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**DRAFT**

## **FINAL ACTION AGENDA/MINUTES**

**Village of Estero  
9401 Corkscrew Palms Circle  
Estero, FL 33928  
Village Council Meeting  
July 13, 2016 9:30 a.m.**

- 1. OPENING EXERCISES:** (Includes call to order, roll call, pledge of allegiance, announcements, proclamations, and ceremonial presentations)

**Call to Order:** 9:32 a.m.

**Pledge of Allegiance:** Led by Mayor Batos.

**Invocation:** Offered by Pastor Mark Goodman from Christ Community Ministries.

**Roll Call:** Present: Mayor Nick Batos - District 6, Vice Mayor Howard Levitan - District 2, Councilmember Bill Ribble, District 1, Councilmember Donald Brown - District 3 (left the meeting at 3:10 p.m.), Councilmember Katy Errington - District 4, Councilmember Jim Boesch - District 5, and Councilmember Jim Wilson - District 7 (left the meeting at 3:10 p.m.).

Also present: Village Manager Steve Sarkozy, Village Attorney Burt Saunders, Village Land Use Attorney Nancy Stroud, Village Clerk Kathy Hall, Finance Director Lisa Pace, and Community Development Director Mary Gibbs.

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

**Motion:** Move to approve the agenda, adding agenda item 4 (b) to discuss a letter received from Commissioner Kiker, and continue agenda item 6 (b) to a future Council meeting.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Wilson

**Action:** Approved the agenda, added agenda item 4 (b) to discuss a letter received from Commissioner Kiker, and continued agenda item 6 (b) to a future Council meeting.

**Vote:**

Aye: Unanimous (roll call)

Nay:

Abstentions:

**3. PROCLAMATION: Industry Appreciation Week**

Councilmember Wilson read the proclamation, proclaiming August 22 through 26, 2016 as “Industry Appreciation Week.”

**4. CONSENT AGENDA:**

- (a) Resolution No. 2016-18 A Resolution of the Village Council of the Village of Estero, Florida, Approving the Tidewater Phase 2 Replat; and Providing an Effective Date

Tidewater Replat Phase 2 – (District 5) (PLT2016-E001)

A replat of a part of University Highlands located north of Everblades Parkway, south of Estero Parkway, east of I-75 and west of Ben Hill Griffin, for 115 lots

**Motion:** Move to adopt Resolution No. 2016-08.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Errington

**Action:** Adopted Resolution No. 2016-08.

**Vote:**

Aye: Unanimous (roll call)

Nay:

Abstentions:

- (b) Letter from Commissioner Kiker

Vice Mayor Levitan referred to a letter received from Commissioner Kiker requesting that the Council appoint an elected official as liaison on behalf of the Village Council to help coordinate discussions and clarify communications. Vice Mayor Levitan noted that Council previously authorized the Village Manager to continue with the negotiation process.

**Motion:** Move to appoint Councilmember Bill Ribble as the Council liaison to the County Commission for purposes of facilitating an agreement and bringing it back to the Council for discussion and vote.

**Motion by:** Vice Mayor Levitan

**Seconded by:** Councilmember Wilson

**Questions or Comments by:** Councilmember Wilson stated that he was encouraged and that this may open a new spirit of cooperation.

**Action:** Appointed Councilmember Bill Ribble as the Council liaison to the County Commission for purposes of facilitating an agreement and bringing it back to the Council for discussion and vote.

**Vote:**

Aye: Unanimous (roll call)

Nay:

Abstentions:

**5. PUBLIC HEARING:**

- (a) Proposed Capital Improvement Program and Adoption of Resolution No. 2016-19 A Resolution of the Village Council of the Village of Estero, Florida, Adopting the Capital Program; and Providing an Effective Date

Village Clerk Hall read the title of Resolution No. 2016-19. Village Manager Sarkozy provided a brief explanation and noted the upcoming public hearing dates on tentative ad valorem tax rate and budget, September 7 and 21, 2016.

**Public Comment:**

Bill Williams, The Cascades

**Motion:** Move to adopt Resolution No. 2016-19.

**Motion by:** Councilmember Wilson

**Seconded by:** Councilmember Boesch

**Action:** Adopted Resolution No. 2016-19.

**Vote:**

Aye: Unanimous (roll call)

Nay:

Abstentions:

**6. ACTION ITEMS:**

- (a) Resolution No. 2016-20 A Resolution of the Village Council of the Village of Estero, Florida, Determining the Proposed Millage Rate for Fiscal Year 2016-2017, 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

Village Clerk Hall read the title of Resolution No. 2016-20. Village Manager Sarkozy provided a detailed explanation of the resolution and noted that, at this time, staff was proposing to leave the Village rate at the same level as last year, with the understanding that, as revenues are refined, staff would be coming back in September with a recommendation to drop the tax rate. Discussion followed regarding reducing the tax rate; promises made during incorporation; and establishing a significant reserve.

**Questions or Comments by:** Councilmembers Ribble, Wilson, Errington, and Vice Mayor Levitan.

**Public Comment:** None.

**Motion:** Move to adopt Resolution No. 2016-20.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Wilson

**Action:** Adopted Resolution No. 2016-20.

**Vote:**

Aye: Unanimous (roll call)

Nay:

Abstentions:

- (b) Resolution No. 2016-21 A Resolution of the Village Council of the Village of Estero, Florida, Establishing a Defined Contribution Plan and Deferred Compensation Plan; Providing for Execution of Trust Joinder Agreement; Providing for Adoption of Defined Contribution Plan and a Deferred Compensation Plan; Providing for Acknowledgement of Master Trustees; Providing for Execution of an Adoption Agreement; Providing for Abiding by Terms and Acceptance of Services; Providing for Termination of Participation; Providing for Acknowledgement Regarding Assets; Providing for Approval by Master Trustees; Providing for Full Force and Effectiveness; Providing for Repeal of Conflicting Resolutions; and Providing an Effective Date

Resolution No. 2016-21 was removed from the agenda and continued to a future Council meeting.

- (c) Competitive Negotiation CN 2016-01 Miscellaneous Professional Services

Village Manager Sarkozy provided an explanation of the committee process for reviewing the 14 proposals received for general engineering services. He also provided an overview of how the firms would be utilized.

**Public Comment:** None.

**Motion:** Move to appoint a staff review committee consisting of Steve Sarkozy, Kyle Coleman, Mary Gibbs and Lisa Pace to evaluate proposals submitted by 14 consulting firms for miscellaneous engineering related professional services; staff to return to the Council with a recommendation in August.

**Motion by:** Councilmember Boesch

**Seconded by:** Councilmember Wilson

**Action:** Appointed a staff review committee consisting of Steve Sarkozy, Kyle Coleman, Mary Gibbs and Lisa Pace to evaluate proposals submitted by 14 consulting firms for miscellaneous engineering related professional services; staff to return to the Council with a recommendation in August.

**Vote:**

Aye: Unanimous (roll call)

Nay:

Abstentions:

**7. ZONING HEARING AND SECOND READING OF ORDINANCE:**

(a) Case No. DCI 2014-00023 Via Coconut

Ordinance No. 2016-09 An Ordinance of the Village Council of the Village of Estero, Florida, (Approving) (Denying) A Rezoning from Agricultural District (AG-2) and Community Facilities (CFD) to Estero Planned Development District (EPD) to Allow a Maximum 297 Unit Multifamily Residential Units and 30,000 Square Feet of Commercial Use with Associated Amenities for Property Located at the Southwest Corner of Via Coconut Point and Corkscrew Road Consisting of Approximately 19.3 Acres; Denying the Application for a Rezoning to Residential Planned Development District (RPD); (Approving) (Denying) a Master Concept Plan, (Certain Deviations and Conditions of Development); Providing Findings; Denying the Application for a Comprehensive Plan Amendment from Primarily Suburban Land Use Category to a New Land Use Category to be Known as Via Coconut Urban Place; Providing for Conflicts; Providing for Severability; and Providing an Effective Date

Village Clerk Hall read the title of Ordinance No. 2016-09. Community Development Director Gibbs reviewed that at first reading on July 6, 2016, she indicated that she would be asking for a continuance at the second reading and public hearing. Ms. Gibbs spoke to the July 12, 2016 Planning and Zoning Board meeting, noting that the Board continued the matter. She also acknowledged that the applicant distributed documents and a new Pattern Book.

**Public Comment:**

Steve Hartsell, Pavese Law Firm, expressed frustration with the process and stated that it was their hope that the case would have been ready for today; they will be pushing hard to meet the deadline for the August Planning and Zoning Board meeting. He added that their goal was to come back before the Council after their summer break and that he would try to schedule one-on-one meetings with Councilmembers.

**Questions or Comments by:** Vice Mayor Levitan and Councilmember Ribble.

Discussion included the process of disseminating information that is on the agendas; the importance of public participation; the time involved with approving the rules for the Village Center; and the Comprehensive Plan approval process.

**Motion:** Move to continue this case to a future date.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Errington

**Action:** The case was continued to a future date.

**Vote:**

Aye: Unanimous (roll call)

Nay:

Abstentions:

**(b)** Case No. DCI 2015-00009 Genova

Ordinance No. 2016-08 An Ordinance of the Village Council of the Village of Estero, Florida, Approving a Rezoning from Agricultural District (AG-2) and Commercial Planned Development District (CPD) to Estero Planned Development District (EPD) to Allow a 205 Unit Multifamily Residential Project with Associated Amenities for Property Located at 9050 Corkscrew Road Consisting of Approximately 16.95 Acres; Denying the Application for a Rezoning to Residential Planned Development District (RPD); Approving a Master Concept Plan, Certain Deviations and Conditions of Development; Providing Findings; Denying the Application for a Comprehensive Plan Amendment from Suburban Land Use Category to Intensive Development Land Use Category; Providing for Conflicts; Providing for Severability; and Providing an Effective Date

Mayor Batos explained the quasi-judicial process. Village Clerk Hall read the title of Ordinance No. 2016-08. All audience members and staff providing testimony were sworn in by the Village Clerk.

Mayor Batos called for declaration of ex parte communications and/or conflicts of interest. Each Councilmember declared ex parte contacts. Village Land Use Attorney Stroud inquired, due to this application being in existence for quite a while, whether each Councilmember could make a decision today based only on the evidence placed before them in this hearing regardless of prior discussions they may have had on this application. All Councilmembers responded affirmatively.

Community Development Director Gibbs provided a summary of the request, issues related to the project, the Planning and Zoning Board recommendation, and noted that there were specific findings that the Council would need to be make.

**Questions or Comments by:** Vice Mayor Levitan and Mayor Batos inquired regarding traffic impact information.

**Presentations by:**

Jim Wallace, Genova, provided information regarding the site concept; architectural elevations; courtyard atrium concept; “virtual reality” views of the project; liner buildings; tangible benefits and incentive offerings; and the Pattern Book.

**Questions or Comments by:** Vice Mayor Levitan and Councilmembers Ribble, Boesch, Errington, and Mayor Batos.

Discussion included outside perimeter hallways and exterior lighting; courtyard atrium concept; elevators; perimeter wall by liner buildings; future uses of the liner buildings and providing the means that this project would be mixed use in the future; project landscaping and Via Coconut median landscaping; wayward barrier; walking through the site to the park; landscape maintenance responsibility; stacking for vehicles at the project entrance; height of trees; incentive offerings; and landscape plan in the pattern book.

The meeting went into recess at 11:34 a.m. and reconvened at 11:48 a.m.

Mayor Batos announced that Council would be taking a lunch break; however, prior to that, a public comment period would be permitted related to the Genova public hearing and Agenda Item 8.

**Public Comment:**

Mark Goodman, Copper Oaks  
Margaret Brading, Rapallo

Mayor Batos recessed the public hearing.

**8. PUBLIC COMMENT ON NON-AGENDA ITEMS:**

Appearance by citizens opposed to Resolution No. 2016-17 adopted July 6, 2016 related to collaborative planning efforts between the Village and the Koreshan State Park and Estero Bay Preserve State Park:

Diana Vosburgh, Quarter Deck Cove HOA  
Gary Stewart, Quarter Deck Cove  
Nancy Stewart, Quarter Deck Cove  
Bob Morris, Quarter Deck Cove

Beverly MacNellis spoke regarding a meeting held by the State on June 29, 2016 at the Koreshan art building to accept public suggestions regarding the parks.  
Patty Whitehead spoke regarding due process and disseminating information.

Discussion followed regarding viewing Council meetings online; the misconception that the resolution referred to upcoming projects rather than the Village offering support for expansion of recreational activities; and the distribution of information regarding the Florida Department of Environmental Protection Division of Recreation and Parks June 29, 2016 meeting.

The meeting went into recess at 12:08 p.m., reconvened at 1:04 p.m. and continued with Case No. DCI 2015-00009 Genova, Ordinance No. 2016-08.

Neale Montgomery, Pavese Law Firm, presented transcripts of the May 3, 2016 and June 21, 2016 Planning and Zoning Board meetings for the record. Discussion followed and Land Use Attorney Stroud entered the May 3, 2016 and June 21, 2016 Planning and

Zoning Board meeting minutes into the record, along with a letter that was submitted by Tim Hancock.

Tim Hancock, AICP, Stantec, provided professional background information for himself and Jeff Perry, Transportation Planner, in order for the Council to accept them as expert witnesses. Mr. Hancock spoke to the deviations that they were withdrawing, the conditions they proposed to clarify, median landscaping, project buffers and fencing, and internal road width.

Jeff Perry, Transportation Planner, provided information regarding the traffic study. Neale Montgomery posed questions to Mr. Perry related to traffic analysis, adequate level of service, additional Traffic Impact Study required at time of Development Order submittal, and the number of peak hour trips the project would generate.

**Questions or Comments by:** Vice Mayor Levitan and Councilmembers Ribble, Boesch, Errington, Wilson, Brown, and Mayor Batos.

Discussion included traffic impacts; the potential vehicle trips if a portion of the site remained commercial zoning; and condominium documents including language regarding future potential commercial use of the liner buildings on Via Coconut. Village Land Use Attorney Stroud offered the following condition: The applicant shall provide in its condominium documents and construction design, the ability to use the liner buildings along Via Coconut Road for professional offices at the time Via Coconut becomes a local road and off-street parking is available. Discussion continued and there was Council consensus to accept the condition.

Extensive discussion followed related to access control, walkable community, and security for the residents, particularly whether identification would be required at the entry gate during daylight hours only. Council consensus was to not require identification. Mr. Wallace voiced concern regarding the condition. Discussion followed regarding local crime statistics and Estero gated communities where people walking or riding bikes enter through the exit bypassing the guard. Mr. Wallace stated that a guard would be stationed at the entry gate 24 hours per day, seven days per week.

It was determined that a meeting recess may be helpful to allow the applicant to speak with his consultants on whether there were other alternatives.

Discussion followed regarding the deviation related to reduction of open space; the deviation reducing road width from 24 feet to 20 feet; and the \$100,000 contribution for the road going into the park. Mayor Batos suggested that, if the county did not permit the access road, the money could be used for another public amenity in the immediate area.

The meeting went into recess at 3:10 p.m. and reconvened at 3:21 pm.

Note: Councilmembers Brown and Wilson left the meeting at 3:10 p.m.

Tim Hancock offered an alternative solution that the gate guard have the ability to request some type of an identification from someone if a situation did not look or feel right. After

brief discussion, there was Council consensus for the alternative solution offered by Mr. Hancock.

With respect to the \$100,000 park road contribution, Land Use Attorney Stroud read the following condition: If the county does not permit the road entrance to the park, the cash contribution will be used for a public amenity in the immediate area of the project. Mr. Hancock suggested that a priority be placed on pedestrian amenities. There was Council consensus that the cash contribution would be used for a public amenity in the immediate area of the project, if the county did not permit the road entrance to the park.

In response to an inquiry regarding the date of the Pattern Book, Community Development Director Gibbs responded that the Pattern Book dated June 17, 2016 was the accurate version.

Discussion ensued regarding deviations; Community Development Director Gibbs was amenable with the letter from Mr. Hancock that addressed Conditions and Deviations, with the exception of Deviation 11 regarding percentage of open space; she recommended allowing a minimum of 39% open space. In reference to Deviations 6.a and 6.b, Ms. Gibbs addressed safety on Via Coconut Road and recommended denial.

Discussion followed related to Condition 15 – Maintenance, and concern was addressed regarding the linear park being constructed in two parts. There was Council consensus for the language proposed by Mr. Hancock regarding Condition 15.

The issue of timing on Condition 5 was briefly discussed; Ms. Gibbs recommended approval.

**Public Comment:**

Greg Toth  
Jim Tatooles  
Donna Sutton, The Meadows  
Bob Cook, Bella Terra

No further testimony or comments; Mayor Batos closed the public hearing.

The following additional conditions were read by Village Land Use Attorney Stroud:

Added to Condition 16: If the county does not permit the road entrance to the park, the cash contribution will be used for a public amenity in the immediate area of the project.

Added to Condition 5: The guard at the security gate shall have the ability to request a photo identification from a non-resident who wishes to access the community.

New Condition 19: The Applicant shall provide in its condominium documents and construction design the ability to use the liner building along Via Coconut Road for professional offices if Via Coconut Road becomes a local road and onstreet parking is available.

Ms. Stroud noted that Council would need to make findings consistent with page 10, paragraph 12, of Ordinance No. 2016-08.

**Motion:** Move to adopt Ordinance No. 2016-08 with revisions and additions to conditions and adopting findings:  
In accordance with Section 33-518(b) of the Land Development Code, the Village has determined that the Applicant's incentive offers:  
(1) Meet the goals and objectives of the comprehensive plan.  
(2) Meet the General Criteria under Sec. 33-502, and  
(3) Create significant public benefit commensurate with the value of such incentive offers to the Village, and the appropriateness of such incentive offers to the applicable Tier and to the particular development plan. The Village Council has determined that the project is consistent with the general criteria in Section 33-502 of the Land Development Code.

**Motion by:** Vice Mayor Levitan  
**Seconded by:** Councilmember Ribble

**Action:** Adopted Ordinance No. 2016-08 with revisions and additions to conditions and adopting findings:  
In accordance with Section 33-518(b) of the Land Development Code, the Village has determined that the Applicant's incentive offers:  
(1) Meet the goals and objectives of the comprehensive plan.  
(2) Meet the General Criteria under Sec. 33-502, and  
(3) Create significant public benefit commensurate with the value of such incentive offers to the Village, and the appropriateness of such incentive offers to the applicable Tier and to the particular development plan. The Village Council has determined that the project is consistent with the general criteria in Section 33-502 of the Land Development Code.

**Vote:**  
Aye: Unanimous (roll call; Councilmembers Brown and Wilson absent)  
Nay:  
Abstentions:

**8. PUBLIC COMMENT ON NON-AGENDA ITEMS:** See page 7.

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

Councilmember Boesch mentioned the on-going public records requests for Councilmember email records, etc.

Mayor Batos noted that the next Council meeting will be August 17, 2016 and spoke briefly regarding the live streaming of meetings and the need for volunteers to operate the equipment.

**10. VILLAGE ATTORNEY'S REPORT:**

None.

**11. VILLAGE MANAGER'S REPORT:**

None.

A motion to adjourn was duly made and passed.

**12. ADJOURNMENT:** 4:06 p.m.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: \_\_\_\_\_  
Kathy Hall, MMC, Village Clerk

By: \_\_\_\_\_  
Nicholas Batos, Mayor