marks, which is on the market for sale. She also spoke regarding maintaining the property as a natural preserve and not developing as a formal park.

Gary Israel, Stoneybrook, Estero Life Magazine, spoke regarding the magazine recently receiving the 2017 Florida Print Award.

Tom Whelan, Villages at Country Creek, alerted Council to what he believed to be a potential serious crime issue at a home that backs up to Broadway Avenue East. Over the past 10 years, the amount of suspicious and questionable activity has increased significantly. He asked that the Council investigate the activity and assist and protect the residents.

Ron Smoyer, Villages at Country Creek, addressed concern regarding the severity of the issue on Broadway Avenue East; residents are looking for Council to help with security.

Pat Smoyer, Villages at Country Creek, addressed concern regarding the issue on Broadway Avenue East; she indicated that she has called the police several times; however, they were not very responsive. She also addressed support for the natural preserve idea for the River Oaks property.

Ed Mehmel, Rookery Pointe HOA President, addressed support of the Village acquiring the River Oaks property; however, there is concern regarding security and asked that the Village consider fencing the property. He also commented that the Village has a good staff.

4. CONSENT AGENDA:

- (a) Approval of July 19, 2017 Council Meeting Minutes
- (b) Financial Report for July 31, 2017

Motion: Move to approve the Consent Agenda.

Motion by: Councilmember Levitan
Seconded by: Councilmember Batos

Action: Approved the Consent Agenda.

Vote:

Aye: Unanimous (Roll call; Councilmember Wilson excused absence)
Nay:
Abstentions:

5. PUBLIC HEARINGS:

- (a) Proposed Capital Improvement Program and Adoption of Resolution No. 2017-20 A Resolution of the Village Council of the Village of Estero, Florida, Adopting the Capital Improvement Program for Fiscal Year 2017-2018; and Providing an Effective Date

The title of Resolution No. 2017-20 was read by Executive Assistant Sacco. Finance Director Roberson provided a report on the Capital Improvement Program.

In response to an inquiry by Mayor Boesch, Ms. Sacco responded that Resolution No. 2017-20 had been properly advertised.

Public Comment: None.

Motion: Move to adopt Resolution No. 2017-20 adopting the Capital Improvement Program for fiscal year 2017-2018.

Motion by: Councilmember Errington

Seconded by: Councilmember Batos

Action: Adopted Resolution No. 2017-20 adopting the Capital Improvement Program for fiscal year 2017-2018.

Vote:

Aye: Unanimous (Roll call; Councilmember Wilson excused absence)

Nay:

Abstentions:

6. ACTION ITEMS:

- (a) Resolution No. 2017-21 A Resolution of the Village Council of the Village of Estero, Florida, Determining the Proposed Millage Rate for Fiscal Year 2017-2018, Setting the Date, Time and Place for the Public Hearings Required by State Law; Directing Staff to Transmit Necessary Documentation Pursuant to the Requirements of Florida Statutes and the Rules and Regulations of the Department of Revenue of the State of Florida; and Providing an Effective Date

The title of Resolution No. 2017-21 was read by Executive Assistant Sacco.

Village Manager Sarkozy provided an explanation of the resolution, which is a requirement for purposes of the Truth in Millage (TRIM) notice. The proposed millage rate for fiscal year 2017-2018 to be discussed at the first budget hearing is 0.7998 mills (\$0.7998 per \$1,000 of assessed property value). Budget public hearing dates have been scheduled for September 7 and September 20, 5:30 p.m.

Public Comment: None.

Motion: Move to adopt Resolution No. 2017-21.

Motion by: Councilmember Batos

Seconded by: Councilmember McLain

Action: Adopted Resolution No. 2017-21.

Vote:

Aye: Unanimous (Roll call; Councilmember Wilson excused absence)

Nay:

Abstentions:

- (b) Resolution No. 2017-19 A Resolution of the Village Council of the Village of Estero, Florida, Adopting a Fee for Bonus Density for Land Acquisition; Amending Resolution No. 2015-68; and Providing an Effective Date

The title of Resolution No. 2017-19 was read by Executive Assistant Sacco.

Village Manager Sarkozy introduced the resolution, noting that Ordinance No. 2017-03, adopted July 29, 2017, established a bonus density program for land acquisition for certain properties; the ordinance replaced the bonus density program established by Lee County.

Community Development Director Gibbs explained that this only applied to projects previously approved by Lee County for bonus density. She added that, as the Council reviews the new Comprehensive Plan, bonus density will be a policy issue that will be brought back to Council to determine if it should be expanded; at the present time, it is limited to projects that were previously approved. Ms. Gibbs also spoke regarding an executed contract between the Estero on the River project and Lee County for a lesser amount than the \$20,000 specified in Resolution No. 2017-03, due to county approval of the project in 2007, and she noted that Andy Solis wanted to add a phrase in the resolution.

Questions or Comments: Councilmembers Levitan, Batos, Errington, McLain, and Mayor Boesch. Discussion included alternate language in the resolution that would make it generic rather than being specific to a project; whether the Village was obligated to honor the contract between the county and the developer or whether the contract would be automatically transferred to the Village; bonus density amounts established by Lee County; Estero Town Center; continuing discussion until such time Council receives a memorandum from the Land Use Attorney, indicating conclusions from a legal standpoint; if the resolution was delayed would any projects be affected;

Community Development Director Gibbs stated that she spoke with Village Land Use Attorney Stroud regarding the contracts. She explained that Ordinance No. 2017-03 included language regarding reviewing the procedures on a case-by-case basis. She added that she also spoke with Ms. Stroud regarding Mr. Solis' proposed revision to the resolution; Ms. Stroud believed that a clarification would be appropriate; however, it would need to be generic rather than referencing a particular project. Ms. Gibbs also explained that there were two different bonus density amounts established by Lee County: \$11,429 until 2008 when it was increased to \$20,000.

Public Comment:

Joe Adams, Pavese Law Firm, representing Estero Grande, LLC, they are in a position to pay the \$20,000. He encouraged Council to move forward with the resolution.

Andy Solis, Naples, representing Village Partners, agreed with everything that was said today. He suggested language to add to the resolution that the fee would be \$20,000 unless otherwise established by an executed agreement with Lee County.

Discussion followed.

Motion: Move to continue Resolution No. 2017-09.

Motion by: Councilmember Levitan

Seconded by: Councilmember Errington

Action: Resolution No. 2017-09 was continued.

Vote:

Aye: Unanimous (Roll call; Councilmember Wilson excused absence)

Nay:

Abstentions:

- (c) Request for Qualifications RFQ 2017-01 for Consultant to Prepare a Village Land Development Code Update

Village Manager Sarkozy explained that the Village was in the process of updating the Comprehensive Plan, which is required by Florida statutes to be completed within three years of incorporation. Another element required was to update the Village Land Development Code. Action requested was to review the proposed scope of work and, if no revisions were needed, direct staff to release the request. Once released and proposals submitted, staff would rank the consultants and bring a recommendation back to Council for review and approval.

Questions or Comments: Councilmember Levitan strongly supported moving this forward.

Public Comment: None.

Motion: Move to approve release of RFQ 2017-01, which solicits proposals for the Village's first Land Development Code.

Motion by: Councilmember Batos

Seconded by: Councilmember Errington

Action: Approved release of RFQ 2017-01, which solicits proposals for the Village's first Land Development Code.

Vote:

Aye: Unanimous (Roll call; Councilmember Wilson absent)

Nay:

Abstentions:

- (d) Approval of First Amendment to Local Option Gas Taxes Interlocal Agreement between Lee County and the Village of Estero

Village Manager Sarkozy provided an explanation of the First Amendment to Local Option Gas Taxes Intergovernmental Agreement. The action requested was to approve the First Amendment to the Interlocal Agreement, extending the expiration date to August 31, 2019.

Public Comment: None

Motion: Move to approve First Amendment agreement extending the expiration date of the Local Option Gas Taxes Interlocal Agreement with Lee County to August 31, 2019.

Motion by: Councilmember McLain
Seconded by: Councilmember Errington

Action: Approved First Amendment agreement extending the expiration date of the Local Option Gas Taxes Interlocal Agreement with Lee County to August 31, 2019.

Vote:

Aye: Unanimous (Roll call; Councilmember Wilson absent)

Nay:

Abstentions:

- (e) Resolution No. 2017-22 A Resolution of the Village Council of the Village of Estero, Florida, Authorizing the Waiving of Competitive Bidding Procedures and Authorizing the Village Manager to Execute a Contract for Professional Property Record and Valuation Services with The Valuation Advisory Group, Inc.; and Providing an Effective Date

The title of Resolution No. 2017-22 was read by Executive Assistant Sacco.

Village Manager Sarkozy provided an explanation of the resolution. The purpose of these services will be to provide a comprehensive and auditable property record which will enable fixed asset accounting and property control procedures for the Village roads assumed from Lee County in January 2017. The project has a non-recurring cost estimate of \$12,640 and will be funded from fiscal year 2116-2017 budgeted contract services line item.

Questions or Comments: Vice Mayor Ribble and Councilmembers Levitan, Errington, Batos, and Mayor Boesch. Discussion included the use of waiving competitive bidding; oversight role of Council; the ordinance that addresses competitive bidding; how to execute the notion of government light; bidding takes heavy process and procedures; demands on staff time; and background information for The Valuation Advisory Group, Inc.

Public Comment: None.

Motion: Move to adopt Resolution No. 2017-22 authorizing the waiving of competitive bidding procedures and authorizing the Village Manager to execute an agreement with The Valuation Advisory Group, Inc. for professional property record and valuation services as required to comply with Generally Accepted Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB) Statement No. 34.

Motion by: Councilmember Batos
Seconded by: Councilmember Errington

Action: Adopted Resolution No. 2017-22 authorizing the waiving of competitive bidding procedures and authorizing the Village Manager to execute an agreement with The Valuation Advisory Group, Inc. for professional property record and valuation services as required to comply with Generally Accepted

Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB) Statement No. 34.

Vote:

Aye: Unanimous (Roll call; Councilmember Wilson excused absence)

Nay:

Abstentions:

- (f) Council Motion to Approve the Contract for Construction Services to Replace a Failing Culvert on Broadway Avenue

Resolution No. 2017-23 A Resolution of the Village Council of the Village of Estero, Florida, Authorizing the Waiving of Competitive Bidding Procedures and Authorizing the Village Manager to Execute a Contract for Emergency Replacement of the Culvert, Abutments, and Related Ditching for the Stormwater Conveyance System under Broadway Avenue West, near US 41, with a Contractor Chosen by Village Staff; and Providing an Effective Date

The title of Resolution No. 2017-23 was read by Executive Assistant Sacco.

Village Attorney Saunders provided an explanation of the contract, noting that, in Section 1, Council was being asked to give the Village Manager the ability to make minor changes without having to come back to Council for approval.

Village Manager Sarkozy noted that this was a bidding issue. The suggestion was to negotiate a master agreement with a contractor to service the Village and hold on to retainer. Action requested was to authorize the waiver of bidding requirement and further to authorize a contract not to exceed \$90,000 for the emergency replacement of culvert, abutments and related ditching for the stormwater conveyance system under Broadway just west of US 41.

Questions or Comments: Vice Mayor Ribble and Councilmember Errington. It was noted that the Village went out for bids, none were received, and the issue requires immediate attention.

Public Comment:

Bill Carr, Riverwoods Plantation, agreed that this was an emergency, a dangerous road and a safety issue.

Motion: Move to adopt Resolution No. 2017-23 Authorizing the Waiving of Competitive Bidding Procedures and Authorizing the Village Manager to Execute a Contract for Emergency Replacement of the Culvert, Abutments, and Related Ditching for the Stormwater Conveyance System under Broadway Avenue West, near US 41, with a Contractor Chosen by Village Staff; and Providing an Effective Date.

Motion by: Councilmember Errington

Seconded by: Councilmember Levitan

Action: Adopted Resolution No. 2017-23 Authorizing the Waiving of Competitive Bidding Procedures and Authorizing the Village Manager to Execute a Contract for Emergency Replacement of the Culvert, Abutments, and Related Ditching for the Stormwater Conveyance System under Broadway Avenue West, near US 41, with a Contractor Chosen by Village Staff; and Providing an Effective Date.

Vote:

Aye: Unanimous (Roll call; Councilmember Wilson excused absence)

Nay:

Abstentions:

(g) Clarification of the Parks and Recreation Liaison Role

Councilmember Errington commented that it was determined when Council met in May that she would be the liaison for Parks and Recreation; she did not understand why someone would like her to give it up. She noted that she has worked with Koreshan State Park, the Boomer property, and historic preservation. She added that she wants to work together with all Council.

Mayor Boesch stated that, at the off campus meeting, Parks and Recreation was left open for the future District 3 Councilmember. He recalled that after the off campus meeting, Councilmember Errington requested to have the Parks and Recreation Liaison and he noted at that meeting Councilmember Errington had plenty on her plate and wanted to keep it open for District 3, and that no vote was taken.

Councilmember McLain stated that, as a new member of Council, he had a light load; he did not know all the details; however, if Parks and Recreation was not something to be transferred, were there other duties he could assume and suggested median landscaping.

Councilmember Levitan commented that off-site meetings needed to be streamed and taped. He noted that the May 3, 2017 liaison chart clearly showed Councilmember Errington had Parks and Recreation. He also noted that he reviewed the tape regarding the discussion on rebalancing of all assignments when District 3 was seated. He believed this topic needed a broader discussion.

Further discussion ensued and Mayor Boesch suggested that a session be scheduled to rebalance the liaison assignments.

Public Comment:

Barbara Saxton, The Reserve, read a letter into the record from Stephanie Miller regarding Councilmember Errington's role as Parks and Recreation liaison. She also suggested that Councilmember McLain would be an ideal candidate for the Bike/Pedestrian liaison responsibility.

Village Manager Sarkozy noted that the next two meetings begin at 5:30 p.m. to accommodate the budget hearings and land use issues.

Motion: Move to schedule rebalance of liaison assignments for the next available meeting agenda.

Motion by: Mayor Boesch
Seconded by: Councilmember McLain

Action: Rebalance of liaison assignments will be scheduled for the next available meeting agenda.

Vote: Roll call

Aye: Councilmembers Levitan, McLain, Batos, Vice Mayor Ribble, and Mayor Boesch

Nay: Councilmember Errington

Abstentions: (Councilmember Wilson excused absence)

7. ORDINANCE FIRST READING:

- (a)** Ordinance No. 2017-07 An Ordinance of the Council of the Village of Estero, Florida, Establishing Procedures for the Declaration of a State of Local Emergency; Providing Definitions; Purpose and Intent; Authority to Declare a State of Local Emergency; Method of Declaring and Terminating a State of Local Emergency; Authority of Village Council; Effect of Declaration of a State of Local Emergency; Prohibitions During Declared State of Local Emergency; Access to Emergency Preparedness Fund; Penalties for Violations; Repeal of Prior Ordinances; Conflict and Severability; and Effective Date.

The title of Ordinance No. 2017-07 was read by Executive Assistant Sacco.

Village Manager Sarkozy explained that the Village relies on Estero Fire and Rescue as the primary responder; the Village will work closely with Lee County. He stated that the ordinance would provide consistency of approach of what is done, outlines the procedures of when to call, defining what a state of emergency is, how it would be declared, and the methods and defining the authority of the Village Council.

Questions or Comments: Councilmembers Errington, Levitan, Batos, McLain, and Mayor Boesch. Discussion included how the Village would handle a local emergency; questions regarding some of the ordinance language related to declaration of State of Local Emergency by Written Proclamation, the concept of threatened emergency, curfew, and state of emergency limits; registering for FEMA reimbursement; and how the Councilmembers would be alerted if a quorum of the Council was needed for an emergency meeting.

Public Comment: None

Motion: Move to pass first reading of Ordinance No. 2017-07 and schedule for second reading.

Motion by: Councilmember Levitan
Seconded by: Councilmember McLain

Action: Passed first reading of Ordinance No. 2017-07 and scheduled for second reading.

Vote:

Aye: Unanimous (Roll call; Councilmember Wilson excused absence)

Nay:

Abstentions:

- (b) Ordinance No. 2017-08 An Ordinance of the Village Council of the Village of Estero, Florida, Providing for and Approving the Authority of the Mayor to Extend Participation in Interlocal Agreement with Lee County for the Continuation of the University Landscaping Operation and Maintenance Special Improvement Unit to provide an Enhanced Level of Landscaping along Certain Portions of Corkscrew Road, Estero Parkway and Ben Hill Griffin Parkway Within the Village Limits; Providing for an Extended Term and an Effective Date

The title of Ordinance No. 2017-08 was read by Executive Assistant Sacco.

Village Manager Sarkozy provided an explanation of the ordinance.

Questions or Comments: Councilmembers Errington, Batos, Levitan, McLain, and Mayor Boesch. Discussion included whether the Village would need to supplement the landscaping; how the Village can become involved; the Village would need to obtain permission and this is not in the Village Capital Improvements budget; Village involvement, which could be done as a municipal project, would be a future decision for the Council; if the interlocal agreement were not approved, the county would stop maintaining at a higher level.

Public Comment: None.

Motion: Move to pass first reading of Ordinance No. 2017-08 and schedule for second reading.

Motion by: Councilmember Levitan

Seconded by: Councilmember Batos

Action: Passed first reading of Ordinance No. 2017-08 and scheduled for second reading.

Vote:

Aye: Unanimous (Roll call; Councilmember Wilson excused absence)

Nay:

Abstentions:

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

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

Vice Mayor Ribble: Will be meeting with Dr. Martin, FGCU President, on Friday, August 11 at 10:30 a.m.; he like to schedule a meet and greet in September.

Councilmember Levitan: Work on the Comprehensive Plan continues; meetings will be scheduled before the Planning and Zoning Board. A recommendation will be coming forward that the Council make a policy decision for development of a Parks and Recreation Master Plan by professional consultants, in order to allocate resources and in order to make decisions about parks. Referred to a letter from Community Development Director Gibbs regarding the Final Order of the Design Review Board for the Development Order for Coconut Trace Lots C & D aka NCH-Estero; the Council will need to hold a hearing.

Councilmember McLain: Spoke regarding the Estero Parkway bid process and the Veterans Day event scheduled for November 11.

Councilmember Errington: Received an email with photos of a portion of the median on US 41 where a car destroyed shrubbery and palm trees. FDOT decided to put down stone rather than new plantings. She contacted the Director regarding this dangerous area and suggested they install tall, substantial palm trees and a lot of shrubbery. She inquired whether FDOT had submitted the upgrading proposal to the Village. Village Manager Sarkozy responded that it had not been submitted yet; however, it was in process.

Councilmember Batos: Lee Health continuing to work on underground utilities; the building foundation will be started in two weeks. The US 41 Jeff Sommers Memorial Highway dedication will be scheduled in August or September. He spoke with Congressman Rooney regarding efforts on water in Florida.

10. VILLAGE ATTORNEY'S REPORT:

Village Attorney Saunders inquired whether all financial disclosure forms had been submitted.

11. VILLAGE MANAGER'S REPORT:

Village Manager Sarkozy spoke to the possible appeal by NCH. He advised that Village Council be sensitive to this issue and careful not to disclose their position or talk about the application.

Village Attorney Saunders commented that Village Land Use Attorney Stroud would advise that this would be a quasi-judicial hearing.

Mayor Boesch suggested that all Village of Estero Board Members be invited to the October 11 ethics training. He noted that FDOT would be making a presentation at the September 6 Council meeting regarding I-75 and Corkscrew interim improvements.

A motion to adjourn was made and duly passed.

12. ADJOURNMENT: 12:25 p.m.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: Kathy Hall
Kathy Hall, MMC, Village Clerk

(kh/cs)

By: James R. Boesch, Mayor
James R. Boesch, Mayor