VILLAGE COUNCIL REGULAR MEETING OF DECEMBER 16, 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 Bill Ribble - District 1, Councilmember Katy Errington - District 4, Councilmember Jim Boesch - District 5, and Councilmember Jim Wilson - District 7.
Absent: Councilmember Donald Brown - District 3 (excused absence).

Also present: Village Manager Steve Sarkozy, Village Attorney Burt Saunders, and Village Clerk Kathy Hall.

1. CALL TO ORDER

Mayor Batos called the meeting to order at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE

Mayor Batos led the Pledge of Allegiance.

3. INVOCATION

Father Tony from Our Lady of Light Catholic Community offered the invocation.

4. ROLL CALL

Village Clerk Kathy Hall called the roll; all members were present with the exception of Councilmember Brown (excused absence).

5. APPROVAL OF AGENDA

Councilmember Errington stated that she wanted to remove agenda item 8 (C) First reading of Ordinance No. 2015-21 from the agenda and postpone first reading until Council was provided the related materials. Discussion ensued, including the quasi-judicial nature of the hearing, and Village Attorney Saunders stated that all documentation would be distributed well in advance of the public hearing and second reading. Community Development Department Director Gibbs provided Florida statute information, stated that she would be willing to brief each Councilmember when the related materials became available, and noted that if there wasn't a clear understanding at the hearing, it could be continued.

Councilmember Ribble moved approval of the agenda, seconded by Councilmember Wilson, called and carried unanimously, with Councilmember Brown absent.

6. CONSENT AGENDA

(A) Approval of Minutes:

(1) November 13, 2015 Special Council Meeting
(2) November 13, 2015 Council Workshop

Councilmember Levitan moved approval of the Consent Agenda, seconded by Councilmember Ribble, called and carried unanimously through a roll call vote, with Councilmember Brown absent.

7. PRESENTATION

Jeffrey Mednick, Project Manager, Florida Department of Transportation - US 41 Lighting Project

Jeff Mednick, Project Manager, through a PowerPoint presentation, provided information regarding the US 41 lighting project South of Pelican Colony Blvd to San Carlos Blvd; project history; scope of project; budget and schedule; FDOT coordination with entities; commitments made in 2012; LED highway lighting; contractor's selection process; decorative options requested in 2012 by ECCL; decorative options for now and for the future; Village concurrence and maintenance agreement. Mr. Mednick also spoke briefly regarding the template maintenance agreement and template compensation agreement. (Written materials provided)

Discussion followed related to federal funding; the type of light that would be utilized if the Council chose to move forward at this time; there was no guarantee when this project would be funded again if the Council chose decorative lighting options and not the standard LED lights; maintenance and compensation; banner fixtures and the need for a program, including the banner approval process through FDOT.

There was Council consensus to move forward and schedule approval for the next regular Council meeting, January 6, 2016.

8. COUNCIL BUSINESS

(A) Second Reading and Public Hearing: Ordinance No. 2015-20 An Ordinance of the Village Council of the Village of Estero, Florida, Amending the Land Development Code, Chapter 2, Article VI, Impact Fees, Division 2, Roads Impact Fees, Section 2-266 Revising the Roads Impact Fee Schedule to Update the Calculations of the Full Costs; Providing for Conflict; Providing for Severability; and Providing an Effective Date

Village Clerk Hall read the title of Ordinance No. 2015-20 and noted that the notice was published pursuant to Florida statutes, on November 27, 2015.

Community Development Director Gibbs provided explanation of the ordinance and the study.

Mayor Batos called for public comment and no one came forward.

Councilmember Boesch moved to adopt Ordinance No. 2015-20, seconded by Councilmember Ribble, called and carried unanimously through a roll call vote, with Councilmember Brown absent.

(B) Second Reading and Public Hearing: Ordinance No. 2015-19 An Ordinance of the Village Council of the Village of Estero, Florida, Amending Chapter 34, Zoning, Article VII, Supplementary District Regulations, Division 15, Estero Land Development Code, to Limit Certain Excavation Activities Relating to Well Stimulation Including Acid Stimulation and Hydraulic or Acid Fracturing; Providing for Codification; Providing for Conflict with Other Ordinances; and Providing for an Effective Date

Village Clerk Hall read the title of Ordinance No. 2015-19 and noted that the public hearing notices were published pursuant to Florida statutes, on November 25, 2015 and December 11, 2015.

Mayor Batos opened the hearing.

Public testimony presented in favor of the ordinance:

Dr. John Dwyer, Naples resident
Dr. Karen Dwyer, Naples resident
Phil Douglas, Lighthouse Bay resident (Written testimony provided)
Peter Cangialosi, The Preserve at Corkscrew resident, representing ECCL (Written testimony provided)
Ray Judah, Iona McGregor community resident, representing FCOC
Beverly MacNellis, Marsh Landing resident
Caitlin Weber, Conservancy of Southwest Florida (Written testimony provided)
Julianne Thomas, Conservancy of Southwest Florida
Ralf Brookes, Attorney, Conservancy of Southwest Florida
Jaimie Duran, Naples resident
Donna Knapp, Naples resident
Ruth McGregor, No. Fort Myers resident

The public hearing was closed.

Village Attorney Saunders called attention to revisions made to the ordinance following the first reading.

Councilmember Errington moved to adopt Ordinance No. 2015-19 as amended, seconded by Councilmember Boesch. Discussion of the motion followed. Vice Mayor Levitan noted that Council was provided over 1,000 pages of documents relating to fracking; he focused on two in particular, the June 2015 report from New York State Department of Environmental Conservation, and the June 2015 Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources Executive Summary published by the Federal Environment Protection Agency. Vice Mayor Levitan also noted for the record that no one appeared before the Council that was against the ordinance, the Planning and Zoning Board found conclusively that the ordinance was consistent with the Comprehensive Plan, and voted to strongly recommend that Council

adopt the ordinance. He also referred to the preamble to the Estero Comprehensive Plan as well as Goal 19 Vision Statement. He stated that he believed that the ordinance was entirely consistent with the Comprehensive Plan and that the only way to protect quality of life in Estero was to ban the practice completely.

Councilmember Errington conveyed appreciation to the Conservancy for all of the work involved and stated that water was the important issue. She agreed with Vice Mayor Levitan and noted that she has not had one person ask her to support fracking.

Councilmember Boesch commented that the emphasis was on water, especially in this area. He suggested that the H2O Solutions report be included in the record. Attorney Saunders responded that all documents presented at the meeting would be part of the record.

Mayor Batos stated that he was told that if the Council passed the ordinance and the Bill passed as written, the ordinance would be preempted; however, if the wording in the Bill was rewritten, the portion that would preempt the Village from controlling the zoning would be reinstated. He continued that he was not in favor of fracking; however, he wanted to be practical and put in laws that meant something. He stated that his responsibility was to represent the people; although he did not believe that the ordinance would accomplish anything, he would be in favor of the ordinance because he sensed that was what most people wanted.

The motion was called and carried unanimously through a roll call vote, with Councilmember Brown absent.

The meeting went into recess at 7:55 p.m. and reconvened at 8:02 p.m.

(C) First Reading: Ordinance No. 2015-21 A Zoning Ordinance of the Village Council of the Village of Estero, Florida; Rezoning 21.36 Acres Located at 9201 and 9301 Corkscrew Road, from Commercial Planned Development to Residential Planned Development for the Volunteers of America Continuing Care/Assisted Living Project, with a Maximum 340 Beds and Maximum Building Height of 45 Feet, and Including Conditions of Development; Approving Certain Deviations; Providing for Conflict; Providing for Severability; and Providing an Effective Date

Village Clerk Hall read the title of Ordinance 2015-21and noted that the zoning hearing would be held on January 13, 2015 and the public hearing notice was published pursuant to Florida statutes, on December 11, 2015.

Community Development Director Gibbs provided a brief explanation of the ordinance as well as information related to the zoning hearing process.

Note: Public comment could not be taken on Ordinance No. 2015-21 until the second reading and public hearing scheduled for January 13, 2016.

Mayor Batos asked that the applicant provide electronic copies of information.

Councilmember Boesch moved to approve first reading of Ordinance No. 2015-21, seconded by Councilmember Wilson, called and carried unanimously through a roll call vote, with Councilmember Brown absent.

(D) Resolution No. 2015-81 A Resolution of the Village Council of the Village of Estero, Florida, Supporting the Budget Request for the Lovers Key Environmental Educational Center; and Providing an Effective Date

Village Clerk Hall read the title of Resolution No. 2015-81.

Vice Mayor Levitan noted a revision that should be made to Section 2 to indicate that Council supported the funding request to the state legislature. Section 2 was amended to read: "The Village Council of the Village of Estero supports the funding request to the state legislature made by Friends of Lovers Key in the amount of $1.5 million for Phase 1 of the Environmental Education Center."

Mayor Batos called for public comment and no one came forward.

Councilmember Ribble moved to adopt Resolution No. 2015-81 as amended, seconded by Vice Mayor Levitan, called and carried unanimously through a roll call vote.

(E) Southwest Florida Regional Planning Council Membership

Mayor Batos explained that Councilmember Errington brought this up at the December 11, 2015 Council workshop. Councilmember Errington stated that she confirmed that she could continue as the liaison to the Estero Bay Agency on Bay Management.

Councilmember Errington moved to authorize the Mayor to sign the letter as well as being able to make technical changes to the letter if necessary, seconded by Councilmember Wilson. Discussion of the motion followed related to the future of the Regional Planning Council. The motion was called and carried unanimously through a roll call vote, with Councilmember Brown absent.

9. PUBLIC INPUT ON NON-AGENDA ITEMS

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

10. COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS

Councilmember Ribble reviewed the history and provided an update related to the building located at 9401 Corkscrew Palms Circle. Discussion ensued regarding additional funds necessary for occupancy, including furniture, fixtures, and equipment. There was consensus to bring back a budget amendment to the next regular Council meeting.

Councilmember Errington extended appreciation to Bill Smith for the nice Estero River article that was in the *News Press*.

11. VILLAGE ATTORNEY COMMENTS

(A) Suggested Legislative Priorities for the 2016 Legislative Session

Village Attorney Saunders provided a brief explanation of his proposed 2016 State Legislative Agenda, which included 9 Bills. He noted that he would be adding one additional Bill related to municipal election dates. He indicated that he would like to begin working with staff on projects that they would like to get funded. Brief discussion followed.

Mayor Batos inquired whether a letter was sent to the Capitol in support of the Governor's funding attempt for bringing business into the state. Village Attorney Saunders responded that he would need to research whether a letter was sent. Mayor Batos stated that, if a letter of support was sent to the Governor, it should be added to the priority list.

12. VILLAGE MANAGER COMMENTS

None.

13. ADJOURN

Councilmember Errington moved to adjourn, seconded by Councilmember Ribble, called and carried unanimously, with Councilmember Brown absent.

Mayor Batos adjourned the meeting at 8:25 p.m.

ATTEST:

By: Kathy Hall

Kathy Hall, MMC
Village Clerk

VILLAGE OF ESTERO, FLORIDA

By: Nicholas Batos

Nicholas Batos
Mayor

Minutes approved as submitted: January 6, 2016