

Final Action Agenda/Minutes are supplemented by audio and video recordings of the meetings, as well as transcripts. Video recordings of Village Council meetings from June 8, 2016 forward, as well as agendas, staff reports, resolutions, ordinances, and other documents related to the meetings can be viewed online at <https://estero-fl.gov/agendas/> at the corresponding meeting date.

**APPROVED BY COUNCIL  
NOVEMBER 17, 2021**

**VILLAGE COUNCIL MEETING**

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

**October 27, 2021 9:30 a.m.**

**1. CALL TO ORDER**

**INVOCATION:** Pastor Chris Mueller Legacy Church.

**PLEDGE OF ALLEGIANCE:** Led by Councilmember Ward.

**ROLL CALL:** Present: Mayor Katy Errington - District 4, Vice Mayor Jon McLain - District 3, Councilmember Joanne Ribble - District 1, Councilmember Larry Fiesel - District 2, Councilmember Jim Boesch - District 5, Councilmember Jim Ward, - District 6 (left meeting at 9:40 a.m.), and Councilmember Jim Wilson - District 7 (via Zoom).

Also present: Village Manager Steve Sarkozy, Village Attorney Derek Rooney, Village Land Use Attorney Nancy Stroud, Community Development Director Mary Gibbs, Public Works Director David Willems, Deputy Village Clerk Tammy Duran, and Village Clerk Carol Sacco.

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

**Motion:** Motion to permit Councilmember Wilson to participate remotely in Zoom Presentation.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Fiesel

**Action:** Motion to permit Councilmember Wilson to participate remotely in Zoom Presentation.

Vote:

Aye: Councilmembers Boesch, Fiesel, Ward, Wilson, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

**Council Questions or Comments:**

Councilmember Ward stated he would be recusing himself from the Brooks Town Center items based on the advice of the Village Attorney, and for that reason he would be leaving the meeting.

**Motion:** Motion to approve agenda.

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

**Action:** Approved agenda.

**Vote:** (Roll Call)  
**Aye:** Councilmembers Boesch, Fiesel, Wilson, Ribble, Vice Mayor McLain, and Mayor Errington.

**Nay:**

**Abstentions:**

**3. ACTION ITEMS**

**(a) Brooks Town Center – Request to Intervene**

**Staff Presentation/Comments:**

Nancy Stroud, Land Use Attorney

**Village Attorney Comments**

Derek Rooney, Village Attorney

**Presentation/Information by:**

Beverly Grady, Attorney for Intervenors

Neale Montgomery, Pavese Law Firm, Attorney for Applicant

**Council Questions or Comments:**

Councilmember Boesch and Vice Mayor McLain

**Public Comments:**

None.

**Motion:** Motion to allow the proposed intervenors to participate in the quasi-judicial proceedings to follow.

**Motion by:** Councilmember Boesch  
**Seconded by:** Councilmember McLain

**Action:** Approved motion to allow legal representative of homeowners' associations a limited time to speak on each item.

**Vote:** (Roll Call)

**Aye:** Councilmembers Boesch, Fiesel, Wilson, Ribble, Vice Mayor McLain, and Mayor Errington.

**Nay:**

**Abstentions:**

#### **4. QUASI-JUDICIAL HEARING**

##### **(a) Brooks Town Center -- Vested Rights Determination**

Village Attorney Rooney provided information regarding Board business and quasi-judicial hearings. All audience members, parties and staff providing testimony for both quasi-judicial hearings were sworn in by Village Clerk Carol Sacco. Council Members noted they had a conversation with Staff regarding this matter and received email from the public and Ms. Grady and the Intervenors who submitted a list of persons who object to the Project

##### **Staff Presentation/Comments:**

Mary Gibbs, Community Development Director

Nancy Stroud, Land Use Attorney

Gary Oldehoff, Attorney

Walter Keller, Registered Professional Engineer in the state of Florida

##### **Attorney Comments:**

Derek Rooney, Village Attorney

##### **Presentation/Information by:**

Neale Montgomery, Pavese Law Firm, Attorney for Applicant

Beverly Grady, Attorney for Intervenors

Greg Stuart, Stuart and Associates

Mark Staines, President of Copper Leaf Golf Club

Robert Block, President of Lighthouse Bay

Jim Rock, 9201 Spring Run Blvd

John "Rod" Woolsey, 10240 Orchid Ridge Lane

##### **Council Questions or Comments:**

Councilmembers Boesch, Fiesel, Ribble, Vice Mayor McLain, and Mayor Errington.

##### **Public Comments:**

##### **In-Person:**

Frank Duke, The Brooks

Julie McCann, 2380 Copper Leaf Blvd

##### **eComments:**

Susan Bippen, The Brooks  
Patrick McGarry, Spring Ridge  
Leah Scodras, Spring Run Golf at The Brooks  
Bernard Bippen, Shadowood  
Patrick McGarry, Spring Ridge  
Rod Woolsey, The Brooks  
Glenn H. Korhage  
Gerald R O'Connor, Oak Hammock  
Shelly Frank

**Motion:** Motion to acknowledge based on substantial competent evidence and applicable laws the vesting for the use of “multifamily low rise” for the property owner Long Bay Partners, LLC only, as to use only. No vested rights exist for any specific number of units in the Town Center or the Proposed project, and no vested rights exist for an administrative (staff) final plan review process.

**Motion by:** Councilmember Boesch  
**Seconded by:** Councilmember Fiesel

**Action:** Acknowledged based on substantial competent evidence and applicable laws the vesting for the use of “multifamily low rise” for the property owner Long Bay Partners, LLC only, as to use only. No vested rights exist for any specific number of units in the Town Center or the Proposed project and no vested right exist for an administrative (staff) final plan review process.

**Vote:** (Roll Call)

**Aye:** Councilmembers Boesch, Fiesel, Wilson, Ribble, Vice Mayor McLain, and Mayor Errington.

**Nay:**

**Abstentions:**

**Council Recessed at 12:08 pm and Reconvened at 12:24 pm**

**(b) Brooks Town Center -Appeal of Administrative Decision by staff**

Council Members noted they had a conversation with Staff regarding this matter and received email from the public.

**Staff Presentation/Comments:**

Mary Gibbs, Community Development Director  
Nancy Stroud, Land Use Attorney

**Village Attorney Comments**

Derek Rooney, Village Attorney

**Presentation/Information by:**

Neale Montgomery, Pavese Law Firm, Attorney for Applicant  
Paula McMichael, Hole Montes  
Beverly Grady, Attorney for Intervenor  
Mark Staines, President of Copper Leaf Golf Club

John “Rod” Woolsey, 10240 Orchid Ridge Lane

**Council Questions or Comments:**

Councilmember Boesch

**Public Comments:**

**eComments:**

Susan Bippen, The Brooks  
Patrick McGarry, Spring Ridge  
Leah Scodras, Spring Run Golf at The Brooks  
Bernard Bippen, Shadowood  
Patrick McGarry, Spring Ridge  
Rod Woolsey, The Brooks  
Glenn H. Korhage  
Gerald R O’Connor, Oak Hammock  
Shelly Frank

**Motion:** Motion based on substantial competent evidence, to affirm the Staff’s decision that a final plan approval is not an Administrative Decision and that a Minor Planned Development Amendment is necessary for the project.

**Motion by:** Vice Mayor McLain  
**Seconded by:** Councilmember Boesch

**Action:** Based on substantial competent evidence, affirmed the Staff’s decision that a final plan approval is not an Administrative Decision and that a Minor Planned Development Amendment is necessary for the project.

**Vote: (Roll Call)**

Aye: Councilmembers Boesch, Fiesel, Wilson, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

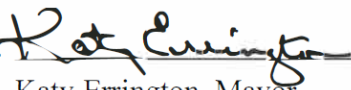
Abstentions:

**15. ADJOURNMENT at 1:09 pm.**

ATTEST:

By:   
Carol Sacco, Village Clerk

VILLAGE OF ESTERO, FLORIDA

By:   
Katy Errington, Mayor

(td/CS)

For an official copy of the signed minutes, please submit a Public Record Request.

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

LAST NAME—FIRST NAME—MIDDLE NAME Ward, Jim		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Village Council	
MAILING ADDRESS 9401 Corkscrew Palms Circle		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Estero	COUNTY Lee	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED October 26, 2021		NAME OF POLITICAL SUBDIVISION: Village of Estero, Florida	
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

## 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 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 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 would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a 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 (CRAs) 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 are not prohibited by Section 112.3143 from otherwise participating 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 page 2)

## 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 Ward, hereby disclose that on October 27, 20 21 :

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

- ☐ 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 \_\_\_\_\_ , by  
whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_ , which  
is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

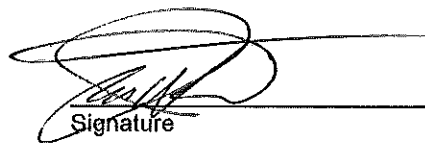
(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

As a board member of the Commons Club at the Brooks, Inc. and prior movant-intervenor against petitioners before the Village Council (Long Bay Partners, LLC, Top CR Associates, LLC, and PAC Estero Apartments, LLC) in litigation relating immediately prior to my election to the Village Council and upon advice of legal counsel I abstained from a vote pursuant to Section 286.012, Florida Statutes, to avoid any perception of bias or prejudice.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

October 27, 2021

Date Filed

  
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.