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**APPROVED BY COUNCIL  
NOVEMBER 2, 2016**

## **FINAL ACTION AGENDA/MINUTES**

**Village of Estero  
9401 Corkscrew Palms Circle  
Estero, FL 33928  
Village Council Meeting  
October 19, 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:** 9:30 a.m.

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

**Invocation:** Offered by Pastor Frank Brand from First Baptist Church of Estero

**Roll Call:** Present: Mayor Nick Batos - District 6, Vice Mayor Howard Levitan - District 2, Councilmember Bill Ribble, District 1, Councilmember Donald Brown - District 3, Councilmember Katy Errington - District 4, Councilmember Jim Boesch - District 5, and Councilmember Jim Wilson - District 7.

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

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

**Motion:** Move to approve the agenda as amended: pull agenda item 5 (c), adjourn the regular session after agenda item 7 (a), and call the workshop to order after the lunch break.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Boesch

**Questions or Comments by:** Vice Mayor Levitan asked that a representative from the Southwest Florida Regional Planning Council be in attendance when the agenda item comes back to Council. Council Member Ribble noted that Jim Burch, City of Cape

Coral Council Member, contacted him to advise that the Southwest Florida Regional Planning Council would be offering Estero a free membership.

**Action:** Approved the agenda as amended.

**Vote:**

Aye: Unanimous

Nay:

Abstentions:

**3. CONSENT AGENDA:**

(a) Approval of October 5, 2016 Council Meeting Minutes

**Motion:** Move to approve the Consent Agenda.

**Motion by:** Councilmember Ribble

**Seconded by:** Councilmember Wilson

**Action:** Approved the Consent Agenda.

**Vote:**

Aye: Unanimous

Nay:

Abstentions:

**4. ORDINANCES:** None.

**5. ACTION ITEMS:**

(a) Resolution No. 2016-31 A Resolution of the Village Council of the Village of Estero, FL, Adopting a Fund Balance Policy; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2016-31. Village Manager Sarkozy spoke to the commitment of providing clean audits and provided an explanation of the resolution.

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

Discussion followed regarding the Resolution attachment: a typo in the first paragraph of section A; the wording of section B 6, related to the unassigned fund balance falling below two months of general fund operating expenditures; and operating and disasters reserves.

**Public Comment:** None.

**Motion:** Move to approve Resolution No. 2016-31 with modifications to the attachment: correcting the typo in section A and revising section 6 to read "If, after the annual audit, the unassigned fund balance falls below 4 months of general fund operating expenditures, the Village Manager will so advise the

Council in order for the necessary action to be taken to restore the unassigned fund balance to 4 months of the General Fund operating expenditures.”

**Motion by:** Councilmember Errington  
**Seconded by:** Councilmember Boesch

**Action:** Approved Resolution No. 2016-31 with modifications to the attachment. The policy shall be adopted retroactively and reflected in the fiscal year end September 30, 2016 Audited Financial Statements of the Village.

**Vote:**

Aye: Unanimous (roll call vote)

Nay:

Abstentions:

**(b)** Resolution No. 2016-32 A Resolution of the Village Council of the Village of Estero, FL, Adopting No Written Investment Policy in Accordance with Section 218-415(17), Florida Statutes; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2016-32. Village Manager Sarkozy provided explanation of the investment policy, noting that it provided procedures for investments that were acceptable and appropriate to the government accepted investment practices and Florida state statutes.

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

Discussion included at what point the Village may want to have a written policy; current investments; limited investment options; and possibility of utilizing more than one local bank.

**Public Comment:** None.

**Motion:** Move to approve Resolution No. 2016-32, adopting No Written Investment policy as provided in Section 218-415(17), Florida Statutes which will formalize the procedures currently in place at the Village of Estero.

**Motion by:** Councilmember Wilson  
**Seconded by:** Councilmember Errington

**Action:** Approved Resolution No. 2016-32. The policy shall be adopted retroactively and reflected in the fiscal year end September 30, 2016 Audited Financial Statements of the Village.

**Vote:**

Aye: Unanimous (roll call vote)

Nay:

Abstentions:

(c) Southwest Florida Regional Planning Council Membership and Participation in Agency on Bay Management

No action taken; agenda item pulled from agenda.

(d) March 7, 2017 Election Early Voting

Village Attorney Saunders noted that he believed the Village now had clarity in terms of the cost for early voting; the Q and A attached to the elections agreement indicated that the cost would be \$2.00 per voter, which would have resulted in a \$50,000 to \$60,000 cost; however, the Supervisor of Elections had recently provided a lower amount, approximately \$1,000 per day per voting place, if the Village elected to engage in early voting.

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

Discussion included email results received by Councilmembers from their communities and consideration on whether to engage in early voting.

**Public Comment:** None.

**Motion:** Move to not engage in early voting.

**Motion by:** Councilmember Ribble  
**Seconded by:** Councilmember Errington

**Action:** The Village will not engage in early voting.

**Vote:** (roll call vote)

**Aye:** Councilmembers Ribble, Brown, Errington, Boesch, and Mayor Batos

**Nay:** Councilmember Wilson and Vice Mayor Levitan

**Abstentions:**

An announcement will be placed on the Village website indicating the Council's decision related to early voting for the March 7, 2017 election.

(e) Cancellation of December 21, 2016 Council Meeting

Village Manager Sarkozy spoke briefly regarding cancelling the December 21, 2016 Council meeting to provide for a holiday break; December 14, 2016 would be available to hold a zoning hearing, if necessary.

**Public Comment:** None.

**Motion:** Move to cancel the December 21, 2016 Council meeting.

**Motion by:** Councilmember Brown  
**Seconded by:** Councilmember Boesch

**Action:** Cancelled the December 21, 2016 Council meeting.

**Vote:** (roll call vote)

**Aye:** Councilmembers Ribble, Brown, Errington, Boesch, Wilson and Mayor Batos

**Nay:** Vice Mayor Levitan

**Abstentions:**

**6. UNFINISHED BUSINESS:** None.

**7. PUBLIC HEARINGS:** None.

**(a) Coconut Point Honda – Appeal of Planning and Zoning Board Action**

Mayor Batos explained the quasi-judicial hearing process. Audience members and staff presenting testimony were sworn in by Village Clerk Hall. Mayor Batos called for ex parte communications and conflicts of interest: Vice Mayor Levitan, Mayor Batos, and Councilmembers Boesch and Wilson indicated that they visited the site.

Vice Mayor Levitan stated that he was uncertain that this procedure was properly before the Council due to the circumstances surrounding the decision of the Planning and Zoning Board. Village Land Use Attorney Stroud provided an explanation of the two hearings before the Board. Discussion ensued.

**Motion:** Move to remand to Planning and Zoning Board.

**Motion by:** Vice Mayor Levitan

**Seconded by:** Councilmember Ribble

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

**Public Comment:**

Beverly Grady, Attorney, inquired regarding temporary signage that was now expired and asked for relief to extend the time for the temporary sign. Community Development Director Gibbs responded that an extension would be approved until after the next hearing before the Planning and Zoning Board.

**Action:** Remanded to Planning and Zoning Board.

**Vote:**

**Aye:** Councilmembers Ribble, Brown, Errington, Vice Mayor Levitan, and Mayor Batos

**Nay:** Councilmembers Boesch and Wilson

**Abstentions:**

**Motion:** Move to adjourn regular session and reconvene in Workshop.

**Motion by:** Councilmember Brown

**Seconded by:** Councilmember Boesch

**Action:** Adjourned regular session and reconvened in Workshop.

**Vote:**

**Aye:** Unanimous

**Nay:**

**Abstentions:**

The meeting went into recess at 10:28 a.m. and reconvened at 10:35 a.m.

## **8. WORKSHOP ITEMS:**

- (a)** Discussion of Estero's Takeover of Roads and Assumption of Road Maintenance Responsibilities

Village Manager Sarkozy and Assistant to Village Manager Kyle Coleman discussed county contract background, roads to be assumed, cost estimate comparison to other cities, control versus liability, and limited information regarding contract costs, contractor bandwidth, and breadth of responsibilities. Lane miles to be assumed would be 25.05.

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

Discussion included current level of maintenance performed by the county; landscaping on US 41; whether other similar cities have their own Public Works/Transportation departments; contracting with companies that provide transportation departments; current monthly expenditure of \$241,000; whether the transfer of roads would need FDOT approval; Coconut Road; Estero Parkway extension; maintaining signals and flashers; concern regarding Corkscrew Road west of US 41; access roads to gated communities; including a clause in the agreement related to transfer of title to roads, appurtenances, and the Village not responsible for roads in gated communities.

The meeting went into recess at 11:50 a.m. and reconvened at 12:45 p.m.

Discussion continued regarding acceptance of roads; contract provisions; payment of sidewalks and road re-surfacing on Estero Parkway by the county; and revisions to the interlocal agreement to be considered.

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

**(b) Capital Improvement Program Calendar**

Village Manager Sarkozy spoke regarding the Village Center Master Plan Survey, Estero Infrastructure Study, Estero Community Improvement Foundation Study, the May 24, 2016 Capital Improvement Program public workshop responses, and the Village capital projects categories. In depth discussion ensued regarding Estero Parkway improvements followed by additional capital improvements such as landscaping for medians; gateway signs; and access to the Estero River.

**Public comment:**

Robert King, Bella Terra and East Corkscrew Alliance

**(c) Medical Marijuana Dispensaries**

Village Attorney Saunders addressed the effort around the state for providers to establish cannabis dispensaries after the November 2016 election. He stated that the Village could establish a temporary ban as well as permit dispensaries and place limitations.

**Questions or Comments by:** Mayor Batos and Councilmembers Brown, Errington, and Boesch.

Discussion included whether the bill would include a preemption; whether the moratorium could be for 12 months; concern regarding location of dispensaries; and whether there could be a ban on dispensaries in the Village.

Village Attorney Saunders indicated that an ordinance would be prepared for Council consideration.

**Public Comment:** None.

**(d) Establishing 2017 Village Council Meetings Calendar**

Village Manager Sarkozy presented the proposed meetings calendar for 2017 and provided two options for a summer break. Discussion ensued and Council consensus was to schedule the summer break between August 6, 2017 and September 2, 2017, as well as adding zoning hearing dates for each month.

**Public Comment:** None.

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

**Appearance by:**

Robert King, Bella Terra, ECCL Transportation Committee, and East Corkscrew Alliance, concern regarding sand trucks and requesting the Council's help.

Discussion followed. Mayor Batos and Village Manager Sarkozy indicated that letters would be prepared for Lee County and Collier County Commissioners, as well as Sheriff

Mike Scott, requesting their support in making certain law enforcement was available to enforce speed limits, checking trucks for safety, and to assure that trucks utilize Corkscrew Road only to the Alico Road intersection.

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

Councilmember Ribble: hoped to get back to one on one sessions with the Village Manager.

Vice Mayor Levitan: would like to get back to a backup list for workshops and asked that the Council Rules of Procedure be rescheduled soon.

Councilmember Brown: agreed with Councilmember Ribble's comment and spoke regarding his attendance at the Lee Health 100<sup>th</sup> year anniversary.

Councilmember Errington: concern regarding coming across as a caring council, listening to others, showing community support, and to think about what kind of legacy each of us will be leaving.

Councilmember Boesch: arranging a workshop with the employees from Florida Department of Transportation regarding transportation and land development issues.

Councilmember Wilson: issue in Grandezza regarding seal coating driveways; residents were not aware that there was a requirement for a permit. Discussion ensued regarding permit requirement awareness.

Mayor Batos: inquired whether comments to the Village Manager and Village Attorney regarding the Council Rules of Procedure could be circulated to the Council; the manager and attorney agreed. He also announced that the Village was notified on Monday the state approved a \$100,000 grant for a bike/pedestrian master plan study; however, it would not be scheduled until 2018; he asked Don Scott from the Metropolitan Planning Organization if the Village could get permission to front the money and get paid back in 2018.

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

None.

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

**(a) Stormwater Master Plan**

Community Development Director Gibbs provided a progress report on the Stormwater Master Plan and the process going forward.

Village Manager Sarkozy noted that the scope of work was a big issue and spoke to the effect on Estero by communities upstream of the Village. Brief discussion followed.

A motion to adjourn was duly made and passed.

**13. ADJOURNMENT: 2:30 p.m.**

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: *Kathy Hall*  
Kathy Hall, MMC, Village Clerk

By: *Nicholas Batos*  
Nicholas Batos, Mayor