VILLAGE COUNCIL REGULAR MEETING OF JUNE 17, 2015

The Village of Estero Council Regular Meeting was held on this date at the Estero Fire Rescue District Meeting Room, 21500 Three Oaks Parkway, Estero, Florida.

Present: Mayor Nick Batos - District 6, Vice Mayor Howard Levitan - District 2, Councilmember Donald Brown - District 3, Councilmember Katy Errington - District 4, Councilmember Jim Boesch - District 5, and Councilmember Jim Wilson - District 7. Absent: Councilmember Bill Ribble, District 1 (excused absence).

Also present: Village Manager Peter Lombardi, Village Attorney Burt Saunders, and Village Clerk Kathy Hall.

1. CALL TO ORDER

Mayor Batos called the meeting to order at 6:31 p.m.

2. PLEDGE OF ALLEGIANCE

Mayor Batos led the Pledge of Allegiance to the Flag.

3. INVOCATION

The Invocation was offered by Pastor Jack Strom of Living Waters Church.

4. ROLL CALL

Village Clerk Kathy Hall called the roll; all members were present with the exception of Councilmember Ribble, whose absence had been previously excused.

5. PROCLAMATIONS AND EXPRESSIONS OF APPRECIATION

None.

6. APPROVAL OF AGENDA

Vice Mayor Levitan moved approval of the agenda, seconded by Councilmember Errington, called and carried unanimously with Councilmember Ribble absent.

7. CONSENT AGENDA

None.

8. COUNCIL BUSINESS

(A) Approval of May 20, 2015 Regular Meeting and the May 20, 2015 Workshop Minutes

Vice Mayor Levitan noted a correction to the May 20, 2015 Regular Meeting minutes: the motion for Agenda Item 8(D) should read: Mr. Ribble moved to approve the ordinance as originally written without changes, seconded by Ms. Errington, called and carried unanimously via roll call vote.

Councilmember Boesch moved approval of the May 20, 2015 Regular Meeting minutes as corrected and the May 20, 2015 Workshop minutes as submitted, seconded by Councilmember Wilson, called and carried unanimously with Councilmember Ribble absent.

(B) SECOND READING AND PUBLIC HEARING – ORDINANCE 15-07

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, RELATING TO THE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR THE LEVY OF THE LOCAL COMMUNICATIONS SERVICES TAX AND SPECIFYING A RATE; ELECTING TO ADJUST THE TAX RATE IN LIEU OF PERMIT FEES; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Village Clerk Kathy Hall read the title of Ordinance 15-07. Mayor Batos asked if there were any changes made from the first version of the ordinance. Village Attorney Burt Sanders responded there were no changes. Mayor Batos called for questions or comments from the Council, and there were none. Mayor Batos called for questions or comments from the public and no one came forward.

Councilmember Errington moved to accept Ordinance 15-07 as read, seconded by Councilmember Brown, called and carried unanimously via roll call vote with Councilmember Ribble absent.

(C) SECOND READING AND PUBLIC HEARING – ORDINANCE 15-08

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, ADOPTING LEE COUNTY ORDINANCE NO. 15-09 AMENDING THE LEE COUNTY CODE OF ORDINANCES IN EFFECT IN THE VILLAGE OF ESTERO, PURSUANT TO SECTION 12(5)(a) OF THE OF ESTERO CHARTER AMENDING LEE COUNTY LAND DEVELOPMENT CODE CHAPTERS 6 AND 10 AND CERTAIN SECTIONS OF THE FLORIDA BUILDING CODE TO AUTHORIZE THE BOARD OF ADJUSTMENTS AND APPEALS TO HEAR CERTAIN VARIANCE REQUESTS FROM THE FLORIDA BUILDING CODE; LIMIT BUILDING PERMITS BASED ON AFFIDAVIT; AMEND THE DEFINITION OF SUBSTANTIAL IMPROVEMENT; REPEAL AND REPLACE LAND DEVELOPMENT CODE ARTICLE IV FLOOD HAZARD REDUCTION (SECS. 6-401 - 6-476) IN ITS ENTIRETY, TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; PROVIDE FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENER'S ERRORS, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

Village Clerk Kathy Hall read the title of Ordinance 15-08. Village Attorney Burt Saunders stated that the Planning and Zoning Board voted unanimously to recommend approval of the ordinance and made a finding that the ordinance was consistent with the Comprehensive Plan, at their June 16, 2015 meeting. Mayor Batos asked if there were any changes made from the first version of the ordinance. Village Attorney Burt Saunders responded there were no changes. Vice Mayor Levitan commented that Governor Scott signed Legislative Bill 983, which provides the Council full power to amend the land development code. Mayor Batos called for other comments or questions from the Council, and there were none. Mayor Batos called for questions or comments from the public and no one came forward.

Councilmember Brown moved to accept Ordinance 15-08 as read, seconded by Vice Mayor Levitan, called and carried unanimously via roll call vote with Councilmember Ribble absent.

(D) RESOLUTION 2015-36

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, TO APPOINT THE VOTING DELEGATE FOR THE VILLAGE OF ESTERO FOR THE 2015 FLORIDA LEAGUE OF CITIES ANNUAL CONFERENCE AND BUSINESS MEETING; AND PROVIDING AN EFFECTIVE DATE.

Village Manager Peter Lombardi explained the purpose of the resolution was to appoint one of the Councilmembers to serve as Estero's voting delegate at the annual business meeting of the 89th annual conference of the Florida League of Cities in Orlando, August 13 through 15, 2015. He further explained that the delegates vote on issues proposed by the Board. Mayor Batos inquired about the types of agenda items, whether the issues would be known in advance to allow the entire Council an opportunity to decide which way the Council as a whole would like to vote, or if the voting delegate votes their conscious. Mr. Lombardi responded that the Board agenda would include policy agenda items as well as positions on legislative matters; he was not certain whether the issues were known in advance; however, he was aware that there were a number of committees that file reports for action by the Board.

Councilmember Wilson noted that July 8, 2015 was the deadline to submit resolutions for Board consideration, which would allow Council time to review issues prior to the August Board meeting. Brief discussion followed.

Councilmember Errington moved to appoint Mayor Batos as the voting delegate for the Village of Estero for the 2015 Florida League of Cities annual conference and business meeting, seconded by Councilmember Brown, called and carried unanimously with Councilmember Ribble absent.

(E) DISCUSSION – Seniors Homestead Exemptions (Village Manager)

Village Manager Peter Lombardi explained that, after incorporation occurred December 31, 2014, the Village was not in a position to approve an additional senior homestead exemption offered under the County code and, therefore, it had expired in terms of 2015 taxes. In order for the exemption to be effective in 2016 taxes, the Village would need to adopt the additional senior homestead exemption. Village Attorney Burt Saunders noted that he has been in contact with the Village special tax counsel for guidance on the matter and he is expecting to hear from her on Monday, June 22. Discussion ensued regarding whether the exemption disappeared for this calendar year and the importance of clearing the matter up quickly. It was noted that this was a valuation exemption and related to Village ad velorem taxes only. Village Attorney Burt Saunders stated that he would prepare a report for the June 24, 2015 Council workshop.

Mayor Batos called for public input and the following individual came forward: Riverwoods Plantation resident, Larry Horton, questioned whether this would affect residents this year.

Mayor Batos responded it appeared that it would affect residents this year; however, staff would be researching to find out if there was a way to keep it from happening, as well as make certain there would not be a problem in 2016.

(F) US-41 FDOT Street Lighting Project (Village Manager)

Regarding a letter from Florida Department of Transportation (FDOT), Village Manager Peter Lombardi stated that, due to the lack of additional funding and increase in costs when the street lighting project on US-41 was originally programmed in November 2012, the project has been split into two phases. The two phases will consist of a southern phase, from south of Pelican Colony Blvd. to north of Corkscrew Road, construction to begin in summer of 2016; and a northern phase, from Corkscrew Road to San Carlos Blvd, to be programmed for construction once funds become available. Discussion ensued regarding the directional lights that have already been purchased and the street lights that remain to be installed as part of the project. Councilmember Boesch noted that FDOT had expressed an interest in holding a public workshop with the Estero Village Council. Mayor Batos asked that a response be sent to FDOT acknowledging receipt of the letter, along with a statement that it is imperative that the second phase get moving as quickly as possible.

Mayor Batos called for further comments or questions from the Council, and there were none. He also called for public input and no one came forward.

9. PUBLIC INPUT ON NON-AGENDA ITEMS

Mayor Batos called for public input on any issue and no one came forward.

10. COUNCIL COMMUNICATIONS AND FUTURE AGENDA ITEMS

Councilmembers' Comments:

Vice Mayor Levitan advised that Estero Bay Agency on Bay Management (ABM) supported the Village Council Resolution 2015-33 opposing the two projects on Corkscrew Road with a vote of 7-6. He also spoke to a notification received regarding a vacant seat on the ABM which would require a nomination and election of a representative and alternate from the Council.

Discussion followed regarding membership on the South Florida Regional Planning Council (SFRPC). Village Manager Peter Lombardi noted that discussion regarding SFRPC membership was scheduled for the June 24 workshop. Mayor Batos stated that the organization has changed dramatically from what it was a few years ago and the level of authority it has; the Council would need to decide whether this is something they want to continue with. Village Attorney Burt Saunders stated that statutes have changed dramatically, noting that regional planning councils have very limited jurisdiction. He also spoke regarding the Village receiving notification that there would be a fee based on population and indicated that he would research further. Discussion ensued regarding the June 24 Council workshop and the possibility of appointing the SFRPC representative at the July 1 regular Council meeting.

Vice Mayor Levitan reported that he attended the Board of County Commissioners meeting and presented the resolution that related to Wild Blue and Corkscrew Farms. He also noted that he conveyed thanks for their guidance and help during the Village transition.

Councilmember Errington reported that she would be bringing information to the June 24 Council workshop relating to creating an Estero Historic Preservation District. She added that

she has spent quite some time on this project and is considering how to include Koreshan State Park.

Councilmember Boesch reported that he and Village Manager Peter Lombardi met with Commissioner Kiker to discuss Estero Parkway sidewalks. Discussion ensued regarding the interlocal agreement. Village Attorney Burt Saunders stated that he had an upcoming meeting with Lee County Attorney Richard Wesch. He then spoke to the Village's share of the communications services tax. The Village's ordinance that was recently adopted is effective January 1, 2016; however, under the Charter, the Village is entitled to a share of communications services tax for this calendar year. Mr. Saunders noted that Lee County has expressed reluctance to writing a check to the Village for the taxes that they have collected; however, he did not believe there would be a problem with the County issuing a credit. Mayor Batos inquired if that was something that should be included in the interlocal agreement. Mr. Saunders responded that he would be certain to include it.

Councilmember Wilson referred to the Village Council meeting schedule, noted that the last meeting in July was on July 22, and there were no meetings scheduled for the month of August. He questioned whether a meeting for July 29 should be scheduled in case of business that may need to be taken care of prior to everyone going away. Mayor Batos noted that Lee County Commissioners will be away in July and felt it may be more prudent to schedule an August meeting date in order to pass a local intergovernmental agreement if need be.

Mayor Batos reported he had been in touch with the Metropolitan Planning Organization (MPO) regarding the Village's voting seat on the MPO and that the response was it was still in process; however, he has been invited to attend all of the meetings.

11. VILLAGE MANAGER'S COMMENTS

Village Manager Peter Lombardi reported that the RFP for the manager search consultant is due next Wednesday, June 24. He was able to get three senior advisors from the Florida City and County Management Association and a retired manager to volunteer as the RFP evaluation committee. Brief discussion followed regarding the process and considering action at the July 1 regular Council meeting.

Mr. Lombardi yielded to Councilmember Errington in order for her to address one other item.

Councilmember Errington requested that staff prepare a proclamation for July 4th.

Village Manager Peter Lombardi reiterated the comments made by Councilmember Boesch regarding last week's meeting with Commissioner Kiker, primarily relating to transportation issues; however, they also discussed the interlocal agreement. Mr. Lombardi stated that Commissioner Kiker inquired about the amount of time it had been taking to finalize the interlocal agreement. Mr. Lombardi indicated that the Village was still waiting on numbers from County staff and he was not in a position to make a recommendation to the Council until such time as the numbers were made available. He noted that in the interim he had received communications from County staff providing numbers.

Mr. Lombardi stated that the monthly financial report as of May 31, 2015 had been distributed to the Council. Brief discussion ensued regarding the forecast being above and beyond what the original numbers that the ECCL projected through the end of September 2015. Mr. Lombardi

noted that Council would receive the first Village budget at the June 24 Council workshop, including a calendar which would indicate the various steps through final adoption and compliance with the TRIM notice; additional workshops have been scheduled for July 10 and July 22.

Vice Mayor Levitan inquired regarding interest expense. Mr. Lombardi responded that he wasn't certain whether it was included in the monthly financial report; however, it was included in the budget. Discussion ensued regarding paying down the line of credit, in order to be as prudent as possible with the funds the Village was given. Mr. Lombardi stated that he would ask the Finance Director to prepare calculations on interest expense.

12. VILLAGE ATTORNEY'S COMMENTS

Village Attorney Burt Saunders stated that one of the policy issues that would need to be decided was whether the code enforcement issues involving Estero would be handled by a magistrate for the Village. He provided two approaches: (1) Enter into a contract with Lee County to use their magistrate. He indicated that he had spoken with Lee County Attorney Richard Wesch. Mr. Wesch agreed that there was a way to work out a contract. (2) Prepare a Request for Proposal and obtain applications for a magistrate to handle the code enforcement cases for the Village.

Discussion ensued regarding the possibility of the Village having a code enforcement board; having a Village magistrate could be less expensive; Lee County will charge the Village a fee for code enforcement in the coming fiscal year and would still handle issuance of code enforcement citations; the uncertainty of a discount Lee County would allow if the Village had a magistrate; the understanding that the County fee will include staff to handle the citation issuance as well as the Hearings Examiner.

Discussion followed relating to a small amount of code enforcement issues from last year that have not been heard by the Hearing Examiner due to the lack of an intergovernmental agreement.

Mr. Lombardi noted that the vast majority of code violations are resolved when the Code Enforcement Officer issues the notice of violation. He further noted that the Village has paid for the service through September 30; if an interlocal agreement would permit this function to continue, he recommended that the Village continue to have the violations enforced and heard by the Hearing Examiner that the Village already pays for. He added that, as long as the interlocal agreement had a provision that the Council can opt out of a particular service and reduce the cost that the Village is paying for the service, the Council could decide to have cases heard by a Village magistrate.

Mayor Batos asked the Village Attorney to try to enter into an interlocal agreement between now and the end of September to make certain that the County would hear the code enforcement cases, with the knowledge that it should not cost the Village additional money. Furthermore, at the same time, the Council could begin preparing for a Village magistrate, if that was the direction the Council wanted to go in September. Councilmembers agreed by consensus.

Prior to adjourning the meeting, the question was asked how many citizens were in attendance due to the meeting being held at night and would not be able to attend if the meeting was at 10:00 a.m. One citizen raised her hand, stated that she could come during the day, however, she should be working.

13. ADJOURN

Mayor Batos adjourned the meeting at 7:32 p.m.

ATTEST:

By: Kathy Hall

Kathy Hall, MMC
Village Clerk

VILLAGE OF ESTERO, FLORIDA

By: Nicholas Batos

Nicholas Batos
Mayor