

## MINUTES

**REGULAR MEETING OF THE  
WELLINGTON COUNCIL  
Wellington Village Hall  
12300 Forest Hill Blvd.  
Wellington, Florida 33414**

**Tuesday, August 12, 2014  
7:00 p.m.**

Pursuant to the foregoing notice, a Regular Meeting of the Wellington Council was held on Tuesday, August 12, 2014 commencing at 7:00 p.m. at Wellington Village Hall, 12300 Forest Hill Boulevard, Wellington, FL 33414.

Council Members present: Bob Margolis, Mayor; John Greene, Vice Mayor; Matt Willhite, Councilman; Howard K. Coates, Jr., Councilman; and Anne Gerwig, Councilwoman.

Advisors to the Council: Paul Schofield, Manager; Laurie Cohen, Esq., Attorney; Awilda Rodriguez, Clerk; and Jim Barnes, Director of Operations.

1. **CALL TO ORDER** – Mayor Margolis called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE** – Rebecca and David Siler led the Pledge of Allegiance.
3. **INVOCATION** – Clark Siler, Ward Mission Leader in the Wellington Ward of The Church of Jesus Christ of Latter-day Saints, delivered the Invocation.
4. **APPROVAL OF AGENDA**

Mr. Schofield presented the agenda recommending approval noting the following change: reschedule the presentation by Congressman Deutch.

**A motion was made by Councilman Coates, seconded by Vice Mayor Greene, and unanimously passed (5-0), approving the Agenda as amended.**

### 5. PRESENTATIONS AND PROCLAMATIONS

#### A. 14-547 PRESENTATION BY CONGRESSMAN DEUTCH

Mr. Schofield indicated this item would be rescheduled.

#### B. 14-548 PRESENTATION BY PALM BEACH CENTRAL HIGH SCHOOL IN APPRECIATION OF WELLINGTON'S CONTRIBUTION TO PROJECT GRADUATION 2014

Mr. Schofield introduced the item.

Ms. Helen Cook indicated she was with Ms. Donna Baxter, Advisor from Palm Beach Central, on behalf of Palm Beach Central High School. They thanked the Village of Wellington for always

supporting Project Graduation and presented Council with a plaque. Council commended and thanked the Project Graduation members/team for providing a safe environment for their seniors on graduation night. Council also extended their appreciation to Ms. Cook and Ms. Baxter for their service to the community and the Village's Education Committee.

**C. 14-580 MINTO WEST PRESENTATION**

Mr. Schofield introduced the item. He stated Minto West and Village staff would make their presentations and then Council would take public comments.

Mr. Donaldson Hearing introduced himself and stated that he was there on behalf of Minto Communities. He also introduced Mr. John Carter with Minto Communities; Ms. Tara Duhy and Mr. Al Malefatto with Lewis, Longman and Walker; and Ms. Andrea Troutman, Traffic Consultant. Mr. Hearing then presented to Council an overview of the proposed Minto West project. He spoke of the historical perspective of the property, showed Council the land use plan that was approved, the benefits to what was being proposed, Minto's master block plan, the economic benefit it would bring to the western communities, and the minimal impact that the project would have on Wellington in terms of its water and sewer, existing roads and schools.

Mr. Hearing also presented a comparison of the plans that showed the benefits to what Minto was proposing:

- They were providing the nonresidential but have 1,500 additional dwelling units over what was currently approved.
- The existing plan had a 100 foot buffer and now they have a 400+ foot buffer.
- In addition, they originally had 40% open space and now 55% open space equaling 2,100 acres.
- There was no commitment to public recreation and they were now proposing 242 acres of public parks and 72 acres of minimal civic, including fire stations, police substation sites, park sites and other public facilities.
- There was no commitment to water resources or the environment, but in this plan there was a significant commitment to regional water supply, water quality, outfall, storage, etc.
- There was zero opportunity for employment and the proposed plan provided for 200 acres or 1.5 million square feet of workplace that would not include logistics or distribution. He stated they were providing about 500,000 square feet of retail, which would be unlike the Wellington Green Mall.
- There was a serious commitment to providing regional and east/west connectivity through the site in the previous plan, and the proposed plan has about 15 miles of bridle trails.
- The previous plan had no commitment to a master plan designed to facilitate track land sales and the proposed plan has a concurrent master plan, which is going through the process and designed to be a community the way Minto has done in the past.
- They listened to the public's needs and this plan reduced the dwelling units by 2,000 to 6,500 and 1.4 million square feet of nonresidential.

Mr. Schofield indicated that Mr. Stillings had some concerns about the traffic as noted in Council's packet. He said one option put far more impact on Wellington and staff thought they needed a seat at the table to negotiate those traffic impacts and roadway improvements.

## Public Comments

A motion was made by Councilman Coates, seconded by Councilman Willhite, and unanimously passed (5-0) to open the floor for public comments.

The following people spoke in opposition to the project:

1. Penny Riccio, 12795 71<sup>st</sup> Place, N., The Acreage.
2. David Bradley, 11066 67<sup>th</sup> Place, N., West Palm.
3. Howard Zusel, 11446 54<sup>th</sup> Street, N., Royal Palm Beach.
4. Sharon Waite, 15058 75<sup>th</sup> Lane, N., Loxahatchee.
5. Dr. Bill Louda, 1300 E Road, Loxahatchee Groves.
6. Karen Mulnick, 13750 44<sup>th</sup> Place, Palm Beach County.
7. Alan Ballweg, 11223 40<sup>th</sup> Street, N., The Acreage.
8. Morley Alperstein, 17236 Gulf Pine Circle, Wellington.
9. Benoit Cloutier, 16886 W. Alan Block Blvd, Loxahatchee.

Vice Mayor Greene read the following card into the record:

1. Patricia Curry, 12390 59<sup>th</sup> Street, N., The Acreage. Ms. Curry indicated she was opposed.

There being no further public comments, a motion was made by Vice Mayor Greene, seconded by Councilman Willhite, and unanimously passed (5-0) to close the floor for public comments.

Councilwoman Gerwig asked Mr. Stillings about the impacts this project would have on Wellington. Mr. Stillings explained that when they were directed to review the project and its potential impacts to the Village, they focused primarily on traffic. He said Ms. Susan O'Rourke, professional traffic engineer, reviewed the consultant's traffic study on behalf of the Village, and found two scenarios, one with the Indian Trail roads and one without. He said while both have an impact on roads that serve Wellington, the greatest impact was the scenario that did not include the Indian Trail roads. Mr. Stillings wanted to ensure that Wellington would have a seat at the table to discuss their residents' mobility in and out of the Village and to see that a majority of the affected roadways would receive proportionate share funding. He stated the funding allocation was not necessarily guaranteed to be directed towards those proposed improvements. He believed they should ensure the roadways serving Wellington residents, in particular Southern Blvd and that the intersections providing access to Wellington, were dealt with appropriately.

Councilwoman Gerwig asked what the process would be for being at the table and what would happen if Council passed the resolution. Mr. Stillings stated that he thought sending a message to the County that Wellington wanted to be a part of the conversation was the first step. In terms of the resolution, he said Council could decide on a position of solidarity with the other western communities in their opposition or simply express the Village's desire to address the impacts to Wellington. Councilwoman Gerwig thought the Village should stay at the table and stay involved in the conversation.

Councilwoman Gerwig asked Mr. Stillings to comment on the square footage of the Wellington Green Mall. Mr. Stillings indicated Minto West was proposing 500,000 in retail and thought it could have an impact on the retail businesses within the community. Mr. Schofield stated the mall core was about 1.3 million square feet and the out parcels were about the same amount, but the mix was very different.

Vice Mayor Greene thanked Mr. Hearing and the people who spoke for their input. He stated he was concerned with what was in the best interest of Wellington. He asked Mr. Hearing to talk about the

progression of the Minto West project. Mr. Hearing stated that although they requested a 20 year build out from Palm Beach County, it would most likely be 30 years noting the length of time it has taken to build out Olympia.

Vice Mayor Greene asked Mr. Hearing to elaborate on his presentation before the County Commission. He wondered why this project was going from what was approved and the increase in residential. Mr. Hearing said what was originally approved was 235,000 square feet noting that all the commercial was around the periphery. He said their original application was 1.4 million of nonresidential. He stated they did not increase retail but workplace, such as research and development, industrial – not logistics or distribution like an Aldi's, so they would be focusing on jobs and an employment base.

Vice Mayor Greene spoke of Scripps noting that it has an expected significant growth, but has struggled. Mr. Hearing stated that Minto West did not anticipate being able to compete with the life sciences or with the corporate headquarters existing in downtown West Palm Beach. However, because they have the land and the ability to provide an incentive, they will have a commodity of quality housing at a reasonable price. He indicated their goal would be to make those incentives available to an employer so they can bring those types of jobs to the region. Vice Mayor Greene asked if they factored in All Aboard Florida or if there had been any discussion about how that may alleviate some road traffic. Mr. Hearing thought that would benefit the coastal regions more than the western region, but indicated they have been in conversations with Palm Tran as there was zero bus service right now. He stated Palm Tran committed to providing a park and ride with terminals on both sides of Seminole-Pratt Whitney, so they will have some additional multimodal transportation opportunities.

Vice Mayor Greene asked if any other agencies in Palm Beach County, such as PBSO, weighed in on the project in terms of impacting other communities who share services. Mr. Hearing indicated this project was strongly supported by the Palm Beach County Administration and Planning staff who evaluated all levels of service.

Vice Mayor Greene understood the sentiments about keeping open space, and asked if Minto would be willing to restrict certain land in perpetuity to ensure it could never be developed to alleviate those concerns. Mr. Hearing stated as it was presently proposed, the open green space was defined within the comprehensive plan and an integral part of a complex zoning regulation the staff had written.

Vice Mayor Greene thought it might not be prudent to take an official position at this time on a project that impacted other areas as his interest was to protect the quality of life and maintain the levels of service for Wellington residents. He was concerned about Forest Hill, Southern Blvd., and the potential flyovers, and he wanted to make sure Wellington has a seat at the table.

Councilman Willhite concurred with his colleagues that they needed to look at what is best and represent Wellington; however, he believed the Village was also a steward and was looked upon to help represent everyone in the western communities. In doing that, he thought the Village would be asked to weigh in on many issues that did not directly affect them. He supported sitting at the table and being able to negotiate; however, he did not feel they would get any further than what was currently proposed. He said the western communities would feel the Village is against them if it did not stand united in passing a resolution that opposed this proposed project.

Councilman Willhite expressed concern about the impact that the project would have on the roadways, not only in the western communities but in Wellington. He also pointed out that the original plan had a natural transect area and he thought the developer would come back in two or three years

and ask for it to be residential because that was what the market dictated. Councilman Willhite also felt that this proposed project would have an impact on our local schools, businesses, law enforcement services and fire rescue services. He believed that people moved to the Acreage to live a rural lifestyle and were willing to drive to businesses outside the area. Councilman Willhite said his main concern was the impact on the roads. He appreciated the presentation and the residents who came out to speak. He thought Council should direct staff to create a resolution stating the Village wanted to work with the western communities and the developer to create a better plan that would have the least impact on the Village of Wellington.

Councilman Coates said he did not represent the western communities or the County at large but rather the Village of Wellington and would be guided by how the residents would be affected by the project. He thought the traffic impacts were still theoretical and a guessing game at this point. He indicated he might have a different position if staff had a more definable negative impact to the Village, but without that he did not believe it was their fight. Councilman Coates understood the Village was part of the western communities as he is the Chairman of the Western Communities Council, but that did not mean all municipalities or entities serving on that Council had the same view or had to vote in unison because they were each very different. Councilman Coates did not believe a resolution was necessary to obtain a seat at the table as Minto representatives had already invited them there. He said he was not in favor of a resolution opposing it and would probably not be in favor of a resolution supporting it, as it was not Wellington's fight.

Mayor Margolis stated that he felt Minto would have an impact on the Village of Wellington. He indicated he supported staff drafting a resolution in opposition to the Minto development. He asked Minto homes to sit with the residents again and compromise some more.

Councilwoman Gerwig commended everyone for expressing their views. She agreed with the adoption of a resolution addressing how the project might impact the Village, but not with a resolution to support or not support Minto. She agreed they should work together and was perfectly willing to have that conversation, but she was not willing to interject her authority outside the Village's borders.

Vice Mayor Greene asked for an opportunity for people with different points of view to sit at a table and discuss the issues without being for or against development taking place in this County or municipality. He stated he was not abandoning his neighbors because he cared very much about them, but he did not have enough information at this point to sign a resolution stating this project was not good for the western communities. He said he did not want to make it political and he was not going to support a resolution opposing the Minto development.

Councilman Willhite thought the Village represented the western communities as Councilman Coates is Chair of the Western Communities Council, which means they work collectively as a group. He indicated Minto is outside their boundaries, but so is the flyover on Southern Blvd and Forest Hill. He was sure the Council would weigh-in or have a position on that project. He believed Council represented Wellington first and the western communities second.

Councilman Willhite was not against Minto West the developer but against the proposal. He stated the project was about two to three times the size of Olympia, Village Walk, Buena Vida, etc. He said those residences were on 4, 6 and 8 lanes of traffic between Forest Hill and 441, which is the single largest intersection in Palm Beach County. He was concerned about how the project would impact the Village. Councilman Willhite wanted a seat at the table, so they would know the Village was serious about negotiating. He thought the Village should take a position against Minto and stand united with the western communities.

A motion was made by Councilman Coates, seconded by Vice Mayor Greene, and passed (3-2), with Mayor Margolis and Councilman Willhite dissenting, to neither support nor oppose the Minto development at this point in time and that no resolution be passed.

*At this time, Council took a short recess.*

**6. CONSENT AGENDA**

- A. 14-557 MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETINGS OF MAY 27, 2014 AND JUNE 10, 2014
- B. 14-209 AUTHORIZATION TO CONTINUE UTILIZATION OF CONTRACTS TO PROVIDE ATHLETIC TEAM OFFICIATING SERVICES
- C. 14-211 AUTHORIZATION TO RENEW THE CONTRACT WITH BLACK FOREST ENTERPRISES, INC. (DBA GARDENSCAPES OF THE PALM BEACHES) FOR LANDSCAPE MAINTENANCE SERVICES OF ALL PARKS VILLAGE-WIDE
- D. 14-538 ~~AUTHORIZATION TO AWARD A CONTRACT TO PROVIDE ENGINEERING SERVICES FOR THE SADDLE TRAIL PARK (SOUTH) NEIGHBORHOOD IMPROVEMENT PROJECT AND RESOLUTION NO. R2014-47 FOR BUDGET AMENDMENT #2014-061~~  
~~RESOLUTION NO. R2014-47: A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE BUDGET FOR FISCAL YEAR 2014 BY INCREASING REVENUE AND EXPENSE IN THE SADDLE TRAIL PARK CAPITAL SUBFUND FOR DESIGN COSTS OF THE SADDLE TRAIL PARK IMPROVEMENT PROJECT; AND PROVIDING AN EFFECTIVE DATE. (Moved from Consent Agenda as item 6D to Regular Agenda as item 8D.)~~
- E. 14-544 RATIFICATION OF AN EMERGENCY PURCHASE FOR GENERATOR REPAIRS
- F. 14-208 AUTHORIZATION TO AWARD A CONTRACT TO PROVIDE SENIOR TRANSPORTATION PROGRAM SERVICES

Mr. Schofield presented the Consent Agenda recommending approval with minor revisions to the minutes as pointed out in Agenda Review.

Councilman Willhite requested moving item 6D - Authorization to Award a Contract to Provide Engineering Services for the Saddle Trail Park (South) Neighborhood Improvement Project and Resolution No. R2014-47 for Budget Amendment #2014-061 from the Consent to the Regular Agenda. Mr. Schofield indicated item would be moved to the Regular Agenda as item 8D.

There were no public comments.

A motion was made by Councilman Coates, seconded by Vice Mayor Greene, and unanimously passed (5-0) approving the Consent Agenda as amended.

**7. PUBLIC HEARINGS**

- A. 14-577 RESOLUTIONS ADOPTING THE BUDGETS AND ASSESSMENT RATES FOR SOLID WASTE COLLECTION AND WATER AND WASTE WATER UTILITIES

**I. RESOLUTION NO. AC2014-06: A RESOLUTION OF THE BOARD OF SUPERVISORS OF ACME IMPROVEMENT DISTRICT ADOPTING THE WATER AND WASTEWATER UTILITY BUDGET FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2014, AND ENDING SEPTEMBER 30, 2015; AND PROVIDING AN EFFECTIVE DATE.**

**II. RESOLUTION NO. R2014-46: A RESOLUTION OF THE COUNCIL OF THE VILLAGE OF WELLINGTON, FLORIDA ADOPTING THE SOLID WASTE COLLECTION PROGRAM BUDGET AND NON-AD VALOREM ASSESSMENT ROLL AND LEVYING THE NON-AD VALOREM ASSESSMENTS FOR SOLID WASTE COLLECTION AND DISPOSAL WITHIN THE JURISDICTIONAL BOUNDARIES OF WELLINGTON; PROVIDING FOR RATES AND APPOINTING AN AUTHORIZED REPRESENTATIVE OF WELLINGTON TO CERTIFY THE SOLID WASTE COLLECTION NON-AD VALOREM ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Schofield introduced the agenda item. Ms. Rodriguez read the Resolutions by title.

Ms. Quickel explained that Council had two resolutions to consider for the adoption of budgets and assessment rates for the FY 2014/2015 Solid Waste Collection Program as well as the Water and Wastewater Utilities. She stated these budgets were included in the \$77 million budget initially presented to Council on July 22<sup>nd</sup>. They were individually listed under proposed FY 2014/2015 as water/wastewater approximately \$11.1 million, solid waste at \$3.4 million, debt service at \$26,000, and capital projects at \$3.9 million, for a subtotal of \$18.5 million. Including transfers, the total enterprise budget was \$20.4 million. She indicated the budget had a decrease of \$1.08 million or 5%; the operating budget enterprise funds were at \$14.63 million, down 3.3%; the capital budget was down \$266,000 or 6.4%; and the total transfers were down \$318,000 because of the reduced indirect cost allocation and the debt service due to the utility bond payoff. Ms. Quickel showed Council the rate history for the various enterprise funds. She indicated there were no changes proposed for water and wastewater this year as the base rates would stay between \$18.22 and \$17.38. She presented the usage per 1,000 gallons and the historical rate information for water and wastewater from 2006 through the current proposed year of 2015. The solid waste assessment had not changed since 2009. Ms. Quickel stated revenues totaled \$23.5 million representing an increase of \$405,000 primarily due to a change in the utility capacity fees and connectivity fees as well as new construction charges. She indicated there was a total for each department within the enterprise budget for a grand total before transfers of \$18.5 million. She stated there was no change in total staffing as it remained at 53 for all departments. She said the solid waste contract included an increase of 1.92% over the current year rate and staff anticipated Council's direction whether to rebid effective in FY 2016 or agree on mutually negotiated prices as outlined in the contract. She noted the capital replacement included a vehicle and a shed. Ms. Quickel indicated the enterprise capital listed for the current year proposed for \$3,915,000 was broken out as part of the program from the rate study conducted five years ago. She said there was a total of \$1.92 million in replacement of new assets, \$1.86 million for replacements of vehicles and 26 generators, and \$55,000 for a new fuel services bypass pump.

Ms. Quickel stated these budget items were within their schedule and staff was asking Council to approve these resolutions.

Councilman Willhite thought it was terrible that the County Commission approved lower rates for Solid Waste Authority's acceptance of garbage outside the County than what Palm Beach County residents were being afforded. He understood they had to meet the needs of their new incinerator, but the Village could help Solid Waste's capacity by having them take manure from the Village which he felt could potentially lower the cost to the Village. Councilman Willhite noted the League was opposed to

this and that there would be a long term impact to the roads with the trucks coming through the Village. He believed they had a good cost and a good system that worked well; however, he thought Solid Waste was doing a disservice to the Village by providing lower costs outside County boundaries.

Councilwoman Gerwig agreed with Councilman Willhite that being charged a higher rate did not sit well with them. She asked what Solid Waste was charging other Counties for tipping fees. Mr. Schofield indicated it was significantly less and that he would get that information for her.

Councilwoman Gerwig said she was advised by the people at Solid Waste they have been going back and forth on the manure issue. She asked if Solid Waste could take the manure. Mr. Schofield explained they were talking to them about taking manure, but had not reached an agreement, but they should know in the next week. He said they specifically do not want it in their transfer stations. Councilwoman Gerwig thought it was the farm owner's obligation to properly dispose of their manure and not the Village's; however, she believed it would be a convenience to the farm owners as manure burned rather well. She hoped they could further that conversation with Solid Waste.

#### Public Hearing

A motion was made by Councilman Coates, seconded by Councilman Willhite, and unanimously passed (5-0) to open Public Hearing.

There being no public comments, a motion was made by Councilman Coates, seconded by Councilman Willhite, and unanimously passed (5-0) to close Public Hearing.

**A motion was made by Councilman Coates, seconded by Councilman Willhite, and unanimously passed (5-0) to approve Resolution No. AC2014-06 as presented.**

**A motion was made by Councilman Coates, seconded by Councilman Willhite, and unanimously passed (5-0) to approve Resolution No. AC2014-46 as presented.**

#### **B. 14-481 ORDINANCE NO. 2014-06 (ARTICLE 6 AMENDMENT)**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE VILLAGE OF WELLINGTON BY REPEALING ARTICLE 6, CHAPTER 12, TEMPORARY SUSPENSION OF THE PROHIBITION OF THE USE OF TENTS AS STALLS WITHIN CERTAIN AREAS OF THE EQUESTRIAN OVERLAY ZONING DISTRICT; AMENDING ARTICLE 6, CHAPTER 10, SECTION 6.10.9.D "USE OF TENTS AS TEMPORARY STALLS" TO INCLUDE PROVISIONS FOR NATURAL DISASTERS; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE AND PROVIDING AN EFFECTIVE DATE.**

Mr. Schofield introduced the item. Ms. Rodriguez read the Ordinance by title. Mr. Stillings would make the staff presentation.

Mr. Stillings reported this was the second reading of the code amendment to Section 6.10.9.D of the Equestrian Overlay Zoning District of the Land Development Regulations. He explained it provided a provision for the temporary suspension of the tent prohibition in certain subareas within the Village in the event a natural disaster was authorized by Council and was specific to Wellington or parts of Wellington. He said the suspension of the tent prohibition allowed a temporary tent for stabling for a period not to exceed 24 months, during which time a building permit for replacement of the permanent

barn would be in effect. He stated the tent expiration would be upon expiration of the building permit or issuance of the certificate of occupancy.

Councilwoman Gerwig asked if there was a definition of a declared natural disaster in their code. Mr. Stillings indicated there was no definition in the code and it would be based upon the governor's declaration. Councilwoman Gerwig asked what a declaration of a natural disaster would do. Mr. Stillings believed it would give Council some latitude in determining when to exercise this provision within the Village beyond what affected the County or the region.

Councilman Willhite questioned the period of time that was meant by "temporary". Mr. Stillings stated "temporary" was dependent upon the action by the Council or the declaration of the disaster. He said if a natural disaster is declared, "temporary" would be the two-year period the applicant has the special permit to replace the structure that was damaged.

Councilman Willhite indicated the ordinance stated the special permit may be extended, not shall, up to six months based on active and ongoing construction repair. He asked if the applicant was half way through the project at the end of two years and six months, would they have to remove the temporary tent and operate without it until the permanent structure was completed. Mr. Stillings stated it would likely be brought to Council for consideration to extend the permit or the tent would be taken down.

Councilman Willhite asked what latitude or guidance Council would have in allowing the applicant to go beyond the normal two years and give them a six month extension to conclude their project. Mr. Stillings stated Council would have to take it case-by-case and the applicant would have to present information to support the extension. He said if they show they have not been actively constructing for an extended period of time, even though they have had an active permit, staff's recommendation would likely be not to extend the special permit.

Councilman Willhite asked when normal building permits expired. Mr. Stillings indicated permits lasted for the extent of the construction as long as the applicant proceeded forward with regular inspections. Mr. Schofield explained building permits were typically a year and are extendable for six months up to two years. Councilman Willhite questioned what would happen at the end of two years if the applicant asked for another six months. Mr. Schofield stated they would need to reapply for the permit and come in compliance with any code changes that happened within the intervening two years. Councilman Willhite hoped, at the end of two years and six months, if staff was coming to Council to request an extension that the applicant had applied for another building permit. He asked if their code stated they were only good for two years and six months. Mr. Schofield indicated it was in the Building Code that was adopted.

Councilman Coates stated he supported this Ordinance but remained concerned it had potential for abuse. He said there was no guidepost or criteria for Council to use to determine whether a declared natural disaster actually occurred. He knew the declared natural disaster is within the province of the governor, but the language that applies to the Village Council where it states "as authorized by the Village Council" has no requirement and is completely open ended. His concern was Council considering suspending the prohibition if there really is a natural disaster that would merit allowing these temporary tents to be put up. However, without a guidepost for Council, he had great concern that the issue of what is a natural disaster or what is a sufficient occurrence of an environmental event would become political. He also believed the homeowners affected by a natural disaster or environmental impact did not need to be subjected to what was or was not an appropriate event by a Council that may change every two to four years. He thought staff should come back to Council with

additional criteria on how to apply this Ordinance at the Council level when considering environmental events.

Councilman Coates believed if there was a lightning strike and a barn burned down that would qualify as a natural disaster for that property, but his concern was if a barn blows down not because of the wind or rain but because it was not properly maintained. He asked how Council would deal with these potential situations in the proposed ordinance. Mr. Stillings stated they put in a provision that the permit would be issued only after the Building Official inspected the structure and determined the damage was from a natural disaster or other similar occurrence. Councilman Coates thought that would solve that issue, but they still had the issue of what is a sufficient natural disaster that would trigger the Statute to begin with. He said for tonight's purposes adding some language to the effect "as authorized by the Village Council after finding the existence of a natural disaster that caused the event in question." He stated the problem was it would still become politicized and that is what he was trying to avoid.

Mayor Margolis understood this Ordinance was time sensitive because of the current hurricane season, but wondered if Council should ask staff to review the State law and do some research on what other municipalities or State agencies do, and then hear it again at their next Council meeting. Councilman Coates asked if they had the State's definition as to what had to occur or if there was criteria for the governor to have the province to declare a particular area as a natural disaster, as that might be the easy solution. Mr. Stillings indicated he did not bring that with him. Mayor Margolis thought that may be a reason to postpone or table this item, as it would give staff an opportunity to research and bring it back to Council. Councilman Coates supported that.

Councilman Willhite pointed out that the roofs of Dr. Swerdlin's barns were hit by a tornado that only hit several places in Wellington. He said that although it was not declared a natural disaster, the damage was clearly caused by nature.

Councilman Willhite asked if Council had declared a natural disaster or granted a special use permit for a temporary tent, if anything precluded applicants from using their permanent barn during construction. He thought if the purpose for a temporary tent was for stabling, they could not utilize the permanent structure while putting on a new roof or put forty more stalls on their property because they were working on the barn. He said they should be either in the temporary tent or permanent structure. He suggested adding language that stated applicants were precluded from utilizing stalls in their permanent structure while a temporary tent or building permit was on their property until a Certificate of Occupancy is issued for the permanent barn. Mr. Stillings indicated page 280, provision B, mentioned the Village Building Official would determine if there was substantial damage as a result of the natural disaster. He noted the provision also suggested that it warranted the use of a temporary tent as a stable. He explained the Building Official would inspect the damages to determine if they were caused by the storm and not due to lack of maintenance as well as determine if the structure is no longer habitable because of the damage.

Councilman Willhite thought providing a special permit did not mean a structure was inhabitable but needed construction. Mr. Stillings stated the intent was to use the temporary tent because the barn or stable could not be occupied by the horses due to the amount of damage or construction needed. He said if it was superficial and did not impact the ability to board the horses; the special permit would not be issued for the tent although he indicated they could add that provision.

Vice Mayor Greene expanded on the potential abuse of this Ordinance. He did not see any language precluding anyone from exploiting an opportunity if they had a six stall barn when a defined natural disaster occurred, from putting up a temporary tent that would allow them to rent stalls for eight, ten or

twelve horses during season. He asked if the Ordinance precluded the applicant from having any commercial activity or from increasing the size of the pre-existing barn that was destroyed. Mr. Stillings indicated the number of stalls within the temporary tent would be regulated by the stall limitation and the size of the lot within the subarea. Vice Mayor Greene was concerned that in trying to address a disaster to someone's property, there would be a potential for exploitation by not rebuilding for two years and renting twice as many stalls if they enough property, as there was nothing in the Ordinance that precluded that from happening. Mr. Stillings agreed; however, he thought staff assumed that if it is a natural disaster, they would likely have other impacts around the equestrian community and the concern would be boarding the horses and not so much taking economic advantage of the situation. He was not suggesting that could not occur, so they could add that language. Vice Mayor Greene asked if it made sense to add language stating the applicant would be limited to the number of stalls or the capacity they had when the situation occurred.

Councilwoman Gerwig stated recent flooding caused some people to be under water while others were not. She asked if Council wanted to restrict a neighbor from putting horses in someone's temporary barn because their barn was under water. She said there may be a situation where that could happen for a limited time. Vice Mayor Greene thought there would be discretion by Council or staff, where the storm or event exceeded the intent of what was drafted, to modify or allow some things under extreme circumstances.

Councilman Coates did not have a problem adding a provision indicating that while temporary tents are in use, the permanent structure could not be used while it is being rebuilt. He said the idea behind the Statute was not to increase the capacity the applicant had prior to the natural disaster, as it was intended to replace what was lost. He agreed the temporary tents should not be larger than the existing facility and thought that would be an appropriate change as well.

Councilman Coates reiterated that Council needed a definition or criteria for a natural disaster to take away the politics at that moment. He said if they had defined criteria, the residents would know the requirements when they came in and it would not be an issue. Mayor Margolis agreed.

Councilman Willhite questioned if the ordinance would have to go back to first reading if they changed too much language. Ms. Cohen thought it could go to second reading because Council was clarifying what was already contained in the Ordinance. She believed it could not go to second reading if they included language that was not contemplated in the first version. Ms. Cohen noted if Council postponed this item to a date certain, they would not have to re-advertise. Mr. Schofield suggested it not be scheduled for the next Council Meeting as it would take some time to get that language which he wanted to first provide to Council.

Mr. Schofield suggested the temporary tent not stable any more stalls than what is provided for in the building permit to reconstruct the damaged structure as that would cover most situations. In addition, Mr. Schofield indicated the definition for declaring a federal disaster was very broad. He said the FEMA website guideline stated such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and effected local governments and that federal assistance is necessary. He said he had a sense of what Council wanted and staff would come up with a better definition.

Councilman Coates thought the Federal definition was too broad for what Council was trying to apply. He said a natural disaster could affect a single property that would never qualify as a FEMA declared natural disaster and Council had to have the ability at the Village level to recognize a natural disaster created by something environmentally.

Councilman Willhite said if the applicant is allowed six stalls per acre and currently has three acres with six stalls and a natural disaster damages the barn, he was acceptable to putting six, twelve or eighteen stalls in a temporary tent as long as that was what the permit being requested allowed for. Mr. Schofield agreed and stated the number of stalls would be tied to what the applicant actually applied for in the building permit.

Vice Mayor Greene stated temporary stabling was for someone who lost a barn because of a natural disaster, and he had a problem if someone wanted to piggyback their right on top of that. He was agreeable to what they lost is what they get on a temporary basis, but he thought a separate permit should be issued if they wanted additional stalls based their right and size of land. He did not want them to group everything into their entitlement because of the natural disaster. Mr. Schofield indicated the language would be clear as temporary stabling would be equal to what was lost.

Councilwoman Gerwig indicated the text said, the temporary suspension of the prohibition of tents as temporary stalls, item #3, "a property owner must apply for a special permit and comply with the following regulations." She said Item B under that stated "the special permit issued due to a natural disaster shall be issued only after the Building Official determines there is substantial damage to an existing barn or a stable structure as a result of the natural disaster that warrants the use of a temporary tent as a stable." She thought if they added a comma after "in parity of the loss" that would answer the question, as they could only provide temporary stabling in the same amount lost. She stated they already had the Village Building Official determining if there was substantial damage and it was the result of the natural disaster. She thought they were covered as long as they added "the parity of the loss." However, she did not know if that was a problem for legal.

Mayor Margolis stated Council was asking Mr. Stillings to bring back some information and questioned if they were asking to table the second reading. He said Ms. Cohen indicated they could postpone this item and not go back to another first reading because they were not substantially affecting the ordinance. Mayor Margolis asked if they should open the floor for public comments now or postpone the public hearing. Ms. Cohen thought if changes were going to be made, the public hearing should coincide with Council voting on the item. Mr. Schofield suggested they postpone it to time certain for the first meeting in September.

**A motion was made by Councilman Coates, seconded by Vice Mayor Greene, and unanimously passed (4-1), with Councilwoman Gerwig dissenting, to postpone consideration of this item to the first Village Council Meeting in September.**

**C. 14-543 ORDINANCE NO. 2014-20 (ISLA VERDE RESIDENTIAL COMPREHENSIVE PLAN AMENDMENT)**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE SITE SPECIFIC MIXED USE FUTURE LAND USE MAP DESIGNATION (PETITION NUMBER 2013-64 CPA 2) FOR CERTAIN PROPERTY KNOWN AS ISLA VERDE OF WELLINGTON, TOTALING 53.57 ACRES, MORE OR LESS, LOCATED ON THE EAST SIDE OF STATE ROAD 7 AND APPROXIMATELY 1/2 MILE NORTH OF FOREST HILL BOULEVARD, AS MORE SPECIFICALLY DESCRIBED HEREIN; TO INCREASE THE ALLOWED RESIDENTIAL UNITS FROM 230 TO 360 DWELLING UNITS, UPDATE THE FUTURE LAND USE MAP DESIGNATION TO THE CURRENT MIXED USE (TYPE 1) DESIGNATION AND DESIGNATE THE MAXIMUM DEVELOPMENT THRESHOLD; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Schofield introduced the item, Ms. Rodriguez read the Ordinance by title and Ms. Cohen conducted the swearing in of all individuals who intended to provide testimony.

Mr. Schofield introduced the agenda item. Ms. Rodriguez read the Ordinance by title. Ms. Cohen indicated this was a quasi-judicial hearing and conducted the swearing in of all individuals who intended to provide testimony.

### **Ex-Parte Communications**

**Councilman Coates:** Councilman Coates disclosed he met and discussed this with staff, the applicant and the applicant's representatives as well as with one or more of the HOA representatives of the adjoining properties.

**Councilman Willhite:** Councilman Willhite disclosed he met with staff, Mr. Mat Forrest, Mr. Rick Lococo, looked at another development in Boynton Beach and met and spoke with residents in the neighboring HOAs.

**Mayor Margolis:** Mayor Margolis disclosed he met with staff and the applicant as well as talked to Mr. Mat Forrest and a representative from Whippoorwill Estates.

**Vice Mayor Greene:** Vice Mayor Greene disclosed he had met with staff, several representatives, the applicant, and Mr. Mat Forrest.

**Councilwoman Gerwig:** Councilwoman Gerwig disclosed she met with the applicant, the neighbors at Whippoorwill, and Richie Lieber. She also visited and spoke with people at the Boynton site.

Ms. Cohen asked Council, notwithstanding their ex-parte communications regarding this issue, if they still felt they could be fair and impartial with respect to considering this application. All Council members agreed they could.

Mr. Stillings indicated this was the Isla Verde Comprehensive Plan amendment. He said the applicant, Isla Verde, LLC and Wellington Isles, LLC, was in attendance and was represented by Cotleur & Hearing. He stated the project was located on State Road 7 on the east side north of Forest Hill, across from Black Diamond and adjacent to the Whippoorwill Estates and Stonehaven Estates. Mr. Stillings said the site was first annexed into Wellington in 2004 and received a mixed use Future Land Use Map designation at that time for approximately 245 units. In 2006, they received a rezoning of the Master Plan consistent with that land use designation. In 2007 and 2011, they received a development order amendment to revise the conditions of the project, designate the residential space, change an area behind the Toys-R-Us to commercial, reconfigure the Master plan and reduce the number of units from 245 to 230.

Mr. Stillings stated the applicant had worked with the surrounding property owners of Whippoorwill and Stonehaven and came to an agreement on the proposed plan. He said they have also presented letters in support from both communities as a part of that agreed to plan. He indicated they were changing the requested number of units from 360 to 350, reconfiguring the buildings within the master plan, and adding new conditions of approval to the proposed master plan resolution, which will be before Council at the adoption hearing for the Comprehensive Plan amendment.

Mr. Stillings stated this was a Comprehensive Plan Amendment request for a mixed use project and required a Future Land Use Map amendment to increase it from 232 townhouse units to 350 rental units designated it as a mixed use Type 1 Future Land Use Map designation. He explained in 2009

the Village modified its mixed use land use designations to include six different mixed use types which required this new designation, and it was amending the maximum development program in the residential portion. He said this was being rezoned from the multiple use plan development to mixed use and a Master Plan Amendment would be presented to Council as a part of the adoption hearing, but the Comprehensive Plan Amendment or transmittal was now before them.

Mr. Stillings showed Council the difference between what was currently approved and what was being proposed. He stated there were some minor changes in acreage between the conservation, a slight increase in open space, a slight decrease in commercial, and a change in the residential unit count. He said other changes in the proposal included density, as the previous mixed use project counted for the residential density based upon the residential acreage only and the new mixed use criteria allowed the entire acreage of the project to be considered in the density calculation. He indicated the previous land use designation had no floor area ratio (FAR) provisions, but it now has FAR that meets the standard as well as some changes in parking. He stated the residential unit mix and unit type were changing. In addition, he said the applicant was proposing the units meet the gold rate of standard for green buildings provided by the National Association of Home Builders.

Mr. Stillings stated the Master Plan was currently approved for 230 units with 34 two story, residential buildings interspersed behind the commercial. In comparison, he said the proposed site plan or master plan still had 34 buildings, but it was changing from two stories to three stories. He indicated the relative height change was only about one foot and the overall site foot print between the two plans had not changed significantly. He mentioned the changes made in negotiations with the neighboring property owners were significant in relocating several buildings along the east property line and southeast property corner, reducing the width and unit count of some buildings along the east property line and shifting those units interior toward the western property line of the project.

Mr. Stillings indicated the plan presented to the Planning Zoning & Adjustment Board (PZAB) was for 360 units had a slightly different configuration than what was currently being presented to Council by the applicant. He said PZAB recommended denial at their meeting in May; however, staff recommended approval based upon the findings and consistency with the Village's Comprehensive Plan's mixed use regulations.

Vice Mayor Greene stated he watched the PZAB hearing and asked if they received information considerably different than what was provided to Council. He thought there was a disconnect between their interpretation and what staff presented. Mr. Stillings indicated the same recommendation was given to PZAB. He thought PZAB took some public comments to heart as well as had some personal objections to the rental units and the increase in unit totals.

Mr. Al Malefatto with Lewis, Longman and Walker introduced himself and stated he was there on behalf of the applicant Wellington Isles, LLC. He stated he was accompanied by members of his team; his client's representative, Mr. Rick Lococo; Jeff Meehan, their project team planner; Mr. Hearing; Chris Hagan, traffic engineer; and the rest of their project team. Mr. Malefatto said they appreciated staff's recommendation of approval. He thought Mr. Stillings did a good job of explaining the changes and efforts made to address residents' concerns. He stated since the May 7<sup>th</sup> PZAB meeting where there was a lot of opposition, his clients reached out to the communities of Whippoorwill and Stonehaven and have had several meetings with the residents and the associations. He said those efforts resulted in settlement agreements with the neighbors that lock in the site plan changes. He indicated they also agreed to deed restrict the property to lock in the number of units and preserve areas, which will be recorded at the time they close on the property. Mr. Malefatto mentioned even though the number of units increased to 350 from 230, the revised site plan had less of an impact on the neighboring communities because of developing the buffers and moving the

buildings to the north and west away from the property boundaries. He noted not every neighbor was in favor of their proposal, but they had the support of the associations.

Mr. Donald Hearing stated the proposed request was for a land use amendment; the rezoning of the master plan would come back before Council subsequently as part of the second reading. He stated that the site is surrounded by the communities of Black Diamond, Park Aire, Whippoorwill (to the immediate east), Stonehaven (to the immediate south), Toys-R-Us, the hospital and Medical Arts District. He showed Council the existing conditions on the site. He explained the project was designed and anticipated to be a mixed use development with residential acting as a buffer and supportive of the commercial that currently exists, about 53 acres in size. This request was fully consistent with the Comprehensive Plan. He noted that the type 1 mixed density was looked at on a gross basis, which was now at 6.52 units to the acre and well below the maximum allowed 12 units to the acre. The Village Housing Element, policy 1.9.3, went further because it indicates concentrations of higher density should be located along those corridors and more specifically in mixed use development regulations, which is currently being proposed. It also talked about being green and sustainable, and the applicant was proposing to come forward with a green project which would be discussed at the Master Plan and the site plan level. He indicated the Village Comprehensive Plan provided incentives for these types of developments to occur.

Relative to the residential component, Mr. Hearing indicated their modified proposed development plan was a little over 20 acres. He explained a signalized primary entrance would be located on State Road 7 and a secondary access point would be along the southern boundary with a dedicated right turn lane. In addition, there would be multiple points along State Road 7 to provide parallel connectivity to Toys-R-Us in Royal Palm and the Royal Office Park, all the way up to Pioneer Road. He stated a pedestrian connection would be provided near the clubhouse to take advantage of the shopping center and reduce traffic. He mentioned that back-out parking did not exist noting that Council had not support that on other projects. Mr. Hearing noted the buildings were located further from the boundaries with 30 foot setbacks and the existing master plan has 20 foot setbacks.

Mr. Hearing indicated the master plan they presented to the Planning and Zoning Board was supported by Village staff and residents; however, the residents from Stonehaven and Whippoorwill had some concerns. He stated the building in the southeastern corner went from twelve units to eight units and was moved further away from the boundary with open space on the left side. He said a twelve unit building and an eight unit building were eliminated along the eastern boundary, which would become green space. In addition, on the preserve, they reduced two of the twelve unit buildings to eight unit buildings creating a larger green ribbon along the boundaries. He explained these changes made the project more compatible and less of an impact than the existing approved site plan. Mr. Hearing indicated they made several additional changes to the buffers and walls, but the building changes reduced the density and intensity as well as increased the buffering adjacent to Whippoorwill to the east as it was mostly impacted by the development plan. He stated the open spaces would be substantially landscaped with small areas of sod and planted with native and lush tropical landscaping.

Mr. Hearing said the features of the community included a NAB Green project, electric charging stations throughout the site and in the garages of the townhomes, smart technology and security in every unit. He stated the site would be gated with cameras throughout for security as well as having a perimeter wall with dense landscaping along with other substantial amenities. Mr. Hearing indicated the entrance to the site was secure with more than ample stacking and set well back from State Road 7. He noted the Sales and Leasing facility would be located outside the gates. He mentioned there would be access and circulation throughout the site, the secondary access and the pedestrian access. In addition, Mr. Hearing stated there was currently a six foot chain link fence on the boundary with a

twenty foot building setback, but they were proposing an eight foot wall on top of a two to three foot berm with landscaping on both sides. He stated previously there was a six foot wall on the edge of the eastern boundary with little to no landscaping on the outside. However, they would make that an eight foot wall with a setback of ten feet from the boundary and equal landscaping on both sides. In order to provide solid screening, eight foot walls will be installed along the preserve areas where the plan previously called for a chain link fence. He said they were also adding native transitional or supplemental buffering to enhance the wetlands/preserves that provided screening for the residents within preserve areas, which the residents have supported and appreciated. He indicated the project will have substantial open space and green space. He said 24 foot trees would be staggered on either side of the wall twenty feet on center along with other trees and shrubs in between. He stated they worked with the Whippoorwill residents to provide a good sustainable buffer and have designed for the shade and the right types of plants. Mr. Hearing said the same treatment would be given to the south side of the project in working with the residents at Stonehaven. He was confident they would not be able to see through the buffer with all the plantings they mutually agreed upon. He stated the same buffer they were providing on the east boundary was what they were also proposing on the south boundary. The south boundary previously only had a chain link fence and now there is a 30 foot wall with a 30 foot setback, 20 feet of buffering, 8 foot wall and the same with eastern boundary.

Mr. Hearing said the amenities included dog parks, play grounds, preserve areas with trails, fitness trail in addition to the walkways, 7,000 square foot clubhouse with amenities, indoor gym, indoor sports courts, indoor sauna, pavilions outside, kid's pool, resort pool, outdoor kitchen, all the things that would create a great lifestyle. He said they had the opportunity for good connectivity throughout the community as it is located in the center with direct access to the amenities in the existing shopping center.

Mr. Hearing indicated at Council's request, they had met with the residents several times to try to resolve the neighborhood conflicts. He said there was a lot of effort on both parts and the residents supported the end product. He stated they also received accolades from the Architectural Review Board as the fronts as well as the backs of the buildings looked very nice, as they had very articulated entrances and Bahama shutters allowing ambient light into the units.

Mr. Hearing indicated there were currently five multi-family rental communities in Wellington managed by a single entity, with an average occupancy of 95% and some at 100%. He stated their average unit size was 1,548 square feet, 7% to 45% larger than the competition. He said they had the lowest residential density of all communities today. It was anticipated that professionals would live there. He said based on their demographic profile, the average household income is \$110,000 in Boynton, which is not as high-end as the Village. He stated Wellington Regional, who submitted a letter of support, have discussed needing block rentals to support their recruiting efforts. In addition to the letter of support from the hospital, they also received such a letter from the shopping center, the applicants who signed leases, as well as from the residents of Whippoorwill and Stonehaven. Mr. Hearing noted this project would help meet a huge demand as projected by the Housing Leadership Council of Palm Beach County because only 29% was currently being met. He said this project would create a more sustainable community in the long term, because it was at the right location, on a transit corridor and in an area of mixed use.

Mr. Hearing appreciated Council for encouraging conversations and collaboration because he thought they came up with a great solution for Wellington that was supported by Village staff. He believed the residents would be relieved as the project would have an agreement, be recorded, and be deed restricted. He indicated the applicant would do what is agreed to, and they would move forward with

construction as soon as it was approved. He indicated the economic impact would be about \$40 million to the Village and about \$8 million in annual revenue with \$5 million of that in impact fees.

Mr. Chris Hagan, traffic engineer, with Kimly-Horn Associates introduced himself. He highlighted the studies they did in accordance with Palm Beach County and Village of Wellington requirements, which included the Comprehensive Plan traffic analysis that was reviewed by Village staff. He stated they also performed traffic performance standards studies that went to Palm Beach County and the Village of Wellington in accordance with the Palm Beach County TBS requirements and obtained a Palm Beach County TBS approval letter, as a matter of course and as required. He indicated they conducted a number of additional analyses to specifically look at access to the site, interconnectivity within the parcels, and driveway operations and connections to evaluate and determine the traffic impacts and make sure all will be accommodated for appropriately and effectively. He said through the planning process, the Village has required neighboring parcels through the State Road 7 corridor to have interconnectivity and create parallel routes for State Road 7. He explained the parallel route provided opportunities for interaction between those parcels without traffic having to use State Road 7. He stated there were two main points of access for the Isla Verde shopping center. He said driveway #1 was at the very south of the site with a right in/right out access point and the main access point for the residential community, which helped separate the traffic from the shopping center. Likewise at driveway #2, they had two lanes coming into the shopping center from a traffic signal that allows for lefts in/lefts out and through movements to State Road 7. He indicated the residential community had two different entry and exit points: one directly accessed by the south driveway and the other toward the north end of the residential community. Through the connectivity on the plan, a resident could get to driveway #1 and driveway #2 or the other driveways to the north (3, 4, 5 and 6), as well as to the parallel south route that provided the direct route of connectivity. He also showed Council the primary routes with and without parking spaces.

Mr. Hearing asked for Council's support and indicated this was the first reading. He said if there was anything they needed to look at between now and the second reading, they would take that opportunity to do so. He stated they were working with the commercial shopping center on signage and other opportunities to further improve connectivity.

Councilman Willhite questioned how they proposed to maintain the landscaping behind the wall when the only access was through a private residential area. Mr. Hearing stated they would install an access gate in the wall that would be secured and locked to irrigate and maintain the shrubs and trees. He said maintenance was of primary concern to the neighbors. He indicated they put together a very sustainable landscaping plan and they would be under a single management entity.

### Public Hearing

A motion was made by Vice Mayor Greene, seconded by Councilman Coates, and unanimously passed (5-0) to open Public Hearing.

1. Jay French, 969 Whipoorwill Trail. Mr. French stated he was the appointed representative of the Whipoorwill Lakes Property Owners Association and spoke in support of the project.
2. Dave Mills, 1573 Stonehaven Estates Drive, West Palm Beach. Mr. Mills indicated he was the president of the Stonehaven Estates HOA and spoke in support of the project.
3. Lourdes Alonso, 732 Whipoorwill Trail, West Palm Beach. Ms. Alonso stated she was the President of Whipoorwill Lakes and stated they supported the project.

A motion was made by Councilman Coates, seconded by Vice Mayor Greene and unanimously passed (5-0) to close Public Hearing.

Councilman Willhite applauded the developer, as there was previously an overwhelming sentiment against this project and now the surrounding communities supported it. He said it was refreshing to hear from residents outside the Village speaking in favor of a project in Wellington. He commended the developer for working with the surrounding developments to address their concerns which he said spoke volumes. He hoped other developers would realize talking to people early and often accomplished a lot more. Councilman Willhite thought the changes to the site plans and ideas, such as the huge landscape buffers, the security issues, the walls, reducing the number of units, would benefit the surrounding residents. He stated his secondary concern was with the increase in the volume and density and trying to make connectivity throughout the developments on 441. He said they could not rely on anyone to do improvements to 441 due to capacity and cost, as they know 441 is very busy. He said any way to reduce trips on 441 and capture where they are ultimately going is a benefit. Councilman Willhite expected the developer to make it the safest route possible because the light is the ultimate connection and safest way cross the traffic. He knew they were working on signage to direct the pedestrians and drivers in the plaza to make it safer to and from the residential and commercial areas. Councilman Willhite appreciated the opportunity to look at the Boynton site which he thought it was good product, but was concerned that the value was brought by the people surrounding it and what was happening around it.

Councilman Coates commented on this project being rejected by PZAB 6-0; however, he believed the changes made and the sentiment expressed changed the whole dynamic. He thought the decision of the PZAB might not have been the same if they had heard the current presentation, proposal and support from the HOA's. Councilman Coates commended the developer, the HOA's and the residents for doing the hard work prior to this Council Meeting, as it made it easier for them to make a decision. He thought the general consensus was that neighborhoods degrade when more single family homes are used for rental purposes due to not having a viable product available. He believed the Village was going in a direction that would protect the single family neighborhoods and give the young people options. He thought the Village was also creating a win-win situation for people who are not in a position to buy a home in Wellington, but wanted to experience what it had to offer.

Councilman Coates said he supported this project and all changes discussed. He thought the Ordinance may need to be rewritten to reflect the changes made and the settlement agreement entered into between the developer and each of the HOA's. He questioned if that would be taken into account now as a condition of approval or later. He believed all parties would want the agreements, understandings and representations to be protected and enforced. Mr. Malefatto stated they submitted agreed to conditions and made an exhibit to their settlement agreement. He said those conditions were submitted to staff, and the applicant has agreed to add them as conditions of approval. Councilman Coates wanted the applicant to be comfortable with what they have agreed to as they would be adopting them as part of Council's conditions for this approval. Mr. Stillings explained they would be the conditions of approval for the master plan when it comes back to Council. He said the plan presented would be an exhibit to the Comprehensive Plan Amendment and would show in general detail the location of the buildings. He indicated the only change to the Ordinance in front of them was on page 290, to change from 360 to 350.

Vice Mayor Greene clarified that he was not implying PZAB got it wrong or there was no support for this project. He thought the important note was there was a process to what they do on this Council, whether it was to sit as an elected body and make decisions or listen to the committees who volunteer their time, evaluate the information and make a decision. He thought what they saw in this process was pushback from surrounding communities who felt this was not compatible with the surrounding neighborhoods. Vice Mayor Greene said in this case the developer listened to the residents and worked with them. He stated he has talked about civility where applicant can sit down as reasonable

people, address concerns and come to a compromise that meets everyone's demands and requests. He thought this was a shining example of how business should and could be done in the Village of Wellington. He said it was big investment in time for the surrounding communities, the HOA's and the people who would be affected, but the product spoke for itself. He did not know if it was going to be firefighters, teachers, professionals, doctors and nurses, but he was excited to have a new people come to Wellington. Vice Mayor Greene stated would support this project, and thanked everyone involved in the process.

Councilwoman Gerwig said she did not have a problem with people who rent. After watching the PZAB meeting, she felt it was perceived the Village was an anti-rental community or they did not want people to rent. She stated there was a portion of society who is going to rent, especially young professionals. She wanted them to understand not everyone owns property or has a long term plan for staying in the Village. She said the Boynton development was amazing, as it was really livable and a very high end product. She thought this product was needed as young professionals do not have a place like this and it would be a good lifestyle choice. Councilwoman Gerwig stated she supported this project even though it increased density on the site.

Mayor Margolis stated he was at the Planning and Zoning Board Meeting. He commended everyone involved for their efforts. He thought the Village should use this as a template as to how things could go well when developers listen to the community, the residents and non-Wellington citizens. He thought the trust factor was very limited at the Planning and Zoning Board Meeting when there were a couple hundred screaming people in the room. He said they were very passionate about their goals, but he thought their vote would have been different if they had a chance to see the finished product. Mayor Margolis voiced his support.

**A motion was made by Vice Mayor Greene, seconded by Councilman Coates, and unanimously passed (5-0) to approve Ordinance No. 2014-20 (Isla Verde Residential Comprehensive Plan Amendment) as amended and presented by staff.**

*At this point, Council took a short recess.*

**A motion was made by Vice Mayor Greene, seconded by Councilman Willhite, and passed (4-1) with Councilwoman Gerwig dissenting, approving the meeting to go past 11:00 p.m.**

At this time, Mr. Schofield announced that he was informed by Waste Management that because of the lateness of the hour, they would be amenable to not holding the Village to the notification for renewal by the deadline date.

Council noted that it was still an agenda item and would take comments. Ms. Cohen said that she spoke with Waste Management's representative today and they indicated that the Village might not be able to meet that deadline and they would be willing to extend it if needed.

Since it was still on Council's agenda, it was decided that they would address the request at that time.

## **8. REGULAR AGENDA**

### **A. 14-588 AUTHORIZATION TO AWARD A CONTRACT FOR THE CONSTRUCTION OF THE C-23 MULTIUSE PATH AND BRIDLE TRAIL**

Mr. Schofield introduced the agenda item.

Mr. Riebe reminded Council that the purpose of the project was to construct a bridle trail connection between the Village of Wellington and Flying Cow Road, ultimately to the Wellington Environmental Preserve. He noted that a bridle trail exists there, but there is no connectivity to walk or ride a bicycle. Mr. Riebe further noted a bridle trail runs along the south side of the C-23 canal, but there is no crossing at Palm Beach Point Blvd. He said that bridle trail is active during the season for golf carts and horses to get to the showgrounds. Mr. Riebe added that the project also provides stormwater relief which is a component to replace a culvert for Basin B and Palm Beach Point. At the request of Council at the May 27<sup>th</sup> meeting, this item was brought to the Equestrian Preserve Committee at their July 9<sup>th</sup> meeting for their input and recommendation. He said the Committee was given a presentation similar to Council's with the addition of another option, Option #4 which was another way to save money and provide another alternative. Mr. Riebe said that the Committee unanimously voted for Option #2 which he also recommended as the Village Engineer. He pointed out that Option #2 is the least expensive, meets all the standards and is the second most direct pathway to cross the road. He showed a slide of Option #4 with yellow indicating the multipurpose path, red indicating the bridle trail and green was a combination of a multipurpose path/bridle trail. He noted that it is a 9 to 10 foot wide paved pathway that allows for horse traffic, bicycles, pedestrians as well as other uses within that footprint. Mr. Riebe explained that the option did not require the relocation of the roadway, but it does require some additional storm drainage improvements. He said that he spoke with the President of the Palm Beach Point Homeowners Association on May 29<sup>th</sup> and again on July 3<sup>rd</sup> and sent her an email with this option. He said they had discussed Option #4 and the President thought that the HOA could support that option. Mr. Riebe said that staff was recommending Option #2.

Councilman Willhite said that many comments had been made at the Council meeting regarding horse and vehicular safety, and the question was why it had not been sent to the Equestrian Preserve Committee. He said that had been done and he was happy those subject experts cemented the Engineer's position deciding that Option #2 was a safe and viable option when it came to horse safety. Councilman Willhite believed that Mr. Riebe budgeted for that option and although he appreciated his trying to develop another option, only a certain amount of money was allocated for the project. He felt it did not make sense to go beyond that option and choose options that cost more, but were not safer according to the Equestrian Preserve Committee. He said that Option #2 doesn't impact any of the neighboring areas as some of the other options could.

Councilman Coates voiced his support for Option #4 because he felt that Option #2 created more of a danger with respect to horses crossing. Although the Equestrian Preserve Committee is composed of people tasked to look at equestrian interests, he was not going to discount the views of the Palm Beach Point residents on what they believe is the safe way to move horses in and around their community because many of them are equestrians as well. Councilman Coates felt that the Village should try and work out a compromise with the Palm Beach Point residents since this will be constructed in front of their community. He raised concern that representatives of Palm Beach Point were not in attendance at the meeting or were not aware of the meeting. Mr. Riebe pointed out the representatives were not at the meeting; however, they were advised of it. Councilman Coates still felt that the Committee made a decision without the input from the Palm Beach Point residents regarding Option #4. He hoped that someone from Palm Beach Point's Board was present at the Council meeting to speak on this issue so that Council is provided with their position on it.

Councilwoman Gerwig asked if any additional right-of-way was required for Option #4. Mr. Riebe said it was not. Councilwoman Gerwig asked if anyone had spoken to residents of Aero Club which will border this. Mr. Riebe said that the residents of Aero Club had not been spoken to. Councilwoman Gerwig said that she had been advised by the President of Palm Beach Point HOA that she thought that Mr. Riebe was supporting Option #4. Mr. Riebe said that his recommendation was Option #2 and the one he stands by. He said that staff provided multiple options due to the issues with the HOA. He

pointed out that the Equestrian Preserve Committee had access to all of the videos of the Council discussion, all of the backup information including the letter from the HOA that was provided to Council. He said that the Village does provide a process allowing residents to give their input, and he always tries to be inclusionary. Mr. Riebe further pointed out that he had a lengthy conversation with the HOA President on May 29<sup>th</sup> and they discussed the entire project, the process and when the meetings were going to take place. He again spoke with her on July 3<sup>rd</sup> for 22 minutes about the same issue followed by an email he sent her which included Option #4. Mr. Riebe said he told her that it was another way of looking at the problem which he would present; however, he did no more than that. He said that the engineering staff worked very hard on developing four options, all of which work, meet the standards and are safe. He said that horse crossings are a critical issue for the equestrians; however, there are also 35,000-40,000 people who would like to ride their bicycle to the Preserve.

Councilwoman Gerwig said that this was her first interaction with Mr. Riebe on this because she was not able to participate in this discussion when it previously came before Council because it was an opinion that she had a conflict; however, an opinion came back to the contrary. She said that her understanding was that Mr. Riebe was instructed to develop another option at that time because the other options don't work. Mr. Riebe did not believe he was directed to develop another option, but rather they were directed to talk to the EPC. He said that staff took it upon themselves to try and find a compromise to get the problem solved.

Councilman Coates questioned how Mr. Riebe was recommending approval of a proposal that no one in Palm Beach Point supported particularly since they are the most effective homeowners when there is another available compromise. Mr. Riebe said that was a Council decision, but it was his fiduciary responsibility as an engineer to provide something that is safe and at the least cost which is accomplished by Option #2.

Councilman Coates clarified his concern that there were no Palm Beach Point representatives at the EPC meeting explaining that his comments were nothing more than recognizing the fact that they weren't there, and the EPC did not get the benefit of hearing their position. He said that they were not personal against Mr. Riebe. He said he did not accept that the Committee went back and listened to the entire Council discussion. At this point, Mr. Schofield spoke in support of Mr. Riebe's recommendation of Option #2 noting that he supported it as well. He said that people will take the shortest course they can even with Option #2. Mr. Schofield pointed out that Mr. Riebe's recommendation for Option #2 was based on him doing it as a Professional Engineer, and he was doing it as a Professional Planner, but the selection of the option was ultimately Council's decision.

Councilwoman Gerwig expressed concern with the issues raised by EPC regarding horses going past the Dog Park. She said she has been at that Park and watched horses as well as motorcycles, bicycles and joggers go by without any reaction from the dogs. She thought that their concern about the fence was unfounded.

Councilwoman Gerwig expressed concern about horses crossing between the waiting cars which back up gate house. She raised concern about the Village's liability if something happened if they were telling everyone that the correct place to cross was between waiting cars. She did not believe that crossing on a horse in front of cars that are running and sitting was a desirable situation, and she wanted them to do all they could to avoid that situation. Councilwoman Gerwig said that was why she liked Option #4 particularly because she disagreed with the EPCs issue about the Dog Park.

Vice Mayor Greene pointed out that where the crossing is going to be constructed has held up some significant progress that needs to be made on the C-23 canal that benefits the greater population of

Wellington. He indicated that he was not able to accomplish that portion getting approved at the last meeting, and hoped a decision could be made at this meeting because that work needs to get done. Vice Mayor Greene questioned why the agenda summary indicated that the project was not to exceed \$575,000 yet the slide showed Option #2 at \$585,122.00. Mr. Riebe explained that if Council elected Option #2 they would award the contract at a price not to exceed \$575,000 noting that there was enough contingency built in so that the difference was not a big issue.

Vice Mayor Greene said it was evident that they have listened to the people, and they by no means wanted to discount anyone's concerns. He; however, had a difficult time trying to reconcile selecting an option that some residents want that is further away that will get less use versus an option that is cheaper that will get more use. He said that the concerns being expressed were legitimate, and asked if they could have some type of sign or remedy that brings attention to the crossing. Mr. Riebe explained that Option #2 is engineered and includes speed humps, speed tables prior to the crossing, a stop bar, a flashing yellow light, the push button was offset so it is away from the roadways and it is striped. He pointed out there is a flashing signal at the main crossing on Pierson Road that goes into PBIEC where many horses cross, and when you come out of PBIEC it is an immediate right turn, and to his knowledge there hasn't been any major issues at that location. He said that it comes down to driver habits. Mr. Riebe said that this is close to a gate house where people's attentiveness is up.

Vice Mayor Greene said that anyone entering Palm Beach Point knows they are entering an equestrian community and there will be equestrian-related activity. He said that from what Mr. Riebe has described and how this is engineered, it would be wreckless for someone just to barrel through there. Mr. Riebe pointed out that the same traffic control devices were included for all four options because his license is at stake, and he tries to do things that he is comfortable with.

Vice Mayor Greene reiterated that he did not support moving something further away that would have less use and would cost more. He felt that the Village could only do so much in terms of trying to create safety, and it sounded as though this has been engineered to include every potential safety measure. He said they needed to move forward on this because the canal work needs to get done. He felt that if they could not come to an agreement on the crossing then they had to move forward on the other projects. He supported Mr. Riebe's recommendation of Option #2.

Councilman Willhite thought that the Palm Beach Point people really did not like any option although they understand the need for utilization. He felt that Council had to make a decision on this and understand that they will never alleviate every possible problem that could arise despite putting all the safety measures in place. Although the belief was that moving the crossing further away from the gate house was better, Councilman Willhite thought that in actuality it is probably safer closer to the gate house because people are slowing down or are potentially already stopped. He said that if they are concerned that the Palm Beach Point residents weren't present to give their position, then what about the Aero Club residents since it would impact several of those residents. He thought that Option #3 was even worse because it not only also impacted Aero Club properties; it also puts the crossing just about at the mailboxes where there is more traffic. Councilman Willhite said Mr. Riebe has included all of the safety measures for Option #2 to come in at the budgeted amount; Mr. Riebe has given his professional recommendation which is supported by Mr. Schofield as a planner, and the Equestrian Preserve Committee. Councilman Willhite supported Option #2 because he felt it was a reasonable accommodation for everyone involved. He felt that it was paramount that they make a decision and move forward.

Councilwoman Gerwig said that there will always be crossing between cars during the season in Option #2. Mr. Riebe agreed that would occur in the morning and perhaps during the evening rush hour, but he didn't see that during the majority of the day. He said that he did his best to provide the

pros and the cons as well as the concerns at the EPC meeting knowing that no one from Palm Beach Point was present. Mr. Riebe reiterated that it is a crosswalk, an equestrian way, it is signalized with flashing lights, speed limits are low, and it is at the gate house. He said that they had tried to work with the property owners to put the crossing on the south side of the gate house which was the preferred location; however, they could not get the easements from the property owners.

Councilwoman Gerwig reiterated her concern about the liability to the Village if an accident occurs while crossing between the cars. She said that horses are unpredictable and expressed concerns about what would happen if they were spooked. Councilwoman Gerwig said that the turn lane was added there because of the significant traffic and stacking problem. She noted that was the work her company had done. She said that stacking can always occur, but she felt that there was more of that happening at that location. Mr. Riebe added that they don't envision there will be a lot of horse traffic at the Palm Beach Point crossing. He noted that they had done counts on South Shore Blvd and Pierson when they were doing a golf cart study and during the day they had about 60 horses cross there.

Mr. Riebe reiterated that staff was doing everything they possibly could to get something built for a crossing to be across the roadway that provides the connectivity and a safe crossing across Palm Beach Point Blvd while still providing access for the rest of the non-equestrians.

#### Public Comments

A motion was made by Councilman Willhite, seconded by Vice Mayor Greene and unanimously passed (5-0) to open the floor for public comments.

1. Dan O'Rourke, 3310 Palm Beach Point Blvd., Wellington. Mr. O'Rourke supported Option #4.
2. Eileen Yarbrough, 3160 Palm Beach Point Blvd., Wellington. Ms. Yarbrough introduced herself as the current President of Palm Beach Point Property Owners Association (POA). She said that it was unfortunate that she did not attend the EPC meeting to speak noting that she had received Option #4 which she sent to her board members. She said it was a miscommunication that they were not at the EPC meeting, but that was not Mr. Riebe's fault. She did feel that if she had been present at that meeting the committee would have had a different opinion. Ms. Yarbrough said that she supported Option #4 and thanked staff for developing another option that was not as costly as Option #3. She said that the reason they had supported Option #3 was because it was their only option that did not break through the median. She did not feel that cars would be that much of an issue, but they had feed trucks, manure trucks, and horse trailers in their traffic line which she felt was dangerous to cross. She believed that traffic had to be funneled where people had an adequate line of sight. She said that the advantage with Option #4 was that if the waiting traffic line exceeds beyond that point, they can track down the side of the road in the residents' lane around the end of traffic and have a clear line of sight.

Vice Mayor Greene read the following cards into the record from those people who indicated they did not wish to speak:

1. Elizabeth Braver, 4544 Garden Point Trail, Wellington, FL. Ms. Braver's comments supported Option #4.
2. Matthew Otero, 200 Arlington Road, West Palm Beach. He acknowledged himself as a service provider for many of the residents in Palm Beach Point, and supported Option #4.

There being no further public comments, a motion was made by Vice Mayor Greene, seconded by Councilman Greene and unanimously passed (5-0) to close the floor for public comments.

Councilman Coates expressed concern that there was a potential line of sight problem with Option #2 with the two lanes and the likelihood of large trucks in the lane closest to the guard gate, and he asked Mr. Riebe to address that concern. Mr. Riebe said that the crossing was designed to deal with that issue. He acknowledged that there are times when there are service vehicles there and you can't see a horse, but those same situations exist in many other places. He pointed out that this is a legal cross walk that has many safety measures in place that designates it as a crosswalk. He said that it is a valid concern which they have looked at; however, he would not have recommended Option #2 if he was uncomfortable with it. Councilman Coates asked Mr. Riebe if he still believed that Option #2 was a safer solution than Option #4 given the concern that he had raised about the poor line of sight. Mr. Riebe said that he felt that both options are safe.

Vice Mayor Greene said if Council should approve Option #2 and if there are any incidents or increased concerns that arise, could they then make the decision to move the crossing. Mr. Riebe said that it would be an \$80,000 to \$90,000 fix to make that change. Vice Mayor Greene said that if there are any issues, they could then make that change at that time for basically the same cost as if they chose Option #4 at this time. Mr. Riebe said that was correct. He said that they will certainly monitor it noting that they are always concerned how something functions when they build it.

**A motion was made by Vice Mayor Greene, seconded by Councilman Willhite authorizing the award of contract for the C-23 Multiuse Path and Bridle Trail using the recommendation of Option #2 for the crossing.**

**Mayor Margolis asked Vice Mayor Greene if he would include as part of the motion that if they found there were some issues with this option that Council could revisit it next year and amend it to Option #4. He said that he would feel comfortable if that was made part of the motion.**

**Vice Mayor Greene agreed to make that part of the motion that staff will monitor this and if there were problems that they could amend it to Option #4 at the same price. Councilman Willhite agreed to the amendment.**

**The amended motion was voted on and was passed 3-2 with Councilman Coates and Councilwoman Gerwig dissenting.**

#### **B. 14-439 DIRECTION REGARDING SOLID WASTE ANNUAL CONTRACT**

Mr. Schofield said that staff was seeking direction whether to extend, rebid or renegotiate the contract. He had informed Council earlier that because of the lateness of the hour, the representative from Waste Management said that they would be amenable to not hold the Village to the specified notification date. Ms. Cohen recommended that Council hear this item.

Mr. Barnes said that staff was seeking direction from Council related to the Solid Waste Annual Contract and there were three options before them. Mr. Barnes pointed out that within the present contract there is an option to renew and as a requirement, the Village has to advise Waste Management of that option by September 30, 2014. He said the term in the contract is for seven (7) additional years; however, the renewal option in the contract is to renew on mutually agreeable terms which indicates some level of discussion between the two parties to determine the mutual terms. Mr. Barnes said that the other two options cover both copy piggyback agreements from any of the proposed government contracts from surrounding municipalities or the option to rebid for the services

as is done for other commodities and services. Mr. Barnes said that at this point any and all options were available to the Village.

Vice Mayor Greene asked if a seven (7) year contract was typical because he felt that was a long period of time. In response, Mr. Barnes said that it may not necessarily be typical of different service contracts that the Village has, but it was not atypical for the type of contract that has the kind of capital investment of the Solid Waste agreement.

Vice Mayor Greene did not believe there was any question as to the commitment of the level of service and standards from Waste Management, and he thought they would be hearing much more from residents if there were problems. Although he felt that Waste Management was extremely responsive, he expressed concern about locking a vendor in for what potentially could be a fourteen (14) year contract. He said he would feel more comfortable extending that for possibly a shorter period of time. He believed that because of the level of services that this would be an expensive and lengthy process if they put it out for bid; however, he did not want to create an environment where someone had a stronghold on services in the Village. He said that he looked at some of the costs, and there are communities that are slightly less and some more, but he knew that Wellington's vegetation was significantly higher compared to some of the surrounding municipalities. Vice Mayor Greene said that for him it was not so much a price issue, and reiterated it was the length of time of the contract.

Councilman Willhite said that he did not have an issue with the Village's current provider, but it was his understanding that this Council's position was to bid out long standing contracts, i.e., tennis contract. He did not believe that they could negotiate the contract for a different timeframe because that had already been negotiated in the original contract, and they would be working outside the normal contract if they did that. Councilman Willhite said that he didn't know if they would get a better price with the RFP, and that they would be in a pretty safe position with the contract if they were to renew, but he was also concerned with the length of the contract. Councilman Willhite believed they should put this out to bid in order to assure the residents they were getting the best price from the most responsive bidder. He felt if this provider was awarded that contract at the end of the RFP process, then they have concentered their position that they are the best provider for the Village of Wellington. He said if they were not selected, he hoped that there would be a seamless transition with a new provider. Councilman Willhite reiterated that his decision was based on this Council's practice of doing RFPs for the renewal or rebidding of contracts to ensure the residents are getting the best price.

Councilman Coates said that he was not opposed to long term contracts because often times they serve as a hedge against inflation and lock in a favorable price. He asked staff to explain how the negotiating process would work regarding an extension as it related to price. Mr. Barnes said that staff's interpretation of the contract was that they would be able to negotiate all the terms within the agreement and come back to Council with a negotiated agreement that may reflect better pricing and better terms. Councilman Coates expressed concern that the Village can't put this out for RFP then go back and say they want to extend the contract. He said if they make the decision not to extend then they are locked into the RFP and the old contract is done. Mr. Barnes said that was correct.

Councilman Coates said that in looking at the chart, there were a number of municipalities and other service areas that have rates significantly higher than the rates the Village currently has at \$12.00. He thought that Mr. Schofield had indicated that the most comparable SWA service was Area #2. Councilman Coates said that what he didn't want to do was to pass up on an opportunity to extend the control with the end result being the taxpayers have to pay more money because the Village can't get a market rate for what they had when they failed to extend the contract. He asked staff about the potential for that risk. Mr. Barnes said that the risk is there as they don't control any pricing that comes

in. He said that the prices listed in those service areas are probably the most recent that have been bid. On the other hand while Service Area #2 would be the most comparable, none of the areas reflects the service level and the expectation that the Village has as well as the geographic and/or mix of uses of the Village. Mr. Wright concurred with Mr. Barnes. He said that the Village entered into the contract in 2008, but it was a different market back then. He said that the Village has a lot of vegetation in Wellington. He did not know how the negotiation was going and thought \$12.00 was a good price.

Councilman Coates said that it seemed even if the Village agreed to extend the contract and they weren't subsequently able to negotiate a price that was acceptable to Council, that they still had the option to send out an RFP. He felt by doing that they avoided the risk of giving up the best price they have now which was his concern. Councilman Coates thought that staff could make some educated guess as to what the market is today and negotiate on that basis, and if they can't come to an acceptable agreement, then they could go to the RFP process. He asked how long staff thought the negotiation process would take. Mr. De La Vega thought it would take approximately two (2) weeks. Councilman Coates said that in two to three weeks, staff could have negotiated the price, then Council could make the decision based on real information if they want to do an RFP at that time. He asked if staff felt that was a better way to go. Mr. Barnes said it was certainly a better option, but they still would need direction from Council to proceed that way. Vice Mayor Greene supported that option.

Councilwoman Gerwig said that since there have been adverse opinions from the Inspector General (IG) on this subject, she asked if it wouldn't be prudent to seek an opinion from them. In response, Ms. Cohen said that the agreement was clear that the Village has the ability to renew if they choose to. She said that Ms. Evangelista conducted an internal audit of the solid waste contract which was clear and without any issues. She advised Council that she had submitted that audit to the IG's office for review. Ms. Cohen said that in speaking with a representative from that office, they indicated that they don't typically give an advisory opinion where there has been no complaint or documentation filed. She said that they were not able to definitively say whether or not the Village was in their rights to renew. Ms. Cohen said that she believed everything in the report was accurate and that there was no issue. Councilwoman Gerwig thought that providing an opinion was one of the things that the IG's Office would do. She felt if they have a copy of the audit and they have been asked, she would be happy to know their opinion. Ms. Cohen said that the IG's office did not have all of the contract documents or any things of that nature. She said that her discussion was that they don't want to get into giving these types of advisory opinions. Councilwoman Gerwig believed that the attorneys from Palm Beach Gardens and Delray both gave the opinion that they were in the clear yet they were scrutinized which she wanted to avoid. She thought that they could get that opinion concurrently with what Councilman Coates has suggested. Ms. Cohen said that the Village could certainly approach them again and see if there were some documents that could be provided to them so they could render an opinion.

Councilman Coates asked Councilwoman Gerwig to elaborate on what her concern was that would require an IG review of this. Councilwoman Gerwig noted that the IG scrutinized the City of Delray Beach and Palm Beach Gardens on their renewal options. Although she did not have enough information regarding that, her understanding was that issue is a red flag. She felt if they were already delaying the process, then she wanted to concurrently ask the IG for their advice. Councilman Coates said that he was fine with that. Ms. Cohen said that she couldn't say for certain that the Village would get any type of recommendation one way or another, but they will make an effort to get one. She said that her reading of the contract and of the law was that they were completely within their rights to renew based on the fact that the RFP that was previously sent included the renewal term and provisions, everything was competitively bid and at the end, it is a business decision by the Council whether the negotiated terms under the renewal were favorable

enough to forego another competitive bidding process. Ms. Cohen reiterated that she would make every effort to get more information from the IG; however, she was not 100% confident that they will come back with anything definitive based on her conversation with their office that day.

Mayor Margolis concurred with Councilman Coates about the length of time for the contract. He said that he heard from all of the experts that the service has been extraordinary and why change when it is not broken, but he was hearing from Mr. Barnes that going into negotiations doesn't mean they can't do an RFP if the negotiations break down with the ultimate decision being made by Council. Mr. De La Vega pointed out that the decision has to be made by September 30<sup>th</sup>. Mayor Margolis said that the IG's Mission Statement is to provide opinions and he felt it was mindboggling that they refused to do that. Ms. Cohen stated that they may not have had sufficient information or time to provide that type of an opinion, so she said she would speak with them the next day. Mayor Margolis asked Ms. Cohen to advise him of the outcome of the conversation. Ms. Cohen said that she would provide more information to Council at the next meeting.

Councilman Willhite said that he supported asking for the IG's opinion and trying to negotiate a better price, but it was still possible that going out for an RFP could get them a better price. He said that in looking at the recent contracts, he thought they could be afforded a better contract because of the size of their municipality noting that they were bigger than four out of five of the municipalities on the list. He noted that some are paying more on some things and less on others. Councilman Willhite reiterated that this was not a question of a problem with the service, but with the length of the contract and cost.

Vice Mayor Greene did not see the harm in trying to negotiate with Waste Management prior to making the decision to send it out for an RFP. He felt that the company has demonstrated a commitment, not with just serving the community, but with community involvement. He said that he understands that Council has the responsibility to protect the taxpayer funds, but the market is the market, and thought that if they sat with Waste Management they will come back with their best price. He said if staff comes back and says they can't negotiate, then they can send it out for RFP at that time.

Councilman Coates asked if this was put out for RFP would it be a low cost provider bid. Mr. Barnes said that staff would come back to Council and seek direction as to how they would like to see this criteria balanced. He reminded Council that the last time they went out for RFP, it was a two-step process: (1) the first step was strictly a qualification selection where the top three were ranked; and (2) from that point they opened pricing and it went to the lowest price. Councilman Coates felt that price has to be given a greater weight than it previously had regardless of what the criteria is.

### Public Comments

A motion was made by Councilman Willhite, seconded by Vice Mayor Greene, and unanimously passed (5-0) to open the floor for public comments.

1. Ms. Ellen Smith, 2149 Ardley Court, North Palm Beach. Ms. Smith, representative of Waste Management, thanked Council for their time. She believed there was consensus to negotiate with them. At this time, she introduced four of their staff members who make the service contacts so effective and who help to provide excellent service. She noted that those staff members represented a total of 85 years of experience in the industry.
2. Ms. Joann Stanley, 4301 Renaissance Way, Boynton Beach. Ms. Stanley stated that she was with Republic Services, and encouraged Council to do a Request for Proposals when considering their direction. She noted that their industry is very competitive; there are many companies in the

area that have financial stability, strong service records and competitive rates. She said that the market has changed since it was last bid noting the drop in rates. Ms. Stanley spoke of Royal Palm's cost with them, and how much Wellington would save in single family homes if they went with her company.

There being no further public comments, a motion was made by Councilman Willhite, seconded by Vice Mayor Willhite, and unanimously passed (5-0) to close the floor for public comments.

Councilman Willhite requested that the special areas designated on the maps include the demographics because he believed that pricing was based on the number of places they were picking up.

**A motion was made by Councilman Coates, seconded by Councilwoman Gerwig, and unanimously passed (5-0) authorizing staff to negotiate with the current provider subject to staff bringing back to Council for approval whatever the negotiated terms are at which time, Council will then make the decision whether to go with the negotiated extension or to enter into an RFP. In the interim, staff should obtain an IG opinion regarding renewal with Waste Management.**

### **C. 14-586 OUTSIDE LEGAL FEES AND COSTS**

Mr. Schofield introduced the agenda item.

Ms. Cohen said that Council had previously authorized retaining outside counsel; and noted that the Village has experienced an increase in litigation. She explained that the Village's purchasing policy requires Council approval when fees exceed \$25,000. She stated that Mr. Riedi's firm was about to exceed that amount, and they were seeking authorization to continue to use his firm for these matters. In addition, the Village continues to use Mr. Torcivia's firm for employment matters. She said the Village has recently had several employment matters that have caused an increase in those bills; however, she didn't expect that trend to continue. Staff was asking for authorization to pay these fees and continue to use the firms.

Although he knew she could not give any specifics, Vice Mayor Greene inquired as to what employment matters the Village was facing. Ms. Cohen said that they were EEOC complaints and some disability type issues which require a thorough and comprehensive response which is time intensive, and it requires someone who is well-versed in employment law. Ms. Cohen said that Council was not being informed of these matters because of the privacy issues. She said that for the Torcivia firm they were looking at a total \$27,882 with work in the pipeline.

With regard to the ongoing litigation, Vice Mayor Greene asked if there was a way to try and recoup legal fees. Ms. Cohen said that she has tried to send Council the pleadings as she receives them. She noted that there was a recent letter called a 57105 Letter and Motion which Mr. Riedi served upon opposing counsel which provides notice that the Village believes their claim is frivolous. If they don't withdraw the claim within the cure period, the Village will have a right to seek an award of attorney's fees and costs at the end of the litigation. With respect to any of the other cases where that type of a motion has not been filed, she noted that Florida only allows attorney's fees either by contract or by statute and there was none that would provide for attorney's fees in those situations unless it was deemed a frivolous lawsuit. Vice Mayor Greene said that there are valid arguments in some of the litigation on both sides, but some of the recent cases he found to be frivolous and would encourage counsel to explore every avenue to recoup those fees.

Councilman Coates asked Ms. Cohen if either she or Ms. Rogers reviews the bills that come in from outside counsel to ensure they are reasonable and appropriate. Ms. Cohen said that she does review them, and in some cases, she has contacted firms for adjustments.

There were no public comments.

**A motion was made by Councilman Coates, seconded by Vice Mayor Greene, approving the continued use of outside professional legal services with the firms of Lehtinen Schultz Niede Catalano de la Fuente in an amount up to \$200,000 and up to \$50,000 for the law office of Glen J. Torcivia and Associates, P.A. for combined totals of up to \$250,000 for the 2013/2014 fiscal year.**

Councilman Willhite asked Ms. Cohen if she believed any of the costs on the legal bills were initiated by Council or staff or were they just the cost of doing business or that people have the right to challenge things. Ms. Cohen said that the Village has not been the initiator in the law suits. She said that there is a unique constituency of property owners in the Village who have a demonstrated pattern of jumping into litigation before it could be resolved. She said that they also have situations where this and previous Council have made it clear that there isn't a lot to discuss particularly with the Big Blue issues. Ms. Cohen said that they have an obligation to defend it which they are doing. She felt that it is being defended in the most economical way while at the same time retaining high quality litigators.

**The motion was voted on and was unanimously passed (5-0).**

**D. 14-538 AUTHORIZATION TO AWARD A CONTRACT TO PROVIDE ENGINEERING SERVICES FOR THE SADDLE TRAIL PARK (SOUTH) NEIGHBORHOOD IMPROVEMENT PROJECT AND RESOLUTION NO. R2014-47 FOR BUDGET AMENDMENT #2014-061**

**RESOLUTION NO. R2014-47: A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE BUDGET FOR FISCAL YEAR 2014 BY INCREASING THE REVENUE AND EXPENSE IN THE SADDLE TRAIL PARK CAPITAL SUB FUND FOR THE DESIGN COSTS FOR THE SADDLE TRAIL IMPROVEMENT PROJECT AND PROVIDING AN EFFECTIVE DATE.**

Mr. Schofield introduced the agenda item. He read the resolution by title.

Councilman Willhite asked if this cost was a pass through because he thought it was being done at the cost of Saddle Trail Park residents because they were requesting the improvements. Mr. Riebe explained that all costs will be accounted for, charged and refunded as part of the bond issue. Councilman Willhite just wanted clarification so that everyone understood that although the Village may be paying for this up front, they will ultimately be reimbursed for the total cost.

Vice Mayor Greene thought there was language that indicated there was some potential risk to the Village. Ms. Cohen explained that there is a financial risk to the Village if they change their minds and decide not to move forward after this is approved. She explained that those fees that would be expended up until that time would not be recovered by the Village. She noted that as all of the contracts have, there is a provision of Termination for Convenience so the Village would have to pay for the work performed to date, and after that they would be able to terminate the contract.

Vice Mayor Greene asked if it was possible to hire the personnel to do this engineering work in house. Mr. Riebe explained that based on the staff's current workload, they would be very stretched to deliver the project given the timeliness of it and the other priorities Council has set for staff. He pointed out that all of the costs are reimbursable and was factored into all of the polls and ballot data that were submitted. He further stated that all of the residents were aware of all the costs noting that staff tried to be as transparent as they could in providing the information to them. Vice Mayor Greene thought they could have hired in-house staff to do this who would be Village employees and they could then be utilized in other areas that could be a potential savings. Mr. Schofield pointed out that the Village's costs for a staff level engineer with a PE runs about \$105,000 to \$110,000 with salary and benefits. He believed that this work could not be done in house for the same amount of money as that of the outside firms because they have specific expertise. He said that for these types of projects it is cheaper to contract them out then to bring staff in-house. Mr. Riebe said that it is difficult to find an engineer to come in on an interim who has expertise in this type of work. If they were hired as a full-time employee, the project only has a window of two years. Vice Mayor Greene said that he was looking beyond this project because he knows the Engineering Department's increased workload. Mr. Riebe said that the Village is still involved noting that they have the project manager and are involved in the public outreach process.

**A motion was made by Councilman Willhite, seconded by Vice Mayor Greene, and unanimously passed (5-0) approving Resolution No. R2014-47 for Budget Amendment #2014-061 as presented.**

**A motion was made by Councilman Coates, seconded by Vice Mayor Greene, and unanimously passed (5-0) to provide authorization to award the contract to provide engineering services for the Saddle Park Neighborhood Improvement project.**

## **9. PUBLIC FORUM**

Mr. and Mrs. Wallace had submitted a request in accordance with the Village's meeting procedures to speak for 15 minutes during the Public Forum.

1. Mr. Larry Wallace, 803 Rambling Drive Circle, Wellington. Mr. Wallace introduced himself as the President of the Little Ranches HOA. He spoke of the Little Ranches Neighborhood Plan that had been adopted in order to preserve the characteristics of Little Ranches. He said that the equestrian element was one thing that they identified as being very important to them as well as preserving their rural feel. He pointed out that the Neighborhood Plan was adopted into the Equestrian Overlay Zoning District. Mr. Wallace noted that their roads had a dual purpose also serving as trails for their riders. However, when the roads were paved in 2004 with a substandard material creating a rough surface, most of the riders stopped riding their horses on the roads and looked for other avenues. He said that Council recognized the equestrian element; however, the Little Ranches community has been forgotten in the improvements. Mr. Wallace indicated that the residents of Little Ranches have appreciated the improvements to their roads and drainage, but feel that they need adequate riding trails. He pointed out that the lack of an adequate trail system has created a critical public safety issue which needs to be addressed. He felt that there were also some beautification issues that they developed in conjunction with the trail improvements, and has been in contact with Mr. O'Dell who has been helping them with their proposal to the trail system which he believed will be discussed by the Equestrian Committee. He felt it was important to bring the public safety issues to Council which has become quite serious. Mr. Wallace also requested that funds be directed to Little Ranches because they feel neglected in this respect as they haven't received the same attention as other parts of the equestrian areas. Mr. Wallace then addressed a small parcel within Little Ranches that was sold six years ago at a tax auction for

under \$4,000 that had originally been platted as open space/recreation. He said that their research showed it was a legal sale, and one of the residents who is an attorney wrote a legal opinion regarding it. Mr. Wallace said that the parcel is access between Cindy Lane and the trail bordering the canal to the south of them which had been used for 35 years as access. He said that after the purchase, the current owner blocked the access to create a situation whereby he could sell the parcel to the Village for a profit. He said that the property is unbuildable because it is less than ¼ of an acre and about 50 feet wide. Based on the legal opinion, they felt it was an oversight of the Village to allow the parcel to be sold, and they want the Village to do whatever is necessary to regain control and return it to its original designated purpose as open space and recreational area. In the long term, Mr. Wallace said that Little Ranches would like to be connected to the existing trail system. Until a solution was found, they want Little Ranches to be developed so the riders within the neighborhood have a safe place to ride. He asked if a mechanism could be put in place to prevent these closures in the future when properties are deeded or sold and have a provision they can't block access. He said that his goal was just to raise awareness of what they have been facing.

Vice Mayor Greene said that it appears that Little Ranches doesn't get the same attention as the other communities noting that it doesn't look like the rest of Wellington. Mr. Wallace noted that Mr. O'Dell has been very helpful and is addressing some issues and perhaps some potential trails that could be developed. Vice Mayor Greene felt that all neighborhoods in the Village should be given the same opportunity. He said that he didn't understand why the sliver was ever let go by the Village. In response, Mr. Schofield gave the history of the property noting that it never belonged to Acme Improvement District noting that he and Ms. Cohen had read Mr. Morelli's correspondence. He said that there are several areas in Little Ranches that are 60 feet wide that were dedicated to Acme, but they are all roadways and are labeled as such. Mr. Schofield said that this particular parcel is 50 feet wide at the southern end and 50.53 feet wide at the northern end where it connects to Cindy Lane and was dedicated as open space and recreation. He noted the property owner in 1974 transferred the property to the lot next to them, but he will look at it. With regard to Little Ranches not looking like the rest of Wellington, he explained that the Little Ranches Neighborhood Plan assured them that the code enforcement and appearance standards that are applied throughout the bulk of Wellington were not applied in that community. He concurred that the equestrian trail system needs to be looked at and that was being worked on by Mr. O'Dell with the Equestrian Preserve Committee. Mr. Schofield said that the Village has not spent any money on the trail system noting that over the past three years, they spent a little over \$400,000 in Little Ranches for drainage and roadway improvements. He indicated that staff is trying to figure out how to do a trail system that actually connects them and felt it would be good to get that small piece of property off of Cindy Lane. He also noted that there is a 80 foot drainage easement on the properties on the west side of Cindy Lane that staff believes can be connected to the Acme Road right-of-way all the way to the canal on the south side. With regard to the property previously mentioned, Mr. Schofield indicated he ordered a title search on that property and will find out what it is worth and the ownership.

Vice Mayor Greene thought that he has been in that community many times, and reiterated that it doesn't look like Wellington, but on the other hand, there are some properties in there that would have a difficult time if code enforces things as they do in Wellington proper. Mr. Wallace said that was what they liked about Little Ranches, but they would still like to enjoy some of the benefits as that of the other properties in the Equestrian Preserve Areas, particularly having a safe trail system. Vice Mayor Greene asked Mr. Wallace to keep Council apprised of this.

## **Public Comments**

1. Mr. Mark Hilton, 13904 Folkestone Circle. Mr. Hilton stated that he did not feel he needed to endure the foul odors coming from the property at 13777 Yarmouth Drive, and felt something needed to be done about it. He said that the Code Compliance Department tried to address this property by contacting the Health Department, Florida Power and Light and anyone else they could, but have had no success in dealing with this property. Mr. Hilton believed that there were squatters living at that property with no sewer, no water and a tank in the back filled with water although they have power. He did not know why the Village could not do anything about that property. He noted that the Community Services Dept. did not have that property on their radar. Mr. Hilton did not see a clear direction for Safe Neighborhoods and thought it was time that Council reviewed that as well.

Mr. Schofield advised Mr. Hilton that he would meet him at the property at 7:30 a.m. the next day. Ms. Cohen said that the Village may have the ability to get some type of inspection warrant where they can go in and inspect it. Mr. Schofield said that if it doesn't have water and sewer, then they will tag it as an inhabitable structure and go from there.

## **10. ATTORNEY'S REPORT**

**MS. COHEN:** Ms. Cohen presented the following report:

- She reported that she continues to provide Council with copies of the pleadings and to keep them apprised of what is happening. She advised Council to contact her if they had any questions about the pleadings.

## **11. MANAGER'S REPORT & UPDATES**

**MR. SCHOFIELD:** Mr. Schofield indicated he had nothing to report

## **12. COUNCIL REPORTS**

**COUNCILWOMAN GERWIG:** Councilwoman Gerwig indicated she had nothing to report.

**VICE MAYOR GREENE:** Vice Mayor Greene presented the following report:

- Vice Mayor Greene said that he rode with PBSO Deputy Alex Nunez, last Friday. He spoke about the good people that live in some of the opportunistic neighborhoods and the unfavorable elements and poor conditions that they have to live with. He felt that nothing has been done in these communities, and that the Village needed to make a strong statement and take a stand that they don't want this type element, crime and unfavorable neighborhoods in the community. He questioned what could be done to shut off utilities when someone moves and they aren't turned back on until they become compliant. Vice Mayor Greene said that Wellington has to make a decision on the standards that they want.

Mr. Schofield said that the Village devotes a significant amount of time and resources to those neighborhoods, and although there is a long way to go, they have made improvements. He said he would be happy to discuss where the Village's hands are tied and the ordinances that they have to bring forward. He also pointed out that the Village doesn't have the ability to shut off utilities, and the landlord shuts them off between tenants. He noted that most of the cutoffs are in those neighborhoods and once they get paid, the utilities are turned back on. He pointed out that some of these neighborhoods have been a problem for 30 years. Mr. Schofield said if there was something else to do he would love to do it. Vice Mayor Greene didn't see any real results in cleaning up these communities. He didn't believe they saw it in other municipalities that Wellington compares itself to. Mr. Schofield disagreed stating that municipalities like Boca and Jupiter and even Palm Beach have

neighborhoods like these. Mr. Schofield said they have tried putting ordinances in front of Council that have some teeth; however, they can't do certain things because of State Statute. Vice Mayor Greene reiterated that he felt nothing gets done in these neighborhoods, and they need to get tough.

**COUNCILMAN WILLHITE:** Councilman Willhite presented the following report:

- Councilman Willhite said that he was on Council for the inception of the Safe Neighborhoods program. He recalled Mr. Hilton at one of the meetings that was held as one of the people who wanted to get involved and who stood up and told his neighbors that they were the problem. He was concerned when the Village doesn't respond to someone like him. Councilman Willhite said that he has always been supportive of the program and of any ordinance that staff has brought forward. He indicated that they have made some improvements, and was still hopeful that they can make a difference in these neighborhoods. He suggested that there be a workshop or an agenda item to discuss the Safe Neighborhoods program and what has been done and what can be done.
- He announced that he appointed Tara Zimmerman to the Architectural Review Board.
- With regard to the Performance Evaluation procedure that was received for the Manager, he felt that they should also have a procedure to evaluate the Village Attorney. He felt that the procedure should be put in writing and input should be received from each Councilmember.

**COUNCILMAN COATES:** Councilman Coates presented the following report:

- He indicated that he would reserve his comments on Safe Neighborhoods until the workshop. He requested that it be scheduled as soon as possible.
- Councilman Coates recommended that they modify their Council procedures to provide citizens with two opportunities to make public comments: one at the beginning of the meeting and another at the end of the meeting so that they don't have to wait to make comments late into the night.

Ms. Cohen said that they have been working on finalizing the Council procedures and it does include the ability for comments to be made at two different times in the meeting.

**MAYOR MARGOLIS:** Mayor Margolis presented the following report:

- He looked forward to the Safe Neighborhoods Workshop and would have Ms. Adler schedule it.

### 13. ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned.

**Approved:**

---

**Bob Margolis, Mayor**

---

**Awilda Rodriguez, Clerk**