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**APPROVED BY COUNCIL
MARCH 20, 2019**

FINAL ACTION AGENDA/MINUTES

VILLAGE COUNCIL MEETING

**Village of Estero Council Chambers
9401 Corkscrew Palms Circle
Estero, FL 33928
December 5, 2018 9:30 a.m.**

1. CALL TO ORDER: 9:30 a.m.

PLEDGE OF ALLEGIANCE: Led by Mayor Boesch.

INVOCATION: Father Tony Gilborges from Our Lady of Light Community.

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, Village 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.

2. APPROVAL OF AGENDA, ADDITIONS, AND DELETIONS:

Motion: Move to approve the agenda with revisions: Move Workshop Items 13 (d) and 13 (e) to immediately follow Workshop Item 13 (a) in order to allow Workshops that include consultant presentations to be addressed earlier in the agenda. Village Attorney Saunders requested that Ordinance No. 2018-20 be continued.

Motion by: Councilmember McLain

Seconded by: Councilmember Levitan

Action: Approved the agenda with revisions.

Vote:

Aye: Unanimous

Nay:

Abstentions:

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

4. **CONSENT AGENDA:**

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

(b) October 3, 2018 Council Meeting Minutes

Public Comment: None

Motion: Move to approve the Consent Agenda.

Motion by: Councilmember Levitan

Seconded by: Councilmember Batos

Action: Approved the Consent Agenda.

Vote:

Aye: Unanimous

Nay:

Abstentions:

Questions or Comments: None

5. **CONSIDERATION OF ITEMS DEFERRED FROM CONSENT AGENDA**
None

6. **ACTION ITEMS:**

(a) Approve Award of the Fixed Rate 10 Year Bank Loan RFP to Capital Bank, a Division of First Tennessee Bank

Village Manager Sarkozy provided an introduction and reviewed information from the November 28th meeting. He stated that this is by far the best proposal. This will be brought back on December 12 and Vicky Johnson is here in case there are questions.

Questions or Comments: Councilmembers had questions regarding prepayment penalties, and debt service ratio.

Public Comment: None

Motion: Move to concur with the recommendation of PRAG and approve award of the Fixed Rate 10-year Bank Loan RFP to Capital Bank, a Division of First Tennessee Bank.

Motion by: Vice Mayor Ribble

Seconded by: Councilmember Wilson

Questions or Comments: None

Vote:

Aye: Unanimous

Nay:

Abstentions:

(b) Estero Chamber of Commerce Request for Funding

Village Manager Sarkozy reviewed workshop information provided at the November 28th meeting from the Estero Chamber of Commerce. The Chamber is requesting \$25,000 as a one-time commitment as a “Diamond” member. The Council has requested supporting documentation be presented to them in the near future so we will have the specific scope of the administration. The Village should have the documentation within the next thirty days.

Village Attorney Saunders stated that the motion should contain that the expenditure meets a valid public purpose.

Questions or Comments: Councilmembers commented on whether to delay until they are provided the financial report from the Chamber.

Public Comment:

Barry Freedman asked how appropriate is it to use taxpayer money for a private organization.

Questions or Comments: Vice Mayor Ribble commented that every community that he has been involved has helped the chamber; the amount of money they generate supports the Village. Village Attorney Saunders stated that there was nothing legally incorrect with the expenditure.

Motion: Move to approve a one-year investment of \$25,000 as a “Diamond Partner with the Estero Chamber of Commerce. The expenditure meets a valid public purpose.

Motion by: Vice Mayor Ribble

Seconded by: Councilmember Errington

Questions or Comments: None

Vote:

Aye: Councilmembers Batos, Errington, Levitan, Vice Mayor Ribble, Mayor Boesh

Nay:

Abstentions: Councilmember Wilson

7. FIRST READING OF ORDINANCES:

(a) Ordinance No. 2019-01 An Ordinance of the Village Council of the Village of Estero, Florida, Adopting a Reserve Policy; and Providing an Effective Date

Mayor Boesch introduced Ordinance No. 2019-01. Village Clerk Hall read the title of the ordinance. Village Manager Sarkozy provided a brief explanation of the ordinance.

Questions or Comments: Councilmembers had questions about how the Reserve would work.

Motion: Move to approval first reading of Ordinance No. 2019-01.

Motion by: Councilmember Wilson

Seconded by: Councilmember McLain

Questions or Comments: None

Action: Motion to approve first reading

Vote:

Aye: Unanimous

Nay:

Abstentions:

8. SECOND READING / PUBLIC HEARING OF ORDINANCES:

- (a) 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

Village Attorney Saunders advised that this ordinance should be continued to the January 9, 2019 meeting; also re-advertise the hearing.

9. PUBLIC COMMENT ON NON-AGENDA ITEMS:

Patty Whitehead, Tanglewood Lane, stated her street does not have potable water. She had questions about the special assessment process and how to move it forward. Councilmember Levitan thought staff was researching MSBU; Mayor Boesch said that we will be scheduling a workshop in the future.

8. COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS:

Councilmember Levitan had concerns that Lee County Commissioners are not notifying the Village about items that impact Estero.

Councilmember Wilson stated that he is a member of the Economic Development Team at the Chamber of Commerce that is working within the Chamber.

11. VILLAGE ATTORNEY'S REPORT: None.

12. VILLAGE MANAGER'S REPORT: None.

The meeting went into recess at 10:25 a.m. and reconvened at 10:35 a.m.

Adjourn Regular Session and Convene Workshop

1. WORKSHOP ITEMS:

(a) Land Purchase Contingencies

- Financing Options
- Real Estate Issues
- Review of Land Use Issues

Village Manager Sarkozy provided an update on real estate issue and survey. He believes that the survey is accurate now and waiting for final confirmation from John Paulich.

Village Attorney Saunders stated he is waiting on documents.

Questions or Comments: Councilmembers had concerns regarding future land development, the three-party agreement, the zoning resolution, and gas and oil rights.

Public Comment:

Steve Hartsell, Pavese Law Firm, representing Jeff Lewis, who lives in the adjacent home on Sandy Lane, had concerns regarding rezoning and wants to stress that any future development must be consistent with the zoning resolution that had been negotiated for the Estero on the River zoning.

Note: Workshops (d) and (e) were addressed immediately following Workshop (a).

(d) US 41 Median Landscaping

Village Manager Sarkozy provided an introduction. Public Works Director Willems explained they are having challenges FDOT criteria due to speed limit.

James Panican from Kimley Horn Architects, and Ed Dean presented a PowerPoint that recapped the previous Council presentation, FDOT criteria, restrictions/considerations, design concept, coordination and plan development; FDOT design variation (denied by FDOT in November), plans Development; exploring Other Opportunities, current status and project schedule, and current project estimate.

Questions or Comments: Councilmembers had questions regarding speed limits, the restriction made by FDOT, and if curbing could be changed if additional funding opportunities came in the future.

Public Comment: None.

(e) Estero Parkway Update

Public Works Director Willems introduced the topic.

Ted Tryka, provided Preliminary Engineer's Opinion of Probable Construction Cost dated December 5, 2018 entitled Project Comparison Costs.

Bruce Howard presented a PowerPoint presentation regarding the project scope, aerial views, case study of street views, and conceptual landscape design.

Questions or Comments: Councilmembers had questions regarding irrigation and street lighting.

Public Comment:

Patty Whitehead offered her comments regarding road surface, lane width, and bike paths and also suggested landscaping in stages.

(b) Potable Water Quality

Village Manager Sarkozy provided an introduction. Public Works Director Willems presented a PowerPoint presentation with service providers, service areas, water quality report, and data from other towns and Lee County.

Questions or Comments: Councilmember Errington asked if that this information can be available in the Village Newsletter.

Public Comment:

Patty Whitehead, Tanglewood Lane, spoke regarding MSTU's and believed that they were not available in the Village limits. Councilmember Levitan explained that they or similar districts could be established.

(c) Traffic Signal, Street Light and Traffic Sign Standards

Public Works Director Willems presented a PowerPoint presentation with existing signals.

Questions or Comments: Councilmembers stated that they would like to give it time and readdress the matter at a later meeting.

Public Comment: None

(f) Mine Report

Village Manager Sarkozy introduced Community Development Director Gibbs who spoke to obtaining a consultant that would cost between \$10,000 and \$15,000.

Questions or Comments: Councilmembers had questions regarding DRGR and whether the consultant's report would be helpful and useful to the Village

Public Comment:

Patty Whitehead, Tanglewood Lane, stated that mines are a serious issue and was in favor of the Village reviewing the mine reports.

Kelly McNab, Conservancy of Southwest Florida, recommends that village engage in the peer review. Councilmember Levitan asked Ms. McNab which report the conservancy was in favor of. She stated that they were not in favor of the Waldrop Study.

Greg Stuart, Stuart & Associates, representing Sakata Seed Corp., was in favor of the peer review.

Don Eslick, ECCL, was in favor of the peer review.

Councilmember Wilson asked that this be put on the agenda for December 12th. Consensus was to put it on the December 12th agenda.


A motion to adjourn was made and duly passed.

12. ADJOURNMENT: 1:10 p.m.


ATTEST:

VILLAGE OF ESTERO, FLORIDA

By:


Kathy Hall, MMC, Village Clerk
on behalf of Kathy Hall

By:


Bill Ribble, Mayor

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME WILSON JIM	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ESTERO VILLAGE COUNCIL
MAILING ADDRESS 20200 BURNSIDE #2002	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY ESTERO COUNTY	NAME OF POLITICAL SUBDIVISION: ESTERO
DATE ON WHICH VOTE OCCURRED 12-05-2018	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTEE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, JIM WILSON, hereby disclose that on DECEMBER 5, 2018:

(a) A measure came or will come before my agency which (check one)

☐ inured to my special private gain or loss;

☐ inured to the special gain or loss of my business associate, _____;

☐ inured to the special gain or loss of my relative, _____;

☒ inured to the special gain or loss of ESTAD CHAMBER OF COMMERCE, by whom I am retained; or

☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

CHAMBER OF COMMERCE AWARDS OF \$25,000
DIAMOND LEVEL SPONSORSHIP

I AM ALSO AN ELECTED MEMBER OF (JUNE 2018)
CHAMBER BOARD AND BELIEVE THAT
DIRECTORSHIP CREATES A CONFLICT.
I ABSTAINED FROM VOTING ON THAT MOTION.

12/6/2018
Date Filed

Jim Wilson
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.