

## **MINUTES**

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

**Tuesday, September 10, 2013  
7:00 p.m.**

Pursuant to the foregoing notice, a Regular Meeting of the Wellington Council was held on Tuesday, September 10, 2013 commencing at 7:00 p.m. at Wellington City Hall, 12300 Forest Hill Boulevard, Wellington, FL 33414.

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

Advisors to the Council: Paul Schofield, Manager; Laurie Cohen, Esq., Attorney; Awilda Rodriguez, Clerk; John Bonde, Deputy Manager; Francine Ramaglia, Assistant Manager; 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** – Mr. George Unger led the Pledge of Allegiance
3. **INVOCATION** – Deacon Al Payne, St. Therese de Lisieux Catholic Church, Wellington, delivered the invocation.
4. **APPROVAL OF AGENDA**

Mr. Schofield presented the agenda for approval recommending the following changes: (1) Change the Proclamations for Agenda items 5A and 5B to Mayor's Recognitions; (2) Corrections to the June 25, 2013 Minutes; (3) Postpone Agenda item 8A: Resolution No. R2013-51 (Adopting a Public Purpose Expenditure Policy); and (3) Move Consent Item 6F: Authorization to Renew the Contract to Provide Property, Casualty and Worker's Compensation Insurance to the Regular Agenda as item 8B.

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

#### **5. PRESENTATIONS AND PROCLAMATIONS**

##### **A. 13-0345 MAYOR'S RECOGNITION OF WELLINGTON RESIDENT THOMAS KNIGHT**

Mr. Schofield introduced the agenda item. Ms. Rodriguez read the Mayor's Recognition. Mayor Margolis thanked Mr. Knight's family for his service. Council presented the Mayor's Recognition to Mr. Knight's family.

**B. 13-0310 MAYOR'S RECOGNITION DESIGNATING SEPTEMBER 28, 2013 AS GREEN APPLE DAY OF SERVICE IN WELLINGTON**

Mr. Schofield introduced the agenda item. Ms. Rodriguez read the Mayor's recognition. Mayor Margolis thanked those responsible for this initiative. Council presented the Mayor's Recognition to members of Elbridge Gale Elementary School.

**C. 13-0342 TOP COP AND TOP FIREFIGHTER AWARDS**

Mr. Schofield introduced the agenda item. He announced that Mr. Bonde would present this item.

Mr. Bonde explained that each year Wellington honors outstanding individuals working in Wellington from Palm Beach County Fire Rescue and the Palm Beach County Sheriff's Office (PBSO). He stated that the Council tries to schedule these awards as close to September 11<sup>th</sup> as possible. Mr. Bonde explained that nominations are presented to the Public Safety Committee who reviews them and then makes their recommendation. This year, four nominations were reviewed by the Committee: Palm Beach County Fire Rescue: Captain Kevin Shaw and Firefighter and Paramedic, Aaron Piering; and PBSO: Detective Suzanne Read and Deputy Sheriff Martin Casarez. After reviewing the nominations, the Public Safety Committee recommended Detective Susanne Read for the Top Cop Award and Captain Kevin Shaw for the Top Firefighter Award who is also a member of the Village's Public Safety Committee.

**A motion was made by Councilman Willhite, seconded by Councilwoman Gerwig, and unanimously passed (5-0) to accept the Public Safety Committee's recommendations for Wellington's Top Cop and Top Firefighter.**

Mr. Bonde announced that Mr. Jim Lewis, Chair of the Public Safety Committee, was in the audience. Mayor Margolis thanked Mr. Lewis for his service on the committee.

Lt. Eli Shaivitz, who made the actual nomination, spoke on behalf of Captain Hart. He then read the memorandum he had submitted on behalf of Detective Suzanne Read which outlined her accomplishments. Detective Suzanne Read expressed her thanks for the recognition.

Chief Mike Arena, on behalf of Fire Rescue, recognized Captain Kevin Shaw as the Top Firefighter and highlighted his accomplishments. Captain Kevin Shaw expressed his thanks to the Council for the recognition.

Council each congratulated Detective Read and Captain Shaw on their accomplishments, and thanked them for their service to the Village. The awards were presented to the recipients.

**6. CONSENT AGENDA**

- A. 13-0340 MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETINGS OF JUNE 25, 2013 AND JULY 9, 2013**
- B. 13-0292 AUTHORIZATION TO CONTRACT WITH C.R. DUNN, INC. FOR PUMP STATION 6 VARIABLE FREQUENCY DRIVE (VFD) RETROFIT PROJECT**
- C. 13-0294 AUTHORIZATION TO AWARD THE CONTRACT FOR THE SUPPLY AND DELIVERY OF GASOLINE AND DIESEL FUEL TO PORT CONSOLIDATED, INC.**
- D. 13-0295 AUTHORIZATION TO AWARD CONTRACTS TO PROVIDE LANDSCAPE MAINTENANCE SERVICES FOR FACILITIES, PRIMARY**

- ROADWAYS, RUSTIC RANCHES AND EQUESTRIAN TRAILS, CANAL BANKS, SLOPES AND FINGERS VILLAGE-WIDE AUTHORIZATION TO CONTINUE UTILIZING CONTRACTS WITH PALM BEACH COUNTY OFFICIALS ASSOCIATION, FLORIDA ELITE UMPIRES, INC. AND FLORIDA USSSA FASTPITCH TO PROVIDE OFFICIATING SERVICES**
- E. 13-0305**
- ~~**F. 13-0323 AUTHORIZATION TO RENEW THE CONTRACT TO PROVIDE PROPERTY, CASUALTY AND WORKERS' COMPENSATION INSURANCE**~~ *Moved to the Regular Agenda.*

Mr. Schofield presented the Consent Agenda recommending approval as amended.

**A motion was made by Councilwoman Gerwig, seconded by Councilman Willhite, and unanimously passed (5-0) approving the Consent Agenda as amended.**

## **7. PUBLIC HEARINGS**

### **A. 13-0344 FIRST BUDGET HEARING PROPOSED FISCAL YEAR 2013-2014**

Mr. Schofield introduced the agenda item. He stated that this was the first of two required hearings on the adoption of the proposed fiscal year 2013-2014 budget. He announced that Ms. Quickel and Ms. Wadleigh would be presenting this item.

Ms. Quickel provided a brief overview of the budget presenting the changes that were made since the preliminary budget was presented:

- Total Budget: \$74.6 million which included all funds and transfers. This was a slight change of approximately \$2,000 from the current year.
- Operating Budget: \$45.2 million, an increase of \$6.45 million
- Enterprise funds: \$15.3 million.
- Capital budget had governmental capital projects of \$3.3 million and enterprise capital projects of \$4.18 million.
- Ad Valorem Millage: No Change; a higher taxable value was proposed at 2.47 mills.
- The Acme assessment: \$200; and Solid Waste assessment: \$160 curbside and \$125 containerized were approved a previous Council Meeting represented no change. Utility rates increased 3%, which again was adopted at a previous Council Meetings.
- A slide was then shown showing the taxable value, tax revenues and total governmental revenues overall. Higher ad valorem tax revenues were projected due to an increase in property values. An increase was expected from the half-cent sales tax, state revenue sharing, and electric utility taxes, as a result of economic conditions. Building permit revenues and business tax receipts were budgeted higher to reflect their actual activity.
- Rate stabilization fund balance: \$600,000 and the General Fund Unrestricted Reserves were \$318,000.
- FY 2013 unspent budgets carried forward amounted to \$380,000.
- The building fund had \$193,000, road maintenance had \$1.76 million and capital reserves had \$853,000.
- A sample tax bill for residents was shown for \$200,000 taxable value in both 2012 and 2013; there was no change in the Wellington taxes and assessments from FY 2013 to FY 2014.
- Significant changes from FY 2013 included: the debt service reduction for utility bond payoff; capital project budget additions; additional staffing to address workload and levels of service;

vehicle and equipment replacements; consulting and contracted services to include comprehensive planning, land development regulations, lobbying, engineering, CDBG programs, building inspections and landscape maintenance; anticipated litigation expense; the law enforcement contract; sidewalk, bridge, building, parks and landscape maintenance; higher FRS contribution rates passed by the legislature in May 2013; and school grants.

- Department/division increases and decreases were presented in the departmental budget request section. A summary was shown of the major increases and decreases by expenditure area: personal services were \$25.9 million, total operating expenditures were \$29 million, fixed assets & other were \$12.8 million, which totaled \$67.8 million.
- The 2013 budget stands at \$62.9 million for an overall increase/decrease of \$5 million.
- There were a total of 292 staff positions for the Village, which was an increase of four staff and reclassifications from other personnel supplemental positions.
- The Capital Improvement Plan showed detailed information of the various projects that have been reviewed and presented to Council for their consideration within the various funds.
- A calendar showing their first public hearing tonight on the proposed budget with a second and final public hearing at their September 24, 2013 Council Meeting was presented.

Ms. Quickel explained that Chapter 200.065 establishes the procedure to be followed by each local government and adoption of the annual property tax millage, levy and budget. In accordance with these regulations, the June 27, 2013 certified total taxable value of \$5.75 billion is used in the calculation of the FY 2014 budget. She said the proposed millage rate of 2.47 mills is lower than the preliminary TRIM rate of 2.5 mills adopted on July 9, 2013 and is above the roll-back rate of 2.3528 mills. She indicated the millage rate generates property tax revenues of \$13.5 million, which is an increase of \$773,000 from the FY 2012 property tax revenues.

Councilwoman Gerwig referred to a question raised at the Agenda Review whether the \$1 million was for the Wellington Community Center (WCC). Mr. Barnes stated that it was about \$1,040,000 from the previous budget and \$5.2 million in this budget. He said \$1,040,000 was basically comprised of two numbers; \$300,000 was originally budgeted in 2010 when minor renovations and weatherproofing were being considered and \$700,000 was surplus funds from the original Town Center/Municipal Complex project budget. Mr. Barnes explained that the exhibit shown on the screen showed the project when it was originally estimated at \$5.2 million, which was the building and associated site improvements, including the additional site area. If they left it as an unimproved site with only minimal improvements, it would most likely be within \$5.2 million; however, the \$1,040,000 would cover any additional costs, i.e., parking, open space or a combination of the two.

Vice Mayor Coates thought the \$5 million budgeted for the tennis center included tearing down the courts, preparing the site as well as constructing the new tennis facility. Mr. Barnes pointed out that it did not and explained the two estimates provided when they presented tennis: \$2.5 million to renovate the existing courts; and \$5 million: to construct a new facility. Mr. Schofield added that \$5.2 million takes the almost 5-acre area, levels it out and puts grass on it. He stated Council has discussed a variety of projects which have not been budgeted; i.e., improving the lake front, providing access, adding additional parking, etc. He further stated that the savings of \$1,040,000 from the construction of this building, the amphitheater and the pool could be used towards that, otherwise it will stay in unallocated capital.

Vice Mayor Coates hoped they could be more precise on the cost of the tennis facility and the WCC, and that it would be a separate capital item if they make a third decision regarding what to do with the present tennis site. Mr. Schofield stated it would be; however, what was being done at this time was to inform Council that \$1,040,000 in project savings was available.

Vice Mayor Coates said the problem was the capital improvements budget looked like the WCC was being budgeted at \$6.2 million plus, and Council has been told repeatedly it would be a \$5 million project. Mr. Barnes said they could clarify that for anyone looking at it. He stated the bid for the project would require an itemized breakdown of the project components, so they could see the actual cost of the tennis facility and the WCC improvements. He said they could add a different component for any associated, additional, contemplated or proposed site improvements, which they could elect or not elect to do.

Vice Mayor Coates asked if proposals would be requested for the development of the entire 4.5 and 1.99 acres when they put out the RFP for the WCC. Mr. Barnes stated the intent was to consider the entire area because placement of the building would drive the ultimate design. Vice Mayor Coates said they were looking at \$6.2 million. Mr. Barnes reiterated that it depended on how they structured the actual bid tabulation or bid form, as they could request a breakdown of the costs for the building and associated site improvements. Vice Mayor Coates understood what he was saying, but if they make the decision on what will go in the 4.57 acres, they then have to make the capital decision on what to expend. He thought it could be higher depending on their plans for the space. Since a full detailed design had not been done and they are proceeding as a design-build, Mr. Barnes said they would not know that until the proposals come in.

Since this project already had enough delays, Vice Mayor Coates did not want it delayed any further. He said he was hearing there were still uncertainties as to how they were going to use the 4.57 acres, and they have not had a discussion yet. Mr. Schofield stated there has been no Council discussion on how that would happen. Mr. Barnes indicated that would happen once the team was selected.

Councilwoman Gerwig thought the idea was that it would be dependent on the design-build project and proposal. She said the design-build process determines the price, and they won't know what is defined until the bids come back.

Although Vice Mayor Coates did not dispute the \$1,040,000 and the \$5.2 million, he thought that the cost in the presentation appeared to be \$6.2 plus million available rather than \$5.2 million. Mr. Barnes explained that the design-build teams will tell them what the cost will be. What they have seen is a \$5.2 million Community Center based on a program that was prepared two years ago, and a \$5 million estimate from staff based on conceptual sketches of the tennis center.

Vice Mayor Coates thanked and credited Mr. Schofield and his staff for coming back in the final budget with a millage rate of 2.47 rather than a higher one.

Councilman Greene thought they were looking at the current community and tennis center as one site when they talked about various options for both facilities. His understanding was that it would be done in phases, and would start the construction on the new tennis center and then tear the old one down. He asked if they were going to grass over that area and make it usable until the WCC was built because that footprint between the two facilities has the most value and potential to open up the lake front. Mr. Barnes stated it would be one project, but they would not know specifics until the proposals come in. He indicated it would be the same process they went through for Village Hall. Councilman Greene hoped they would look at the approximately 6.5 acres as a comprehensive site, so someone could come in and propose their design and concept, with input and feedback from staff, Council and the community, and they would get the best value for their money.

Councilman Greene stated he has never been a proponent of tax increases, but is aware they have a number of capital improvement projects that are important to the community. He asked where they

would be able to cut \$773,000 if they were to adopt the rollback rate. Mr. Schofield stated their present projections were they would under spend this year's budget by about \$300,000, which was very close on a \$75 million dollar budget.

Councilman Greene then asked, as they approached the year's last quarter, if staff was instructed to look at how much of their budget was unspent that could be saved. He felt that they did a good job estimating expenditures since \$300,000 was left at the end of the year. Mr. Schofield noted that spending had already been cut off, so there would be no last minute spending. Councilman Greene then asked where Mr. Schofield would cut \$700,000 from the budget if he was asked to do so. Mr. Schofield said if Council asked him to make that cut, he would do so. He stated he could not tell them exactly where that would be done, as they have added some things to the budget this year that were not in last year's budget, i.e., \$225,000 for education grants; additional \$300,000 for PBSO for staff. He reminded Council it was not long ago when their budget was \$118 million a year, and cuts typically come out of capital projects and staffing, but Council has asked him to provide a level of service every day.

If cuts were made, Councilman Greene asked how much impact would an average resident see if the level of service was cut. Mr. Schofield said the Parks and Recreation Department was a fairly significant expense with only 10% of the residents using those facilities. He indicated if the average resident had to deal with law enforcement services, they would not notice an impact. He pointed out that they could not touch the Building Department or Utilities because their enterprise funds only go to them. Mr. Schofield stated they could cut back on mowing and they would get a few complaints, but most residents would not notice. He pointed out that the closing time for the parks had been changed from 11:00 p.m. to 10:00 p.m. and nobody really noticed.

Councilman Greene asked if the residents would notice an increase in their quality of service or quality of life if Council adopted the proposed rate. Mr. Schofield did not think the average resident would see a difference. He indicated they have added more staff members, so the residents would be able to get through the customer service line a bit faster and some other departments have been more responsive, and the person who came in daily to do business would notice, but not the average resident.

Councilman Greene asked if the implementation of the new technologies have resulted in a cost savings. Mr. Schofield stated they have seen a significant savings with residents paying their bills on line, reviewing plans, submitting plans, and scheduling building inspections on line. He said there have been some significant staff reductions because they have been able to automate many processes, but in some cases the automation has not worked. He thought it had been six months since he heard the regular complaints from Council about the time it took to speak to a live person when calling the Village because they fixed the problem by adding people to answer the phone. Mr. Schofield believed the budget they presented to Council was fiscally responsible and provided the level of service Council and the residents expected.

Councilman Greene did not think most people recognized a significant difference in any of the programs offered, maintenance of the streets or service from employees. He thought going from \$118 million to \$74 million or \$78 million was an interesting example, as they were seeing a similar quality of life. Since people were still struggling despite a slight rebounding of the economy, he wondered if they could hold off on taxes without a significant impact to them.

Councilman Willhite felt that delaying the start of the WCC would result in a cost higher than \$5.2 million because that figure was from almost two years ago when the project was first approved, and construction costs will increase as the economy rebounds.

Councilman Willhite wanted to give the contractor the option of putting the WCC on two acres or 6.5 acres of property for the same proposal of \$5.2 million so that they could see what they would present. In addition to their discussions of additional parking to alleviate some situations, he felt they needed to look at many things including site options for the whole area. Although they know the cost for the budgeted items, there could also be some unexpected problems which would affect the cost. Councilman Willhite wanted to look at and discuss the options in the near future since they will have a signed contract and approval from Council to move forward at the end of January with the project.

Councilman Willhite expressed concern that the WCC was in the 2015 to 2018 budget and the tennis facility in the 2014 budget. He questioned what the cost to the WCC would be if they were to look that far into the future. In response, Mr. Barnes stated that it would be approved by Council for the entire amount and as one project. Councilman hoped it would not take that long as the \$5 million would get smaller as they headed toward 2018. Mr. Schofield stated the practical matter was that with the letting of the bid and the contract, the tennis facility would undergo construction this year and the WCC would undergo construction after October 1<sup>st</sup> of next year. Councilman Willhite understood that once they signed the contract in January, the money would be allocated at future times for payment of projects as they come on line. Mr. Schofield stated that was correct. Mr. Barnes added that in his previous discussions with interested contractors, staff had concern about contractors committing to a price that far into the future; however, that did not appear to be an issue for them.

Councilman Willhite questioned \$900,000 for the Wellington Environmental Preserve. Mr. Riebe explained the project was a carry forward from its approval in FY2013 that involved several bathrooms by the tower. He further explained the Wellington Environmental Preserve has several purposes: storm drainage; water storage; and a park.

Councilman Willhite asked if the funds included the proposed relocation of the plants there to decrease the mitigation area. Mr. Riebe indicated this project would allow for about 900 acre feet more of storage, which equated to a tenth of a foot in Basin B which is a lot of storage for both storm drainage and water as well as mitigation. He said they could do that with the 70 acre parcel in the northwest corner of the site, a dedicated mitigation area permitted by the Corps of Engineers. He explained plantings were there, and it was a real wetland that had to be preserved as such. He stated the rest of the preserve was not a mitigation area, as there were species of birds in there, etc., but their intent was to increase water storage there in the winter which required them to separate the mitigation area or the 70 acres in the northwest corner, so they would not flood the plants nor starve them of water. He explained the flow of the water and that they planned to put a culvert there with a gate structure on it, so the water could flow without impacting the 70 acre mitigation site. He said the project would involve relocating some trees, especially the maples although the cypress and other species are fine. He said they have seen it would be a benefit from some of the preliminary engineering work that was done and felt it was important drainage, irrigation and water supply project. Mr. Riebe did not think there would be any significant impact to the overall site, as they do not want to impact it. Councilman Willhite wanted to see what was being proposed prior to any work being done since another million was going into it from the original plan. Mr. Schofield stated Council would see the project regardless, as they could not do it without their approval.

Councilman Willhite questioned the \$551,000 increase in the Building Department. Ms. Quickel explained that there was an increase in positions as well as in some of their operating costs. Councilman Willhite asked about the operating costs. Mr. Schofield indicated there was an increase in the number of building permits and inspections being done noting they had come to Council for the mid-year staffing. He explained the Building Department was an enterprise fund whose expenses were paid for by the funds they generated.

Councilman Willhite asked if all employees in the Building Department were Building employees. Mr. Schofield responded affirmatively. He explained one person stationed there was actually a Planning Department employee because most building permits required a planner to review them, and it was easier to have the dedicated planner stationed there. Councilman Willhite then asked if the planner was paid by the Planning Department. Mr. Schofield stated that the planner was paid by the Building Department.

Councilman Willhite asked if most of the money in the Building Department budget was because they added more inspectors. Mr. Schofield said the added money came from the additional inspectors and a plan reviewer.

With regard to a change in millage, Councilman Willhite calculated that there would be a \$13.00 per year or 0.03 cents difference for the residents between 2.47 and 2.35. He expressed concern that \$11 million were being taken from Reserves this year without replacing them and next year they would be down to \$6 million.

Councilman Willhite mentioned he had a lengthy conversation with Ms. Cohen yesterday about her workload, and he felt she was overwhelmed not because she could not do her job, but she was still putting out fires. He stated Council wanted her to review some of their policies and comprehensive plans, etc., and every time they asked her about agenda items for legal sufficiency, she was working on other things. He believed from their conversation yesterday that Ms. Cohen was being overtaxed with her current workload.

Councilman Willhite pointed out that some of the projects that were carried forward have been ongoing for many years. Because of that, he believed the Village did not go from \$115 million to \$75 million overnight because they would have had to cut three-quarters of their employees. Mr. Schofield stated the cost of employees was about 25% of their budget. Councilman Willhite said that in many places labor costs 70% to 80%, and gave kudos for Wellington being the anomaly at 25%.

Councilman Willhite thought their residents would see an impact if they began making more cuts. He said they wanted to take \$11 million dollars out of Reserves, this year; however, they want to keep cutting. He wondered if they lowered the millage this year if they would have to raise it next year to make up for everything, i.e., school grants, increased efficiency in customer service, additional staff, better purchasing practices, possible increase in Waste Management when the contract expires, continued litigation expenses. He reiterated his concerns about using up the Reserves. He said he was not advocating for spending the taxes or the millage rate, but he believed a lot of work has been done to keep it very tight. He felt as much as they have talked about cutting the millage rate, he has been very critical about expenses and ensuring employees are getting the job done for their residents. He explained he advocated in the beginning for the TRIM rate to be higher in case something unforeseen had not been budgeted. He stated nothing came in, so they were still at the proposed rate of 2.47 mills. He asked how that compared to other municipalities in the County. In response, Mr. Schofield stated the Village was fairly low, as some cities were at the maximum legal millage of 10.

Councilman Willhite stated he has sat on Council for five years and advocated for this Village to be number one; however, at some point, they cannot be number one particularly if it becomes detrimental to the quality of life and services their residents deserve. He appreciated the idea and thought of lowering the millage rate even more, but for 0.03 cents a day he did not mind asking their residents to pay for the services. He voiced his support for 2.47 mills for the 2013/2014 budget.

Councilwoman Gerwig stated she liked the idea of the bathrooms near the tower at the Wellington

Environmental Preserve, but asked when that project came before Council for approval. Mr. Barnes indicated they actually discussed it and approved it in last year's capital budget, but at that point it was referred to as a hydraulic separation. Councilwoman Gerwig stated she recalled that portion, but she did not recall the bathroom conversation. Mr. Barnes said the composting restrooms would be placed on the opposite end of the facility. Councilwoman Gerwig stated she recalled that conversation.

Councilwoman Gerwig then asked how much required South Florida Water Management's approval. Mr. Riebe stated the mitigation area was the most critical, so they wanted to replumb it to keep it whole. He believed the Corps of Engineers and South Florida Water Management District would have to be notified of their plans. Councilwoman Gerwig asked if that was a significant portion of the cost. Mr. Riebe explained that it was fairly significant and explained what needed to be done. She then asked if it would solve part of their problem in Basin B. Mr. Riebe indicated it would be an incremental change that would help them store more water during a storm and during the winter months especially during a drought. Councilwoman Gerwig asked how much of that \$900,000 was for standard maintenance. Mr. Riebe stated this was pure capital, as it was for the replumbing and a small pump station to separate things out.

Councilwoman Gerwig indicated residents complain to her about the improvements they have not seen yet. She pointed out that the budget challenge showed residents were happy with how the budget was prepared and the money spent. She felt the Village has a good handle on the types of services their residents want with this budget. Councilwoman Gerwig felt that 2.47 mills represented a responsible budget.

Vice Mayor Coates stated that ordinarily he would support going to the rollback; however, he was hearing that 2.47 compared to the rollback of 2.35 was a change of about \$773,000. He was concerned that going with the rollback would result in a budget decline from the previous year in the range of \$74,750,000. Mr. Schofield explained that ad valorem revenues are generated by the millage rate, which are about \$13 million of the budget. The budget was largely compromised of income from state revenue sharing, from their enterprise funds, and from moving money from the Building Department Reserves. He indicated they had some additional revenues or surplus monies during the booming years, which were put into Building Reserves. He stated those reserves could not be used for anything and over time they will pull them down, and they were pulling some Building Reserves out for this budget. He said they had about \$65 million worth of income, and the balance of the budget would be financed by Reserves. He indicated going to the rollback rate would reduce the ad valorem revenue by about \$700,000. Vice Mayor Coates asked if they went to the rollback, if the budget would become approximately \$73,750,000 as opposed to \$74,458,000. Mr. Schofield stated that was correct, unless they wanted to take more money out of Reserves.

Vice Mayor Coates felt that they have done a good job over the years sustaining budget cuts; however, he was sensing that last year and this year they were reaching the point where the level of service was being impacted by the budget cuts which is where they draw the line. Vice Mayor Coates said he would support going to the rollback if Mr. Schofield said that doing so would not affect the service level; however, he was hearing that it would in fact affect the level of service and would result in a palpable appreciation of that change. Mr. Schofield indicated he was saying if he was asked to cut \$700,000 out of the budget he would do so, but it would put them below the level of service Council expected him to deliver.

Mayor Margolis indicated he had requested an update on the Yarmouth pilot project at the Agenda Review. Mr. Stillings explained this was a pilot project for 550 feet of the Yarmouth Court cul-de-sac, where some improvements would be made, i.e., landscaping, gutters, etc. Mayor Margolis asked if they would be closing the road. Mr. Stillings stated the road closure was a separate item funded in

this year's budget that would shortly be coming before Council. Mayor Margolis then asked if the intent of the project was to serve as a test project for other areas they have concerns. Mr. Stillings stated that was correct. He hoped it would spur private investment in the properties as well as give it an improved perception of the neighborhoods.

Mr. Schofield explained that a number of years ago, at Council's request, staff made some improvements in the White Pine and 12<sup>th</sup> Fairway areas. He stated they could notice significant private investment in that area and a marked change. Staff was proposing this project since Yarmouth is probably Wellington's most heightened area of interest at this time.

Mr. Stillings showed drawings of the project and pointed out areas where there would be reconditioned swales, new curbs and gutters, and new landscaping. He said they wanted to be able to show them what it would look like, so they could get a better feel for how it would have an impact on the other areas. He also provided a detailed breakdown of how the costs were developed in cooperation with Engineering.

Mayor Margolis indicated that his concern was when they look at areas to reduce their millage rate; they may reach a point where people will say they were looking for something the Village is not providing. He said the benefit of the \$730,000 or the 0.03 cents a day or \$13.00 per year is that it would keep Wellington what it is today. Mayor Margolis said it would help pay for additional deputies, which their residents demand, to keep their crime rates low and the best in the county; and it will pay for projects like the one for Yarmouth as well as other problem areas; and it would also help pay for additional staff members. So he agreed and disagreed they could go to the rollback rate. He felt if they continued to cut, it would impact their residents, and the Village would no longer be in the top 100 places to live. He wanted to maintain the level of service for 0.03 cents a day, and believed 9 out of 10 people in the Village would agree.

Mr. Stillings thought new residents and those looking at Wellington were looking at Wellington for the same reasons they all looked at Wellington; i.e., great parks and great programs as well as a family feel and great hometown feel. He did not think that has changed, but over time the edges start wearing away a bit and that is when communities stop paying attention. He felt Wellington has done a great job maintaining all of its facilities, streets and parks. Mayor Margolis indicated that is why their residents move here. Mr. Stillings said that the residents expect that quality and over time he thought that is where they would start to see the cuts. He noted that they going to do a community satisfaction survey to gauge how they can continue to make Wellington a great hometown. Mayor Margolis thought the survey idea was great and looked forward to hearing about it.

Councilman Greene referred to the community satisfaction survey and asked how that differed from the budget challenge. Mr. Stillings indicated one component of the survey would ask a few questions specifically to address their Parks and Recreation accreditation as well as specific questions regarding the neighborhood perception of crime and safety that goes beyond the budget and level of service. He said staff was in the process of crafting those questions, and they would share them with Council prior to sending them out to the public.

Councilman Greene hoped to see a greater number of responses from residents. He asked how the survey would be distributed and how residents would be aware of it. Mr. Stillings explained that his plan was to go to community events, station people in the Village Hall lobby, and have it on the website for remote access. He said their goal was to reach over 1,100 individuals in the community to make it a statistically relevant survey.

Councilman Greene asked if the same type of survey had been done in the past. Mr. Stillings stated

Community Services had surveyed particular neighborhoods, but he believed it was not done community-wide which was they were trying to do. Councilman Greene asked if internal staff was drafting the questions because he felt in reading some of the questions they could lead residents to certain answers which was his concern. Mr. Stillings indicated this was being done through their partnership with FAU. He stated they have a professor on their team who has a lot of experience in surveys and this type of questionnaire.

Councilman Greene stated he was not proposing cutting taxes, and was trying to avoid increasing taxes; however, he did not want to compromise the quality of life or reduce services to the point where it impacted the people. He felt they needed to look internally as well and make sure everyone on staff, on Council and those affiliated with the Village of Wellington were executing their duties in the best interest of the taxpayers. He thought at 2.35, if they do a better job, they will be able to provide that same level of service without any compromise to residents.

#### Public Hearing

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

1. Bart Novack, 15670 Cedar Grove Lane, Wellington. Mr. Novack thought it was fine to replace the tennis courts, but wasn't supportive of increasing them to 24 or 30 courts because he felt it was not their obligation to supply an income to private individuals. He also was not opposed to the new building, but he thought they should make it a certified storm shelter. He asked if they could fund the water storage project from their water bills because it is related to their water function. Mr. Novack did not support depleting reserves.

**A motion was made by Vice Mayor Coates, seconded by Councilwoman Gerwig, and unanimously passed (5-0) to close the Public Hearing.**

**A motion was made by Councilwoman Gerwig, seconded by Councilman Willhite approving the budget as presented.**

Vice Mayor Coates concurred with Councilman Greene's position on the rollback, and he would support it if it resulted in the same budget. His concern was that a rollback, even though it would not be a tax increase, would result in a budget decrease of about \$700,000. Vice Mayor Coates said if Mr. Schofield could clearly tell him he thought a rollback would result in a negative impact on the services and that they could not take the \$773,000 reduction and make those cuts and still provide the same services the people are receiving this year, then he would support the proposed budget. If not, then he would have to support the rollback rate. In response, Mr. Schofield stated he could not tell them he would be able to provide the same level of service Council expected of him if they took \$773,000 out of the budget. Since he became Village Manager, he has had to make cuts every year. He mentioned last year there were a number of complaints raised by residents who were encountering problems and more people were coming to Council. In response to that, additional staff was added mid-year to the Building Department, to the Customer Service line, and to answer phones. He indicated taking \$773,000 out of the budget would take those people or some equivalent out of the budget. He stated if he was instructed to cut the money, he would cut it, but it would not be without sacrifice. Vice Mayor Coates thought they have reached a point where they cannot make cuts without negatively impacting service. Mr. Schofield concurred.

**The motion was voted on and was passed (4-1), with Councilman Greene dissenting.**

**B. 13-0278 ORDINANCE NO. 2013-14 (FISCAL YEAR 2013/2014 CAPITAL IMPROVEMENT ELEMENT UPDATE)**

Mr. Schofield introduced the agenda item. He explained they were required by the State to update their Capital Improvement Element every time they adopt amendments to it. He stated Mr. Stillings was there to make the presentation.

Mr. Stillings explained this was an update of the Capital Improvement Element of the Comprehensive Plan. He indicated they were updating the table that included the level of service projects. He stated they were updating the South Shore project, deleting a project that was completed, and adding two new projects - the flood program and water reuse program.

Public Hearing

**A motion was made by Vice Mayor Coates, seconded by Councilwoman Gerwig, and unanimously passed (5-0) to open the Public Hearing.**

Ken Adams, 2651 Sheltingham Drive, Wellington. Mr. Adams said when he looked at the last agenda he had no hint that the configuration of Country Club Road was changing after 35 years. Although he appreciated Council dedicating the roadway, he expressed concern of its change and the impact it had on his building and his tenants. Mr. Adams noted that he owned the 60 foot easement, and instead of receiving a notice that the turn lane was going to be removed, he was advised by Mr. Riebe that a stacking lane was going to be built for eastbound traffic turning right onto Country Club Drive, a center lane which would turn left on Forest Hill Blvd and a right lane for turning east. He indicated to a minor extent Village property and his property still had some interfacing issues referring to the perpetual exclusive easement on the 1.3 acres of Village owned land, in addition to the sixty foot easement which he acquired before the Village was created. He reiterated that Country Club Drive was absolutely essential, and felt that reducing it would devalue the property which concerned him Mr. Adams raised the issue that so many roads how left turn lanes restores, and questioned why theirs was not. Mr. Adams said he was advised initially by the Village Manager that a federal contract would not accommodate restoring the left turn lane, and that it would be restored when the feds left town. As a final note, Mr. Adams felt that Village Hall was built too close to Forest Hill Blvd considering all that goes on there. He suggested while they were taking a fresh look at the property, they locate the Community Center closer. He said he and his wife would love to make a donation for \$10,000 when they begin the Community Center and another \$10,000 when they finish. He stated he would also work with the people in the area to garner their support.

Mayor Margolis asked staff to meet with Mr. Adams the next day. Mr. Schofield stated that could be arranged; however, he could not be in attendance; but Mr. Bonde and Mr. Riebe would be there. Mayor Margolis added that he wanted to be present as well.

1. Bart Novack, 15670 Cedar Grove Lane, Wellington. Mr. Novack thought Mr. Adams raised a very good point. He believed they did not have a sufficient traffic study for the future which needed to be addressed.

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

Vice Mayor Coates asked if Table CIE2 was part of what they were approving because he saw it as the School Board Capital Improvement Plan. He assumed adopting that by reference did not have any fiscal impact; however, it was part of the comprehensive plan. In response, Mr. Stillings stated the

School's Capital Improvement Plan was provided as part of the Interlocal Agreement that was no longer in affect with Palm Beach County for school concurrency. He explained that the County was working on an updated agreement which they plan to submit for review and consideration shortly; however, in the interest of updating the previous table, they adopted the same update as they had in past years.

Vice Mayor Coates expressed concern that it would appear to residents as part of the Village's Capital Improvement Plan, and that they have some control over the School Board's plan. He asked if it was accurate that the Village has zero control over it and it is provided so Council can adopt it as part of their Comprehensive Plan. Mr. Stillings stated that was correct. Mr. Schofield added they were statutorily bound to analyze the School District's Capital Improvement Element as part of adopting their own. He stated occasionally the Village needs to ensure the roadways are wide enough because the School District is exempt from concurrency and does not have to pay for those things.

Vice Mayor Coates said he would feel more comfortable if staff said they analyzed the School Board's plan, and it did not have any impact on what the Village was doing. Mr. Stillings advised Council that there were no new facilities proposed in Wellington and there were no changes to existing public facilities that would impact their level of service or require a new project to be added to their Capital Improvement Element

Vice Mayor Coates asked if there was a plan to build a school on property owned by the School District to the south of the Village, would they have to deal with that in the Village's Capital Improvement Plan to ensure there were adequate roads. Mr. Schofield stated they would incur several expenses; however, he would not tell them they were inappropriate expenses. He noted that the crossing guards that PBSO provides for the schools do not come from the School District's revenue, but from the Wellington residents out of revenues.

At this point, a question was raised about the requirement for Ms. Quickel to read a required statement into the record as part of the budget as she had indicated. Ms. Cohen stated she spoke with Ms. Quickel and was advised that it actually needed to be read at Second Reading. Council pointed out that it had historically been read at both reading. If that was case, Ms. Cohen stated they could reopen that item after this one was concluded and Ms. Quickel could read the statement.

Mr. Stillings then entered the staff's planning package into the record, and requested that the motion included modifying the limits of South Shore from 50<sup>th</sup> to Lake Worth Road, as he believed they were not correct in the ordinance provided to the Council. Mr. Stillings said Council would receive a corrected version for second reading.

**A motion was made by Vice Mayor Coates, seconded by Councilman Willhite, and unanimously passed (5-0) to approve Ordinance No. 2013-14 (Fiscal Year 2013/2014 Capital Improvement Element Update) and incorporate the corrected limits for South Shore from 50<sup>th</sup> to Lake Worth Road.**

At this time, Council agreed to reopen item 7A so that Ms. Quickel could read the requirement statement.

**A. 13-0344 FIRST BUDGET HEARING PROPOSED FISCAL YEAR 2013-2014 (Reopened)**

**A motion was made by Vice Mayor Coates, seconded by Councilman Willhite, and unanimously passed (5-0) to reopen the item 7A for discussion.**

**A motion was made by Vice Mayor Coates, seconded by Councilwoman Gerwig, and unanimously passed (5-0) to reopen the Public Hearing.**

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

Ms. Quickel read the required statement into the record for the proposed millage rate of 2.47 mills. "The proposed millage rate of 2.47 mills for the governmental budget, including ACME Improvement District, funds a 2.3% operating increase over the prior year. The 2.47 millage rate is a 4.9% increase from the rollback rate of 2.3528 mills. The rollback rate is the rate which applied to this year's total assessed valuation of \$5.75 billion yields the same ad valorem tax revenues or \$12.9 million as of last year. Adopting the proposed the rate of 2.47 mills generates \$13.5 million or an increase of approximately \$773,000 from the last year."

Mr. Schofield pointed out about half of the increase in valuation was attributable to new construction and the other half was attributable to an increase in property value.

**A motion was made by Councilwoman Gerwig, seconded by Councilman Willhite, and passed (4-1), with Councilman Greene dissenting, to modify her original motion regarding item A, the First Budget Hearing for FY 2013/2014, and include the proposed millage rate text read into the record by Ms. Quickel.**

**C. 13-0300 ORDINANCE NO. 2013-11 (RUSTIC RANCHES LOT COVERAGE)**

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

Mr. Stillings indicated this was the second reading of the Rustic Ranches Lot Coverage ordinance, which would increase the lot coverage from 10% to 20% for properties within the Rustic Ranches Overlay District. He noted that was the only district in the Equestrian Overlay Zoning District limited to 10% lot coverage, as all others were at 20%. Since the last meeting, nine addition letters of support were received bringing the total to 83. He confirmed Ms. Montgomery had e-mailed or Council had received a note from her indicating her support. Mr. Stillings entered the planning files and letters of support into the record.

Councilman Willhite stated he stood by his previous comments, and was looking to give staff direction on a standardized process for these types of requests, 66% support, verification of names and addresses, and ensuring that the HOA or POA wanted to proceed with a change. He explained that he did not doubt the validity of the signature, but more documentation was needed since some were not legible. Councilman Willhite spoke of the process which he said would include a checklist and an algorithm to know what they needed to get to 66%. Councilman Willhite felt that the process was needed for consistency, for the safety of the residents and their homes, and to know that at least 66% of their neighborhood, POA or HOA supported this issue. This process would provide security to everyone that the Village went through the process to ensure everything was done properly. He appreciated Mr. Stillings for verifying the signatures and making sure they were over that percentage which made him more comfortable since other requests had been handled differently.

Councilman Greene found it difficult to believe that somebody bringing this forward would liable themselves by forging a signature on a document, he knew Councilman Willhite was not accusing anyone of misrepresenting the documents. He said he was not opposed to a process to ensure they do things correctly; however, he felt very confident that they had the signatures of landowners who

supported this change in lot coverage.

Councilman Willhite stated he was recommending a process and referred to the Paddock issues with water where they looked to enforce and impose a large assessment on residents to put potable water to their house. He said he just wanted to make sure there was a process to protect everyone's interest whether or not there is a cost.

Councilman Greene noted that this request was different because the only cost would be to the property owner who wanted to voluntarily change their lot coverage. He thought they may have to look differently at requests that require an assessment as opposed to those that don't. He recognized what they were saying, but he thought there was a significant difference between voluntary participation and an assessment to every homeowner.

Although this request is resident driven, Councilwoman Gerwig questioned whether the Village would get any backlash that they were making equestrian decisions outside of season. She asked what percentage of the vote was required when a group of people was negatively impacted by the Village dewatering Rustic Ranches. She said the reason they came into Wellington was because they were dewatering, and the Village agreed to take them in and provide water service. Mr. Schofield explained the statutory requirement for annexation is if electors are living in the area, they have to have half, plus one of the people who shows up to vote. He said this vote was done on a ballot, so it was half, plus one. Councilwoman Gerwig thought that was a standard that seemed to control this particular issue because it only impacted the landowners who utilized it, and made their lot coverage equivalent to the other areas in the EOZD. She voiced her support of this because it was a resident-driven request although she would have felt more comfortable if they were doing it at a time when all of the equestrians were there.

Councilwoman Gerwig stated she was satisfied with the publicity this has received, and they had not received any negative comments. Mr. Stillings said that was correct. Councilwoman Gerwig believed the drainage impacts would be borne by whoever was doing the improvements and not their neighbors, as they would not bear any of the drainage issues and each site would hold it on site. Mr. Stillings indicated Pine Tree was working to establish those standards. Councilwoman Gerwig understood that was something they would establish so it would not be a shared expense to neighbors. Mr. Bonde stated Mr. Higgins was the engineer for the Pine Tree District, and he was proposing a plan that would do what the Village does in Basin B for Acme. Councilwoman Gerwig asked if it would only affect the property owner proposing the additional coverage. Mr. Bonde responded affirmatively. Councilwoman Gerwig asked if it would raise the entire Pine Tree assessment. Mr. Bonde explained it would not nor would it adversely affect the neighbor. Councilwoman Gerwig stated, under all these conditions, she would support the ordinance; however, she would have felt better if the landowners had been present to give their opinions.

Mr. Bill Nemser indicated the original letters of support were dated in February, as this effort began during the season and they would have had over two-thirds at the time, so that may address her concerns.

Councilwoman Gerwig stated she wanted to publicly notice the issue and give the people an opportunity to come and voice their opinions; however, she indicated they had overwhelming support, so she felt the community wants it and it is a good idea as it brings them up to an equal standard with the rest of the EOZD. Mr. Stillings mentioned he has equated this to a "planner's gift", because it is adding value to the property by allowing the owners to further develop it beyond what they presently could do.

Mayor Margolis referred to the question he raised about LLCs at the Agenda Review. Ms. Cohen said she looked at twelve LLC's and three trusts. She said of the twelve LLC's, eight signatures were confirmed and four were not; however, she had no way to verify the people who signed for the trusts were actually authorized. She stated that would effectively take the number of verified responses or petitions down to 76 instead of 83.

#### Public Hearing

**A motion was made by Vice Mayor Coates, seconded by Councilwoman Gerwig, and unanimously passed (5-0) to open the Public Hearing.**

1. Houston Meigs, 16433 Deer Path Lane, Wellington. Mr. Meigs explained this process started last winter and was ongoing for nine months, so a majority of the documents were received during season. He felt it was disheartening for Council to question the viability of the signatures at second reading. He stated there was no structure or rules in terms of what is required as a legal signature on these documents, and it has been a huge undertaking of private individuals in terms of costs and time. He believed they substantially exceeded the 66.7% requirement. He concurred with Councilman Willhite's suggestion that there be a process relating to this. Mr. Meigs felt this issue was simple, as it was only increasing lot coverage by 10%, and only those who chose to take advantage of it incurred any cost. In terms of the retention issue, Mr. Higgins, Pine Tree's Engineer, recommended a plan for water retention on site, so that should not be an issue according to his engineering studies. The plan was apparently also used in other areas of Wellington, so it was not a new technology or procedure. He hoped this met the Village's requirements and would be approved at this time.

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

Vice Mayor Coates noted that staff's recommendation for approval included a number of conditions that were dependent on Pine Tree Water Control District determining if the maximum lot coverage is feasible. Since the Village was including this as a condition, Vice Mayor Coates asked if the Pine Tree Water Control District had to adhere to it. Mr. Stillings stated they were doing it as part of their responsibility to the owners within the district. He said their plans covered up to the 10%, but beyond the 10% they were looking to make sure the property owners maintained or retained storm water within their limits. He further stated that it was his understanding that at the First Reading, a representative from the Board said they had voted, approved it and had no issue with this. Mr. Stillings indicated the Pine Tree District did not approve this because it is a zoning change, but they heard it and the conditions were applied primarily by the EPC and PZAB. He stated they wanted to make sure Pine Tree had the standards in place to account for the increase in lot coverage, which is why the effective date of the ordinance is not until they do so. He said it was not so much a request by Pine Tree, as it was by both boards wishing to condition the zoning change. Ms. Cohen added that Pine Tree as a board was in favor of this, but because the drainage for the community was originally based on 10% lot coverage and not 20% lot coverage, they needed to retain an engineer, Mr. Higgins, to determine whether it was feasible which is noted in Paragraph 1. She said that Mr. Higgins is reporting back to Pine Tree that in fact there is a way to increase the lot coverage for each of the parcels in a way that will accommodate the 20% lot coverage.

Vice Mayor Coates thought they were told in the first meeting the feasibility had already been determined. Ms. Cohen believed Mr. Higgins had just finished his report and it had not gone back to Pine Tree. Mr. Bonde stated it had not gone back to Pine Tree, but Mr. Higgins was authorized by the board to create the manual that will be adopted by the board at its next meeting. He said that manual

will be delivered to their engineering department for application and that will be the end of it. Mr. Schofield explained that the Pine Tree Board looked at this and were happy with it, and passed it along. He said the requirement that Pine Tree adopt additional regulations was placed by Wellington boards and committees. He explained there were already two regulatory layers to ensure the change did not impact it, as both the Village and the South Florida Water Management District had no net impact on the floodplain requirement. He indicated that was in the Village's rules and in SFWMD rules, and it would now be incorporated into Pine Tree. So they were going to have triple redundancy in terms of no net loss of storage, as that was all they were talking about.

Vice Mayor Coates thought that triple redundancy sounded unnecessary. He said he supported this, but he did not want to put a condition on it that would undo everything they had done to try to get approved if it was unnecessary. Mr. Schofield indicated two members of the Pine Tree board actually signed the petitions.

Vice Mayor Coates asked what they were looking for Pine Tree to do that would ultimately trigger this ordinance to become effective. Mr. Schofield stated they would need to change their compensating storage standard. He said the non-voting member of the Pine Tree board who voted to support this is an employee of the SFWMD.

Vice Mayor Coates asked what Pine Tree would provide to the Village. Mr. Schofield stated they would adopt a standard for no net encroachment on a floodplain.

Vice Mayor Coates thought this could be done well in advance of February 28, 2014. Mr. Schofield believed there was an issue with scheduling. Mr. Bonde stated there was a problem with the number of meetings Pine Tree has as he reported at the last meeting. He thought they will be discussing this at their next meeting in November, so they will be ahead of the schedule being proposed.

Vice Mayor Coates asked if the residents of Rustic Ranches were aware, if Council approves this, that Pine Tree still had to address an item. Mr. Meigs believed they were aware. He stated there was discussion on whether that date should be November or later, and it was set later just in case it was delayed. He said he was glad to see they were ahead of schedule, so hopefully it will be done by November with the vote of the Pine Tree board. Mr. Schofield indicated there would be two readings. He said Pine Tree was a 298 District and it would be a simple adoption of this amendment, which is just a resolution for them.

Councilman Willhite raised concern that the Village was approving something that could be ultimately denied by the Pine Tree Water Control Board because Mr. Higgins had not yet provided his report to them and they did not know all the facts. Mr. Stillings noted that Mr. Higgins still had to write the manual; however, he believed he had already talked to the Board about the compensation and what needed to be done. Councilman Willhite asked if they had the information about the water retention beyond their property prior to his report. Mr. Bonde indicated they had presented two scenarios: (1) they could use the existing pond at .5 acres as compensating storage; or (2) use about 1/10 of an acre or 1.12 for dry retention. He said that was discussed in detail and the board responded positively. Vice Mayor Coates stated that was said at the last meeting, which is why he thought it had already been approved by Pine Tree.

Vice Mayor Coates questioned whether the condition was still needed. In discussing this with the Village's Engineer, and as Mr. Schofield said, they already have the rules in place, so it is a triple redundancy. Councilman Willhite indicated if Pine Tree did not approve it, it would just come back to Council. Mr. Stillings explained if they do not adopt the manual, the zoning change would not go into effect and it would not come back.

Councilman Willhite expressed concern that if that occurred, they would have wasted staff time and Council time on this, as it seemed like they have put the cart before the horse. He stated he was okay with that, but it would have been easier if there was a process.

Ms. Cohen explained they had put delayed effective dates on other ordinances, but the reason the Village said it needed to be done by February 28, 2014 or it would have to come back before Council was because the Village wanted to provide sufficient time for Pine Tree to do what they had to do. Mr. Stillings stated this was where they differed from their boards and committees. Vice Mayor Coates asked when the effective date of the ordinance would be. Ms. Cohen indicated it would be when the conditions laid out in this last paragraph were fulfilled. So once they have determined it is feasible and they have adopted their standards, which will be at their next meeting, the Village engineer determines they are acceptable and the standards are approved by SFWMD if necessary or if required.

Vice Mayor Coates asked if, as a Village, they could put out a notice to the public stating when the ordinance would be effective. Ms. Cohen stated Mr. Bonde could monitor that and let them know.

In that case, Councilman Willhite thought that no one could apply for a permit until Pine Tree approved the standards and the ordinance was in place. Ms. Cohen stated that was correct.

Councilwoman Gerwig believed it would give them little more satisfaction, since they would have the ability to move forward whereas now they do not. She thought it was very unusual to have an ordinance with an expiration date. Mr. Cohen stated it was a timeframe.

**A motion was made by Vice Mayor Coates, seconded by Councilwoman Gerwig, and unanimously passed (5-0) to approve Ordinance No. 2013-11 (Rustic Ranches Lot Coverage).**

## **8. REGULAR AGENDA**

**A. 13-0276 RESOLUTION NO. R2013-51 (ADOPTING A PUBLIC PURPOSE EXPENDITURE POLICY)** *This item was postponed.*

**B. 13-0323 AUTHORIZATION TO RENEW THE CONTRACT TO PROVIDE PROPERTY, CASUALTY AND WORKERS' COMPENSATION INSURANCE**

Mr. Schofield introduced the resolution. Ms. Cohen indicated Mayor Margolis and Councilman Greene had statements to make.

Mayor Margolis referred to the ethics complaints that have been filed and dismissed against him, but that the Village of Wellington's insurance was paying \$50,000 to \$60,000 to have an attorney defend him. He indicated that since this agenda item was part of that insurance policy, he was recusing himself because there was an active complaint which might affect the decision making on this insurance policy.

Ms. Cohen advised Council that they would be receiving several letters in their mail, as claims were submitted for Councilman Greene and Mayor Margolis. However, Mayor Margolis had to incur a balance that would likely come back to Council for a discussion on whether they feel it is appropriate for him to be compensated.

Councilwoman Gerwig asked if the coverage was \$25,000 per incident. Ms. Cohen stated it was up to \$25,000 per incident and \$100,000 in total coverage. She indicated that same policy had to also cover other claims, and it might be necessary to increase the coverage because they might exhaust their policy this year.

Councilwoman Gerwig asked if this also supported boards and committee members in litigation, and not just Council. Ms. Cohen stated if there has been a finding of no wrong doing, then it could potentially pay for board members as well. Mayor Margolis understood the insurance policy would cover previous Council members if complaints were filed, as they did not have to be a sitting Council member. Ms. Cohen stated the complaints had to be related to their service.

Vice Mayor Coates asked if there was any kind of statutory protection for public officials in terms of being indemnified by the entity they represent, beyond having an insurance policy where the association or entity itself indemnifies them. Ms. Cohen stated a provision in their charter provided for that, but it required they first make a claim against the insurance policy. She said if there was excess or it was above what the insurance company would pay, it would come to Council for a decision.

Councilman Greene announced that he would also be recusing himself from this discussion and vote at the advice of their legal counsel. He stated he also had been the subject of what the Commission on Ethics has labeled political harassment and abusing the office of Commission on Ethics. At this point, Councilman Greene indicated he was going to step out of the discussion.

At this point, Vice Mayor Coates led the meeting, and Mayor Margolis and Councilman Greene left the Council Chambers.

Councilman Willhite indicated the resolution did not address raising the rate. He asked if they could raise the rate in the middle of the contract should they need to and if it would be an amendment to the contract with an additional cost. Ms. Quickel responded stating that was correct, as the contract could be adjusted.

Councilman Willhite wanted people to know the complaints and associated work was costing the Village money because it pays the insurance that in turn covers the claim. Ms. Cohen agreed the Village paid for the insurance, but they would have had that insurance regardless. She indicated it may cost the Village more in the future if they have to raise the limits and if there is an excess that needs to be presented to Council. If Council ultimately votes to approve the expenditures to reimburse Mayor Margolis and Councilman Greene beyond the insurance, there will be a cost to the Village for the complaints that have been filed.

Councilman Willhite asked if a member of Council could vote to approve an expenditure of funds that would benefit him. Ms. Cohen stated if there was an amount that exceeded what has been paid for by the insurance company; the associated Council member would be ineligible to vote on that item and would have to recuse him or herself from that vote.

Councilwoman Gerwig asked if the insurance company provided the attorneys for the members of Council affected. Ms. Cohen stated that the insurance company did not appoint defense counsel, and the Council members retained their own counsel. Councilwoman Gerwig thought there was no way to control the legal fees, as they could hire a very expensive and prominent attorney like F. Lee Bailey to defend them at \$600 per hour. She said she was looking toward the future and realized they could not change anything that has happened. Ms. Cohen indicated they did not appoint insurance defense counsel for these types of matters; however, the Council member could come to Council ahead of time and ask for authorization to retain someone or Council could ultimately vote not to approve

anything over and above what the insurance company pays if they feel the fees are unreasonable. Ms. Cohen said that whoever retained the attorney would still be contractually liable for the attorney fees, so there is an incentive to choose an attorney with a reasonable rate.

Councilwoman Gerwig did not want residents to think their taxes would increase if they had actual concerns, and she hoped they would contact the Commission on Ethics if they wanted to question Council's behavior. She did not want them to look at this as a way for Council to squelch the scrutiny they were under. She thought this was the process they had to go through to prove to the public they were getting honest service and good government. She stated it might be expensive, but it may be the right thing to do.

Vice Mayor Coates wanted the public to understand the actual increase, after taking into account the difference in the return in premium from last year to this year, was 13% or \$91,205. He asked if there was any potential for the return of premium of \$92,755 to increase and thus result in lowering the differential between this year's cost and last year's cost. Ms. Quickel called upon Mr. Kurt Gehring with the Gehring Agency to address that.

Mr. Kurt Gehring explained that with the League of Cities, the proceeds come back from any cities that do not renew with them. He stated the amount has consistently increased every year, but they do not provide that number until after the renewal cycle. However, he indicated they guarantee that is the minimum they will receive, so that number will only go up.

Vice Mayor Coates asked if the \$133,152 from last year increased from what was projected the previous year. Ms. Quickel stated it increased slightly. She said it was originally projected at \$131,000, and they actually received \$133,152. Vice Mayor Coates thought \$92,755 was pretty close, so they were looking at an approximate increase of \$90,000.

In terms of coverage for the ethics complaints and attorneys' fees, Vice Mayor Coates questioned if there was an increase in this year's premium related to the actions under the policy. Ms. Quickel stated they had predicted or proposed an 8% increase for the public officials' liability and employment practices liability next year. Mr. Schofield noted they could expect that to increase next year as well. Mr. Gehring stated there has been a lot of litigation, so the League of Cities has seen that increase across the board. He noted if it was just on the claim experience of the Village, they would see a much larger increase.

Councilwoman Gerwig asked if the cities were sharing that risk. Mr. Gehring stated that was correct. Vice Mayor Coates asked if it was because it was a mutual insurance company. Mr. Gehring indicated that was the advantage of being in the trust, as it was a nonprofit trust. He said it was not just their claim experience, as they actually determine what the renewals will be from year to year based on everyone's claim in that trust for that particular line of coverage.

Vice Mayor Coates asked if \$25,000, which is a single occurrence limit for the ethics attorney's fees type claims, was typical in municipalities the size of Wellington. Mr. Gehring said this was pretty standard; however, he suggested they come back and provide options to Council based on what has occurred and discuss the process so they will understand the exposure.

Vice Mayor Coates indicated the \$3,000 increase, from \$46,786 to \$50,040, could be gone through very quickly if they had to start directly indemnifying. Mr. Gehring agreed. Vice Mayor Coates thought if their elected officials were at risk of incurring more than \$25,000, they would want to give serious consideration to making sure they were insured or they would be paying much more than the premium for that coverage. Ms. Cohen stated they needed to look at the premium.

Ms. Cohen pointed out that the Village had received a request for several Equestrian Preserve Committee members to recuse themselves and they were looking at whether there was an actual conflict. In the conversations she has with at least one member, she did not believe the member has a conflict and the member does not intend to recuse herself. She stated it was conceivable or maybe even likely, if that member participates in the meeting there could be an ethics complaint if the project or application does not get approved. Ms. Cohen indicated she was concerned, as they were at a point of almost exhausting their policy because the claim would be made probably in this fiscal year with it starting October 1<sup>st</sup>. She stated that would leave the board member with a difficult decision to make if she feels she does not have a conflict, as she would have to weigh whether her participation could expose her to some personal expense that would not be reimbursable by insurance. Ms. Cohen said that even though the charter provides Council members can be reimbursed, there is not a corresponding provision for board members.

Councilman Willhite asked Ms. Cohen if they had the ability to indemnify the board members by covering the cost of their legal fees from the Village and if Council could vote on it. Ms. Cohen stated there was a provision in the charter for Council, but she did not know if they could make an argument or if there was a state provision that would permit that, but she would look into that. Councilman Willhite clarified this this would only be if they were cleared and advised they did not have to recuse themselves. He asked who the burden would fall on should they made the decision to participate despite being advised there was a conflict and they needed to recuse themselves. Ms. Cohen believed they would want to follow the advice of counsel, but in a situation where it is a questionable decision, they could argue either way. She said if an individual makes a personal decision that they do not have a conflict and therefore do not need to recuse themselves, there is potential for an ethics complaint to be made even if it is meritless.

Vice Mayor Coates asked if the indemnity provisions in the Charter determined whether the Council members were cleared or not. Ms. Cohen believed the Charter required that they first make application to the insurance company and there not be any intentional wrong doing, but she would have to re-read the provision. Vice Mayor Coates then questioned what would the case be if the Ethics Commission issued a Letter of Instructions. Ms. Cohen did not believe that would preclude reimbursement. In fact, the insurance company requires that there be no finding of wrong doing, as they do not pay the claim if there is. She indicated they paid the claims for Mayor Margolis and Councilman Greene. She stated they will look at that carefully when they bring it back before Council.

Councilman Willhite asked if that would pertain to legal fees during the past election. Ms. Cohen thought it might if there was a challenge or if they were sued. Councilman Willhite stated they were advised by the Canvassing Board to seek legal counsel and then incurred costs. Ms. Cohen stated she would look at it. Mr. Schofield explained they had checked an opinion prior to Ms. Cohen being hired that stated expenses caused by litigation prior to actually being seated were not covered by the policy. He said that was the opinion given many months ago and he would have Ms. Cohen verify it. Ms. Cohen indicated that was given by the insurance policy, but it did not necessarily mean their Charter would not permit reimbursement, so she would look at it. Councilman Willhite stated ultimately his legal bills were paid, but he had to go to the Ethics Commission because an inquiry was done. So more work was done than what potentially needed to be done if in fact his legal bills could have been covered through the insurance policy.

#### Public Comments

1. Bart Novack, 15670 Cedar Grove Lane, Wellington. Mr. Novack thought that usually the government is self-assured where a fund is set up. He felt that instead of paying the \$10,000, the

Village should put it into such a fund. He asked if that would be possible versus an insurance policy that may or may not pay out. Mr. Novack questioned if there was any recourse on the person making repeated complaints that may be retaliatory. He wondered if the Village and the insurance company could get reimbursed if the insurance company could go back to the person actually making the complaint.

**A motion was made by Councilwoman Gerwig, seconded by Councilman Willhite, and unanimously passed (3-0) to approve Resolution No. R2013-51 (Adopting a Public Purpose Expenditure Policy) as presented.**

## **9. PUBLIC FORUM**

1. Bart Novack, 15670 Cedar Grove Lane, Wellington. Mr. Novack was of the opinion the Chamber has been doing a good job over the last couple of years of driving a stake between the businesses, residents, Council or government. He did not believe they should be involved in government business, and they needed to step aside, and let government do what it needs to do.

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

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

- The Village had received a bid protest. A response had been prepared and would be sent out shortly.
- A letter was received from Ms. Halperin, on behalf of Wellington Parc, objecting to the motion made by Council at the August 24<sup>th</sup> meeting that directed staff to impose a condition on the land development permit for the commercial parcel, requiring the construction of the cross-access together with obtaining the necessary consents to the Palomino Park access to State Road 7 prior to issuance of the first building permit. Although, Ms. Cohen did not believe the motion required the particular access easement agreement that was recorded by Palomino to be signed, she was concerned the applicant had no notice that the item was going to be considered, and thought Ms. Halpern's letter had some merit. She recommended Council vote to reconsider the motion and rescind that direction to staff that was made at the last meeting. She said they would still have the development orders which impose the conditions, which could ultimately be amended if gone through the proper process, but she did not think that this particular motion was necessary.

Councilman Willhite referred to the statement that Council could not take action without notice. He thought even if it was not on the agenda, Council could still take some action, as long as it was a publicly noticed meeting, a majority of Council was present, and it was in the best interest of the Village. He asked Ms. Cohen to explain what notification had to be given. In response, Ms. Cohen explained there is some leeway, but probably not the kind of leeway that would allow them to impose a development condition on an applicant. She believed that Councilman Willhite was correct in that if there is a publicly noticed hearing, and it is generally within the scope of what they were discussing, they might be okay, but she would do some research and report back. In this particular issue, the applicant was not present and was not given any notice that a particular direction was going to be made; however, she believed that the direction was unnecessary since it was already contained within the development order that had already been approved.

Vice Mayor Coates asked if this was considered in the context of the motion to approve the plat. Ms. Cohen stated approval of the plat was a ministerial act where they really could not attach any conditions, and it would not normally occur to an applicant that some other development condition could be imposed at that stage. Ms. Cohen reiterated that she felt the direction was unnecessary and could potentially create litigation. She felt it was prudent to reconsider it and then rescind it. Since it

could not be done at the platting stage and Council had concerns with access in this area, Vice Mayor Coates asked at what stage they could say this had to be fixed or they were not passing any further approvals required by this project.

Councilman Willhite indicated the Development Review Committee (DRC) had taken the lead on this, and gave Council no authority to do anything by swapping the commercial and the residential. He said it would not have even been in front of them, but they came forward with the residential first. He asked at what point Council had the ability to place conditions if another body has restricted them. In response, Ms. Cohen believed the development orders required Palomino to build it and to provide a cross-access easement; however, the problem was the Village has already accepted Palomino's easement and has already said they did not have to sign it, so they could potentially record an easement that might satisfy the condition. She indicated the Village was in a difficult position, in this particular case, as they have no ability to force Palomino to connect the two and enter into a mutual easement. She stated it was not something that Council did or she did, as it was just unfortunate the way this developed. She hoped eventually the people who use the development, both the commercial piece and the residential piece, would place enough pressure on the property owners to come to some terms.

Councilman Willhite wondered at what point the Village Council had the ability to place public safety needs over the developer. Mr. Schofield indicated there were three points in the development review process where Council has that authority: (1) the first place is on the adoption of the Comprehensive Plan that establishes the underlying land use category that Council has already done; (2) the next would be at the master plan; and (3) then any subsequent amendment to that master plan. In some instances, Council has requested site plans to come before them for approval which are normally approved by DRC. He said some elected bodies choose to review site plans and some do not. Mr. Schofield explained he was not going to give them a legal opinion, but he was not sure they could never apply conditions to a plat. He agreed this particular instruction to staff was not necessary because the land development approvals contained the language and the timing was imposed by DRC without it ever having come to Council which was the real issue. He stated if Council wanted to approve every site plan, it would be a simple direction to staff and they would propose a code amendment. He thought it would be in everyone's best interest to rescind the direction to staff today and handle it through the development order process, because the conditions require the construction and the connection and they are not being forgiven or taking out.

Councilwoman Gerwig asked Mr. Schofield if Council's direction was redundant. Mr. Schofield agreed. He said the reason he proposed that language was because he knows Council's priorities are to get the traffic light installed for the safety of the residents and the people who travel the State Road 7 corridor, and to provide that cross-access for the 90 homes going in the development. Since the land development permits require it, he did not think they were at risk by rescinding the direction to staff.

Ms. Cohen stated the problem with Council's direction was it required the Village to obtain consents from Palomino, which they have not been able to do. She said if they require that then they will be giving Palomino all of the power to control when they can develop. She believed the development orders say it has to be constructed, which Palomino has agreed to do, and an easement has to be recorded; however she did not know if they could force the connection at this point.

Councilman Greene thought at some point the residents who purchased townhouses or the patrons and business owners of the commercial aspect will put more pressure on the HOA or the commercial owner of that property and require them to make that connection. He wanted to be clear they were not relieving them of the obligation to pay their fair share of the stoplight. Ms. Cohen indicated Palomino would be paying their share of the stoplight. She stated she could not promise them that they would not come back and ask Council to relieve them of that condition, but there is no request at this point. In fact, Ms. Halperin had previously sent Ms. Cohen an e-mail confirming they would do that. Councilman Greene asked if this would provide them with the opportunity to potentially come

back and make that request. Mr. Schofield indicated they have always had that opportunity. Ms. Cohen believed they were committed to doing it. She mentioned they had some meetings scheduled for the next day and that certainly would be a topic of conversation.

Councilwoman Gerwig said she did not see how Palomino could say they would not have to pay for the stoplight because they did not have the connection and were not able to force the neighbors to give them access.

Councilman Greene thought it was going to be a right in and right out, as they would not have access to the stoplight to go north on 441. He said the larger issue to him was the vehicles coming out and heading south to make a U-turn, as they would be stacking on 441. He stated the U-turn lane on Woods Walk would not be able to handle the additional vehicles from the commercial area or the 92 townhouse owners, plus they would add to the already heavy load of traffic during peak hours.

Councilman Willhite understood the Development Review Committee reviewed plans and made recommendations, and then the applicant would go back, make changes and come back with a plan for Planning and Zoning to approve by code or bring it to Council. However, he was hearing DRC is a deciding body that can make ultimate decisions. Mr. Schofield indicated DRC can be a deciding body and make ultimate decisions, as can the Planning, Zoning and Adjustment Board; however, they could not ultimately decide on Comp Plan amendments, zoning text changes, zoning district changes, master plan approvals or conditional uses, as all of those had to come to Council. Within the context of a project that has a Comprehensive Plan designation, a zoning designation and a master plan approval, as long as the proposals comply with the conditions of each of those, there are some cases under which the DRC or Planning, Zoning and Adjustment Board can be the final approving body.

Councilman Willhite asked what they called the decision to swap the commercial and the residential phasing. Mr. Schofield stated the decision to swap the phasing did not change the development patterns, did not change any of the concurrency requirements, and did not ultimately change any of the requirements the developer had to meet. He said it just swapped the order in which they were done which is a minor change under the code and within the purview of the DRC.

Vice Mayor Coates asked for clarification in that it was indicated that they were obligated to build this bridge, but he understood DRC or Ms. Cohen approved the bonding of this obligation to build. He asked if they could get by without building this as long as it was bonded. Ms. Cohen stated they were going to put up a Letter of Credit that would extend until two years after the last CO on the residential piece. If it is not built by then, she thought there are provisions in the bond where the Village could require them to build it.

Vice Mayor Coates could not believe that a previous Council or staff approved a condition that required this culvert or bridge to be built, but did not require access so it could be used which he felt defied logic and put them in the present condition. He stated all the points where they could make changes had passed. Mr. Schofield agreed they were past those points. He said they ended up here because there were some changes in state legislation that dealt with the growth management law and now each and every jurisdiction is subject to the FLUEDRA. He believed the unilateral recording of the easement was a byproduct of the FLUEDRA hearing allowing Palomino Park to comply with their conditions of approval.

Ms. Cohen understood the form of the easement was approved, and then when it came time to determine what portion of the roundabout construction Palomino Park would pay and what portion Wellington Parc would pay, there was some dispute between the property owners. She said Mr. Riebe was to be the arbiter of that dispute which Palomino objected to and thus filed the FLUEDRA. She said during the FLUEDRA mediation it was agreed the form of the easement that had been recorded and apparently accepted would satisfy the condition that Palomino had to actually record an easement providing cross-access.

Vice Mayor Coates asked if Council approved the settlement from mediation. Mr. Schofield stated Council approved a settlement at the FLUEDRA. He said Council did not approve the language of the easement, as that was done by previous Council. Ms. Cohen stated the reason was because Palomino wanted to move forward with its development, and therefore needed an easement and was not getting cooperation at that time from Wellington Parc, so a decision was made to accept that form of the easement as a satisfaction of that condition. She thought the error was probably in accepting a form of an easement that unilaterally imposed costs on Wellington Parc without their consent, which is where it ran into trouble. When Wellington Parc wanted to go forward with their development they did not want to pay the amount they were being asked to pay and a dispute arose, which resulted in that FLUEDRA and ultimately the mediation settlement.

Councilman Greene asked if they were ultimately looking at a \$50,000 difference. Mr. Riebe stated it was 27% of the \$560,000 cost of the access or \$157,000, which included a turn lane, a deceleration lane and so on, and that was just for construction. The original easement agreement approved by Wellington basically approved a \$157,000 cost to Wellington Parc. Ms. Cohen indicated that was without the consent of Wellington Parc. Mr. Riebe explained that in an effort to remedy the situation, the Village tried to get the two parties together but Wellington Parc would never talk to Palomino Park. He indicated the Village tried to do some things on their end, as they went to Council and tried to change the conditions when Palomino Park was expanding the building, because the POA was party to that amendment. However, they objected to that at the time and they sued, and the Village went to the FLUEDRA hearing and mediation. He stated in the end Palomino Park was steadfast against amending their version of the agreement, but they were amenable to contributing to the traffic signal. He said at that point the Village had zero money from Palomino Park for the signal, so as part of the hearing the Village was able to get a \$50,000 contribution from Palomino Park for the signal but left the cross-access easement alone. He indicated it remains in public record, but is dormant until Wellington Parc executes the agreement. He noted, Wellington Parc, the buyer and the seller all had full disclosure and knew the document was in the public record prior to purchasing the land.

Vice Mayor Coates asked if the document specified the costs. Mr. Riebe said the verbiage was setup so he was only able to determine the cost share or percentage based on traffic counts, as his job was to verify that and not to determine the actual cost. Councilwoman Gerwig mentioned Mr. Riebe was supposed to determine how much Wellington Parc would really be using the cross-access. Mr. Riebe agreed, as it was just a percentage based on verifying traffic information.

Vice Mayor Coates asked if the Village had the ability to say they could not develop this property until they satisfied the condition of having a cross easement that allowed the bridge to be constructed. Ms. Cohen did not know how they could enforce it.

Mr. Riebe pointed out they had a similar condition on Grand Prix Village South, 40<sup>th</sup> Street. He stated that particular master plan amendment was written and setup so that the timing of when it had to be done was silent. He explained in that case, they have a master plan amendment that says they shall build 40<sup>th</sup> Street and so on, but it was not prior to the CO, it was not prior to the first building permit, and it was not prior to a specific CO. He stated it was staff's purview to set the timeframe, so they did, and they entered into a Letter of Understanding with the developer who agreed to it. Mr. Riebe indicated this was a similar situation, as the only difference is that cross connection is silent as to the actual easement, but it is absolutely clear as to when the signal and when the culvert have to be built. He stated it said it had to be constructed when the traffic signal is needed. He said the traffic signal is required now, so the culvert crossing has to be constructed. He stated that they are going to build some commercial property which will require a land development permit. At which point, the Village will condition the issuance of the land development permit on that condition being met prior to a CO or a TCO. In essence, Council does not need to do it, as it can be done at the staff level.

Ms. Cohen stated the problem was with the direction staff was given at the last meeting. She said the

Village acknowledged they were accepting the easement from Palomino in the stipulation at the FLUEDRA hearing, which was never agreed to by Wellington Parc and the Village could not force Wellington Parc to sign it, and the Village has no way at this juncture to make them sign a mutual easement agreement.

Councilwoman Gerwig indicated they could not make Palomino Park do anything as they were already approved for, so they have lost any ability they had to negotiate with them. Ms. Cohen stated they could make Palomino build the culvert up to their own property line, but they could not make them connect it at this point.

Vice Mayor Coates questioned what would happen to that condition. Ms. Cohen said the condition reads: The internal north/south roadway between the residential entrance drive and the culvert crossing and culvert crossing vehicular/pedestrian connecting to the Palomino Executive Park development shall be constructed prior to operation of the traffic signal at Palomino Drive and State Road 7. It then reads: Prior to construction of the culvert crossing described above, the property owner shall record in the public records a cross-access easement granting the property to the north vehicular/pedestrian access. Ms. Cohen stated they could record an easement in the public records on their own that gives Palomino access, so they could fulfill that condition.

Vice Mayor Coates asked if the request for the motion tonight was because it was not noticed. He personally thought they should notice it and make a decision again because he did not want to give up on that condition. Ms. Cohen thought there was a notice issue and the language of the direction that was given to staff to require Wellington Parc to obtain the necessary consents to the Palomino Park access to State Road 7 was something the Village could not require. She stated it would give the power to withhold the consent to Palomino. She said Palomino could impact their ability to develop anything on that property by withholding consent and the Village has already told them in a stipulation they do not have to sign that agreement. Vice Mayor Coates agreed they did not have to sign it, but then they could not develop the property. He stated they have an easement that permits them to make the business decision that they sign the easement and then they can go forward with their development. He said if they make the business decision to not sign this easement, it is an economic decision they make. He felt like this has been orchestrated, as there was no cooperation from Wellington Parc originally dealing with Palomino. Ms. Cohen understood there was no cooperation by Palomino during the mediation noting they would not budge and they were inflexible. She said she was willing to reach out to them again to see if they would get together and come to some terms. She indicated Council was meeting with Lennar and Ms. Halperin the next day so they could discuss these issues.

Councilwoman Gerwig thought the Village was hampered by the FLUEDRA decision they agreed to, but they were backed into it because FLUEDRA was a requirement. Ms. Cohen stated the Village agreed to the settlement knowing they were getting a benefit through the contribution to the traffic signal.

Vice Mayor Coates found it absurd if the ultimate conclusion was the bridge had to be built, but there did not have to be a connection. He said they would have to address it with Counsel if that was clearly the legal position they were in. He wondered if they would even require the bridge be built. Ms. Cohen stated they could not just eliminate the condition without going through the process of amending the development order and bringing it back to Council.

Councilman Greene struggled with the language because it said Palomino was required to give them access, but they were giving them access to a point and then saying they could not access it. He said Council was being asked to bring it back and reconsider the agenda item because they voted in favor of it with those conditions. He said if Counsel was saying they did not have the right to do that, they basically could then change their vote on that entire agenda item. Ms. Cohen stated they approved the development with those conditions. Councilman Greene asked if they had to remove those

conditions based on the advice of legal. Ms. Cohen said they need to file an application to amend the development order. Councilman Greene thought they should also have that same right to change their vote because if he voted in favor of it based on the conditions and she was telling him now that they cannot impose those conditions, his vote would be different. Ms. Cohen stated she would have to look into that; however, at this time, she was asking Council to make a motion to reconsider and a motion to rescind that direction. She said they will then discuss that with Ms. Halperin and her client. Councilman Greene said that was one in the same for him, as rescinding the conditions was part of the vote. Ms. Cohen explained she was not asking them to rescind the conditions, but was only asking Council to rescind the direction they gave to staff at the end of the last Council Meeting without notice to the applicant.

Councilman Willhite thought the Village would require them to build it because eventually it would be used, and he wanted them to pay for it upfront. Ms. Cohen agreed. Councilman Greene added it would be a nominal cost for future residents and the HOA when Lennar turned it over.

**A motion was made by Councilwoman Gerwig, seconded by Councilman Greene, and passed (4-1), with Vice Mayor Coates dissenting, to reconsider Council's direction to staff at their last Council Meeting.**

Councilwoman Gerwig stated she would make the motion based on the fact the cross-access requirement does not go away with Council rescinding the motion. She indicated they were still seeking that requirement and moving towards it in every way possible. She said she was making the motion so Council could do it the proper way, as the condition to build the bridge was already there.

Councilman Greene asked if they could bring the item back on this particular motion if they properly noticed it. Ms. Cohen did not believe they could change the development order conditions without the request of the applicant to modify the conditions. He said, as Councilwoman Gerwig just indicated, that condition already exists, so they were not changing anything. Ms. Cohen stated it has to be built and an easement has to be recorded. Vice Mayor Coates indicated they did not have to use it.

**A motion was made by Councilwoman Gerwig, seconded by Councilman Greene, and unanimously passed (5-0) to rescind Council's motion directing staff to impose a condition on the land development permit for the commercial parcel requiring the construction of the cross-access together with obtaining the necessary consents to the Palomino Park access to State Road 7 prior to the issuance of the first building permit.**

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

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

- The next regular Council Meeting was scheduled for Tuesday, September 24, 2013, at 7:00 p.m. in Council Chambers.
- The 9/11 Remembrance Ceremony will take place September 11, 2013, at 6:00 p.m.
- The 6<sup>th</sup> Annual Jeff Annas Memorial Firefighters Run/Walk will be held on Saturday, September 14, 2013, at 7:30 p.m.
- Wellington's Rotary Club Annual Observance for the United Nations Peace Pole Day will be on Saturday, September 21, 2013, at Peace Park beginning at 11:00 a.m.
- Wellington in conjunction with the Wellington Art Society has invited high school students who live in Wellington and attend a Wellington school to participate in the Art Program.
- He will be attending the State Planning Conference on Wednesday and Thursday, and will be on vacation next week. Mr. Bonde will be in the office, but he will be available by phone.

## **12. COUNCIL REPORTS**

**COUNCILWOMAN GERWIG:** Councilwoman Gerwig presented the following report:

- She invited everyone to attend the Rotary's Peace Pole demonstration on September 21, 2013. She has attended it every year, and found it to be a very good community experience.
- On September 21, 2013, there will be a dog wash at the Dog Park for a good cause.
- With regard to the Jeff Annas Run, there would be traffic issues Saturday morning starting at 7:30 a.m. and ending when the last person crossed the line, but it is for a good cause.

**VICE MAYOR COATES:** No Report.

**COUNCILMAN GREENE:** Councilman Greene presented the following report:

- Councilman Greene invited everyone to attend the September 11<sup>th</sup> event. He noted the controversy that surrounded building the memorial, but felt it was important that they remember all those who perished on that day.
- In order to keep track of those items Council has discussed that they wanted to be brought back or requested additional information, i.e., code enforcement, multi-family, commercial, residential, fluoride, etc.; he asked that staff generate reports on the items earmarked by where Council that directs them to do additional work and bring it back to Council.

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

Councilman Willhite voiced his agreement with Councilman Greene. He noted that he has brought up several issues that previous Council had discussed which never came forward, i.e., hedge heights. He felt if it is something that affects the people or what they have an interest in, it was important to keep on track with it. Mr. Schofield would compile a list of Council's requests to be sent monthly.

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

- In addition to the Village's 9/11 event, there will be a County-wide event at 10:00 a.m. at the Christ Fellowship Church at 9975 Southern Blvd. He appreciated Council's comments, as he believed Americans understand the effects of 9/11 and how their lives were changed. He stated he takes it very seriously and invited everyone to attend the 9/11 events.
- He understood the inconvenience residents when roads are closed for events, but said that they have these events to benefit the community. He noted that there was already an overwhelming response to the Jeff Annas Run which benefits Little Smiles.
- He asked everyone Marcia Radosevich, in their prayers as she is having some family issues. He indicated she is a member on one of their boards and is a good friend.

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

- He invited everyone to the 9/11 ceremony. He was pleased to see the middle school children getting involved. He expressed his appreciation to Councilman Willhite for his service.
- He spoke about the Planning and Zoning Board meeting held the previous evening. Although everyone is passionate about what they do, what they say and how they say it, he was concerned about that Board based on their reactions at the meeting which he discussed with Mr. Schofield. Mayor Margolis questioned if those Board members had ever been given a presentation on Robert's Rules, the Sunshine Law or proper decorum. If they hadn't seen it, he asked Council to watch yesterday's meeting so they could understand his concern.

Councilwoman Gerwig felt some team building exercises would be helpful as it had benefited Council. She was not suggesting a retreat with Chris McLean, but the instructions they received were very good.

Mayor Margolis said it was a difficult issue, especially for the Chair to limit presentations or

participation, as there are no guidelines stating when they are crossing the line. He said he was not casting any accusations, but he thought if they are not given guidance then they do not know the proper way to behave. Since last night's meeting was difficult for the board, staff and the applicant, and although it might be just an anomaly; he felt something needed to be done.

If it was Council's desire, Mr. Schofield said he could arrange for the local chapter of the American Planning Association to come in and provide training for the Planning Board. He noted that generally that cost is incurred by the association.

Mayor Margolis believed the Planning and Zoning Board was a bit different than some of their advisory boards because they were a decision-making board. He supported Mr. Schofield looking into the training being provided.

Councilman Willhite stated he had a question on Ms. Cohen's report. He said an ethics investigation was done and cleared regarding Council's actions on K-Park. He asked if Ms. Cohen was notified or questioned to verify the Village's practices and procedures were proper. Ms. Cohen indicated she was never contacted, and had only learned about it within the past day or two.

Mayor Margolis thought they had contacted staff and asked some questions. Mr. Schofield stated he did not receive a notice; however, he read the findings. He said the IG looked at their code and the statute, but he did not know if they looked further to determine if their actions were compliant. He knew the IG looked at the public hearing information and found Council followed their rules and procedures and provided the proper public notice.

Mayor Margolis asked, if he could enter the e-mail into the record for everyone to see. He thought it is important they read not only the IG's conclusion, but what the complaint had to say as well. Mr. Schofield indicated they would post it on the website.

Councilman Greene said whether it was him or anyone else on this dais, if someone is using or abusing the offices that regulate and monitor their activity for political reasons, he would be the first one to speak out and defend anyone on the dais. Councilman Greene indicated his office is open and he is happy to talk to anyone who has differences or takes exception to his point of view. He felt that if people wanted to discuss what is best for the Village, this was the forum to do it.

Mayor Margolis says there is an opportunity for inquiry, but when he sees complaints that defy reasoning it can be misleading to the public.

Councilwoman Gerwig indicated two people in the room had filed more IG investigations against Wellington than anyone. She was sincerely alarmed someone would say that was not the proper way to handle it. She felt if someone has a question about Council's actions, they should make an inquiry. She felt if complaints are being filed, then they are founded because there was a reason to file a complaint, which is where she felt they were losing their perspective. She believed they had to be very careful not to send the wrong message. She recalled when the offices of the IG and Commission on Ethics were established; they said there would be a method and a mechanism to pay for complaints that were found to be motivated. Councilwoman Gerwig stated that part of the plan was if complaints were filed and unfounded, they would not be borne by the taxpayer.

Councilman Greene stated he knew Council was held to a higher standard, and he did not have a problem with people making inquiries if they feel Council has not followed the rules for whatever

reason.

Councilman Willhite expressed concern when he read this complaint because it said members of Council went to a cocktail reception that was not publicly noticed. He indicated he has attended receptions and has listened to both sides, and they were not publicly noticed because no action was taken. If he recalled the conversation correctly, he said nothing was even mentioned about the Wellington Horse Park at the Landowners Association event. He thought they were tying two events together that were in no related.

Mayor Margolis said the complaint indicated that the Village was stealing money from the taxpayers and putting it in their pockets because they are crooks, that the Council did not invite participation when the Horse Park was presented at the Agenda Review, and Council only gave each person three minutes to speak at a Council meeting. He stated he has tried to be very flexible with the time he allows people to speak because he did not want to limit their chance to ask questions. He agreed with Councilwoman Gerwig as he did not want to stifle anyone, but he felt this was unprofessional. Mayor Margolis indicated this complaint was filed a week after they had a split Council decision to move forward and encouraged Councilwoman Gerwig to read it. Councilwoman Gerwig indicated she read it.

Councilman Greene stated an important thing that stood out in the complaint was that this was an inside deal. He indicated the land was valued at about \$7.8 million and the offer to purchase it was \$10 million.

Ms. Cohen stated there was an implication in the complaint of a Sunshine violation. She said as long as they are not discussing Village business or anything that is likely to come before the Council, there is no requirement for them to publish a notice if they are all attending a cocktail reception, public event, etc.

For clarification, Vice Mayor Coates said if Council attends a cocktail party, they cannot discuss a proposal or convey it to other Council members. Ms. Cohen said they could not discuss it amongst themselves. Vice Mayor Coates thought they should not have the discussion. Ms. Cohen said Council's attendance at an event or a cocktail reception together was not a Sunshine violation. Vice Mayor Coates then asked if Council had to be careful when they all attend a League of Cities event and then publicly comment on something. Ms. Cohen agreed they needed to be careful.

### **13. ADJOURNMENT**

There being no further business to come before Council, the meeting was adjourned at 11:25 p.m.

**Approved:**

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**Bob Margolis, Mayor**

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**Awilda Rodriquez, Clerk**