

## MINUTES

### REGULAR MEETING OF THE WELLINGTON VILLAGE COUNCIL

Wellington Village Hall  
12300 Forest Hill Blvd  
Wellington, FL 33414

Monday, October 7, 2019  
7:00 p.m.

Pursuant to the foregoing notice, a Regular Meeting of the Wellington Council was held on Monday, October 7, 2019, commencing at 7:00 p.m. at Wellington Village Hall, 12300 Forest Hill Boulevard, Wellington, FL 33414.

Council Members present: Anne Gerwig, Mayor; Michael J. Napoleone, Vice Mayor; John T. McGovern, Councilman; Michael Drahos, Councilman; and Tanya Siskind, Councilwoman.

Advisors to the Council: Paul Schofield, Manager; Laurie Cohen, Attorney; Jim Barnes, Assistant Manager; Tanya Quickel, Director of Administrative and Financial Services; and Chevelle D. Nubin, Village Clerk.

1. **CALL TO ORDER** - Mayor Gerwig called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE** – Mayor Gerwig selected two kids from the audience to lead the Council in reciting the Pledge of Allegiance.
3. **INVOCATION** – Reverend Peter Bartuska, Christ Community Church, Wellington, delivered the Invocation.
4. **APPROVAL OF AGENDA**

Mr. Schofield indicated staff recommended approval of the Agenda as amended.

1. Move Public Hearings item 7B, Resolution No. R2019-43 (Conditional Use for a Daycare at St. Rita's Catholic Church), to item 7A.
2. Move Public Hearings item 7A, Ordinance No. 2019-08 (Comprehensive Plan Amendment - Future Land Use Map Designation for Wellington Green Tract W-5), to item 7B.

**A motion was made by Vice Mayor Napoleone, seconded by Councilman McGovern, and unanimously passed (5-0), to approve the Agenda as amended.**

#### 5. PRESENTATIONS AND PROCLAMATIONS

There were no Presentations and Proclamations.

#### 6. CONSENT AGENDA

- A.     **19-3219**     PROCLAMATION DECLARING NOVEMBER 8, 2019 AS WELLINGTON COMMUNITY FOUNDATION DAY IN WELLINGTON
  
- B.     **19-3015**     AUTHORIZATION TO CONTINUE UTILIZING A NATIONAL COOPERATIVE PURCHASING ALLIANCE (NCPA) CONTRACT WITH MUNICIPAL CODE CORPORATION INNOVATIONS (MCCI), LLC FOR LASERFICHE DOCUMENT MANAGEMENT ANNUAL LICENSING, MAINTENANCE AND SUPPORT
  
- C.     **19-3298**     RESOLUTION NO. R2019-63 (WELLINGTON SENIORS CLUB AGREEMENT)
  
- D.     **19-3009**     RESOLUTION NO. R2019-65 (INTERLOCAL AGREEMENT WITH THE SOLID WASTE AUTHORITY (SWA) TO PROVIDE BIOSOLID PROCESSING AND RECYCLING ON AN EMERGENCY BASIS)

Mr. Schofield stated staff recommends approval of the Consent Agenda as presented.

Mr. Schofield indicated one public comment card was received on the Consent Agenda.

1.       Bruce Tumin, 752 Lake Wellington Drive, Wellington. Mr. Tumin asked if the Wellington Seniors Club was spending \$56,200 of Village taxes on providing meals on wheels and transportation to grocery stores for homebound residents or on resources and support, to help seniors continue to age successfully in the comfort of their home. He stated the Seniors Club is not providing these services, but they are spending Village taxes on themselves with \$28,500 for lunches, \$15,856 for brunches, and getting free use of the Community Center. He asked if \$56,200 of Village taxes is being used for public good or to influence the next election.

**A motion was made by Vice Mayor Napoleone, seconded by Councilwoman Siskind, and unanimously passed (5-0), to approve the Consent Agenda as presented.**

**7. PUBLIC HEARINGS**

- A.     **19-3301**     RESOLUTION NO. R2019-43 (CONDITIONAL USE FOR A DAYCARE AT ST. RITA'S CATHOLIC CHURCH)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL, APPROVING A CONDITIONAL USE APPLICATION FOR PETITION NUMBER 18-135 (2018-047 CU1), A CONDITIONAL USE APPLICATION TO ALLOW A DAYCARE OPERATION AT ST. RITA'S CATHOLIC CHURCH, LOCATED ON THE NORTHWEST CORNER OF PADDOCK DRIVE AND BIG BLUE TRACE, AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE. (FORMERLY ITEM 7B.)

Mr. Schofield introduced the item. Ms. Nubin read the Resolution by title.

At this time, Ms. Cohen swore in the witnesses and those individuals who would be providing testimony.

### Ex Parte Communications

**Vice Mayor Napoleone:** Vice Mayor Napoleone disclosed he has had no ex parte communications.

**Councilman Drahos:** Councilman Drahos disclosed he has had no ex parte communications.

**Mayor Gerwig:** Mayor Gerwig disclosed she has had no ex parte communications.

**Councilman McGovern:** Councilman McGovern disclosed he may have spoken to Mr. Shulman, his appointee to the Planning, Zoning & Adjustment Board (PZAB), and that he can be fair. He stated the discussion was regarding this item being presented at the PZAB.

**Councilwoman Siskind:** Councilwoman Siskind disclosed that she has spoken to Jeff Roberts, her appointee to the Planning, Zoning & Adjustment Board (PZAB), and that she can be fair. She stated the discussion was regarding this item being presented at the PZAB.

### Staff

Ms. Ferraiolo stated before Council tonight is the conditional use application for St. Rita's to allow a daycare center. She said at this time she would like to enter petition number 2018-047C1 into the record. She indicated the owner is Diocese of Palm Beach and the agent is Joe/Elizabeth Colome of Colome and Associates, Inc.

Ms. Ferraiolo indicated the request is to allow a conditional use, to allow St. Rita's Catholic Church to operate a daycare facility for up to sixty (60) students ranging in age from three to five years old.

Ms. Ferraiolo showed Council the subject site, which is located within the Wellington PUD. She stated the five acre church site is located on the corner of Paddock Drive and Big Blue Trace, and is surrounded on all sides by Residential C.

Ms. Ferraiolo reviewed for Council a summary of what the applicant is requesting for a daycare center. She stated they are requesting a maximum of sixty (60) students; to operate from 6:30 AM to 6:30 PM, Monday through Friday; an age group from three to five years old; five classrooms dedicated to the daycare; and an outdoor play area of 2,700 square feet.

Ms. Ferraiolo showed Council the proposed site plan for the project. She stated along with the conditional use application, the applicant is requesting a site plan amendment to demolish the existing parish hall, to construct an 11,000 square foot parish hall, to construct an outdoor play area to support the daycare center, and to reconfigure the parking lot. She said the existing church will not be modified at this time.

Ms. Ferraiolo stated the conditional use request is consistent with the comprehensive plan and Land Development Regulations (LDR), is compatible with the adjacent properties, and will result in a logical timely and orderly development pattern.

Ms. Ferraiolo indicated staff recommends the following conditions of approval: limit the daycare to sixty (60) students; any future expansion shall require Council approval; limit the hours of operation from Monday through Friday, from 6:30 AM to 6:30 PM; applicant obtains all necessary licenses to operate and construct a daycare facility, including a BTR and

engineering, utility and building permits; and the designated drop-off areas shall not be used for parking.

Ms. Ferraiolo stated PZAB recommended approval on August 14, 2019, with a 7-0 vote. She said staff recommends approval of Resolution No. R2019-43 for St. Rita's conditional use to operate a daycare facility with conditions of approval as proposed in the resolution.

Mayor Gerwig asked if St. Rita's has a daycare facility now. Ms. Ferraiolo stated she believed St. Rita's has day classes now, but it is not a daycare.

### Applicant

Ms. Elizabeth Colome and Mr. Joe Colome with Colome and Associates, Inc. introduced themselves. Ms. Colome showed Council the existing survey showing the existing parish hall in the middle of the parking lot. She stated, with the revised site plan, the goal is to consolidate the parking into one area and consolidate the traffic flow away from the road, so there is enough stacking.

Ms. Colome showed Council the site plan with the existing building, floor plan for the project, elevations, and some of the details. She also showed overviews of the daycare facility and parish hall as well as the landscape plan. She stated she wanted to give Council a brief overview of what they are presenting it to look like and how the daycare would work within the site.

Mayor Gerwig asked how many additional parking spaces were included with this plan. Ms. Colome stated they were losing a few parking spaces, because the landscaping is being increased. She said a parking analysis was done, because the daycare and the church are used at separate times. She stated the daycare facility will have ten (10) drop-off areas adjacent to the daycare center for parents to drop off their children. She said total parking is 226 spaces.

Mr. Colome indicated the entrance for the drop-off would come from Paddock and exit out to Big Blue Trace. He said the idea is to allow all of the stacking to occur on the site.

Mayor Gerwig asked if staff was satisfied that it meets all of the requirements and does what the intention is to improve the circulation on that site. Staff indicated they were satisfied.

Mayor Gerwig asked about working with the school for construction parking. Mr. Colome said he thought that might be a conditional use.

Ms. Colome stated, if they cannot get the parking, they cannot do the building as a phase unless the parish hall is closed down. She said they will have to get an agreement. She stated the school district would not put anything in writing until they get closer to construction. Mr. Colome indicated the Diocese of Palm Beach has already started a dialogue with the school district regarding this.

Mayor Gerwig asked if staff had any problems that needed to be addressed with this application. Ms. Ferraiolo stated there were no problems.

Councilman Drahos asked if there were any complaints from the surrounding neighborhoods or residents. Ms. Ferraiolo stated no complaints have been received.

Mayor Gerwig thought this project would help the traffic situation in that area.

### Public Hearing

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

1. Kevin O'Donnell, 13963 Ishnala Circle, Wellington. Mr. O'Donnell stated his property adjoins the church. He said the church has had a similar daycare facility in operation for many years. He stated he has no concerns with the daycare operation, as he thinks it serves a good purpose. He said his concern is losing parking spaces, as the traffic has been really bad and a lot of people have been cited for parking in inappropriate areas. He stated he wants to make sure this project is conditional upon receiving parking permission from the school across the street. He said the construction will affect the parking on Sunday nights. He stated he heard that staffing will be centralized in the building, but he knows a residential house at 13588 Ishnala Court is currently being used as a meeting hall and office area. He said this is not appropriate for a residential area and he wants to make sure it will be returned to residential status. He stated, if this project is approved, he wants to make sure it gets in the tax base.

Mayor Gerwig stated the Village has no control over that, as churches are tax free, including the daycare. Mr. Schofield indicated that a 2000 federal law states that any use that is customarily a part of a religious activity enjoys the same tax exempt status as the church itself.

Vice Mayor Napoleone read the public comment cards of those people who did not wish to speak.

1. Joseph O'Connell, 240 Las Palmas Street, Royal Palm Beach. Mr. O'Connell supports the project.

2. Donna McDermott, 971 Citrus Road, Wellington. Ms. McDermott supports the project.

Mayor Gerwig stated at Agenda Review Council discussed that there have been some incidents of offsite parking that have been a problem for the community. She said part of this project is to address the circulation, so people do not avoid the parking lot completely. She asked if staff felt like this was going to address some of those concerns.

Mr. Basehart stated the redoing of the site plan really improved the efficiency of the traffic flow and access from the parking spaces to the church facility. He said staff thought that was going to make a big improvement. He stated the facility meets the code requirements for the number of parking spaces.

Mayor Gerwig asked about the use of the residential home for a meeting hall and if it was a code violation if it is owned by the church. Mr. Schofield stated the use is institutional and the residential use is secondary to the church itself. He said the home can be used for anything that the church would legitimately do.

Councilman Drahos stated he seem to recall that the home is where the priests from the parish actually live. He said he imagined prayer groups and things of that nature going on there.

Councilman Drahos asked about conditioning the parking issue. He said it sounds like there is

nothing concrete between the church and the school. Ms. Cohen thought it would be difficult to make that a condition, because the Village cannot force the school to cooperate with the church.

Mayor Gerwig stated the church cannot start construction until they get that agreement. Mr. Colome indicated the agreement is only for the period of the construction of the new parish hall, before the old parish hall is demolished. He said that is the only time the site might be short of spaces.

Mayor Gerwig asked staff to address the requirement for this. Mr. Basehart stated as long as there are sufficient parking spaces to accommodate the church on the site, then there really is no issue. He said if there are not enough parking spaces on the site to accommodate the uses that are there, the community building or parish building, then it will be able to be used until the facility is reconstructed.

Mayor Gerwig stated the onus is on the church to provide the proper parking for their facility the entire time. She said the church does have the opportunity of working with the school across the street.

Councilman McGovern asked if that was something that had to be presented to the Village and accepted by staff. Ms. Cramer stated staff has discussed this through the process with the applicant. She said the use of the school parking lot is for temporary purposes and would only determine how the construction was phased. She stated the church wanted to continue to utilize the parish hall while they built the new building. She said if there is not enough parking or the church cannot work out an agreement with the school board, the church will have to demolish the parish hall before staff will allow the construction of the new building. She stated it is really more of a timing condition, to make sure the church is providing enough parking for Sunday services.

Councilman McGovern stated he wanted a condition that there be enough parking, one way or the other. Mayor Gerwig said the church has to accommodate the neighborhood and needs to be able to use the parking lot instead of avoiding it.

Councilman McGovern asked if this was something the applicant clearly understood. Mr. Colome confirmed that he understood.

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

**A motion was made by Councilman McGovern, seconded by Councilwoman Siskind, and unanimously passed (5-0), to approve Resolution No. R2019-43 (Conditional Use for a Daycare at St. Rita's Catholic Church).**

**B. 19-3320** ORDINANCE NO. 2019-08 (COMPREHENSIVE PLAN AMENDMENT – FUTURE LAND USE MAP DESIGNATION FOR WELLINGTON GREEN TRACT W-5)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE WELLINGTON COMPREHENSIVE PLAN (PETITION NUMBER 2019-05 CPA 3) BY CHANGING THE FUTURE LAND USE MAP DESIGNATION FROM CONSERVATION TO REGIONAL COMMERCIAL

/ LARGE SCALE MULTIPLE USE (RC/LSMU) FOR A PORTION OF CERTAIN PROPERTY KNOWN AS WELLINGTON GREEN TRACT W-5, TOTALING 8.59 ACRE, MORE OR LESS, LOCATED APPROXIMATELY 1/2 MILE WEST OF THE INTERSECTION OF STATE ROAD 7 AND LIME DRIVE, AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.  
(FORMERLY ITEM 7A.)

Mr. Schofield introduced the item. Ms. Nubin read the Ordinance by title.

Mayor Gerwig read the ground rules into the record: Please refrain from cheering or clapping for speeches, because it takes away time that might be better spent in discussion. There will be no booing or jeering, you will be asked to leave. Character is sometimes shown not by how you treat those that you agree with, but how you treat those that you don't. We are a community with character and this is a passionate issue. That is not an excuse to attack anyone else's character or motives. Speakers will be given three minutes to speak. When your time is up, please leave the podium. We will not tolerate any disparaging comments towards staff or volunteer committee members or even the applicant or each other. Any comments should be addressed to me, I am the chair. The applicant is a valuable member of our community and like every landowner he has the right to petition his government.

Mr. Gary Koolik thanked the Council and everyone for coming, for or against, as there are people on both sides. He stated this is a long process that involves comprehensive plan amendments, master plan amendments, and the like. He said he went through Planning and Zoning and received a recommendation to move forward.

Mr. Koolik stated it recently came to his attention that the comprehensive plan amendment his team is seeking has mistakes in it. He said there have been mapping mistakes from the Village and interpretations have been a problem. He stated depending on what interpretations are ultimately agree upon, this application would certainly need to be revised, resubmitted for both a map and a text amendment if that is the case, or it would not be submitted at all.

Mr. Koolik stated he is not comfortable at this point moving forward with this application. He said he worked with staff and alerted them to this issue during the week. He stated they went back and forth. He said in all instances, if the Village's position is correct, he would need more than just this transmittal. He stated he would like the opportunity to, if that is ultimately what is decided, amend this application, so there is one giant transmittal for the entire project. He said he did not want it broken into different pieces for each aspect.

Mr. Koolik stated the way it is now, there is a comprehensive plan amendment and then a master plan amendment. He said it very well may be that his team will need an additional comprehensive plan amendment if the Village's interpretation is correct, but he believes his team's interpretation is correct. He said he does not want everyone going down this path, if they are going to have to revisit it again and again.

Mr. Koolik stated he is bringing Council up-to-date on the situation. He said he knows plenty of people want to speak both for and against, but he would like the opportunity to resubmit his application with everything that needs to be done. He said if it is approved, it will meet every regulation of the Village. He stated if it does not need to be resubmitted, he would rather not go through the process of having people chime in on an application that is not necessary.

Mayor Gerwig stated the applicant is entitled to withdraw his application. Mr. Koolik said if he withdraws, he would like to withdraw without prejudice, so he can resubmit.

Ms. Cohen stated the applicant would be withdrawing the present application. She said it could either be with or without prejudice. She stated it is not necessarily a postponement by right, because the requirement for that should have been done seven to ten days ago. She said, at this point, Council can grant a withdrawal without prejudice if they so choose.

Mr. Koolik stated he could postpone his application and it would get back to Council quicker. Ms. Cohen said it could be postponed, as that would allow the applicant an opportunity to amend it. She stated any amendment would have to go back through the Planning, Zoning and Adjustment Board (PZAB) hearing process.

Mr. Schofield stated that people who submit an application can withdraw it if they so choose. He said he is not aware if Village code has a provision that deals with withdrawals being prejudice or not prejudice.

Mr. Schofield stated he is very confident that staff's position on the comprehensive plan amendment is absolutely correct and he is prepared to defend that tonight. He said he learned of this around 3:00 PM Friday afternoon. He stated staff has dug into it now and he believes not only is the map amendment required, but probably a text amendment as well, because of two county ordinances.

Ms. Cohen stated Mr. Koolik contacted staff late last week, as he had been reviewing some file documents dating back many years. She said the mall property was approved by the county prior to Village incorporation. She stated a provision in the Village Charter basically says for a Development of Regional Impact, which the mall is, located in the boundaries of Wellington, the county's land use code would apply for a period four years after incorporation. She said Mr. Koolik showed staff some ordinances he believed meant that he did not need to have a comprehensive plan amendment. She stated staff has been looking into this and at some additional ordinances. She said staff believes, at this point, that Mr. Koolik does need both the map amendment and a text amendment. She stated the application currently pending is just for a map amendment. She said if this moves forward tonight, Mr. Koolik would have to come back later to do a text amendment as well.

Ms. Cohen stated the question is whether to postpone the application and allow Mr. Koolik to amend it or he can withdraw the application and submit it as a complete package when he is ready.

Councilman Drahos asked when Mr. Koolik contacted Ms. Cohen last week. Ms. Cohen stated she initially spoke with Mr. Koolik on Wednesday when he gave her some ordinances. She said they realized on Friday that a provision in the Village Charter meant that Palm Beach County's codes governed for a period of four years. She stated under Palm Beach County's designation one particular land use was given and it looked like there had not been any change to that since Wellington incorporated. She said, if that is the case, this would be governed by that designation. She stated that is the real issue.

Councilman Drahos stated this application was filed in November of 2018. He said they have gone eleven months and the media has reported on it thoroughly. He stated it has been all over social media, through Planning and Zoning, and through Village staff. He said Mr. Koolik raised

this issue last Wednesday. Councilman Drahos stated he did not hear about it until Friday at 3:30 PM.

Mr. Koolik stated his team was not aware of this issue. He said they found out about it on Wednesday when he called, because his team reviews their applications. He stated there are some inconsistencies with the land use maps. He said the maps in the Village of Wellington from the original comprehensive plan through their approval process had changed and they could not find any comprehensive plan amendments that made this happen. He stated staff has been great and they all have been working together. He said his team has spent a lot of time, money and resources going forward on the current land use map. He stated it was only when his team was making this presentation, to give a true history of the project and what happened, that they started noticing legitimate errors on the maps.

Councilman Drahos asked if the 1997 interim comprehensive plan has this preserve listed accurately on the map. Mr. Koolik said that was the issue he questioned.

Councilman Drahos asked Ms. Cohen if she agreed that the 1997 interim comprehensive plan had this property accurately listed on the map. Ms. Cohen stated she agrees that it shows the preserve areas. She said the question was whether that particular document controlled or whether the county's ordinances in 1996 and 1999 controlled. She stated the Village's interim comprehensive plan, which was effective in 1997 or being used in 1997, was within the four year time period where the Village Charter provided that the county's code would govern.

Mayor Gerwig stated her question as well was why the four years would come into play when the Village has been incorporated for twenty-three years. She said it is now making sense, as it is a question about the mapping change.

Councilman Drahos asked Mr. Koolik if he agreed that the 2004 comprehensive map has this property listed properly as a preserve. Mr. Koolik stated he would have to see the map.

Councilman Drahos asked Mr. Schofield to answer the same question. Mr. Schofield stated he would rather go to something a little more germane and then get to testimony at some point. He said the 1997 interim plan does have this property shown, but the 1999 adopted plan does not. He stated, at some point in 2004 or 2005 as a part of the evaluation and appraisal process, it was amended to be put it back in, because it had always existed in a tabular data.

Mr. Schofield stated the applicant absolutely has the right to withdraw their application anytime they choose. He said a 30-day postponement is a matter of right in the code, but the applicant did not request a postponement five business days before the meeting. He stated postponement at this point is simply at the discretion of the Council. He said the applicant can withdraw it or Council can elect to postpone it.

Mr. Schofield stated there has been a great deal of discussion about mapping errors. He said Village code either applies or it does not. He stated the applicant is taking the position that Village code does not apply and is going back to the county code, which would apply. He explained the Village was given Ordinance No. 99-06 that essentially extended the timeframe for certain parts of the Mall at Wellington Green Development of Regional Impact. He said it modified that condition and reasserted the Large Scale Multiple Use (LSMU) land use, but it did not actually change any land uses and it says so.

Mr. Schofield stated the Village Charter had a provision in it that only dealt with Developments

of Regional Impact. He said any Development of Regional Impact that was currently in review would remain under county review for four years after the start of business. He stated the Village's start of business was in March 1996, which means Wellington did not have jurisdiction over the mall until March 2000. He said taking the premise that this is the governing factor, then the ordinances that adopted the 1997 interim plan and the 1999 final plan did not apply to this property. He stated his view is that they have to go back a bit further into the county's ordinances.

Mr. Schofield stated two ordinances from the county are on point. He said the Large Scale Multiple Use (LSMU) land use did not exist in Palm Beach County's land use plan, so the county adopted Ordinance No. 96-25 which established the LSMU land use category. He stated it says that for multiple land uses, the appropriate land use designation, e.g., HR 12, HR 8, CH, etc., shall be shown in a mosaic along with the LSMU symbol. He indicated the appropriate land use designations and minimum and maximum intensities shall be stated in the ordinance which affixes the LSMU designation.

Mr. Schofield stated the bottom line is that the applicant can have LSMU and needs to have more than one use. He said those uses, commercial, residential, etc., have to be stated in their LSMU plan.

Mr. Schofield stated the county then passed Ordinance No. 96-26, which specifically setup the uses that would exist within the Mall at Wellington Green. He said the application number was 96-D1 and the project was Wellington Commons (aka Forest Hill). He stated the amendment changes it from 466 acres of low residential 2, because the land use designation was two units to the acre residential within the overlay. He said it states the following underlying uses shall apply to this amendment: commercial high with a range of 185 to 250 acres; residential high 8, which is 10 acres to 50 acres; and residential medium, which is MR 5, for the congregate living facility. He stated it has wetland/buffer at 28 acres; active park at 10 acres; and lakes and drainage control at 132 acres. He indicated the first sentence below that states these uses shall be shown in a mosaic pattern on the future land use atlas. He said they are required to be put in the land use atlas by both the adopting ordinance 96-25 and the implementing ordinance 96-26. He stated while Ordinance No. 96-26 amended the start date for certain things, it did not change the underlying land uses and says so in the ordinance. He said those things are supposed to be mapped. He stated that is the correct position. He said either the Village plan applies or, if it does not, the county plan applies.

Councilman McGovern stated if the position Mr. Schofield just laid out is correct and Mr. Koolik wants to continue forward and do what he has proposed to do here, he would need to submit two comprehensive plan amendments.

Mr. Schofield stated Mr. Koolik has already submitted the map amendment. He said it seems the applicant could amend it to include the text amendment, but it would not make sense to do the text amendment if the mapping amendment is not done. He stated the applicant is requesting to withdraw the application, which is their right. He said a request for postponement is something that Council has to do. He stated he believes Council has everything in front of them to proceed on the application tonight.

Councilman McGovern asked Mr. Koolik if the position laid out by Mr. Schofield is incorrect and if no comprehensive plan is necessary. Mr. Koolik stated his position is that he does not know. He said people were very confused last week when they spoke about it. He indicated it was only 4:00 PM this afternoon when he heard he had to be ready to present his application this

evening. He stated, if the Village wants to proceed that way, he will need to add a text amendment to his map amendment, which will require another process exactly like this one. He said he was just asking for the time to do that.

Vice Mayor Napoleone asked who was going to present Mr. Koolik's application on the comprehensive plan amendment tonight. Mr. Koolik stated his normal planner is on vacation, but he has the presentation with him tonight. He indicated the tract has a land use designation of conservation on the Village map. He said if they assume that then that is what he is asking to change for that portion. He stated if it is not that then he is asking for a minimum/maximum change on the overall development order. He said it is very confusing to him, but he will proceed the right way once he understands exactly what the requirement will be. He stated, under the Village's rules, it seems in all instances a text amendment would be required with the map amendment.

Vice Mayor Napoleone asked if there was any reason Council could not proceed with the comprehensive plan amendment tonight. He said if it does not pass, it is done. However, if it does pass, the applicant would have to come back and get a text amendment at a separate meeting.

Ms. Cohen stated the amendments could be done separately, but the question is whether the applicant wants to do them separately. She said the applicant can withdraw it or decide not to withdraw it and go forward tonight if Council wants to hear it or Council can decide to postpone it.

Mayor Gerwig stated she thinks the frustration is that people came here prepared to speak. She asked if the public could speak if the application is withdrawn. Ms. Cohen stated if the application is withdrawn, the public can comment during the public comment portion of the meeting, but there would be no public hearing on the application if it is withdrawn.

Vice Mayor Napoleone stated the public comment tonight could not be adopted, so there is no reason for people to talk tonight. Ms. Cohen said that was correct.

Mr. Schofield stated it is important to remember, even if they do have a public hearing tonight, the public still needs to come and speak at each future meeting. He said if the applicant withdraws the application, there will be no public hearing tonight. He indicated Council will go directly to the public comments immediately following public hearings and anyone can make comments on whatever they want. He said staff will keep those comments available. He stated it is important for Council to hear public comments every time they have a public hearing.

Ms. Cohen clarified that if there is no pending application, any comments tonight would not be part of the record with respect to this particular item.

Councilman McGovern stated if this item ever moved forward to a secondary phase, meaning the master plan or quasi-judicial portions, if the comments are not made at those meetings, any public comments tonight would not be considered either. Ms. Cohen said that was correct.

Vice Mayor Napoleone stated Mr. Schofield said the applicant would have a postponement by right had they asked for a postponement in the time allotted. He said the applicant did not do so, which means the postponement is at the discretion of Council. He asked what the impact is if Council decides not to allow the postponement and the applicant decides to withdraw. He asked if the applicant has to come back in a week or month or start the process all over again.

Ms. Cohen stated if the applicant withdraws, he would have to restart the process, go back through the public hearing process before Planning and Zoning, and then go to Council.

Councilman McGovern stated it would go back to staff and back before the Planning, Zoning and Adjustment Board (PZAB) for their recommendation. He said it would come back to Council. He stated after that there may or may not be a transmittal and then there may or may not be the master plan portion that would still be upcoming.

Councilman Drahos stated if Council does not grant the postponement, the applicant can withdraw it without prejudice. Ms. Cohen said the applicant can withdraw his application and she is not aware of anything in the code that would make it with prejudice.

Mr. Schofield stated applicants can submit or withdraw at whatever time they want. He said submitting or withdrawing does not prejudice an application. He explained prejudice under the Village code means that if an application is denied, the assumption is that it is denied with prejudice, which means they cannot resubmit the same application within a year for zoning and two years for a comprehensive plan. He said they can submit something entirely different anytime they want. He stated prejudice is the timeframe that the applicant is prohibited from resubmitting and does not attach to a withdrawal.

Mayor Gerwig stated if Council decides to postpone this item until their next meeting in two weeks, everyone would have time to hash it out. Ms. Cohen said if this application is postponed and comes back to Council in its present form, the Council would consider it on second reading after it is transmitted.

Councilman McGovern stated if the application stays in its current form, the Council could postpone it to a time certain. Ms. Cohen noted, if revisions are made, it will have to go back through the hearing process.

Councilman Drahos stated he was having a hard time keeping his composure. He said this is his fourth year on this Council and before that he sat for six years on PZAB where he saw some of the most divisive equestrian issues. He stated the professionalism demonstrated during those issues was top notch. He told Mr. Koolik he has never seen anything like this. He said he could not believe that after eleven months, Mr. Koolik is coming in today and trying to tell Council with a straight face that he does not know what he wants and that he does not know how to get it. Councilman Drahos stated it was total nonsense. He said there was no way this Council should consider a postponement.

Mayor Gerwig stated she accepted those comments, but she asked that they not ramp up the discussion. She said they all received the call on Friday afternoon and Council was under a different assumption at that point. She stated they are still going back and forth after 4:00 PM this afternoon about interpretation on this. She said the fact is private property rights in the state of Florida are pretty well laid out. She stated she did not want to do anything that would put the Village in a jam in the long run. She asked Ms. Cohen for her advice.

Ms. Cohen stated if the applicant wants to resubmit with the additional text amendment, he should withdraw his application and bring it back at a later time through the hearing process.

Mr. Schofield stated he and Ms. Cohen have dug into a lot of information over the last several days. He said some issues cropped up, because the text amendment was not clear. He stated

there was never a reason to read Ordinances 96-25 and 96-26, because they have worked under the actual development order itself. He said, now that it requires a text amendment, the applicant will have to go back and do that. He stated the withdrawal is not a time advantage or disadvantage, because the applicant will have to start from the beginning with the text amendment and go through staff, Planning and Zoning, and the whole public hearing process. He said Council either hears what is there tonight or the applicant comes back with an amended application.

Vice Mayor Napoleone stated he was not inclined to grant a postponement. He said he spent a lot of time preparing for tonight, as did the residents. He stated each Councilmember met with several residents to be prepared to hear this application tonight. He said kicking this down the road is not something he would vote for, but he cannot stop the applicant from withdrawing his application. Vice Mayor Napoleone and Councilman Drahos stated they were ready to go forward tonight.

Ms. Cohen stated Mr. Koolik needs to make a determination and an affirmative statement one way or another, as to whether he is withdrawing his application or not.

Mr. Koolik stated he is going to withdraw his application and resubmit it so it is correct, based on what he has heard tonight from the Village's requirements for this application.

Mayor Gerwig stated all of this is highly unusual, because the Village Charter cannot control zoning. She referred to the embedded description to the Development of Regional Impact (DRI) and said the mall was Wellington's only DRI when it chartered.

Mayor Gerwig asked for the Charter Review Task Force video from when they read through this. She said she did not know if it was explained that this would affect the Village in the future.

Mayor Gerwig stated she thought they were all sharing the frustration of why this has happened so late. She encouraged the public to stay and make public comment, even if it is a practice run should this application be re-entered and started again. She said she thought it would be good for the community.

Mr. Koolik thanked the Council. He said he was sorry for the confusion. He stated there are people for and against this. He said his team has been working on this for a long time as well and they did not expect to find an issue like this in the last minute. He stated he will be back with a proper application after his team works with staff, to present something that can be heard once cumulatively without having to come back again and again to get to the same place.

Mr. Schofield stated since the applicant has withdrawn the application, there is nothing for Council to consider. He said the public comment portion of the Council Meeting comes next. He stated the public is welcome to make their comments and the same three minute rule applies. He said there is no further action on the part of the Council, since the application has been withdrawn.

Mayor Gerwig stated the comment cards that were turned in do not control, because there is no application for those comment cards to go with. She said they will be kept as a record. Mr. Schofield stated the Council could use the cards for order.

Mayor Gerwig announced that those individuals who would like to address the Council, should come forward when their name is called. She asked them to be respectful and to address the

chair.

**8. REGULAR AGENDA**

There were no Regular Agenda items.

**9. PUBLIC FORUM**

Vice Mayor Napoleone called upon those individuals who indicated they wished to speak on item 7B (formerly item 7A), which was withdrawn:

	NAME / ADDRESS	FOR	AGAINST
1.	Logan Lindsey, 10549 Galleria Street, Wellington.		X
2.	Bruce Tumin, 752 Lake Wellington Drive, Wellington.		X
3.	Mark Elie, 1698 Grantham Drive, Wellington.		X
4.	Al Paglia, 1438 12 <sup>th</sup> Fairway, Wellington.	X	

At this point, Ms. Cohen reminded the audience that there is no pending application right now. She said, while the Council wants to hear their comments, they will not be part of any record on this project, should it come back to the Council.

5.	Edward Tedtmann, 869 N.W. 8 <sup>th</sup> Ave., Boynton Beach.		X
6.	Tim Hunt, 1401 Clydesdale Ave., Wellington.		X
7.	Mark Offerman 12425 Old Country Road, N., Wellington.		X
8.	Nicole DeFlorio, 12641 West Hampton Circle, Wellington.		X
9.	Skyler Peterson, 12641 West Hampton Circle, Wellington.		X
10.	Sylvia Sharps, 194-A Sparrow Drive, Royal Palm Beach.		X
11.	Diane Rice, 14909 Horseshow Trace, Wellington.		X
12.	Scott Zucker, 11694 Pipit Court, Wellington.		X
13.	Sheila Calderon, 2807 Waters Edge Circle, Greenacres.		X
14.	Kathleen Perinoff, 9875 Cross Pine Court, Lake Worth. (Decided not to speak)		X
15.	Drew Martin, 1015 North M Street, Lake Worth.		X
16.	Linda Smithe, 17976 Via Rio, Jupiter.		X
17.	Carol Coleman, 14224 Stroller Way, Wellington.		X
18.	Michael Whitlow, 2070 Appaloosa Trail, Wellington.		X
19.	Pat Bachi, 2370 Newbury Court, Wellington.		X
20.	Matt Willhite, 15750 Lindbergh Lane, Wellington.		X
21.	Debbie Evans, Wellington. (Decided not to speak.)		
22.	Deborah Russell, 571 Juniper Place, Wellington. (She could not speak, so her card was read into the record.)		X
23.	April O'Connor, 12644 Shoreline Drive, Wellington.	X	
	At this point, Councilman McGovern asked Ms. Nubin to circulate copies of the public comments cards with written comments.		
24.	Rolando Barrero, 1021 Avon Road, West Palm Beach.		X
25.	Lois Spatz, 1777 Hollyhock Road, Wellington. (She could not speak, so her card was read into the record.)		

The following individuals did not respond when called upon to speak:

	<b>NAME / ADDRESS</b>	<b>FOR</b>	<b>AGAINST</b>
1.	Simone Dominique, Palm Beach County.		X
2.	Arnold Leiboff, 13774 Creston Place, Wellington.		X
3.	Gloria Leiboff, 13774 Creston Place, Wellington.		X
4.	Joseph Manning, 1738 The 12 <sup>th</sup> Fairway, Wellington.		X
5.	Sherry Maira, 11983 Suellen Circle, Wellington.		X
6.	Norma Ewing, 1039 Bedford Ave, Palm Beach Gardens.		X
7.	Jim Ewing, 1039 Bedford Ave., Palm Beach Gardens.		X
8.	Anthony Picknell, 1000 Crestwood Court, S., Royal Palm Beach.		X
9.	Susan Bryant, 11697 Greenbriar Circle, Wellington.		X
10.	Christine Wood, 12383 Westhampton Circle, Wellington.		X
11.	Donald Monro, 13645 Paddock Drive, Wellington.	X	

Councilman McGovern asked Ms. Nubin to circulate to Council copies of the public comments cards with written comments.

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

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

- She stated she sent information to Council regarding the opioid litigation, as she needs some direction on that within the next couple of meetings.
- She indicated an injunction hearing regarding Pine Tree is scheduled for Thursday at 10:00 AM. She said she would provide Council with the results as soon as she knows them.

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

**MR. SCHOFIELD:** Mr. Schofield presented the following report:

- The next Regular Council Meeting will be held on Tuesday, October 22, 2019 at 7:00 PM in the Council Chambers.
- The Annual Fall Festival will take place on Saturday, October 19, 2019, from 3:00 PM to 10:00 PM at Village Park.

## **12. COUNCIL REPORTS**

**VICE MAYOR NAPOLEONE:** Vice Mayor Napoleone presented the following report:

- He waived his comments.

**COUNCILMAN DRAHOS:** Councilman Drahos presented the following report:

- He thanked everyone for coming out and speaking at tonight's meeting.

**COUNCILMAN MCGOVERN:** Councilman McGovern presented the following report:

- He thanked everyone for coming to tonight's meeting.

- He hoped to see everyone at the Fall Festival.

**COUNCILWOMAN SISKIND:** Councilwoman Siskind presented the following report:

- She thanked everyone for coming to tonight's meeting.
- She commended Palm Beach County Fire Rescue for their 35-year anniversary event on Saturday. She said they had some demonstrations and it was a great time.
- She stated the Wellington Art Society had a Pop-up Art Show at Live 360 in the Mall at Wellington Green. She said it was a nice event.

**MAYOR GERWIG:** Mayor Gerwig presented the following report:

- She invited a gentleman who spoke to visit Section 24, where the Village created an environment, from farmland, that looks absolutely pristine. She stated unless everyone lives in tents on property where that is allowed, everyone has displaced something. She said it is a conversation that will continue and not just in the Village of Wellington. She agreed that the Council needs to be good stewards and she wants to show off when they are. She stated Section 24, the Wellington Environmental Preserve at the Marjory Stoneman Douglas Habitat, is one of those instances and that everyone should see, because it is unique, spectacular, and unbelievably manmade.
- She thanked everyone for coming out tonight and for being very respectful.

### **13. ADJOURNMENT**

There being no further business to come before the Village Council, the meeting was adjourned at approximately 8:53 PM.

**Approved:**

---

**Anne Gerwig, Mayor**

---

**Chevelle D. Nubin, Village Clerk**