



# City of Eustis, Florida

City Hall  
10 North Grove Street  
Post Office Drawer 68  
Eustis, FL 32727-0068

## Meeting Minutes – Final\* City Commission

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Thursday, August 3, 2017

6:00 PM

City Hall

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**INVOCATION:** Rev. Skott Jensen, First Assembly of God

**PLEDGE OF ALLEGIANCE:** Commissioner Bob

**CALL TO ORDER:** Mayor Morin - 6:03 p.m.

### **ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE**

**Present:** 5 - Commissioner Linda Bob; Commissioner Carla Gnann-Thompson; Commissioner Anthony Sabatini; Vice-Mayor Marie Aliberti; and Mayor Robert Morin

### **I. AGENDA UPDATE**

*Mayor Morin announced that the agenda would be re-organized and that only those items that were time sensitive would be considered in order to allow more time for the review of the legal opinion concerning Commissioner Sabatini's residency. The following items were postponed to the September 7, 2017 Commission meeting: 1) Resolution No. 17-51: Lakeshore Drive Speed Limit; 2) First Reading: Ordinance No. 17-10: Implementing Water, Wastewater and Irrigation Liens; 3) Staff Report on Building Maintenance; 4) State Road 19 Downtown Crossings; 5) Development Project Status Report; and 6) American Legion Cannon Request.*

### **II. APPROVAL OF MINUTES**

**16419** July 20, 2017 - Regular City Commission Meeting

**A motion was made by Commissioner Bob, seconded by Commissioner Sabatini, that the Minutes be approved. The motion passed by an unanimous vote.**

### **III. PRESENTATIONS**

**16417** Presentation of Institute for Elected Municipal Officials Certificate of Completion to Commissioner Sabatini

*Ron Neibert, City Manager, presented to Commissioner Sabatini his Certificate of Completion for his attendance at the Elected Officials Institute.*

### **IV. CONSENT AGENDA**

**16412** Resolution No. 17-50: Purchase in excess of \$50,000 for Engineering Services for the Master Lift Station Upgrade

**16416** Resolution No. 17-52: Lawsuit Dismissal Authorization and Release of Lien, 521 W. Seminole Avenue - Code Enforcement Case #10-00202

**A motion was made by Commissioner Sabatini, seconded by Commissioner Gnann-Thompson, to approve the Consent Agenda. The motion carried by the following vote:**

**Aye:** 5 - Commissioner Bob; Commissioner Gnann-Thompson; Commissioner Sabatini; Vice-Mayor Aliberti; and Mayor Morin

**V. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS****SECOND READING****16399 Ordinance No. 17-09: Annual update of the Five Year Capital Improvements Schedule for the Comprehensive Plan for FY 2017-18**

*Mr. Schroth read Ordinance No. 17-09 by title on second and final reading: An Ordinance of the City Commission of Eustis, Florida; approving the annual update of the five year Capital Improvements Schedule of the Comprehensive Plan pursuant to F.S. 163.3177(3)5(b); providing for conflicting ordinances, severability, and effective date.*

*Mr. Schroth opened the public hearing at 6:06 p.m. There being no public comment, the hearing was closed at 6:06 p.m.*

**A motion was made by Commissioner Gnann-Thompson, seconded by Vice-Mayor Aliberti, to Adopt Ordinance No. 17-09 on second reading. The motion carried by the following vote:**

**Aye:** 5 - Commissioner Bob; Commissioner Gnann-Thompson; Commissioner Sabatini; Vice-Mayor Aliberti; and Mayor Morin

**VI. AUDIENCE TO BE HEARD**

*The following individuals addressed the Commission regarding Commissioner Sabatini's residency: 1) Carey Baker, Lake County Property Appraiser; 2) Ralph Smith; 3) Gavin Rollins, Clay County Commissioner; 4) Steven Moulden; 5) Derek Ryan, former City resident and Chairman of the Orange County Libertarian Party; 6) Michael Hurley; 7) Vance Jochim, Fiscal Rangers; 8) Dan Robuck, Leesburg Commissioner; 9) Brittany Burger; 10) Pat Spear; 11) Kim Reed; 12) Rich Reinhart; 13) Russ Bragg; 14) Matt Muntz; and 15) Carol King.*

*Danny Hoescht addressed the Commission regarding the Mi Sun Store, issues with illegal drug sales, and the need for more resources to address the problem.*

**VII. OTHER BUSINESS****16421 Review of Legal Opinion of Commissioner Sabatini's Residency**

*Mr. Schroth explained why he could not conduct the investigation for the Commission. He explained the options available to the Commission as follows: 1) Holding a public hearing. He noted that Commissioner Sabatini has retained Council. He cited Ordinance No. 13-13 which requires the City to pay for his attorney fees should the City move forward. 2) Seek a judicial review; and 3) Take no action. He stated that the State Attorney has declined to prosecute residency issues due to the difficulty in proving residency. He stated that even if the Commission declares forfeiture it would require a judge to remove him from office. He emphasized that he would not prosecute any one Commissioner. He stated they would have to hire an outside attorney to do that and cited previous instances where he declined to do so. He stated there is an Attorney General's (AG) Opinion from 1998 regarding the two-year residency. He noted that the November 2016 referendum to change the requirement was voted down by the electors. The 1998 AG opinion stated that the AG would not make a determination but it would have to go before a judge.*

*Mayor Morin asked to have the Powerpoint of the legal opinion letter put up on the monitors. He read from Section III of the legal opinion letter which provided a timeline of Commissioner Sabatini's actions from 2014 through 2016. He then read the summary paragraph recommending the Commission convene a public hearing to receive further evidence regarding the issue. He explained the Commission's intent in obtaining a legal review and concern for the possibility of a legal challenge to a decision if the residency issue is not resolved. He emphasized the responsibility of the Commission to uphold the Charter provisions.*

*Commissioner Sabatini stated it is his honor to serve on the Commission and apologized for any friction that has occurred during. He emphasized that he is a City resident and has been a City resident.*

*MOTION: Commissioner Sabatini moved to have the Commission take no action regarding his residency qualifications. Commissioner Bob seconded the motion.*

*Commissioner Bob noted that the report doesn't focus on Commissioner Sabatini's status as a college student. She stated that college students have traditionally retained their parents' address as their legal residence.*

*Mayor Morin emphasized the Commission's responsibility to uphold the Charter.*

*On a roll call vote, the motion failed 3 to 2 vote with Commissioners Bob and Sabatini supporting.*

*The Commission discussed the possible cost to the City and the distraction as well as the possibility of any decision resulting in litigation.*

*Mayor Morin asked for a motion to charge Commissioner Sabatini with conduct constituting grounds for forfeiture of office and to move to a hearing to determine any other evidence that he or anybody may put forth. He explained the proposed hearing would be scheduled beyond seven days and duly advertised. He emphasized the complications that could arise if the issue isn't settled.*

*Commissioner Sabatini commented on the probable unconstitutionality of the City's two-year residency requirement. He expressed concern regarding the cost to the City and the distraction to the Commission.*

*Commissioner Bob expressed opposition to moving forward with the hearing and noted Commissioner Sabatini's previous residence, status as a student and graduation from Eustis High School.*

*RECESS: 7:12 p.m. RECONVENE: 7:24 p.m.*

*The Commission discussed whether or not they could move to postpone consideration with Commissioner Sabatini expressing opposition for postponement.*

*MOTION: Vice Mayor Aliberti moved to charge Commissioner Sabatini with conduct constituting grounds for forfeiture of office based on information received from Tanner Bishop. Commissioner Gnann-Thompson seconded the motion.*

*Commissioner Sabatini explained the address on the Mount Dora Board application is for a building in Mount Dora owned by his parents. He stated it was a vacant apartment that he occasionally stayed in and used to study and hang out. He explained that he wanted to serve on various boards including charitable boards and applied to the Mount Dora Library Board as an alternate. He stated he was notified by the Mount Dora City Clerk that he couldn't serve on boards in two cities; therefore, he immediately resigned and chose to serve on the Eustis Code Board. He stated he apologized to Mount Dora for the error. He emphasized that he does not have a homestead and at that time was living with his parents; however, he currently lives in an apartment in Eustis. He further emphasized that his parents' address is on all of his legal documents including his student loan paperwork, bar application, driver's license, passport, etc. He stated he has always considered his parents' address as his legal residence and further stated his love for Eustis and living in Eustis.*

*Vice Mayor Aliberti thanked him for his explanation about Mount Dora board application. She noted that he was actually appointed by the Mount Dora Mayor but acknowledged his explanation. She commented on the two-year residency requirement.*

*Mr. Schroth explained the issue with the two-year residency and stated it was included on the 2016 referendum to change it two one year; however, the voters chose to retain the two-year requirement.*

*Commissioner Bob explained it was Commissioner Brett's decision to leave the Commission and move outside City. She stated the current situation is completely different. She stated the Commission needs to put the issue behind us and they have other issues need to deal with.*

*Commissioner Gnann-Thompson stated there is no doubt that Commissioner Sabatini is doing everything he has been asked to do as a Commissioner. She emphasized the issue has no personal basis. She stated she took an Oath to support the Charter. She explained that she has spoken to a judge and other attorneys to try and make a determination. She explained the reason to take it to the next stage is so Commissioner Sabatini will have the chance to explain and then she will decide how to vote. She stated that if they need to change the Charter or procedures, then they need to do it.*

*Commissioner Sabatini commented further on the documentation provided to the Commission being one-sided.*

*Mayor Morin suggested Commissioner Sabatini could offer to resign and end the issue. He emphasized that as Commissioners they have to uphold the Charter. He opened the floor to public comment at 7:37 p.m..*

*Jimmy Crawford, attorney for Commissioner Sabatini, stated the legal opinion provided does not indicate an actual opinion on the qualifications and stated there are other sides of the story. He noted he had submitted a letter of response. He stated the two-year residency in the Charter is almost certainly invalid and would cost the City thousands to defend. He quoted a 1955 Florida Supreme Court case involving St. Pete Beach. He explained the basis of the court case and stated that the Florida Supreme Court decided that leaving for a year did not destroy an individual's residency and upheld the plaintiff's election to the St. Pete Beach Council. He commented on Commissioner Sabatini's various locations stating that it was all with the intent of returning to Eustis.*

*The following individuals addressed the Commission regarding Commissioner Sabatini's residency: 1) Ken Reed; 2) Russ Bragg; 3) Carey Baker who explained how the Property Appraiser's office determines residency for homestead exemption; 4) Gary French; and 5) Julie Misha who questioned why the voters can't determine Commissioner Sabatini's retention.*

*Mr. Schroth explained that, under the City Charter, the Commission determines the validity of a candidate's qualification. He stated that the people can remove someone from office through a recall election or a person can be removed by the Governor or a judge.*

*Additional individuals that addressed the Commission were as follows: 1) David Misha; and 2) Daniel DiVenanzo.*

*Mr. Niebert announced that the meeting had reached the two hour limit and questioned if the Commission wanted to continue.*

**CONSENSUS:** *It was a consensus of the Commission to continue for one more hour.*

*The following individuals addressed the Commission: 1) John Brook; 2) Egor Emory; 3) Stephanie Misha; 4) Leeann Bouchard; 5) Matt Muntz; 6) Alicia Morris; 7) Derek Ryan; 8) Joyce Williams; 9) A. J. Rowe; 10) Robert Fiori; 11) Michael Hurley; 12) Ralph Smith; 13) Leeann Simon; 14) Robin Matthias; and 15) David Misha.*

*Mr. Crawford noted that it is a lose-lose situation for the Commission since they will have to pay both attorneys. He gave a rough estimate of at least \$100,000 expense.*

*Mayor Morin closed public comment at 8:32 p.m.*

*Mr. Schroth stated that Commissioner Sabatini has the right to comment on the motion but would have to recuse himself.*

*Commissioner Bob restated her opposition to proceeding with the forfeiture of office.*

*Mayor Morin stated the motion was to charge with forfeiture of office and schedule a public hearing.*

*Mr. Neibert stated that the hearing should not be part of the motion and explained that Commissioner Sabatini has the right to request a hearing.*

*Vice Mayor Aliberti provided comments on the situation and stated her desire to not move forward with expending any additional money.*

*Commissioner Gnann-Thompson asked Mr. Baker questions about residency and noted that the Commission only received the information two weeks ago from a resident. She explained that the Commission could not discuss some things with the City Attorney which is why it was discussed with other attorneys. She questioned Commissioner Sabatini's moving from Gainesville to New York for two years and then moving back to Gainesville, not Eustis.*

*Commissioner Sabatini clarified that he was in New York for one year and then came back to Eustis.*

*Commissioner Gnann-Thompson questioned why he changed his voter registration to Alachua County.*

*Commissioner Sabatini stated he was renewing his driver's license and did his voter registration at the same time. He stated it was not his intent to make Alachua County his permanent residence and emphasized that it is a secondary residence.*

*RECESS: 8:49 p.m. RECONVENE: 8:52 p.m.*

*Mr. Baker responded that the Commission's concerns are valid. He stated that registering to vote is not an indication of permanent residency. He noted there are places that you can register to vote the day you vote.*

*Commissioner Gnann-Thompson asked if someone can maintain two residences.*

*Mr. Baker stated not for homestead exemption. He explained that if his office receives questionable information, they then ask for additional information. He further explained his office gives people the opportunity to provide additional information and then in the end they make them change their driver's license. He added that, under the law, Commissioner Sabatini never lost his residency in Eustis by moving to Gainesville. He stated that the law says that if it is a place you plan on returning to, you remain a resident. Mr. Sabatini went from Eustis to Gainesville for school and then from Eustis to New York for temporary work. He stated his belief that Mr. Sabatini maintained a continuous residency in Eustis the entire time.*

*Mr. Crawford noted that it is a different test for domicile for voter's registration. He indicated that under the law it is your intent and that is why it is difficult to determine. He stated that when he met with Mr. Sabatini, he got the impression that he always considered Eustis his home.*

*Gail Isaac Thomas asked Commissioner Sabatini to apologize and then let it be done. She encouraged him to be more active in her community.*

*Commissioner Sabatini reiterated his apology for the friction he had created.*

*RESCINDING OF MOTION: Vice Mayor Aliberti moved to rescind the motion for forfeiture. Commissioner Gnann-Thompson agreed to the rescission.*

*Mayor Morin stated his agreement with the rescission of the motion and indicated he was not sure what the City could do about the residency requirement in the Charter.*

*Mr. Schroth indicated it would have to be taken back to the voters in a referendum.*

*Mr. Neibert indicated that while the Commission chose to take no action it would not preclude a third party taking action.*

**A motion was made by Commissioner Sabatini, seconded by Commissioner Gnann-Thompson, for the Commission to take no action on the candidate eligibility. The motion carried by the following vote:**

**Aye:** 4 - Commissioner Bob; Commissioner Gnann-Thompson; Vice-Mayor Aliberti; and Mayor Morin

**Recused:** 1 - Commissioner Sabatini

## **VIII. FUTURE AGENDA ITEMS - None**

## **IX. COMMENTS**

**City Commission - None**

**City Manager**

*Mr. Neibert asked about continuing the meeting for consideration of the remaining agenda items.*

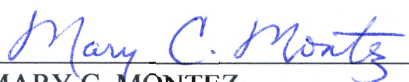
*CONSENSUS: It was a consensus of the Commission to not continue the meeting.*

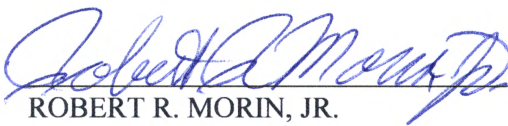
*Mr. Neibert noted Resolution No. 17-51 regarding the speed limit change on Lakeshore Drive. He reported that Lake County has said they won't proceed with lowering the speed limit unless Eustis and Tavares take over maintenance of the road. He added that they will be holding a meeting to discuss the issue.*

**City Attorney - None**

**Mayor - None**

## **X. ADJOURNMENT - 9:07 p.m.**

  
\_\_\_\_\_  
MARY C. MONTEZ  
City Clerk

  
\_\_\_\_\_  
ROBERT R. MORIN, JR.  
Mayor/Commissioner

\*These minutes reflect the actions taken and portions of the discussion during the meeting. To review the entire discussion concerning any agenda item, go to [www.eustis.org](http://www.eustis.org) and click on the video for the meeting in question. A DVD of the entire meeting or CD of the entire audio recording or verbatim transcript of the meeting can be obtained from the office of the City Clerk for a fee.

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

|                                                          |                |                                                                                                                      |  |
|----------------------------------------------------------|----------------|----------------------------------------------------------------------------------------------------------------------|--|
| LAST NAME—FIRST NAME—MIDDLE NAME<br>Sabatini, Anthony F. |                | NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE<br>Eustis City Commission                                |  |
| MAILING ADDRESS<br>1217 Overlook Road                    |                | THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:                                |  |
| CITY<br>Eustis                                           | COUNTY<br>Lake | <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY |  |
| DATE ON WHICH VOTE OCCURRED<br>August 3, 2017            |                | NAME OF POLITICAL SUBDIVISION:<br>City of Eustis                                                                     |  |
|                                                          |                | 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 equally 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 the reverse side 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 inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate 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 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 otherwise may participate 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 other side)

## 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, Anthony F. Sabatini, hereby disclose that on August 3, 20 17:

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

- ☒ 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 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:

Consideration of qualifications for candidacy as a Eustis City Commissioner.

8-7-17  
Date Filed

[Signature]  
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.