

# **Village of Wellington**

*12300 Forest Hill Blvd  
Wellington, FL 33414*



## **Action Summary - Final**

**Monday, May 22, 2017**

**4:00 PM**

**Village Hall - Conference Rooms 1E & 1F**

## **Village Council Workshop**

*Anne Gerwig, Mayor  
John T. McGovern, Vice Mayor  
Michael Drahos, Councilman  
Michael J. Napoleone, Councilman  
Tanya Siskind, Councilwoman*

**1. CALL TO ORDER**

Mayor Gerwig called the meeting to order at 4:03 p.m.

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

Advisors to Council: Paul Schofield, Manager; Laurie Cohen, Esq., Attorney; Jim Barnes, Assistant Manager; Tanya Quickel, Director of Administrative and Financial Services; and Rachel R. Callovi, Deputy Clerk.

**2. PLEDGE OF ALLEGIANCE**

Mayor Gerwig led the Pledge of Allegiance.

**3. [17-1184](#) EMPLOYEE OF THE MONTH FOR THE MONTH OF MAY, 2017**

This item was heard after Agenda Item 5C, Presentation on Mental Health Services Offered in Palm Beach County.

**4. REVIEW OF COUNCIL AGENDA****A. [17-1186](#) REPRESENTATIVE MATT WILLHITE: LEGISLATIVE SESSION WRAP-UP**

Mr. Schofield introduced this item. This item is a Legislative Session Wrap-Up by representative Matt Willhite, District 86.

There were no changes recommended.

**B. [17-1220](#) PRESENTATION BY THE AMERICAN CANCER SOCIETY REGARDING WELLINGTON'S INVOLVEMENT IN THE RELAY FOR LIFE EVENT**

Mr. Schofield introduced this item. This item is a presentation by the American Cancer Society regarding Wellington's involvement in the Relay for Life event.

Mr. Schofield said Cindy Drake should be present at the council meeting because of the great job she did in representing Wellington with the Relay for Life event.

Mayor Gerwig agreed with Mr. Schofield.

There were no changes recommended.

**C. [17-1221](#)****PRESENTATION ON MENTAL HEALTH SERVICES OFFERED IN PALM BEACH COUNTY**

Mr. Schofield introduced this item. This item is a presentation by Julie Swindler, Families First, on mental health services offered in Palm Beach County and receipt of a proclamation declaring May 2017 as Mental Health Awareness and Trauma Informed Care Awareness month.

Mayor Gerwig asked if the plant with the jeans that was part of a fundraiser for Families First was located in the lobby. Mr. Barnes said the exhibit was located in the lobby.

Mayor Gerwig asked if Ms. Swindler would be providing information regarding the services the Families First program provides. Mr. Schofield replied affirmatively.

There were no changes recommended.

At this point, Mr. Schofield introduced the Employee of the Month for the Month of May, 2017 - Christian Nakotey. This item is a recognition of the May 2017 Employee of the Month, Christian Nakotey, GIS Analyst.

Mr. Schofield introduced Nicole McPherson, GIS Manager.

Both Mayor Gerwig and Vice Mayor McGovern asked where were the Employee of the Month pictures moved to. Mr. Barnes said he was not sure where the pictures were but he would find out and report back to Council.

Ms. McPherson introduced Mr. Nakotey. She provided an overview of Mr. Nakotey's history, service with the Village and the outstanding work he provides. She noted that Mr. Nakotey started with the Village in 2012 as a college intern and has been with the Village since then.

Mr. Schofield noted that Mr. Nakotey was a very competent and helpful employee and he was glad he works for the Village.

Mr. Nakotey thanked Council and staff and stated that he was very grateful and did not have enough words to describe how he felt by receiving the Employee of the Month award. He said he loves working for the Village and where he comes from, working for the Village is classified as a great honor.

Mayor Gerwig asked Mr. Nakotey where he came from. Mr. Nakotey said he is from Ghana, Africa and came to the United States to pursue his Masters Degree. He noted he loves working with Ms. McPherson and the entire Village team and reiterated his tremendous appreciation on being selected as Employee of the Month.

At this point, Council congratulated Mr. Nakotey for being the Employee of the Month of May.

There were no changes recommended.

**D.     [17-1203](#)           MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETING  
OF MAY 9, 2017**

**Mr. Schofield introduced this item. This item is for the approval of the Minutes of the Regular Wellington Council Meeting of May 9, 2017.**

**There were no changes recommended.**

**E.     [17-0947](#)           AUTHORIZATION TO UTILIZE AN ORANGE COUNTY CONTRACT  
WITH XYLEM WATER SOLUTIONS USA, INC. FOR PURCHASE,  
DELIVERY AND SERVICE OF FLYGT PUMPS**

**Mr. Schofield introduced this item. This item is for the authorization to utilize Orange County contract #Y16-1095 with Xylem Water Solutions USA, Inc. as a basis for pricing for the purchase, delivery and services of Flygt pumps in the amount of approximately \$250,000 for the remaining contract term.**

**Mr. Schofield explained Xylem Water Solutions USA, Inc. was the only vendor located in Florida and provides the best available price.**

**Vice Mayor McGovern asked for the annual amount spent in the past for the service. Mr. Schofield said the amount was basically the same and is a recurring amount.**

**There were no changes recommended.**

F. [17-1192](#) RESOLUTION NO. R2017-19 (FLORIDA DIVISION OF CULTURAL AFFAIRS CULTURAL FACILITIES PROGRAM GRANT)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE FLORIDA DIVISION OF CULTURAL AFFAIRS CULTURAL FACILITIES PROGRAM REQUESTING \$200,000 FOR THE WELLINGTON AMPHITHEATER AND FURTHER AUTHORIZING AN AMOUNT OF \$400,000 AS THE VILLAGE'S REQUIRED MATCHING FUNDS FOR THE WELLINGTON AMPHITHEATER; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced this item. This item is for the approval of Resolution No. R2017-19 authorizing staff to submit a grant application to the Florida Division of Cultural Affairs Cultural Facilities Program requesting funds in the amount of \$200,000 for the Wellington Amphitheater and further authorizing an amount of \$400,000 as the Village's required matching funds for the Wellington Amphitheater expansion.

Mr. Barnes explained the grant project application being submitted was for improvements and the recovery of past costs for the amphitheater. Additionally, the improvements would assist in solving an issue they have had from the start which would include a building for concessions and to house equipment. He explained the building would eliminate the current procedure of having equipment being placed under the tents on the lawn and in full view of the public.

Mayor Gerwig said the equipment will be protected from rain and this will prolong and protect the Village's investments. She said she has been asking for the building to house the equipment ever since the amphitheater was built and felt the building would be more effective and easier for staff to mobilize equipment. Mayor Gerwig said the canopy was well received. Mr. Barnes explained staff was currently working with the vendor regarding the gutter issue and the intention for the canopy was to block the sun and that was very effective. Mr. Schofield explained 50% of the contract price was retained in order to cover the repairs and ensure the canopy provides what it was meant to provide.

Councilman Napoleone asked if there was a timeline to complete and fix the problem with the canopy since the rainy season was coming up soon. Mr. Barnes said the issue was with the contractor and if need be, staff could handle the repairs.

Councilwoman Siskind asked if the funding amount of \$400,000 was allocated in the budget. Ms. Quickel explained the amount was included in the legislative cycle for the next year's budget but staff would not know until May or June 2018 if the grant was approved.

Councilman Drahos asked if staff is having an issue with the contractor that installed the canopy. Mr. Barnes explained the contractor has been out several times to fix the issue but there was still a problem. He said at some point staff will be making the decision to fix the problem without the contractor. Mr. Schofield said if that happened, staff will advise Council.

Mayor Gerwig asked if the State requested the Village to have cultural diversity events similar to Royal Palm Beach. Ms. Quickel said cultural diversity requirements were not necessary with the current grant application but there were other grants that have cultural activity requirements.

There were no changes recommended.

**G. [17-1214](#)**

RESOLUTION NO. R2017-22 (AMENDMENT TO THE INTERLOCAL AGREEMENT WITH THE PINE TREE WATER CONTROL DISTRICT)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE INTERLOCAL AGREEMENT DATED MAY 25, 2004 BETWEEN THE VILLAGE OF WELLINGTON AND PINE TREE WATER CONTROL DISTRICT (PALM BEACH COUNTY) AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Schofield introduced this item. This item is for the approval of Resolution No. R2017-22 approving the Amendment to the Interlocal Agreement dated May 25, 2004 between the Village of Wellington and the Pine Tree Water Control District (Palm Beach County).

Vice Mayor McGovern asked if maintaining the roads was cost mutual due to the collection of the gas tax coinciding until September 30, 2017. Mr. Schofield replied affirmatively.

Mayor Gerwig asked if the gas tax collection covers the entire cost to maintain the Pine Tree Water Control District (PTWCD) roads. Ms. Quickel replied affirmatively.

Mayor Gerwig asked if staff had conversation regarding the PTWCD road maintenance procedure after the set date. Mr. Schofield explained they have several options: 1) PTWCD residents could manage the roads; 2) Contract with the Village to manage the roads; and 3) Arrange for other contract arrangements.

Mayor Gerwig asked if the Village was able to collect the gas tax and handle the road maintenance would that decision be up to PTWCD. Mr. Schofield said the decision would be up to PTWCD and they have been provided with that option. Ms. Cohen said it was a policy decision because there were other communities in the Village that also have roads and the Village has made the decision that they were responsible for the maintenance of those roads and they have not been offered the opportunity to put their roads on the Village's gas tax map and collect the gas tax monies for those communities. She indicated the gas tax does not normally cover the entire cost of the road maintenance and a policy decision was needed in respect to continuing to provide that service with PTWCD. In 2004 when the Village entered into the interlocal agreement with PTWCD, it was with the understanding and anticipation they were going to become a dependant district in the same manner as Acme became a dependant district of the Village of Wellington. When the referendum occurred, they voted overwhelmingly against becoming a dependant district. Council will need to make a policy decision and if the Village continues to maintain their roads, Council may be opening it up for requests from other communities to be treated similarly.

Vice Mayor McGovern said Council was not making the policy decision with the current agenda item. Ms. Cohen said the agenda item does not include a policy change.

Mr. Schofield explained the agenda item was regarding maintaining the roads for a short span of months.

Vice Mayor McGovern said the road maintenance would be for 3 months and asked if the gas tax was collected already. Mr. Schofield replied affirmatively and explained the gas tax would cover keeping the roads graded during the noted time period but would not cover long term swale maintenance, placements of culverts, or replacing shellrock over an extended period of time. He indicated that the recommendation was fair for PTWCD and Wellington.

Mayor Gerwig asked if PTWCD had the option to become a dependant district or was that a one time only procedure. Ms. Cohen said they would have to go back to the legislature and she felt there was not an interest on behalf of the PTWCD residents to become dependant on the Village.

Vice Mayor McGovern said an act of the legislature would be needed for them to become a dependant district. Ms. Cohen replied affirmatively and said another referendum would be needed that would yield similar results. Mr. Schofield said a current option is available, which will require a referendum and approval by the legislature. He explained the option the Village entered into with PTWCD in 2004 required a referendum which failed but was incorporated into the original agreement which included a one time exemption from not having to have a act of the legislature. The act is gone and no longer exists.

There were no changes recommended.



H. [17-1165](#) ORDINANCE NO. 2017-07 (CONGREGATE LIVING FACILITY TYPE 2B ZONING TEXT AMENDMENT)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL; APPROVING A ZONING TEXT AMENDMENT [PETITION NUMBER 17-37 (2017-25 ZTA)] TO AMEND THE VILLAGE OF WELLINGTON LAND DEVELOPMENT REGULATIONS ARTICLE 6, CHAPTER 4 SECTION 6.4.4.30 CONGREGATE LIVING FACILITY (CLF) RELATED TO THE SEPARATION REQUIREMENT FOR TYPE 2(B) CLF TO ALLOW A MAXIMUM OF FOUR (4) TYPE 2(B) CLF WITHIN A HALF (1/2) MILE RADIUS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced this item. This item is for the approval of Ordinance No. 2017-07, a Zoning Text Amendment.

Mr. Basehart said the request was from Carlos Gutierrez who runs the facility on Lily Court which was approved in 2012. He explained the Village has 4 classifications for assisted living facilities.

Mayor Gerwig asked how many residents were allowed in a Type 1 facility located anywhere in Wellington. Mr. Basehart said the amount of residents allowed was up to 6 residents and there were 12 Type 1 facilities in the Village.

Mayor Gerwig asked if the facilities could be side by side. Mr. Basehart said there was a separation requirement and currently all congregate living facilities or assisted living facilities have to be at least 1000 feet apart or within the separation.

Mayor Gerwig asked if the separation requirement was the same for all the group homes. Mr. Basehart replied affirmatively.

Mr. Basehart said the Type 2 facilities allow up to 14 residents and must be located in multi-family districts and the conditional uses must be approved. He explained Type 3 facilities could hold an unlimited amount of residents, must be in a multi-family or commercial district and must be 1000 feet from another facility. He referred Council to page 65 of the agenda packet and indicated the Type 3 facilities were: 1) NuVista; and 2) 100 bed facility approved at Wellington Regional Medical Center, that has not been built. He indicated where the Type 1 facilities are located within the single family neighborhoods and noted there were no Type 4 facilities in the Village.

Mr. Basehart provided background information regarding Mr. Gutierrez' requests in 2012. He said initially Mr. Gutierrez wanted to expand the number of beds to 42 which staff did not agree to because that would run into the classification of a Type 3 facility and other requirements would need to be adhered to. He stated staff suggested amending the code to change the locational criteria to state up to 4 Type 2(B) facilities within a 1/2 mile radius with a 1000 feet separation from other CLFs would be allowed. He explained that was the applicant's request on their application.

Mayor Gerwig asked if the criteria would double the size of the facility. Mr. Basehart said the criteria would not double the size of the facility but a cluster of 4 facilities would be allowed. He explained Type 2(B) facilities were specifically for senior housing of which the residents are 65 years of age or older and are in need of some type of assistance. The maximum occupancy is 21 residents.

Mr. Basehart referred Council to page 66 of the agenda packet and explained the only Type 2(B) facility was Wellington Elder Care. He indicated since the facility opened there have been positive changes to the neighborhood: 1) the neighborhood is cleaner and; b) good impact to the surrounding neighborhoods. He said staff wanted to see more similar changes within other areas in the Village.

Mayor Gerwig asked if the address of the facility was the residents permanent address. Mr. Basehart replied affirmatively and said the residents live at the facility.

Mayor Gerwig asked if staff is on site 24/7. Mr. Basehart replied affirmatively.

Mayor Gerwig asked if there have been parking problems. Mr. Basehart said there have not been any parking problems especially since the residents do not have their own cars and enough parking spaces were available to accommodate visitors.

Mr. Basehart said the Planning, Zoning and Adjustment Board (PZAB) reviewed the application at the May 10, 2017 meeting and unanimously approved the application.

Mayor Gerwig said she knows several people who have been at the facility or are currently located at the facility and is looking forward to hearing from the applicant.

Vice Mayor McGovern said he has visited the facility.

Councilwoman Siskind said she has visited the facility.

Councilman Napoleone said he has visited the facility.

Councilman Drahos said he has visited the facility.

Vice Mayor McGovern asked if the next stage will be for the applicant to request the conditional use application. Mr. Basehart replied affirmatively and explained the change in the code will be a Village wide change.

Councilman Drahos asked if someone else wanted to come in with a new business, will they have to go through a conditional use process first. Mr. Basehart replied affirmatively.

Vice Mayor McGovern asked Mr. Basehart if the applicant is going to continue to operate the current facility and obtain a second facility within the noted radius. Mr. Basehart replied affirmatively and said the other facility is next door.

Vice Mayor McGovern asked if staff will allow the applicant to connect the facilities. Mr. Basehart said staff is not approving the connection of the facilities but the facilities are located side by side.

Vice Mayor McGovern said there is a walkway between the 2 locations.

Councilman Drahos asked if the applicant purchased the building on the other side in order to continue to expand his business, under the current code, will he be allowed to do so. Mr. Basehart replied affirmatively and said he could have up to 4 facilities.

Councilman Napoleone asked for the reason staff selected 4 as the maximum amount as oppose to 2 or 3 facilities. Mr. Basehart said the applicant did not select the number. Staff ran calculations taking the 1/2 mile radius and applying the separation from single family and other types of CLFs in consideration and the result was 4 facilities.

Councilman Napoleone referred to the map on page 66 of the agenda packet and said the potential 2(B) facilities could only have 2 facilities due to the surrounding land uses. Mr. Basehart replied affirmatively. Councilman Napoleone noted that the change would allow for up to 4 Type 2(B) units where Elder Care is located. He noted the other circle that has a limit of 5 would be reduced to 4, due to the separation requirements. Mr. Basehart replied affirmatively.

Mayor Gerwig said Council has received emails regarding the issue and she felt the community is supporting the change.

Councilman Napoleone asked if a unity of ownership is required. Mr. Basehart said a unity of ownership is not required.

Vice Mayor McGovern asked with the revision if the applicant obtains the property after the one on the west side or to the east side of the existing property, will they be permitted to repeat the procedure two more times. Mr. Basehart replied affirmatively. Vice Mayor McGovern said they could have up to 4 facilities in a row. Mr. Basehart replied affirmatively and said unless someone else in the radius comes in before they make the change.

Mayor Gerwig said the service they were providing is a need and a convenience for families to be able to have full time care without being in a hospital like facility.

Mr. Basehart said there were no down sides for the Village having the facilities given the fact they were limited to seniors only.

Vice Mayor McGovern asked when the facility started their operation in the Village. Mr. Basehart said the facility started in 2012. Vice Mayor McGovern asked if the Village has had any problems with the facility. Mr. Basehart said there have not been any issues.

Mayor Gerwig said PBSO stated the facility is not a burden due to their location being close to the fire station.

Mr. Schofield noted there have been other improvements since the facility was

established and due to their improvements, the entire neighborhood is better from a functional and aesthetic point of view.

At this point, Mr. Basehart continued with his overview.

He explained the other locational criterias located in the code would not change: 1) Type 2(B) facility must be located within a quarter (1/4) road mile of a collector or arterial roadway to ensure minimal access for required emergency vehicles; 2) Type 2(B) facility must be located within one and one-half (1.5) road miles of a full service professional fire rescue station; and 3) three (3) road miles of a full service medical hospital.

Vice Mayor McGovern asked if the facilities were regulated by the Florida Agency for Health Care Administration (AHCA). Mr. Basehart replied affirmatively and explained the AHCA has internal standards that need to be adhered to: 1) minimum room sizes; and 2) certain amount of personnel.

Mayor Gerwig said the facility owner has made additional investments to the structure which included several upgrades: 1) upgrading of fire sprinklers; and 2) upgrading the restrooms to make more accessible. She noted the change in the code will be Village wide.

There were no changes recommended.

## 5. WORKSHOP

This Workshop information was provided after the Manager's Report.

Mr. Basehart explained in 2014 a proposal was made by staff to change a part of the approval process relating to the Development Review Committee (DRC). Their suggestion involved eliminating the DRC in order to change the function and have a Development Review Officer (DRO) take their place. Mr. Schofield noted the change took place, but was unsuccessful.

Mr. Basehart said currently staff felt it was the time to reconsider the proposal and he said Ms. Cohen will provide Council with expanded information regarding the Sunshine Law issues pertaining to the proposal. He explained other jurisdictions have determined that the DRC is subject to the Sunshine Law because they make decisions, provide levels of approval and were involved in voting. He noted due to the Sunshine Law stipulations and the developmental review process getting crippled if the Village has to comply with the normal Sunshine requirements stating that none of the members on the DRC could meet or discuss anything that was on an upcoming agenda which was a staff function, the process would include staff review and staff coordination which is very important to keep the process moving to service the applicants and the Village Council. He stated the proposal of resurrecting the concept of the DRO will place a single person in charge of deciding if something is ready to be moved forward to the approval process as opposed to a vote or a decision by a committee.

Mayor Gerwig asked Mr. Basehart if the person that makes the decisions also makes the decision to move the application forward. Mr. Basehart replied affirmatively and said the DRO will work openly with other staff members, the engineering and building departments, fire rescue and other agencies that review applications. When the DRO feels everything is in proper order and all the criteria is met for certification, the application will moved forward for approval.

Mr. Schofield reminded Council the procedure is not similar to the Planning, Zoning and Adjustment Board or Council but staff level reviewers: 1) planners; 2) engineers; and 3) building department review staff which are the staff that handle the nuts and bolts of this type of work daily by using the Village's land development regulations or the building codes. He said actual votes are not taken at the DRC level but indicated that each applicant has the right to take their application forward even if they do not meet the code. The application moves forward with staff's recommendation of denial or approval based on their issue. He said the new procedure will allow the Village to resolve certain problems and allow staff to talk to each other on a daily basis about simple applications. He explained with building permits, that application is not only reviewed by the building department, the planning department will have to review to make sure the setbacks are being met and the engineering department must review in order to make sure the drainage requirement or the elevation or slope requirements are being met. He noted in order to allow the process to flow, having the process occur during an open meeting, is very difficult.

Ms. Cohen said the Village has used the process of a publicly noticed televised DRC meeting as a precautionary method. She stated there are some Attorney

General Opinions (AGOs) that suggest making a determination outside of publicly noticed meetings involves the Sunshine Law. She said if the Village moves toward a system where the same input is obtained it would include: 1) the information being disseminated to each of the departments; 2) reviewed by each of the departments who will then provide their comments to the planning department; 3) a meeting would be convened where staff will discuss with the applicant their various comments and talk about ways to resolve the issues; and 4) staff may provide additional documents to review and determine to be sufficient to move forward through the process. She said the process will eliminate any question regarding a post DRC submittal and the Determination of Sufficiency involving the Sunshine Law or eliminates the possibility of a Sunshine Law issue if the departments outside of the publicly noticed meeting need to discuss a particular submission or a piece of the application. She said there were AGOs that would support the implementation of a DRO as opposed to a DRC would eliminate any potential Sunshine law issues.

Councilman Drahos asked if staff is asking Council to have this discussion formally during a public meeting. Mr. Basehart replied affirmatively. Ms. Cohen said staff is asking Council to approve an ordinance indicating the creation of a DRO and eliminate the DRC.

Vice Mayor McGovern asked if the DRO will coordinate the applications to move within all the departments for staff's review. Mr. Basehart replied affirmatively and explained currently when an application is submitted and distributed to the other agencies, their comments are included when they return the application to the Village's project manager via email. Afterwards, a report is compiled by the project manager and sent to the applicant prior to the DRC meeting. During the DRC meeting, the applicant is present, and when all of the issues are resolved, then the application becomes certified and the applicant is advised of the status. He reiterated that no vote is taken during the DRC meeting and only when all of the requirements of all of the agencies have been met, then, the approval is obtained.

Councilman Drahos asked for the time frame staff had in mind for the new procedure. Mr. Basehart said staff will bring the ordinance to Council within the next month or two. Mr. Schofield said in order to bring the process forward since it was a Zoning Text Amendment, the Village's time frame for processing that type of amendment is 90 to 120 days, which will be in September. He explained that each Project Manager will work under Mr. Basehart or Mr. Lundeen, the meeting where the applicant speaks will continue to take place but the person making the final decision will be the DRO.

Vice Mayor McGovern asked who will be the DRO. Mr. Schofield said the current process has Mr. Basehart and Mr. Lundeen making the final decisions but the process could change to each Project Manager in each of their departments on a delegated basis.

Mayor Gerwig asked if one of the planners could be the delegated person. Mr. Basehart said each Project Manager could be the DRO for a particular project. Mr. Schofield said introducing Mr. Basehart's concept could be looked at for the future. Mr. Basehart said currently the Planning and Zoning Department has a DRO which is Ms. Cramer. Mr. Schofield said there are two staff members responsible for the applications: 1) Planning Department, Cory Cramer; and 2) Engineering Department, Patrick Barthelemy and the delegation

will not step below both of the staff members he mentioned earlier.

Mayor Gerwig said in the past she asked staff how the County handles the procedure and she received mixed replies. Mr. Basehart explained the County has a DRO that handles the applications at the Project Manager level but they also have a DRC. When an application is submitted to the County, the application goes to the DRO for review, where 15 - 20 staff members can review the application but the actual decision is held at the meeting and the final certification states that the DRO provides the approval.

Mayor Gerwig asked Ms. Cohen to explain how the Village could be protected when using the new procedure. Ms. Cohen said there was an Attorney General Opinion during Governor Crist's post which said these types of staff level decision making processes were subject to the Sunshine Law and at that point everyone started to publicly notice their DRC meetings and in the Village they are televised as all of the other meetings. The subsequent Attorney General Opinion could go either way; not delegating all of the decision making authority to a single individual. There is an Attorney General opinion directly on point that supports the idea of having one person be the final determiner of these types of applications and this would eliminate the issue regarding the Sunshine Law. She felt that was the reason for other communities and the County opting for this route because of the practicality. She said as a staff member it is not good to be precluded from discussion of a development application issue submitted to your municipality.

Mr. Schofield said he would not look forward to the day in which the Planning Director could not talk to the Village Attorney about an application that was in process.

Councilman Napoleone asked if the DRC could provide final authority decisions. Ms. Cohen said there were some things that they could provide final authority decisions on. Mr. Basehart said they had the final authority on site plan approvals. Councilman Napoleone asked if those approvals would be taken away from the DRC and the DRO would make the decisions. Ms. Cohen replied affirmatively. Councilman Napoleone asked staff to provide Council with the issues that the DRC currently makes final decisions on.

Ms. Cohen said on the matters in which the DRO would have the final authority, those issues will have to be publicly noticed and public comment will have to be taken pursuant to the amendment to the public meeting law that states you have to have the opportunity sometime during the decision making process for public comment.

Mayor Gerwig said everyone needs to understand that the application will be approved if you have met everything on the checklist. Mr. Schofield explained zoning issues were checklists and if the applicant does everything on the checklist, the approval would be granted. However, if all of the items on the checklist are not done, the approval may be granted but conditions may be added. Once every condition has been laid out regarding the Village's code, the Village could deny the application. Mayor Gerwig said the conditions are laid out by Council. Mr. Schofield said that staff does not want to eliminate the final meeting in which the applicant can speak and ask questions because all of the staff members will be present and the meeting will be televised. The only difference is staff will not be voting. Ms. Cohen explained the change is to

clarify in the code that the final decision making authority DRO or the recommendation is not a recommendation of a committee that could be deemed subject to Sunshine Law but is a final recommendation by the officer who is charged under the code with the responsibility.

Mr. Schofield reiterated the Village is not looking to remove the public's ability to make comment during the meetings that will continue to happen. Staff is just trying to make sure that they are being consistent with the existing statutes, conducting the meeting as per the Sunshine Law and allowing for the planners to be able to have discussion with the engineers and the building department staff is able to have discussion with the fire department during the normal course of business. He explained there are some drastic things that staff is currently considering and they needed to make sure they were acting in compliance.

Vice Mayor McGovern asked when was the last time the issue was addressed. Mr. Basehart said the issue was addressed in 2014. Vice Mayor McGovern asked for the happenings at that time. Mr. Schofield said the issue ended at the Planning and Zoning level.

Mayor Gerwig said at times residents are not aware that the board and committee members are not the elected officials or staff. As a Village, we need to assist the boards and committees to help them understand what is said.

Councilman Drahos said staff is presenting the change to Council today and he is not prepared to make a decision. He asked staff to provide Council with additional information and speak about the issue at a future agenda review meeting. Mr. Schofield said currently he was not looking for Council's comments. He explained it is a needed process and there will be months of conversation regarding the issue before the process is implemented. At this point, staff is only providing an idea because it is in response to one of the challenges included in a current application. He noted that staff will be speaking to Council individually but before the issue gets to the point of going to the public hearing process there will be many opportunities to speak about the issue in much more detail.

Vice Mayor McGovern said it would be helpful if Mr. Schofield circulates to staff what the proposed process was in 2014. Mr. Schofield said he would provide Council with the information.

Mayor Gerwig said she would like to have staff include research from other communities and municipalities on how they are handling the issue.

Vice Mayor McGovern said to include the research information from Palm Beach County, West Palm Beach, Jupiter and Palm Beach Gardens which will be helpful for Council.

Ms. Cohen said that a draft ordinance has been created and she will send it to Council for input and revisions. She felt there is plenty of time to have future discussions regarding the process.

Councilman Drahos said he is not in a rush to make any changes. He said he would rather have Council and staff take the time to review and have further discussion.



Councilman Napoleone stated that part of the urgency is that staff is going to have a lot of problems trying to pass anything through DRC if they have to abide by the Sunshine Law for everything where staff cannot talk to each other outside of a publicly noticed meeting.

Mr. Schofield said staff is considering daily DRC meetings.

Councilman Drahos said the Village has been using the current operation for the past 20 years and asked why is there an urgency to make a change. Mr. Schofield said the urgency of the change is due to a recent challenge on a current pending application.

Mayor Gerwig said Council's job is to protect the Village and to do things in a proper manner and if staff is not given the proper the tools needed to do that, she felt that Council is not doing their job properly.

Ms. Cohen said for the record she was not conceding there was anything done that was improper.

Councilman Drahos said that was dismissed. Ms. Cohen said it was dismissed because it was remanded to DRC which was one of the issues raised. In the past, staff stated that the issue needed to be addressed and she felt that there is enough time to address the issue now and this would be the appropriate time to review the process and make any changes that Council feels is appropriate for the Village.

Mayor Gerwig commented regarding the issue and stated that the Village has been left wide open since 2014.

Mr. Schofield said it was important to remember that September is the earliest that Council will see the item and with these types of ordinances and changes, very rarely do they progress along the best case timeline. He said September will be the earliest but it could be significantly later.

Mayor Gerwig said Council is expecting to obtain input from the Planning and Zoning Board during the entire timeframe. Mr. Basehart said staff will have one-on-one contact with each council member as the issue progresses.

Ms. Cohen said by no means should it be construed that we would not have prevailed if that challenge would have gone forward.

Vice Mayor McGovern said the challenge could be presented again. Ms. Cohen replied affirmatively and said that is her reason and thinking that it is appropriate to address the issue through an ordinance.

Mayor Gerwig asked Mr. Schofield and Ms. Cohen to circulate the background information, information from the other municipalities and the County.

Vice Mayor McGovern said it is important that Council review the information that Mr. Schofield circulates.

Mayor Gerwig said that the Village needs to be proactive because there is confusion and it is Council's job to inform everyone about the ongoing

process.

Vice Mayor McGovern said they need to know that there is a process and the applicant is entitled to petition and go through the process.

## **6. ATTORNEY'S COMMENTS**

Ms. Cohen said the conversion therapy ordinance would most likely be on the next agenda. She said she will provide Council with a supplemental memo with information in response to the arguments raised by the Liberty Counsel letter addressed to Mayor Glickstein and Dr. Julie Hamilton attached to the email Council received. She indicated that Dr. Hamilton wants the opportunity to have equal time for presentation.

## 7. MANAGER COMMENTS

Mr. Schofield said he was asked to prepare a standard response regarding the Equestrian issue in order to address the emails received.

At this point in the meeting, Mr. Schofield said that he promised Council to provide them with an outline for their review, suggestions and approval. He explained the letter should indicate where the Village is at with the issue and acknowledge that they will be placed on an email list which would be provided with the final results. He said staff would establish a FAQ page and place on the Planning Department's page on the Village's website.

Mayor Gerwig asked Mr. Schofield to move forward with the process. She said people are frustrated if a reply is not received. She indicated she has met with several people and will continue to meet with anyone that requests a meeting. She stated one of the emails she received last week stated a mailing was sent to their house from the Village and they thought she was sending the mailing personally. She wants the public to be aware of when the item appears before Council due to current confusion and she wants staff to clear the confusion.

Vice Mayor McGovern said the emails they received indicate there is confusion. He explained after receiving one of the emails last week, he spoke to Mr. Schofield and requested he draft a letter to clarify the issue. He said the following needs to be addressed in the letter: 1) no decisions have been made on the issue; 2) the issue has nothing to do with Council; 3) the project was brought forward by the developer using the same procedure as other developers; and 4) the project is entitled to be considered by using the Village's existing process.

Mr. Schofield said every resident or property owner has the right to petition for a change and the Village and Council has the requirement to process the petition but noted that staff and Council are not required to take specific action.

Councilman Drahos said he wants time to review the outline provided by Mr. Schofield. He said due to the large volume of the emails they are receiving it is impossible for Council to reply to all of them. He said he appreciates the outline but wants the opportunity to reply to any of the emails sent to him personally.

Mayor Gerwig said Council is not controlling the messages but she felt Mr. Schofield's outline will be helpful. She indicated Council can provide their comments about the outline at tomorrow's meeting. Mr. Schofield said if Council currently provides him with their revisions, he will have a revised outline available for them at tomorrow's meeting.

Councilman Drahos said addressing the issue at tomorrow night's meeting will be a good opportunity because there is a tremendous amount of misinformation and the appearance is that Council initiated the plan.

Mr. Basehart stated at the May 10, 2017 Planning, Zoning and Adjustment Board (PZAB) meeting there were several people that gave comments thinking that the PZAB members were the Village Council members.

Mayor Gerwig said the Village is doing their best to disseminate the correct information to the public.

Councilman Napoleone said he was considering doing something on his own but the outline is very helpful and included some of the points he wanted to address.

Mayor Gerwig said the residents are thinking they voted on a land use but that was not the case, they voted on a charter amendment.

Vice Mayor McGovern felt if staff adds the statute to the website, the residents will be more confused.

Mayor Gerwig agreed with Vice Mayor McGovern in not adding a copy of the statute to the Village's website.

Mr. Schofield said once he completes the outline and Council reviews the outline, he will have staff send a copy to everyone that sent Council an email and will add the information to the Village's website.

Council agreed with Mr. Schofield's suggestion to reply to everyone that sent Council emails and include the informational outline.

Mr. Schofield said a question was raised in regards to the upcoming parade. He asked Council if they felt if both lanes should be closed because of the large number of people marching in the parade. He said there will be a limited time closure and recommended the closure for next year's parade. He explained the closure will occur as the parade starts, both lanes heading east bound will be closed on Forest Hill Boulevard for approximately 40 minutes.

Mayor Gerwig said there was an accident during the Veterans Parade in the other direction, heading west bound. She said the signage needs to be placed notifying the closure very soon. She said as the drivers approach the event area, they tend to look and see what the event is and at times are not looking straight ahead while driving. She explained she does not want the drivers to be distracted by the parade.

Mr. Barnes explained that staff reviews the events annually. Since there is moving traffic adjacent to the event, at times the drivers become distracted and it would take one short distraction for an accident. He stated the short time period closure could start east of Montauk Road, and the drivers would have the ability to make a u turn, and turn back if they desire. The area would be immediately opened after the parade exits Forest Hill Boulevard.

Councilman Drahos asked if the access was being cut off from any of the residential areas. Mr. Barnes said no and the only non-accessible areas would be Village Hall and the commercial plaza but they would be able to enter the commercial area via South Shore Boulevard.

Mayor Gerwig asked if staff is recommending closing both lanes for the upcoming event. Mr. Barnes said the closure was a thought but was not imperative. Mayor Gerwig said she has never felt unsafe walking in the lane but the inconvenience is the fact the Village parade could be distracting the drivers. She asked Mr. Barnes if the lanes would be closed for the entire

ceremony which takes 40 minutes. Mr. Schofield explained the closure would occur before the parade starts and agreed the closure would last 40 minutes. Mayor Gerwig said she understood the concern especially when children are involved because the traffic slows down significantly when the parade is taking place.

Mr. Barnes explained during the past few years, the amount of parade participants has increased.

Vice Mayor McGovern said the event is a few days away and notices have not been placed. He noted the Village does not want to provide an inconvenience to the drivers in the area. He asked how long in advance were the notices placed for the homecoming or holiday parades. Mr. Schofield explained the notices were placed several days in advance and suggested moving forward with the change for the following year. Vice Mayor McGovern said all the events should be added to a list in order to provide the residents with enough notice.

Mr. Barnes said there was less business traffic on the roads on Memorial Day.

Mayor Gerwig said the people trying to get to the event would be blocked.

Mr. Barnes said parking is available at Village Hall, but drivers would not be able to turn right on South Shore Boulevard because the parade ends at that location. Access to the Publix shopping center is available to the drivers heading west on South Shore Boulevard.

Mayor Gerwig asked if everyone could park at the Publix shopping center on Memorial Day. Mr. Schofield said parking at the shopping center was not a problem during the Memorial Day event.

Vice Mayor McGovern said he wanted as many people as possible to participate in the parade and have a safe event but changing the procedure at this late hour was not feasible.

Councilman Napoleone suggested closing both lanes during next year's event but not at this year's event.

Councilman Drahos agreed to close both lanes during next year's event but not during this year's event.

At this point, Mr. Schofield introduced Mr. Basehart who would provide information to Council regarding the Development Review Committee Workshop item.

## **8. COUNCIL COMMENTS**

None.

## **9. ADJOURN**

There being no further business for the Village Council to discuss, the meeting was adjourned at 5:21 p.m.