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**APPROVED BY COUNCIL
DECEMBER 5, 2018**

FINAL ACTION AGENDA/MINUTES

VILLAGE COUNCIL MEETING

**Village of Estero Council Chambers
9401 Corkscrew Palms Circle
Estero, FL 33928
October 3, 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:

Invocation: Pastor Hugh McGuigan

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 Attorney Burt Saunders, 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.

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

Motion: Move to approve the agenda with revisions: move Presentation by Kevin Ruane, City of Sanibel Mayor to follow Agenda Item 2, move Agenda Item 11 (a) Joint Petition to Challenge Proposed Rules being established by the South Florida Water Management District from Workshops to Action Items, to follow Agenda Item 2 and address both Action Items immediately following the presentation.

Motion by: Councilmember Batos

Seconded by: Vice Mayor Ribble

Action: Approved the agenda as revised: moved Presentation by Kevin Ruane, City of Sanibel Mayor to follow Agenda Item 2, move Agenda Item 11 (a) Joint Petition to Challenge Proposed Rules being established by the South Florida Water Management District from Workshops to Action Items, to follow Agenda Item 2 and address both Action Items immediately following the presentation.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

PRESENTATION: Kevin Ruane, Mayor, City of Sanibel
New criteria established by the South Florida Water Management District

Mayor Ruane addressed the recent water quality conditions and the overwhelming impacts to quality of life, the local economy, tourism, and the real estate market. He requested that the Village support the effort by local communities to challenge new criteria established by the South Florida Water Management District (SFWMD) related to minimum flows and levels affecting the Caloosahatchee River, as well as supporting a joint petition, as an intervenor, to challenge proposed rules being established by the SFWMD in a legal action in support of more rigorous rules that may lessen the impacts of poor water quality.

Questions or Comments: Mayor Boesch and Councilmembers Levitan, Batos and Errington. Discussion included authorizing Mayor Boesch to sign a letter challenging the SFWMD and their revised rules related to minimum flows and levels affecting the Caloosahatchee River and support for the joint petition.

Public Comment:

Joe Miceli, Rookery Pointe, indicated support for the mayor signing the letter and conveyed concern regarding fracking in Florida.

Peter Cangialosi, The Preserve, urged Council's support.

Don Eslick, encouraged Council's support and indicated that the ECCL would support the efforts as well.

Note: Agenda Item 5 (a) was addressed prior to Agenda Item 3.

3. PUBLIC COMMENT ON NON-AGENDA ITEMS:

Robert King, ECCL, spoke regarding a presentation concerning development at Week's Fish Camp on October 18, 2018 at Estero High School.

4. CONSENT AGENDA:

(a) Financial Report for Month Ended August 31, 2018

(b) Council Meeting Minutes July 11, 2018

Motion: Move to approve the Consent Agenda.

Motion by: Councilmember Levitan

Seconded by: Vice Mayor Ribble

Action: Approved the Consent Agenda.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

5. ACTION ITEMS:

(a)(1) Council Consideration of Support to the Effort by Local Communities to Challenge New Criteria Established by the South Florida Water Management District that may have Serious Negative Impacts on Water Quality in Our Region

Motion: Move to approve Mayor Boesch signing the letter in support of the City of Sanibel, the City of Fort Myers, the City of Cape Coral, the City of Fort Myers Beach and Lee County challenging new criteria and rules established by the SFWMD.

Motion by: Councilmember Batos

Seconded by: Vice Mayor Ribble

Action: Approved Mayor Boesch signing the letter in support of the City of Sanibel, the City of Fort Myers, the City of Cape Coral, the City of Fort Myers Beach and Lee County challenging new criteria and rules established by the SFWMD.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

Note: Agenda Item 11 (a) was moved from Workshops as an Action Item

(a)(2) Joint Petition to Challenge Proposed Rules being established by the South Florida Water Management District

Discussion ensued regarding a “not to exceed” dollar amount and the possible risk of having to pay legal fees.

Motion: Move to support the legal challenge underway regarding proposed rules by the SFWMD regulating water flow and water quality in an amount not to exceed \$10,000 and with the understanding that the Village was not at risk to pay SFWMD's legal fees should SFWMD prevail.

Motion by: Councilmember Errington

Seconded by: Councilmember Batos

Action: Approved supporting the legal challenge underway regarding proposed rules by the SFWMD regulating water flow and water quality in an amount not to exceed \$10,000 and with the understanding that the Village was not at risk to pay SFWMD's legal fees should SFWMD prevail.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

(b) Village of Estero Parks, Recreation and Open Space Master Plan RFQ 2018-01

Community Development Director Gibbs provided comments regarding the RFQ process for the engagement of a firm to provide professional services to develop a Parks, Recreation and Open Space Master Plan and reviewed the ranking of firms at the May 16, 2016 Council meeting. She also spoke to public involvement and the scope of work. She noted that the contract amount was less than what had been budgeted.

Questions or Comments: Councilmembers Levitan, Wilson and Errington. Discussion included the fact that the scope of work referred to an adhoc committee which would be removed prior to contract signing; concern regarding the geographic limits of the study; explanation of focus groups; and broad range of input.

Public Comment:

Bill Carr, Carriage Court, fully supported the contract and suggested that Council keep the new property in mind.

Motion: Move to approve the contract with Barth Associates, LLC for the development of a Parks, Recreation and Open Space Master Plan.

Motion by: Councilmember Wilson

Seconded by: Councilmember McLain

Action: Approved the contract with Barth Associates, LLC for the development of a Parks, Recreation and Open Space Master Plan.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

- (c) Lee County Sheriff's Office Request for Letter of Support for Edward Byrne Memorial Justice Assistance Grant Countywide (JAGC)

Assistant to Village Manager, Kyle Coleman, provided introductory comments and introduced Stan Nelson from the Lee County Sheriff's Office.

Stan Nelson, Lee County Sheriff's Office, spoke to the request for a letter of support for the Edward Byrne Memorial Justice Assistance Grant Countywide (JAGC), a Florida Department of Law Enforcement requirement to demonstrate that Lee County had reached consensus regarding the disbursement of Byrne grant funds in the amount of \$185,292 allocated to Lee County.

Public Comment: None.

Motion: Move to authorize the Mayor to sign the letter of support to Ms. Petrina T. Herring, Bureau Chief, Office of Criminal Justice Grants, Florida Department of Law Enforcement.

Motion by: Councilmember McLain

Seconded by: Councilmember Errington

Action: Authorized the Mayor to sign the letter of support to Ms. Petrina T. Herring, Bureau Chief, Office of Criminal Justice Grants, Florida Department of Law Enforcement.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

- (d) Estero River Law Enforcement Agreements with the Lee County Sheriff's Office

Assistant to Village Manager, Kyle Coleman, provided an explanation regarding the two requisite forms for contracting with the Lee County Sheriff's Office for law enforcement services along the Estero River, providing the Village of Estero with two, six hour shifts per month on the Estero River, through September 2019.

Public Comment: None.

Motion: Move to approve the agreements, with authority provided to the Village Manager to sign both agreements.

Motion by: Councilmember Errington

Seconded by: Councilmember Levitan

Action: Approved the agreements, with authority provided to the Village Manager to sign both agreements.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

6. FIRST READING OF ORDINANCES:

(a) Ordinances Repealing Inapplicable Lee County-only Regulations

- (1)** Ordinance No. 2018-12 An Ordinance of the Village Council of the Village of Estero, Florida, Repealing Personnel Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date
- (2)** Ordinance No. 2018-13 An Ordinance of the Village Council of the Village of Estero, Florida, Repealing Purchasing and Finance Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date
- (3)** Ordinance No. 2018-14 An Ordinance of the Village Council of the Village of Estero, Florida, Repealing Telecommunications Network Ordinance Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date
- (4)** Ordinance No. 2018-15 An Ordinance of the Village Council of the Village of Estero, Florida, Repealing Airports and Aircraft Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date
- (5)** Ordinance No. 2018-16 An Ordinance of the Village Council of the Village of Estero, Florida, Repealing Ambulance and Rescue Services Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date
- (6)** Ordinance No. 2018-17 An Ordinance of the Village Council of the Village of Estero, Florida, Repealing Building and Land Use Regulations Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date
- (7)** Ordinance No. 2018-18 An Ordinance of the Village Council of the Village of Estero, Florida, Repealing Courts Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date
- (8)** Ordinance No. 2018-19 An Ordinance of the Village Council of the Village of Estero, Florida, Repealing Discrimination Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date
- (9)** Ordinance No. 2018-20 An Ordinance of the Village Council of the Village of Estero, Florida, Repealing Development District Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date

- (10) Ordinance No. 2018-21 An Ordinance of the Village Council of the Village of Estero, Florida, Repealing Drainage and Water Control Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date

Village Clerk Hall read the titles of Ordinances No. 2018-12 through 2018-21.

Questions or Comments: Councilmember Levitan and Vice Mayor Ribble. Discussion included Ordinances No. 2018-17 and 2018-20 and the analysis of the ordinances that was provided by Village Legal Counsel.

Motion: Move to approve first reading and hold second reading on October 17, 2018.

Motion by: Councilmember Wilson
Seconded by: Councilmember McLain

Action: Approved first reading and second reading to be held on October 17, 2018.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

Representative Ray Rodriguez was recognized and invited to come forward to address the Council. He stated that he was proud of the Council's recent action to purchase acreage along Estero River. He also spoke briefly regarding news from Tallahassee concerning an organizational session and committee meetings, and noted that the legislative session begins March 5, 2019.

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

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

Councilmember Wilson: Reported that the Estero Chamber of commerce established an economic development team meeting on a regular basis.

Councilmember Batos: Reported regarding the Estero Education Initiative and noted that the Estero High School Culinary Fundraiser was scheduled for December 17, 2018.

Councilmember Errington: Reported concerning: 1) a recent Charlotte Harbor National Estuary Program meeting that she attended and 2) information she received regarding an Estero River sign that indicates mileage to alert people launching boats, kayaks, etc.

Councilmember McLain: 1) Reminded Council regarding the Veterans Day celebration on November 17, 2018. (2) Spoke regarding the vacant property on East Broadway that was brought up at a recent Council meeting and recommended that the item be put on a workshop for the next Council meeting for discussion followed by an action item at the following Council meeting. Brief discussion ensued; it was recommended that he speak with the Village Manager regarding putting the topic on the next agenda.

Councilmember Levitan: Reported that he received a reminder from the Community Development Director regarding a joint meeting of the Planning and Zoning and Design Review Boards on October 16, 2018 for the rollout of the Land Development Code. Community Development Director Gibbs added that the same PowerPoint Presentation would be available at the October 17, 2018 Council meeting.

Vice Mayor Ribble: Reminded Council regarding the upcoming Veterans Day celebration at the Bonita Springs Elks Club.

Mayor Boesch: Spoke to the ribbon cutting ceremony at Genova gated community on October 11, 2018.

The meeting went into recess at 10:58 a.m. and reconvened at 11:10 a.m.

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

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

Adjourn Regular Session and Convene Workshop

11. WORKSHOP ITEMS:

- (a) Joint Petition to Challenge Proposed Rules being established by the South Florida Water Management District

Discussion of this workshop was moved to Agenda Item 5; see pages 3 and 4.

- (b) Presentation on Request for a Property Assessed Clean Energy (PACE) Program to Address Concerns Raised at the September 5, 2018 Workshop

Finance Director Roberson provided an introduction.

Devesh Nirmul, Counterpointe SRE, described handouts that he provided and noted other items for the record that included case studies. PowerPoint Presentation: Potential Increased Burden on HOAs Due to Senior Lien Position; Ability to Pay Concern; Sufficient Cash Flow to Cover Payments; Consumer Protections; Suite of Financing Options Available; Why Commercial Properties Need this PACE Option; Overview of Commercial PACE Benefits.

Questions or Comments: Mayor Boesch, Vice Mayor Ribble, and Councilmembers Levitan, Batos, Errington, McLain, and Wilson. Discussion included applications accepted prior to a disaster; consumer protections; best practices; some cities have come up with additional required guidelines; fees; inquiry regarding five Florida municipalities that participate; length of time they have been in Florida; whether they give references; whether there was sentiment on the Council to move forward; whether this could be put in place for commercial property only; approximately 70% of Florida cities have the program; limited Village staff time. Consensus was not to move forward at this time.

(c) Retail Gas Pump Security Measures Ordinance

Village Attorney Saunders introduced the ordinance and stated that it would provide consumers with a little more assurance; State law was ineffective; and state agency representatives testified in favor of such an ordinance when the City of Cape Coral adopted their ordinance.

Questions or Comments: Councilmembers Levitan, McLain, Errington and Vice Mayor Ribble. Discussion included adding language regarding updating the locks when technology changed. Village Attorney Saunders noted that it would be difficult to add language regarding that in the ordinance; however, if technology changed, the ordinance could be amended. First reading of the ordinance was scheduled for October 17, 2018.

Public Comment: None.

A motion to adjourn was made and duly passed.

11. **ADJOURNMENT:** 11:53 a.m.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: Kathy Hall
Kathy Hall, MMC, Village Clerk

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