

This Final Action Agenda/Minutes is supplemented by electronic recordings of the meeting, which may be reviewed upon request to the Village Clerk. Village Council meetings from June 8, 2016 forward can be viewed online at <http://estero-fl.gov/council/watch-meetings-online/>. Staff reports, resolutions, ordinances, and other documents related to this meeting are available at <https://estero-fl.gov/agendas/> at the corresponding agenda date.

**APPROVED BY COUNCIL
SEPTEMBER 5, 2018**

FINAL ACTION AGENDA/MINUTES

VILLAGE COUNCIL MEETING

**Village of Estero Council Chambers
9401 Corkscrew Palms Circle
Estero, FL 33928
June 20, 2018 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: Pastor Todd Weston from River of Life Assembly of God.

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

Also present: Village Manager Steve Sarkozy, Village Attorney Burt Saunders, Land Use Counsel Nancy Stroud, Assistant to Village Manager Kyle Coleman, Public Works Director David Willems, Finance Director Lisa Roberson, Community Development Director Mary Gibbs, and Village Clerk Kathy Hall.

RECOGNITION: The Florida Everblades Hockey Team

Village Manager Sarkozy commended the team for recently concluding their 20th Anniversary Year of professional ice hockey in Estero with a narrow loss in the final game of Kelly Cup, the finals for the East Coast Hockey League. He noted that over 1M people attend events at Germain Arena during the year. Alex Reed, broadcaster and public relations for Germaine Arena, provided a few comments. Mayor Boesch conveyed thanks for allowing Estero to utilize Germain Arena for emergencies.

2. APPROVAL OF AGENDA, ADDITIONS, AND DELETIONS:

Motion: Move to approve the agenda.

Motion by: Vice Mayor Ribble

Seconded by: Councilmember Errington

Action: Approved the agenda.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

3. PUBLIC COMMENT ON NON-AGENDA ITEMS:

Kathy Hudson, Riverwoods, addressed concern regarding the invocation at Council meetings.

4. CONSENT AGENDA:

(a) May 9, 2018 Council Meeting Minutes

Motion: Move to approve the Consent Agenda.

Motion by: Councilmember Levitan

Seconded by: Councilmember McLain

Action: Approved the Consent Agenda.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

5. ACTION ITEMS:

(a) Approval of Consultants Ranking for the Bicycle and Pedestrian Master Plan

Village Manager Sarkozy explained that, as a result of a partnership with the Metropolitan Planning Organization (MPO), the Village would be working with them on the Bicycle and Pedestrian Master Plan.

Community Development Director Gibbs reviewed that this agenda item was continued from the previous Council meeting; some additional information regarding the consultants was provided in the packet. Ms. Gibbs noted that the three firms have extensive experience and that Jacobs was excited to work on the master plan. She also noted that the MPO board would be voting on Friday, June 22, 2018 and, therefore, Council would need a vote on this agenda item today.

Questions or Comments: Councilmember Levitan addressed concern that full information on all firms had not been provided. Community Development Director

Gibbs stated that Kittleson & Associates was not publicly owned. Village Attorney Saunders responded to conflict of interest questions from Councilmember Levitan. Councilmember Batos hoped that Council would proceed with a vote today; he stated that it would be terrible to lose this opportunity with the MPO.

Public Comment: None.

Motion: Move to approve consultants ranking for the Bicycle and Pedestrian Master Plan as follows: Number 1 – Jacobs; Number 2 – Kittleson & Associates; and Number 3 – Tindale Oliver.

Motion by: Councilmember Wilson

Seconded by: Councilmember Batos

Action: Approved consultants ranking for the Bicycle and Pedestrian Master Plan as follows: Number 1 – Jacobs; Number 2 – Kittleson & Associates; and Number 3 – Tindale Oliver.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

(b) Amendment One to Contract EC 2017-28 and Estero Parkway Phase 1A and Phase 2 & 3 Contracts

Public Works Director Willems explained that, with the approval of the final roadway / sidewalk design concept at the June 6, 2018 Council meeting, it was time to engage the consultant, Agnoli, Barber & Brundage (ABB) in the remaining design and permitting services (Phases 2 & 3), including roadway and sidewalk design; landscape concepts; street light design; roadway speed study; signal warrant study at Cascades/Reserve; roadway and landscape construction plans; and bidding services. He also explained that, in addition, ABB was also required to perform additional services prior to the June 6, 2018 Council meeting that were outside the scope of the original contract. These additional services were included in the Phase 1A contract, which included creating numerous design concepts, traffic studies, cost estimates, and public presentations.

Questions or Comments: Councilmembers Levitan, Batos, Wilson, and Mayor Boesch. Discussion included how much of the total on page 7 of Attachment 1 could be attributed to looking at the roundabouts and two-laning; whether the total amount included supervision of construction phase; whether the overall cost of the project had gone up; information provided under “Project Description” on Exhibit A – Scope of Services; and transparency regarding this project.

Public Comment: None.

Motion: Move to: (1) Approve Amendment One to Contract EC 2017-28 increasing the total Not to Exceed amount to \$756,724.00. (2) Grant the Village Manager the authority to execute the Phase 1A and Phase 2 & 3 Contracts from Agnoli, Barber & Brundage, Inc.

Motion by: Councilmember McLain

Seconded by: Councilmember Wilson

Action: (1) Approved Amendment One to Contract EC 2017-28 increasing the total Not to Exceed amount to \$756,724.00. (2) Granted the Village Manager the authority to execute the Phase 1A and Phase 2 & 3 Contracts from Agnoli, Barber & Brundage, Inc.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

6. ORDINANCES:

(a) ORDINANCE SECOND READING/PUBLIC HEARING – ESTABLISHING PROCEDURES FOR THE DECLARATION OF A STATE OF LOCAL EMERGENCY

Ordinance No. 2018-08 An Ordinance of the Village 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 Local State of Emergency; Method of Declaring and Terminating a Local State of Emergency; Authority of Village Council; Effect of Declaration of a State of Local Emergency; Prohibitions During Declared State of Local Emergency; Emergency Measures and Access to Emergency Preparedness Fund; Penalties for Violations; Repeal of Prior Ordinances; Codification; Conflict and Severability; and Providing an Effective Date

Mayor Boesch opened the hearing. The title of Ordinance No. 2018-08 was read by Village Clerk Hall. Mayor Boesch asked whether the ordinance had been properly advertised; Village Clerk Hall responded affirmatively.

Village Manager Sarkozy provided an overview of the ordinance.

Village Attorney Saunders explained that the ordinance replaced Lee County code regarding emergencies in the Village, provided a mechanism regarding what to do if a quorum of the Council was not available, and required the Village Manager to do certain things.

Public Comment: None.

Questions or Comments: Councilmembers Errington, Levitan, and McLain. Discussion included determination of curfew; the ordinance provided stricter rules than the county when declaring an emergency; and revising page 4, line 158 to read: “To appropriate funds, incur debt and expend such other funds as necessary.”

Motion: Move to adopt Ordinance No. 2018-08 as revised, including revising page 4, line 158 to read: “To appropriate funds, incur debt and expend such other funds as necessary.”

Motion by: Councilmember Levitan
Seconded by: Councilmember Errington

Action: Adopted Ordinance No. 2018-08 as revised, including revising page 4, line 158 to read: "To appropriate funds, incur debt and expend such other funds as necessary."

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

**(b) ZONING ORDINANCE SECOND READING/PUBLIC HEARING –
COCONUT POINT DRI/MPD TRACT 1D-3 HOTEL – HILTON GARDEN
INN**

Zoning Ordinance No. 2018-05 An Ordinance of the Village Council of the Village of Estero, Florida, Approving with Conditions a Zoning Amendment to Allow a Hotel Use on Tract 1D-3 of the Coconut Point Mixed Use Planned Development and Deviations for Height of Building and Architectural Features for Property Located at 8009 Sweetwater Ranch Boulevard in the Village of Estero, Florida, and Comprising Approximately 2.16 Acres; Providing for Conflicts; Providing for Severability; and Providing an Effective Date

Mayor Boesch opened the public hearing and Village Clerk Hall read the title of Zoning Ordinance No. 2018-05. Mayor Boesch asked whether the ordinance had been properly advertised; Village Clerk Hall responded affirmatively. Mayor Boesch provided an explanation of the quasi-judicial procedures. Audience and staff intending to testify were sworn in by Village Clerk Hall.

Disclosure of ex parte communications and conflicts of interest: Councilmember Levitan - conversations with Ned Dewhirst and Joe McHarris; received emails from Ned Dewhirst; discussions with Community Development Director Gibbs and Village Manager Sarkozy. He noted that he did not have sufficient information as to whether he had a conflict of interest. A representative for the applicant was available to provide further information regarding the parent company and Councilmember Levitan stated that he did not have a conflict of interest. Councilmembers McClain and Batos - conversations with Ned Dewhirst. Village Land Use Counsel Stroud stated that the emails between Councilmember Levitan and Ned Dewhirst needed to be made part of the record.

Community Development Director Gibbs provided an explanation of the application, the reason for the zoning amendment, and stormwater issues needed to get resolved. Ms. Gibbs noted that staff believed the flooding issues had been worked out.

Councilmember Wilson inquired whether the impact fees were previously paid. Ms. Gibbs believed that all fees were paid upfront and there were some site related improvements.

Presentation/Information by:

Ned Dewhirst, Oakbrook Properties, explained his involvement as the manager of the project. Councilmember Levitan asked Land Use Counsel Stroud about conflict of interest; she responded that if he thought he had a conflict of interest he needed to disclose. Further clarification of ownership was provided.

Mr. Dewhirst offered a PowerPoint Presentation that included: Project Team; Coconut Point Aerial Map; not changing any uses; no changes to the DRI; Coconut Point Planned Development Areas; Coconut Point Design Review Guidelines; Coconut Point Tract 1D-3 map; Master Concept Plan; Coconut Point Tract 1C and Tract 1-D3 map; Existing Approvals – Tract 1D; Request; Proposed Site Plan with Aerial; closer-in view of the Proposed Site Plan; Consistency with the Comprehensive Plan; Deviations 1 and 2; Front Elevation – alternate color scheme; Front, rear and side elevations; Line of Sight; Deviation 3 (landscaping buffers). Councilmember Levitan inquired regarding responsibility for replanting the utility easement and whether the Village had authority to make certain it got done.

Bill Prysi, Land Architects, Inc, continued with the PowerPoint Presentation: Landscaping – Conceptual Landscape Enhanced Plan and Cross Sections.

The meeting went into recess at 11:08 a.m. and reconvened at 11:21 a.m.

Continuation of the PowerPoint Presentation followed. Mr. Dewhirst spoke regarding the Drainage Exhibit; Charlie Krebs, Hole Montes, provided further details regarding stormwater and finished floor levels.

Questions or Comments: Councilmembers Wilson, Levitan, Batos, and Errington. Discussion included an inquiry whether the frontage on US 41 was developable; traffic light; minimum floor level requirement; condition no. 5; compatibility of design; drainage; condition no. 7; whether guests would be allowed to utilize the hotel during an emergency; and amendments to the ordinance.

Public Comment:

Frank Moser, Rapallo, speaking with the unanimous support of Rapallo, increased flooding fears in the Rapallo community were addressed with the developer; fears were taken seriously and they were satisfied with the solutions provided.

John Gatti, Jr, Rapallo, an independent review was asked for, which they chose not to do; residents learned a lot at the Planning and Zoning Board meeting; and asked that this be put on hold until an independent review could be done.

The public hearing was closed.

Motion: Move to adopt Ordinance 2018-05 as amended: Section 2.2. Previous Approvals: The previous approvals (contained in Ordinance No. 2017-02) including conditions and deviations remain in effect except the hotel/motel use in Condition 6 is eliminated and the height in Condition 5 is modified to 55 feet for the hotel use only as stated in Condition 3 below and 45 feet for any

approved use in Tract 1C. Section 2.4. Pattern Book: The project design must be consistent with the Pattern Book, titled “Hilton Garden Inn at Coconut Point, Supplemental Pattern Book, Tract 1D-3”, stamped “Received April 9, 2018” except that Option 1 on page 6 is deleted. Section 2.6. Off-site Parking Sidewalk Connection & Easement. The applicant must provide a sidewalk connection, including the provision of crosswalks across Sweetwater Ranch Boulevard, to the offsite parking lot on the north side of Sweetwater Ranch Boulevard to the hotel. These improvements must be made prior to a certificate of compliance being issued for the Development Order for the proposed hotel. This off-site parking area will provide up to 10 parking spaces for employees and will be accessed by way of perpetual easement to be provided at the time of Development Order. Section 2.7. Stormwater Management. The developer of Tract 1D-3 (hotel site) will construct the recommended onsite overflow structure on Tract 1D-3 as referenced in pages 10 through 12 of the Coconut Point North Village Surface Water Management Analysis – Basin 5A (prepared by Hole Montes dated March 27, 2018) prior to issuance of the Certificate of Compliance for infrastructure for Tract 1D-3. The overflow structure will be subject to SFWMD, Village of Estero and the North Village Association review and approval. Section 3.2. 2. The shift in the use as a hotel from Tract 1C to this site (Tract 1D-3) is not deemed to increase overall intensity within the Coconut Point DRI/MPD and will not adversely impact surrounding land uses, either within the overall planned development or external thereto. As such, the proposal, as conditioned, does not increase allowable intensity within the DRI/MPD and, therefore, is not anticipated to increase vehicular trips above what has already been anticipated. Section 3.3 The application is generally compatible with existing and planned uses in the surrounding area. The proposed use is set back approximately 140 feet from the fire station and 170 feet from the nearest residence in Rapallo. The applicant’s Line of Sight exhibit contained in the Pattern Book illustrates that the hotel top floor will be visible from some Rapallo residences, but the approved hotel use on Tract C (which is being eliminated) would have the same visual impact.

Motion by: Councilmember Levitan

Seconded by: Vice Mayor Ribble

Action: Adopted Ordinance No. 2018-05 as revised.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

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

8. COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS:

Councilmember Wilson: 1) Reported that notification was recently received from Lee County conveying that the staff conducted an extensive review of all road connections to Corkscrew Road between Ben Hill Griffin Parkway and Alico Road to address the most immediate needs. Work will begin without waiting for the complete analysis; initial

immediate improvements will include a westbound to southbound turn lane at The Preserve and extending the eastbound right-turn at Stoneybrook Drive.

Councilmember Batos: 1) Inquired whether Village Attorney Saunders could draft an ordinance, similar to the ordinance adopted by the City of Cape Coral, regarding gas pump skimmers. There were no objections from Council noted. 2) Reported that Congressman Rooney co-sponsored H.R. 6113 to establish new ZIP codes for certain communities, including Estero.

Councilmember Errington: 1) Inquired whether staff was working on the Sandy Lane / Broadway East signage that she mentioned at the June 13, 2018 Council meeting. Village Manager Sarkozy responded that it would be part of the Bike/Ped Plan. 2) Reported that, as a result of the Memorandum of Understanding between the School District of Lee County and the Village of Estero, the Estero Rotary Club participated in \$7,500 in scholarships for Estero High School students this year. The Rotary Club also contributed \$4,000 toward planting 40 trees in the park.

Councilmember Levitan: 1) Reported that he attended the ULI Florida Summit recently. Of interest was a key note speech from an economist regarding the real estate cycle. 2) Addressed concern regarding “robo” emails received by Councilmembers on certain topics coming up for discussion and noted that there was a way for each individual to set up an email folder for those types of emails to go into. Vice Mayor Ribble added that the “robo” emails have no reflection on how he is going to vote and, to him, they were ridiculous, annoying, and bad behavior.

Mayor Boesch: 1) Reported that he, the Village Manager and Village Attorney were invited to meet with the Lee County Manager and Attorney to discuss: (a) How to bring together the cities, towns and villages in an effort to have them better understand the workings of the county. It was agreed that the Village Manager and the County Manager would meet for a discussion. (b) The Corkscrew Road project; they have agreed to come to a Council workshop to discuss the road project in greater detail. They also discussed the contribution related to Corkscrew Road. (c) The two feet of silt in the Estero River.

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

10. **VILLAGE MANAGER’S REPORT:** None.

Adjourn Regular Session and Convene Workshop

10. WORKSHOP ITEMS:

(a) School Resource Officer Funding

Village Manager Sarkozy explained that the new state legislation obligated the school districts to provide school security. He stated that this was an unfunded mandate and came at a time when school districts were not able to fund the mandate. He noted that Lee County would be covering 50% of the costs within the unincorporated area only; the cities of Sanibel, Cape Coral and Fort Myers have police departments and have agreed to fund the additional 50%; Fort Myers Beach and Bonita Springs do not have police departments and have opted out; the Lee County Sheriff assured that he would cover the

calls for service. Village Manager Sarkozy stated that the school district would be asking the Village to help pay, which would be \$148,000.

Questions or Comments: Councilmembers Batos, Levitan, Errington, McLain, Wilson, Vice Mayor Ribble, and Mayor Boesch. Discussion included this was the county's responsibility; someone from the school district should come before the Council and make the request; concern regarding the state legislature passing unfunded mandates; and Council should speak with the legislative representative.

Public Comment: None.

(b) Council Update Regarding Staff's Public Information Meetings on the Capital Improvement Program

Village Manager Sarkozy provided comments regarding the well-attended, informal public information meetings. Public Works Director Willems provided information regarding projects that came up, noting that pedestrian projects were added to the Capital Improvement Program. He added that, after the meetings were held, staff received emails on other ideas.

Questions or Comments: Councilmembers Batos, Levitan, Errington, and Wilson. Discussion included widening Three Oaks Parkway; sidewalks not included along Broadway West; an inquiry regarding \$8M indicated for landscaping; Village signs; and projects added to the list. Village Manager Sarkozy explained the CIP approach; the list becomes a "memory bank"; Council would need to reprioritize the list every year.

Public Comment: None.

(c) Village Manager Performance Evaluation

Village Attorney Saunders referred to the Average of Councilmember's Evaluations summary, which the Council accepted by consensus.

Questions or Comments: Councilmembers Errington, Wilson, Vice Mayor Ribble, and Mayor Boesch. Discussion included looking at a contract longer than one year; Mr. Sarkozy has done an outstanding job; Council is blessed to have him.

Public Comment: None.

A motion to adjourn was made and duly passed.

11. ADJOURNMENT: 1:22 p.m.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: Kathy Hall
Kathy Hall, MMC, Village Clerk

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