

## MINUTES

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

**Tuesday, November 11, 2014  
7:00 p.m.**

Pursuant to the foregoing notice, a Regular Meeting of the Wellington Council was held on Tuesday, November 11, 2014 commencing at 7:00 p.m. at Wellington Village Hall, 12300 Forest Hill Boulevard, Wellington, FL 33414.

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

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

1. **CALL TO ORDER** – Mayor Margolis called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE** – Mayor Margolis led the Pledge of Allegiance.
3. **INVOCATION** – Rev. Rainer Richter, St. Peter's United Methodist Church, Wellington, delivered the Invocation.
4. **APPROVAL OF AGENDA**

Mr. Schofield presented the Agenda for approval recommending two changes: (1) Remove Congressman Deutch's presentation from the Agenda as he was unable to attend the meeting; and (2) Split item 8A into two parts: (a) Authorization to Enter into an Agreement for Solid Waste Consulting Services; and (b) Direction Regarding the Solid Waste RFP.

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

### 5. PRESENTATIONS AND PROCLAMATIONS

~~A. 14-920 PRESENTATION BY CONGRESSMAN TED DEUTCH~~ Removed from the Agenda.

### 6. CONSENT AGENDA

- A. **14-909** MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETING OF SEPTEMBER 23, 2014
- B. **14-897** CERTIFICATES OF CORRECTION FOR NON-AD VALOREM ASSESSMENTS

- C.      14-756      AUTHORIZATION TO AWARD A CONTRACT FOR UTILITY PROCESS CONTROL SYSTEMS MAINTENANCE AND MODIFICATION TO PROCESS CONTROL CONSULTANTS, INC
- D.      14-885      RESOLUTION NO. R2014-65 (DROWNING PREVENTION COALITION "BUCKS" CERTIFICATE PROGRAM): A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING AND AUTHORIZING THE MAYOR AND CLERK TO EXECUTE AN INTERLOCAL AGREEMENT WITH THE DROWNING PREVENTION COALITION OF PALM BEACH COUNTY TO PROVIDE FOR VOUCHERS FOR FREE SWIMMING LESSONS UNDER THE "BUCK PROGRAM" FOR FISCAL YEAR 2014-2015; AND PROVIDING AN EFFECTIVE DATE.

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

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

## **7. PUBLIC HEARINGS**

- A.      14-780      ORDINANCE NO. 2014-22 (BINKS POINTE COMPREHENSIVE PLAN AMENDMENT): AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE WELLINGTON COMPREHENSIVE PLAN FUTURE LAND USE MAP (PETITION NUMBER 2013-61 CPA 2) BY CHANGING THE FUTURE LAND USE MAP DESIGNATION FROM COMMERCIAL RECREATION TO RESIDENTIAL "E" FOR CERTAIN PROPERTY KNOWN AS PARCEL "V" OF THE LANDINGS AT WELLINGTON PUD, TOTALING 0.26 ACRE, MORE OR LESS, LOCATED APPROXIMATELY ½ MILE SOUTH OF SOUTHERN BOULEVARD ON THE WEST SIDE OF BINKS FOREST DRIVE, AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
- B.      14-781      RESOLUTION NO. R2014-27 (BINKS POINTE MASTER PLAN AMENDMENT): A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL, APPROVING A MASTER PLAN AMENDMENT (PETITION NUMBER 2013-61 MPA 2) FOR CERTAIN PROPERTY KNOWN AS POD "L" (BINKS POINTE F.K.A. RESIDENCES AT BINKS FOREST GOLF CLUB) OF THE LANDINGS AT WELLINGTON PUD, TOTALING 15.27 ACRES, MORE OR LESS, LOCATED APPROXIMATELY 1/2 MILE SOUTH OF SOUTHERN BOULEVARD ON THE WEST SIDE OF BINKS FOREST DRIVE, AS MORE SPECIFICALLY DESCRIBED HEREIN; TO INCREASE THE ACREAGE OF POD "L" BY INCLUDING PARCEL "V" 0.26 ACRE, DESIGNATE POD "L" AS OPTIONAL RESIDENTIAL (OR) AND AMEND CONDITIONS OF APPROVAL; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

Since this was a quasi-judicial hearing, Ms. Cohen administered the oath to those people who indicated they would be speaking on these items.

## **Ex-Parte Communications**

**Councilman Coates:** Councilman Coates disclosed that he had no communications since the last Council meeting, but prior to that, he had met with the applicant and staff.

**Councilman Willhite:** Councilman Willhite disclosed that he had no communications since the last meeting, but he had met with the applicant, their representatives, staff, Mr. and Mrs. Ventriglio and his wife, Alexis Willhite.

**Mayor Margolis:** Mayor Margolis disclosed other than staff and from the last meeting, he spoke with the applicant and Bart Novack

**Vice Mayor Greene:** Vice Mayor Greene disclosed that the only communication was prior to this was with the applicant, his representative and staff.

**Councilman Gerwig:** Councilwoman Gerwig disclosed that she had previously met with the applicant, their representatives, staff and Michelle Daniels.

Ms. Cohen asked Council if withstandstanding their communication outside of this forum whether they believed they could hear this agenda item in a fair and impartial way. Council responded affirmatively.

At this point, Mr. Schofield announced that item 8B was a companion item to this Comprehensive Plan Amendment and that Council might want to consider one presentation for both items. He noted that they would require separate motions. Council agreed to hear one presentation for both items. Mr. Schofield said that Council's ex-parte communications would remain the same for both items.

Mr. Stillings explained that this was a request for a Comprehensive Plan Amendment as well as a request for a Master Plan Amendment for the project formerly known as Residences at Binks Forest Club, now Binks Pointe. He showed a location map showing Pod L of the Landings Planned Unit Development (PUD) as well as Parcel V which is the .26 acre piece which is the subject of the Comprehensive Plan Amendment. He stated that the Comprehensive Plan Amendment changed the land use designation for that small .26 acre piece from Commercial Recreation to Residential "E" which was consistent with the land use designation for Pod L and also to condition it so that no residential units will be assigned to Parcel V which would limit it to the 90 units that are currently approved. Mr. Stillings further stated that the request for the Master Plan Amendment amended the Landings at Wellington PUD Master Plan to: Increase the acreage of Pod L (Binks Pointe) by adding the 0.26 acre Parcel V; amend conditions to extend the build-out date; remove conditions that are no longer required or have been completed; and to propose new conditions. Mr. Stillings said that Parcel V was originally dedicated as a wetland preserve on the Binks Forest Landings portion of the Wellington PUD plat; however, there is no jurisdictional wetland and it was being reconfigured into being developed as a much larger. 3 preserve area within the site plan and will be dedicated as such on the subsequent plat. Mr. Stillings showed the approximate location of the preserve within the site. He showed the graphic of the future land use plan for Pod L and Parcel V and the overall Landings PUD and the inclusion of Pod L and Parcel V within that PUD. He then showed a graphic representation of the proposed development with the buffering on the south and west as well as the access to the project off of Binks Forest Drive. Mr. Stillings stated that the Planning, Zoning & Adjustment Board (PZAB) recommended denial (4-2) of the Comprehensive Plan Amendment at its May 7, 2014 meeting; however, Council approved it 5-0 at its last meeting. He further stated that the PZAB unanimously recommended approval (6-0) of the Master Plan Amendment. Mr. Stillings said that staff recommended approval of both the Comprehensive Plan Amendment and the Master Plan Amendment. He noted that both the applicant and agent were present to make a presentation and

answer any questions.

Councilman Coates said that he supported this was it was last before Council, but he wanted to ensure that the concerns he raised had been adequately addressed. He asked if it was correct that a majority vote of Council was needed for the first reading of the Comprehensive Plan Amendment; however, a super majority approval was required for the adoption. Mr. Stillings said that was correct. Councilman Coates said that he supported what was being accomplished; however, he wanted to ensure the protection of the preserve area. Councilman Coates indicated that the vote for the site plan only required a majority vote. Mr. Stillings indicated that was correct, but that was only if Council conditioned the site plan to come back to them. Councilman Coates raised concern that the site plan could be modified by a majority vote which he felt gave the preserve less protection. Mr. Stillings did not feel that would be so because it would be platted as part of the overall development and would be dedicated as a preserve in perpetuity. With regard to the site plan, Councilman Coates then asked Ms. Cohen if Council could require that any amendment in the future would require a super majority vote of Council. Ms. Cohen thought they could not impose that if Council required the site plan to come back before them because it would not be in accordance with the Code. She also noted that it would be protected because it would be platted and maintained as a preserve in perpetuity, unless it came back as a replat or somehow was reconfigured. Councilman Coates asked if that change would require a majority. He further asked if another Comprehensive Plan Amendment would be required if they came back with a site plan amendment with residences on that parcel. Mr. Stillings said it would require a Master Plan Amendment because they are now only allowed 90 units which would require an action by the Council as well as to change the condition requirement of the .3 preserve which would be a part of that as well. Councilman Coates asked Mr. Stillings to explain PZAB's denial of the Comprehensive Plan Amendment which appeared to be inconsistent with their approval of the Master Plan Amendment. Mr. Stillings explained that at the first meeting when the Comprehensive Plan Amendment was presented to the Planning Board, he believed that their decision was swayed by several members in attendance regarding the conversion of the property. He said that the Board was not speaking to the proposed development, but rather to the history of the site. Mr. Stillings stated that when it came back before them, the same residents were not in attendance which thought was the only thing that had originally impacted their vote. Councilman Coates asked whether the actual presentation of the Master Plan Amendment had provided the Board with comfort regarding their concern. Ms. Cohen said that she did not attend that meeting, but she saw that there was a lot of discussion regarding rental units, who might be renting, comments re Section 8 housing, which were not an appropriate basis to deny the request. She said that the second time, those same concerns were not as important to the Board.

Mayor Margolis pointed out that he had attended that meeting, and he believed the Board was asking questions about the Master Plan which was not before them regarding types of rentals and other things of that nature rather than what was before them.

Councilman Willhite expressed concern that it takes the super majority of Council to adopt the Comprehensive Plan Amendment yet an applicant can come back and have a variance approved by staff changing what was approved by Council. He questioned why staff should be allowed to approve variances which changes approvals by Council. Mr. Schofield said that there is a statutory variance requirement which staff can't approve, but the Code is clear as to those types of variances that staff can approve, i.e. alternative parking, setbacks. He indicated that if Council was looking for additional protection for the preserve, they could easily accomplish that with a conservation easement written in favor of the Village.

Councilman Willhite said that he had raised a concern as did residents about setbacks on the south side. He said that Council could approve those setbacks; however, staff could then go back and

approve less of a setback than what was approved by Council. He referred to Section 34 as an example where staff changed landscape buffers. Mr. Stillings clarified that was actually a variance approved by PZAB that related to the landscape material being used. Councilman Willhite believed that because of instances like that, variances should come back to Council because something of this magnitude should not be changed. He thought that they needed to look at the variance procedures in this area. Mr. Schofield explained that staff cannot change a Council-imposed condition. He said if Council was uncomfortable about this, they could list the buffer width that they want in the list of conditions. He said that once a condition is imposed by Council, it must come back to them and can't be changed at either the staff or Planning Board level. Mr. Schofield said that staff has the ability to provide alternative requirements that are clearly specified in the Code, and normally there is not a condition that deals with a condition other than they have to meet the requirement. Ms. Cohen indicated that Council has previously discussed variances going before PZAB; and indicated they can look at changing that if Council preferred they go before them instead. She also noted that Mr. Schofield provided Council with information as to what other communities do with regard to variances.

Councilman Coates asked if Council had the ability on an ad hoc basis to say that no variances on a particular project could be approved unless they come before Council. Ms. Cohen believed that Council would first have to change the ordinance before they could take such action. Councilman Coates asked if the action they could take at this time would be to include it as a Council-imposed condition. Ms. Cohen said that would be her recommendation.

Councilwoman Gerwig asked what was on the existing preserve site. She said it was her understanding that the proposed preserve site was in better condition than the existing one, and if so, had that been verified. Mr. Stillings said that was correct noting that the applicant submitted an environmental assessment of the preserve. Councilwoman Gerwig said that this was not a wetland, but a preserve. Mr. Stillings indicated that was correct noting it was designated a preserve on the Master Plan. He explained that meant that at some point it had some preserve quality, but over time, it became overgrown with invasives and its quality became degraded. Councilwoman Gerwig asked who was responsible for the maintenance. Mr. Stillings indicated that he was not sure. Councilwoman Gerwig asked who would the preserve be dedicated to if this goes through as well as who would be responsible for it. In response, Mr. Stillings believed at this time it was proposed to be dedicated to the HOA. Councilwoman Gerwig said that it would be dedicated to the HOA with a conservation easement. Mr. Schofield said that he mentioned the conservation easement in order to give Council a level of protection that said it could not be released without coming before them. He said that once that conservation easement is written in favor of the Village of Wellington, it cannot be released by the applicant without the vote of the Council. Councilwoman Gerwig asked how that would change the Village's maintenance obligation. Mr. Schofield said that the maintenance obligation stays with the HOA. Councilwoman Gerwig said that the HOA would have to go through the Village if they wanted to change anything about that preserve. Mr. Schofield indicated that was correct. Councilwoman Gerwig said that the Village was not asking for anything other than to maintain the plants, and questioned who controlled the types of plants that were planted. Mr. Stillings explained that they would be part of the landscape plan that would be submitted with the site plan. Councilwoman Gerwig thought that the Village was in better shape now than they previously were since they were not taking on any additional obligations and are ensuring its dedication by the plat boundary.

Vice Mayor Greene referred to this being dedicated as a preserve along with a condition to include a conservation easement, and asked if there were any limitations as to what could be constructed there. Mr. Stillings indicated that he did not believe they were proposing anything other than a walking path, gazebo and other similar amenities. He reiterated that they could not build anything beyond that of a passive recreational nature. Mr. Schofield said that even if a conservation easement was put in place,

it typically doesn't restrict an applicant's ability to construct something educational or observational in nature and doesn't impact the productivity in the preserve. Vice Mayor Greene said he did want to find that in the future either this Council or another Council allowed building in this conservation area. Mr. Schofield said that it was originally approved for 90 dwelling units and to put the preservation area over the balance of the golf course.

Ms. Jennifer Vail, Land Design South, addressed Council on behalf of the applicant. She said that they were presenting both the Comprehensive Plan Amendment for Parcel V as well as the Master Plan Amendment for Pod L at the Landings at Wellington PUD. She highlighted the location of the site. She noted that the Landings PUD was approved prior to the Village's incorporation, Pod L was designated with the Residential "E" land use designation in 2004, there was a Developer's Agreement for 90 units on Pod L which was adopted in 2004 and was later amended in 2006. She said that they previously went through this process to indicate the 90 units on the 15.27 acre Pod L as part of the Settlement Agreement approved in 2008 as well as the site plan for the 90 units. Ms. Vail said that the site plan was contingent upon the approval of FPL for the easement overlap over the site plan which did not occur until October 2009. She explained that because the final approvals came during the downturn of the economy, the site had sat vacant. She showed the site plan that was approved in 2008. She indicated her client purchased the property a little more than a year ago, and that they had two options to develop the site: (1) develop as the plan was currently approved with the 90 units or (2) make it a more marketable plan for today's current trends and to utilize a product type they were more familiar with. She indicated that her client chose option #2. Ms. Vail noted that the Comprehensive Plan Amendment had previously been before Council for first reading to change the .26 acre Parcel V, and incorporate the 2.26 acres into Pod L for the total site area of 15.53 acres. She said that the maximum additional density that generated 2 dwelling units was not being requested, but they were restricting it to the existing 90 units. She said that the boundary for the original Parcel V preserve area was being redefined to capture more of the native existing vegetation on the site which will be maintained at a minimum of .3 acres. Ms. Vail noted that they agreed to the conservation easement which they had already anticipated doing during their discussions with staff. She further noted that they felt the intent and character of the development remained unchanged as a result of their request. Ms. Vail also pointed out that there were adequate public facilities available to serve the site.

Ms. Vail then addressed the second request which was a Master Plan Amendment to modify Pod L to increase the acreage by .26 acres, to update the density based on the revised acreage, to modify conditions of approval that included changing the build-out date to December 31, 2018 based on the approved traffic study, to identify Pod L with optional residential overlay which concerns setbacks, and to also revise the multifamily designation of Pod L to townhouses. Ms. Vail then showed the approved Master Plan noting that Pod L was identified in red. She then showed the location of Pod L on Binks Forest Drive, and identified the Pod L boundary as it currently exists today with the .26 preserve in the middle. She explained that they were proposing to add that to the total pod for an area of 15.5 acres. She reiterated that there were no additional units; however, with the additional acreage, the density was reduced from 5.89 dwelling units per acre to 5.79.

Ms. Vail then highlighted the benefits of the redesigned site plan: (1) reorient the buildings away from the FPL power lines; (2) increase the recreation area with more amenities as well as increase the size of the clubhouse; (3) supplement the preserve area by removing invasive plant material, plant new native plants, and provide a raised boardwalk for nature viewing; (4) increase interconnectivity; and (5) two story townhomes vs previously proposed three story homes which would have a minimum impact on neighboring views.

Ms. Vail stated that they had met with the residents who had spoken at the previous meeting about their concerns. She said that they reviewed the following concerns: landscape screening, rental

restriction and construction access. She indicated that they had meetings with the residents prior to the meetings with the Village where they also discussed golf course maintenance, construction hours, parking, setbacks and traffic. Ms. Vail noted that their project was separated from the single family residential community by the golf hole. She noted that within that golf course, at the widest point, there was about 82 feet of existing landscaping south of the Pod L property line, and about 50 feet of landscaping north of the single family homes. She then showed a cross sectional view showing that. At the narrowest point, there is about 77 feet adjacent to the single family homes, but due to the location of the trees, the actual buffer adjacent to Pod L reduces to about 10 or 15 feet.

**Landscape Screening:** Ms. Vail said that the applicant has been very sensitive and understands the residents' concerns for views and screening. So, in the design of the proposed landscaping, they were removing any golf course views from the proposed 90 units by implementing landscape material to provide a green barrier between them and the golf course, and to limit any views that the existing single family homes may have of the proposed townhouse units. In meeting with the residents and their representatives, they agreed that the canopy was dense across the golf course, but what was lacking was the understory in the golf course, so they committed to provide a five foot hedge along the rear property line of the existing homes. She said that they received word from the representatives that two of the five homes were interested in having that screening so they would continue to contact them and work on getting it done.

**Rental Restriction:** The other item that was discussed was rental restriction. She said that although there are no rental restrictions in the community as it presently exists, the developer agreed to a one-year rental restriction with a hardship clause. Based on prior developments, Ms. Vail indicated that they don't have a problem with rentals explaining that they only have three rentals out of 100 units at their development in West Palm Beach, two are retirees from up north and one is a hardship case.

Councilman Coates asked how the rental restriction would work. Ms. Vail explained that there would be no rentals within the first year after the property was owned. Councilman Coates then asked if there was no rental restriction after the first year. Ms. Vail said there were still some restrictions noting that not anyone could just come in and rent. In addition, there would still be restrictions on the hardship clause. Councilman Coates asked if there would be an HOA in place since many have Declarations of Covenants with rental restrictions. Ms. Vail responded that there will be an HOA in place and she anticipated that the rental restriction would be included in the Declaration.

Councilwoman Gerwig thought that the rental restriction would be removed after the first year of ownership. Ms. Vail explained that the one-year restriction would start again if the ownership of the unit changed.

Councilman Coates said that many HOAs have restrictions on multiple rentals for a minimum of a one year period which is subject to approval. He asked if there was any contemplation that would be done going forward. Ms. Vail indicated that they currently do not have that restriction. Councilwoman Gerwig then said that they were not currently looking at HOA documents, and asked if the HOA would make those decisions on their own once it was turned over to them. Ms. Vail responded affirmatively. Councilman Coates then asked what guarantee was there that the rental restriction would be included in the Declaration. Ms. Vail said she did not know if that could be added as a condition. Ms. Cohen thought that could be added as a condition since the developer was present who she believed would provide testimony assuring that.

Ms. Vail then continued with her presentation.

**Construction Access:** With regard to the construction access at Flying Cow Road, Ms. Vail said

that they presented that the construction access was previously approved; however, there was a small segment that was missing from the prior approval. She said that there was approximately a 100 foot section that was across the FPL substation property that was pending when the presentation was done. She said that the agreement was submitted to FPL, and although it had not yet been executed by FPL, it was approved in theory. Ms. Vail said that the access from Binks Forest Drive will be very minimal and only necessary for the tie in to Binks Forest Drive for the entry point.

**Golf Course Maintenance:** Ms. Vail indicated the neighbors questioned why this owner was not maintaining the golf course. Ms. Vail explained that when this pod was originally approved it was under one ownership; however, it had since been sold. She said that the owner of Pod L has no legal right to maintain the golf course.

**Construction Hours:** Ms. Vail said that the construction hours were discussed with the neighbors who were advised that the applicant would adhere to the standards of the Village's Code which currently permits construction from 7:00 a.m. to 10:00 p.m. Monday through Saturday.

**Parking:** Ms. Vail noted that this development was changing to a fee simple development so the parking requirements are the same as that for a single family home. She said that they indicated that they had 222 parking spaces; however, it was actually 199 because she mistakenly still counted guest parking when she did the calculation. Ms. Vail further stated that the property was proposing 379 spaces, so they were still exceeding the minimum Code requirements. She explained that those spaces are garage spaces, driveway spaces and there is parking at the Club House. Ms. Vail said that what was discussed was the addition of actual guest spaces sometime in the future which would be interior to the project and would be subject to a variance. Ms. Vail explained that a variance was required because these were now fee simple homes that had different setbacks from a multifamily community.

**Setbacks:** Ms. Vail said that setbacks were also discussed with the neighbors. She said that the previously approved plan was for multifamily pods and setbacks are taken from perimeter property lines to the nearest building. Ms. Vail said the front setback is 91 feet from Binks Forest Drive to the nearest building and what was considered side was 21.25 feet from the southern property line to the nearest building, there were no street setbacks which was not applicable in multifamily and the rear setback was 38 feet. She said that if they did an apples to apples comparison based on the new plan, the front setback decreases on the southern building to 80 feet and increases to 125 feet along the northern building, the side increases almost five feet to 26 feet, and the rear increases about five feet from 38 to 43 feet. She said that because they were proposing fee simple homes, the setbacks are taken from the building to the right-of-way line and to the landscape buffers. The landscape buffers from every building run from the building to the adjacent right-of-way which is 22.5 feet. The side was really the separation between the building and not the southern property line which is now 15 feet. There is a street setback that is taken from the building to the adjacent roadways which is 18 feet, and the rear is 16 feet. She noted that it does not include the landscape buffer which is beyond the rear setback line.

**Traffic:** Ms. Vail indicated that traffic concurrency was approved by the County and Wellington to extend the build-out date to December 31, 2018. As part of that approval, although it was not warranted, there was the addition of a left turn lane for northbound traffic and a right turn lane for southbound traffic. She said that under the prior plan approval, they also had a condition for monitoring after two years of the final CO based on an annual report that was provided to Wellington. Ms. Vail explained that if a traffic light was warranted for safety reasons, it would be at the developer's expense.



Ms. Vail pointed out that since this was last presented to Council, there was a modified condition of approval regarding the multipurpose path. She said that it is proposed to be a minimum of eight feet wide and constructed along the north property line of Pod L and would be dedicated to the Village. She showed the prior location of Pod L noting the prior location was off of Pod L's property. She said that when they were last before Council, although they did not object to the pathway, they could not agree to the conditions on property that they did not own. She said that they have since worked with staff and the new location runs from Binks Forest Drive to the western property line. Ms. Vail indicated that the connection to Flying Cow Road cannot be made by this property. She said that there were a few issues with the pathway but they were diligently working with staff on the cross section, and have also been working on the liability issues. Ms. Vail pointed out that they do have the alternative to either construct the path or make a payment in lieu of if the pathway does not get constructed. Ms. Vail said that pathway is located in the FPL easement and the Village staff has been in contact with FPL as far as getting the release and approval for doing that. She said that her client preferred to make a payment in lieu of installing the pathway rather than dealing with construction and possible future liability issues. In addition, they also had no problem in dedicating the land to the Village. Ms. Vail said they had hoped to have worked out an actual cost for that at this time, but the condition as worded stated it would be approved by the Village Engineer rather than including an actual cost.

Ms. Vail summarized that the request before Council was the Comprehensive Plan Amendment and Master Plan Amendment to modify a .26 acre parcel from Commercial Recreation to Residential "E", to modify the boundary of the preserve area and for it to be a minimum of .3 acres; to modify Pod L to increase the acreage by the .26 acres, to update the density, to modify the conditions of approval for the build-out, to identify Pod L with optional residential overlay, and to revise the multifamily designation. Ms. Vail noted that staff recommended approval while PZAB recommended denial of the Comprehensive Plan Amendment. She thought that the Planning Board had recommended denial because they did not present the Master Plan Amendment at the time the Comprehensive Plan Amendment went to PZAB so they did not have the benefit of knowing why the developer was asking for certain things and there was some confusion coupled with the residents' concerns. Ms. Vail said that the Planning Board then recommended unanimous approval of the Master Plan Amendment once they were presented with the full picture. She requested Council's approval of the Comprehensive Plan Amendment and the Master Plan Amendment. She and members of the team were present to address any questions.

Councilman Willhite thought that they had discussed at the Agenda Review meeting that the traffic signal would be the obligation of the Village, and questioned whether it was the Village's obligation to install the light and maintain it after the two year period. Mr. Stillings explained that if it was determined that the light was needed within the two year period, it would then be the responsibility of the developer; however, after that two year period it would fall to the Village. Councilman Willhite said if the light was not warranted, but the Village felt it was needed, would it then be the complete obligation of the Village. Mr. Stillings said that the monitoring was based upon crash data and other evaluations of intersection evaluations, so it didn't necessarily have to meet the vehicle movement warrants, but additional safety concerns, increase collisions, etc. could be the reason for requiring the signal; however, that would have to be negotiated with the developer. Councilman Willhite asked who was responsible for the long term maintenance of the light if it was installed by the developer. Mr. Schofield explained that if the light was warranted and installed under the warrants, then Palm Beach County would be the responsible party; however, if it was installed without meeting the warrants, then the Village would have the operational responsibility for the signal, but the controller would probably stay with the County.

Councilman Willhite asked Ms. Vail if she represented that they would have 90 units with 379 parking

spaces. Ms. Vail responded affirmatively. Councilman Willhite said that was almost four spaces per unit yet they could potentially then ask for a variance for additional parking. Ms. Vail responded affirmatively explaining that the way that the spaces are calculated would be two in the garage and two in the driveway and then 19 at the Club House. She said they believed it was a benefit to add parking because most people use their garage for storage rather than parking. Councilman Willhite asked what would be the case if someone bought the unit and then parking was put next to their house. Ms. Vail thought the variance would come through prior to the construction of the units. She said if they were successful at this meeting, they hoped to submit a variance within a week's time. Councilman Willhite viewed more parking as more trips on the road. He said that Ms. Vail was saying that the parking met the traffic standards now, yet if this was approved, they would come back in a week to request more parking concerned him. He said that his concern was that Ms. Vail was saying that they were going to potentially change what was now being approved. Ms. Vail said that the parking was for guests which was no different than a single family home. She noted the parking problems when someone doesn't have a big driveway. She further stated that parking was shown from day one when they submitted their site plan. Ms. Vail explained that when they went through the staff review, staff indicated that the additional parking would require a variance prior to it going to PZAB. She said that rather than delaying the project from moving forward, they decided to wait and see if they received approvals for the project rather than to tack on a variance. Councilman Willhite indicated he had no issue with the developer's product, but he thought they were circumventing the process by saying they were going to ask for a variance after the Comprehensive Plan Amendment and Master Plan were approved. He said the variance would then go to the Planning Board rather than to Council to approve something different than what had been initially approved by Council.

With regard to the pathway, Councilman Willhite thought it might be better if they did not construct the pathway. He did not know if it was warranted noting that he has raised concern as did the residents regarding access to Flying Cow Road being opened to that area. Councilman Willhite thought more review was needed to determine if the pathway was actually warranted and if it would be utilized because it did not go anywhere. Ms. Vail pointed out that was a condition that had been imposed by staff.

Councilman Willhite said that he had previously raised concerns about the left turn lane into the development on a curved road, over a hill with a downgrade. He asked if there was some way to ensure the safety of the residents turning into that development as well as anyone coming over the hill. Councilman Willhite asked what the length of the throat distance was into that development and how far up the hill it goes for the turn into the development. In response, Mr. Riebe explained that the proposed turn lane was 180 feet in total, there was a 50 foot taper plus another 25 feet, then 85 and then 25 feet for a total of 280 feet which was standard for this type of development. Councilwoman Gerwig asked how many cars that would stack. Mr. Riebe said that approximately 8-10 cars would be stacked. Councilman Willhite asked how far from the point where someone would turn in did the stacking distance go up the hill. Mr. Riebe said that it would go about the size of the football field. Councilman Willhite asked if it would start at the peak of the hill. Mr. Riebe said he was out there that day, and it was about 500 feet to 550 feet to the crest of the hill, so the turn lane will start after the crest of the hill. Councilman Willhite raised concern about cars coming up to the crest of the hill and then having cars making a left into the development. Mr. Riebe said that the turning lane meets the traffic standards and it geometrically complies with what is looked at in terms of roadway designs. He said that they did not anticipate any issues with the turn lane.

Councilman Willhite said if the light was warranted, would the golf course have any involvement in it since they would benefit from it. Mr. Schofield said that they could ask them, but at this point there would be no way to require them to participate because their development is in place based on the roadway conditions that existed at the time. Councilman Willhite asked if it made it more difficult for

someone leaving the golf course to go southbound. Mr. Schofield said that it was possible that a left turn movement out of the golf course could be delayed based on a right turn movement out of the development. He said that they would have to look for traffic that they were not currently seeing.

Councilman Willhite asked if this was a change to the original Wellington PUD. Mr. Schofield responded that it was a change to the Wellington Landings PUD. Councilman Willhite asked if it was correct that the overall Village was a planned unit development. Mr. Schofield said that there were multiple planned unit developments. Councilman Willhite then asked how many of the planned unit developments changed since they were first put in place. Mr. Schofield said that at least 60 or 70, if not more, master plan amendments were made between the Wellington PUD and the Landings at Wellington PUD.

Councilwoman Gerwig asked Ms. Vail to explain the purpose of the fee simple plan and why it was done that way. Ms. Vail explained that they were looking for a more marketable plan because condo ownership was not as marketable as fee simple which means that they would own the front and rear yards and the sides for the end units. She further explained that a condo ownership does not have the setbacks from the building to your parking. She indicated that they had additional on-street parking on the previously approved plan and it was proposed closer than what would be proposed in the future because the setbacks for fee simple are taken directly from the building to the parking. Councilwoman Gerwig said that it wasn't that the applicant was subverting the rules to do this, but it is easier to sell the fee simple product, but there is an issue because of that.

Councilman Coates asked if there were any restrictions on Council approving the Master Plan Amendment with a condition that they provide the need for the additional parking so that they could circumvent their need for a variance. Ms. Cohen believed that action would not comply with the Code which was why they would need a variance. Councilman Coates asked how that was different than Mr. Schofield's recommendation to include the setback as a condition of approval so it would require it to come back to them. Ms. Cohen explained the setbacks are in compliance with the Village's Code as it presently exists. Mr. Schofield added that as part of this application, there is a request for optional residential overlay which is where the setbacks are established. He said that one of the conditions that he asked Mr. Stillings to include was that the approval includes the optional residential overlay with specific setbacks and any variation from that minimum would require Council approval. He reiterated that was part of the application while the parking variance was not. Ms. Cohen added that Council could not approve something that would violate the Village's Code.

With respect to the setbacks outlined in the presentation, Councilman Coates asked if those were firm. He indicated that he supported this project; however, he would do so with a Council-imposed condition that the setbacks be maintained as presented at this time. Ms. Vail said that they were proposing those setbacks, but if the condition is imposed then if they wanted to come back with the parking as a variance that would have to come back before Council because those setbacks would then be reduced because of the way they are measured. Councilman Coates then reviewed the additional parking that was shown on the screen. He felt that one of the biggest problems in Wellington was the lack of adequate parking for guests. Councilman Coates said that he was receptive to the applicant's vision of the problem and that they were trying to deal with it. He asked Ms. Vail that from what she has told Council, the only setbacks would be just in the areas of the added parking. Ms. Vail said that was correct explaining that it would be the side setbacks in the four proposed areas. Councilman Coates said if the setbacks are a Council-imposed condition, then the parking would have to come back to Council even though it was being sought as a variance. Ms. Cohen said that was correct. Mr. Schofield noted that Mr. Stillings may have some input after reviewing a Code provision on the additional parking spaces.

Mr. Stillings explained that these are flexible property development standards and it is under the optional residential which allows for a flex of the setbacks. He thought that Council had the discretion to do flex beyond what the Code provides. He suggested that they limit it to the buildings identified and that the setbacks be specified. Councilman Coates asked Mr. Stillings if he was suggesting that Council had the ability to approve a Council-imposed condition regarding the location of the visitor parking. Mr. Stillings responded affirmatively. Councilman Coates asked what Mr. Stillings was suggesting regarding the setbacks on the visitor parking spaces. In response, Mr. Stillings said that the site plan identified specific building numbers which he did not believe would be changing, so they could use those numbers as a reference in the motion regarding those setbacks. Ms. Cohen asked Mr. Stillings if he was making that a condition of the Master Plan. Mr. Stillings said that was correct.

### Public Hearing

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

1. Alan Zangen, 12008 South Shore Boulevard. Mr. Zangen stated that he represented Cypress Forest HOA, and he asked Council to consider several conditions that were presented to the developer. (1) One year rental restriction with limitations of five hardship units, and to include a restriction that the developer and the community would not be able to amend the restriction while they are in charge with less than 80% approval; (2) Construction access via Flying Cow Road with a written approval in hand from FPL; (3) Construction hours limited to 7:00am to 7:00pm with no construction on Sunday; (4) Request was that the hedges be placed behind the five homes that Ms. Vail indicated in her presentation would be a condition of approval. Ms. Vail agreed to contact the owners within the next thirty days.
2. Bart Novack, 15670 Cedar Grove Lane. Mr. Novack voiced his opposition to the project and raised several concerns: (1) the future traffic count going over the bridge was not yet known; (2) a traffic light and flashing signs were needed to slow down the oncoming traffic because the area was dangerous; (3) the build-out period should be two years; (4) a continuance in four years for the project should be denied, and (5) he does not support the project.
3. Bobby Munden, 14551 Halter Road. Mr. Munden said that the rental restrictions used in condominiums state that one person or related parties can only own a maximum of three units and those stipulations should be applied with this project so that the units would not be treated as rental properties. If he lived in the Preserve, he would not like the separation to be hedges but a wall similar to the wall behind Palm Beach Outlet Mall and the Presidents Golf Course. Mr. Munden further suggested that the entire development be pushed north where there was additional land and space and not south towards the golf course and questioned the accuracy of the space between where the diagram indicates where the project would be and the existing homes and felt the diagram was making it look like wider space.

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

Vice Mayor Greene indicated that he was supporting the project, but believed there were some things that needed to be resolved. He expressed concern about the hours of construction even when it related to the inside work. He asked if the Code actually went to 10:00 p.m. because he thought that 7:00 a.m. to 7:00 p.m. was more reasonable. Ms. Vail indicated that they were agreeable to the 7:00 a.m. to 7:00 p.m. construction hours.

Vice Mayor Greene wanted there to be a time limit for the five homeowners to accept the offer by the applicant to provide hedges. He wanted the applicant to continue to work with them until they have

full consensus whether or not they wanted to accept the offer. Vice Mayor Greene said that Ms. Vail indicated that they had the FPL approval, but he wanted to make that a condition of approval before he could fully support the project. He then asked what the number of dwelling units was on Parcel L. Ms. Vail indicated that it was 90 dwelling units. Vice Mayor Greene said that by changing the land use from Commercial Recreation to Residential "E" afforded it two additional units; however, he wanted to confirm they were not being transferred to another area. Ms. Vail stated that was correct. Vice Mayor Greene then asked if the entrance was going to be gated, and if so, he was concerned about stacking onto the road because of the close proximity of the entrance to the road. Ms. Vail advised that it was a gated entrance. She explained that the setbacks from the property line which was not the actual roadway edge, extends out to the pavement at least 150 feet which is the standard setback to avoid any back up. Vice Mayor Greene asked if staff was comfortable with that. Mr. Stillings and Mr. Riebe responded that they were.

Vice Mayor Greene referred to the modification and request for a variance that Ms. Vail had indicated would be applied for. He questioned why that would not be part of the site plan that was being presented to Council. Ms. Vail explained that when they learned from staff that the parking would need a variance, it was just a few weeks prior to coming into the public hearings. She said that they had already gone through staff's review process for close to a year, so rather than file a variance application which would further delay the process; they opted to move forward since they did not know what would be approved by Council. She said that they have indicated their intent for the parking in all of their public presentations as well as to the neighbors.

Ms. Cohen stated that she and Mr. Stillings had just looked at the Code, and believed that Council had the ability to adjust the setbacks for that area as a condition to the Master Plan and avoid the need for a variance.

Vice Mayor Greene said that the applicant proposed parking significantly exceeded the parking requirements, asked Ms. Vail to convince him why additional parking was needed. Ms. Vail explained the parking problems that occur because most people use their garage for storage which then creates the problem for parking for guests. She indicated that there was additional on-street parking when this was a multifamily community; however, that parking was no longer there since these are now fee simple homes. Vice Mayor Greene thought more landscape and less hardscape was more compatible. He thought that the reduction in the on-street parking provided more incentive for residents to park their cars in the garage. Ms. Vail pointed out that this parking problem exists throughout the Village.

Vice Mayor Greene asked about the selling price of the townhomes. Ms. Vail stated that the proposed sales price would be around \$330,000. Vice Mayor Greene also asked about maintenance of the landscaping. Ms. Vail explained that the developer was proposing to maintain all of the yards as well as the buffers. Vice Mayor Greene noted the maintenance that the VillageWalk community does, i.e., power washing, landscape, etc., and asked if this developer was planning the same. Ms. Vail responded affirmatively stating that they were also looking for that uniformity.

Regarding the question relative to construction times, Mr. Schofield announced that the Code states that there is no construction from 10:00 p.m. to 7:00 a.m. which meant it would be allowed at any other time. He said that the Council could add a condition limiting the construction hours to 7:00 p.m. if that was their desire as a mitigating condition based on the close proximity to the homes.

With regard to the rental aspect of this community, Vice Mayor Greene thought that the way it was being marketed as well as the product itself would attract the type of people who want safe neighborhoods, good schools, etc. He asked what was the area where they can tighten up the rental

concern.

At this time, Mr. Mike Smolak, for the applicant, addressed Vice Mayor Greene's question. He indicated that this is a for-sale community, and their business was not to create a rental community. Mr. Smolak said that they have a similar community on Okeechobee Blvd which is lower priced, and has only three rentals out of 100 sales. He explained they currently don't have any covenants or restrictions against rentals other than the one-year and a hardship clause that they agreed to. Mr. Smolak said that this also is about property rights, so they want to be as flexible as possible. From his experience, he thought these homes were at a price range where they would not see a lot of rentals.

Vice Mayor Greene said that he did not want to impose a condition on these homes that they had not imposed on other developers in Wellington. He said that he was sensitive to the concerns that people have expressed, but he also wanted to be fair to this developer. Mr. Smolak pointed out that if you look at the restrictions of the surrounding communities, even the Preserve did not have those restrictions. Vice Mayor Greene said that their proposal was no rentals after one year. Mr. Smolak said that was correct noting that it also included a hardship clause that would have to be approved by the Board of Directors of the Property Owners Association. Vice Mayor Greene said that some HOAs have restrictions regarding the number of leases, i.e., one lease per 12 months. Mr. Smolak said that they did not regulate that at this time, and that usually occurs when the community is turned over to the residents. Vice Mayor Greene asked when the turnover occurred. Mr. Smolak believed it was 90% ownership.

Mr. Smolak then addressed the condition for the FPL agreement. He said that they were confident that would happen as they were only waiting for FPL to execute the agreement. He raised concern that if something happened relative to that construction access they could not make the ultimate guarantee that they will only use that as their construction entrance since they have to have access to their property. Mr. Smolak further stated that they will make that the primary access and do all they can to maintain it, but they have a License Agreement with FPL. He said that they don't want the traffic out on Binks Forest Drive either, but he thought there had to be some flexibility if something happens where they would have to use Binks Forest Drive which would be their last resort. Vice Mayor Greene thought that they or the previous developer had that approval. Mr. Smolak said that there was a previous agreement with the golf course which is confusing. He explained that there is a small piece of the FPL substation property that goes further north than the FPL easement which they did not realize. When they realized there was 100 feet that ran through the FPL substation property, they discussed it with FPL and they will have a license agreement; however, there could be the possibility where there is a dispute and they lose access which was a small concern of theirs. Vice Mayor Greene expressed concern about the traffic, but felt if the applicant was confident that they will have the agreement executed, they could take that at the time something like that occurred. Vice Mayor Greene asked what the build-out time was. Mr. Smolak anticipated it would be two years.

Councilman Willhite asked Mr. Smolak if he owned the property and if so, why were they not maintaining it. Mr. Smolak indicated that they did own the property noting that they have been cutting the grass on the driving range. Councilman Willhite advised Mr. Smolak that he had been out there that day and noticed the grass was about four feet high. Mr. Smolak said that they have been maintaining it, but the grass grows quickly. He said that they will go out there, and will certainly cut it if it was that high. Councilman Willhite asked if they could have the condition for the five home hedges in place until there is a turnover from the builder to the HOA. Mr. Smolak said that they have a good understanding of what the homeowners want, but they wanted to have some cutoff date so they know what has to be done. Councilman Willhite thought that the cutoff date should be at least one year. Mr. Smolak said that he was fine with that. Vice Mayor Greene suggested the possibility of providing cash for the landscaping. Mr. Smolak did not think that was a good idea. He said that the buffer is

thick on both sides and you cannot see anything from a second story, and could only see potentially from the first story and this would take care of that.

Councilman Willhite wanted to be clear that he did not suggest that he supported the additional parking. He said that he was approving a master plan that did not include the additional parking, and he did not want another body to go after them and approve a change. Councilman Willhite said that they had presented that they had exceeded parking, and there were four parking spaces per unit. He thought Council had recently approved a development at Isla Verde that had a covenant requiring the owners to utilize their garage for parking. Mr. Smolak said that he had never seen a multifamily community that had enough guest spaces. He said they thought they were doing something positive by enhancing the property by having more parking. He did not believe it would necessarily bring in more cars, but would be for guests of the community. Councilman Willhite thought that the additional parking impacted more than just three buildings. Mr. Smolak concurred that it does affect more buildings, but it is the sides of other buildings. Ms. Cohen pointed out that the community at Isla Verde is a rental community. Mr. Smolak said that he was present at the Isla Verde hearings and one of the big complaints by the residents was that there was not sufficient guest parking. He said that they would love to have the guest parking included in the approval at this time because of the benefits it brings to the community. He said that by technical analysis there are a lot of parking spaces, but reiterated that people don't use their garage and he has never seen anything requiring people to use their garage for parking. In terms of the setbacks, Mr. Smolak said that they were meeting or exceeding those and the only change is where it is measured from.

Councilman Coates said his understanding was that if Council denied the request, they could come in and build 90 units, there would be no restriction on rentals, and there was no restriction on how the ownership was set up. Mr. Stillings stated that Councilman Coates' understanding was correct. He pointed out that the current plan also has three story units.

Councilman Coates asked if the developer was agreeable to the issues raised by Mr. Zangen. He said that he understood they have already agreed to the one year rental restriction and a hardship exception. He asked if the applicant had any issue with the five hardships at one time. Mr. Smolak said that they had discussed it, but had not talked it through. He said that they did not want to further restrict property rights. Councilman Coates indicated he was a supporter of preserving property rights; however, Council has an obligation to protect the community so he was trying to find a balance. He said that he heard Mr. Smolak say that the rental restriction was not a big issue as was currently proposed. Mr. Smolak said that was correct. Councilman Coates then addressed the issue that the developer could amend the restriction while they were in charge. Mr. Smolak stated that he had no issue with that. With regard to any subsequent change after the turnover, Councilman Coates said the residents were seeking an 80% vote of the homeowners. Mr. Smolak thought it was 2/3 vote. At this point, Mr. Zangen said that the proposal for 80% was to require a super majority approval as opposed to 2/3. Mr. Smolak agreed to a compromise of 70%. Regarding the five hardships, Mr. Smolak asked if Mr. Zangen was seeking it to be in perpetuity in the Declaration of Restrictive Covenants or just with the developer. Mr. Zangen indicated it was in perpetuity. Mr. Smolak did not believe that it could be done; however, Councilman Coates was not in agreement with that. Mr. Smolak was concerned when the homeowners took it over, what would happen to the sixth person, who had a hardship,

Regarding the access to Flying Cow Road and the approval of the FPL agreement, Councilman Coates wanted to feel comfortable that they were going to rely on the agreement because it was a concern that the main construction access be off of that easement. As far as the construction access, Mr. Smolak said that they have a License Agreement that they were waiting to be executed by FPL. He noted that they will have to pay \$3,000 per year in order to use that as access. He said that his only concern was if something occurred while they were developing the property where FPL decided

to stop them from using it. Mr. Smolak said they would have no control if something like that happened, but they would do all they could to make Flying Cow Road the construction access. Councilman Coates asked if they were using Flying Cow Road as the construction access and then FPL stops them from using it, how the Village could handle it on an emergency access. Ms. Cohen stated that designating that access as the primary access resolved that issue. If FPL cuts off that access, and the developer has the ability for a secondary access, then they could access the property off of Binks Forest. She felt if Council eliminated the ability for them to utilize Binks Forest Drive, they were creating a situation that could impact their ability to complete their project. Councilman Coates said that at this point there was no restriction regarding construction vehicles using Binks Forest. Mr. Smolak said that was correct. Councilman Coates thought it would be beneficial having the developer agree to use Flying Cow Road as the primary construction access because presently it is Binks Forest Drive. Ms. Cohen pointed out that FPL is a stranger to this application. Vice Mayor Greene said he did not want to say that Binks Forest Drive was the secondary access, but rather if the Licensing Agreement was terminated, then they would have the right to use that roadway. Mr. Smolak pointed out that there are two property owners there so they can't control every aspect of it even if they have an agreement.

Councilman Coates said that it appeared that the applicant did not have a problem with the construction time being changed to 7:00 a.m. to 7:00 p.m. which includes both internal and external work. Mr. Smolak said that was fine.

With respect to the hedges behind the five homes, Councilman Coates indicated that Vice Mayor Greene suggested that not be an open-ended offer; however, he thought that the homeowners might need time to assess whether the construction affected their view. He supported extending the time the five homeowners could request the installation of hedges to be upon the completion of those buildings along the south property line. Mr. Smolak agreed to that, and asked if it made sense restricting it to the three buildings furthest to the east. Councilman Coates supported that. Councilman Coates noted that Mr. Smolak had no problem with the conservation easement. Mr. Smolak indicated that was correct. Councilman Coates also asked Mr. Smolak if he had any problem with the HOA maintaining the maintenance requirements on the conservation easement. Mr. Smolak indicated he did not have a problem noting that was how it would be currently set up.

Regarding the setbacks that were presented, Councilman Coates asked if the applicant had any issue with those being imposed as a Council-imposed condition so that any change would have to come back to Council. Mr. Smolak said that he had no problem with that.

With regard to the additional parking, Councilman Coates noted the problems that exist in the Village because of parking which is seen more often in the single family neighborhoods. Mr. Smolak added that no one will be buying these homes without knowing the parking. He said that people have specifically bought homes with parking near them because they have three cars. He said that it is more of a convenience. Mr. Smolak added that the Preserve was adamant in their discussions that they try to get as much parking as possible because they felt it created more value for the community,

Mayor Margolis said that several months ago another applicant came before them who were commended for working with the homeowners. He then commended this applicant for all their work with the residents. He agreed that the additional parking was a benefit because there is not an allowance for additional parking in neighborhoods throughout the Village. Mayor Margolis said that years ago, there were many people who did not want these residences as part of the approval process for the golf course. However, In order for the golf course to be operating the last ten years, the approval of these residences was a decision by the homeowners in the area. Mayor Margolis said that if the applicant did nothing, they still had the approval to build 3 story homes, utilize Binks Forest



Drive and could do many other things, but they were being a good neighbor by accommodating the requests of the Village and the neighbors. He believed that PZAB was outside of its bounds when they denied this application because they were asking questions on things that were not before them. Mayor Margolis said that this has been in the works since 2004/2005 and thought it will be a great community. Mr. Smolak said he wanted to be a good neighbor and looked forward to starting the project.

## **APPROVALS**

### **Ordinance No. 2014-22 (Comprehensive Plan Amendment)**

**A motion was made by Councilman Coates, seconded by Vice Mayor Greene, approving Ordinance No. 2014-22 as presented on Second Reading.**

Councilman Willhite referred to the Condition showing an increase from .26 to .30; however, the applicant was proposing .32. Mr. Schofield indicated that they were only changing what was presently there; he said that the .32 would be at the approval of the Master Plan. Mr. Smolak said that the reason it was previously .3 was because they were having discussing back and forth, but they were willing to agree to what was being represented.

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

### **Resolution No. R2014-27 (Master Plan Amendment)**

**A motion was made by Councilman Coates, seconded by Vice Mayor Greene, and unanimously passed (5-0) approving Resolution No. R2014-27 subject to the following additional conditions: (1) Development be limited to a one year rental restriction on the initial sale and all subsequent owners and subject to no more than five hardships at one time. The hardship amount cannot be changed by the developer while in control of the property and once turnover occurs, the hardship amount would be subject to seventy percent vote of the homeowners association; (2) The developer cannot change or amend the restriction for the rental period while in charge and any change would be subject to a seventy percent required vote of the members; (3) The designated construction access road would be via Flying Cow Road which would be subject to the approval from FPL and Binks Golf Course easement, unless access to the easement would be canceled, terminated or denied by FPL or golf course; (4) Construction hours for the interior and exterior areas of construction would be between 7:00 a.m. and 7:00 p.m. with no construction on Sunday; (5) Response from the five property owners that have been contacted by the developer regarding additional hedges must be completed no later than at the end of the completion of the construction of the three southeastern most buildings. The completion date would be the date measured by the CO (Certificate of Occupancy) being issued for each of the buildings; (6) The setbacks that have been represented at the meeting would be Council-imposed conditions subject to the changes in the setbacks that Mr. Stillings and Ms. Vail calculate with respect to the four designated areas for visitor parking; (7) The conservation easement would be required as a condition subject to easements stating the maintenance requirement continues to rest with the applicant and the HOA; (8) Section 5b (of the resolution) be revised to reflect payment would be subject to approval by the Village Engineer; and (9) Provide enhanced landscaping as the buffer between the visitor parking and the end units.**

**C. 14-808 ORDINANCE NO. 2014-26 (EQUESTRIAN BRIDLE PATH MAP CPA): AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE WELLINGTON**

COMPREHENSIVE PLAN BY ADOPTING THE BRIDLE TRAIL MAP IN THE EQUESTRIAN ELEMENT; PROVIDING FOR CONFLICT AND SEVERABILITY; AUTHORIZING THE MANAGER TO UPDATE THE COMPREHENSIVE PLAN; AND PROVIDING AN EFFECTIVE DATE.

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

At this time, Councilman Willhite asked if would be appropriate to postpone this ordinance until Mr. O'Dell could provide a map of the equestrian bridle trails so that they could see what Council was actually voting on. Mr. O'Dell indicated that he wanted to make the presentation because he thought he had a solution.

Mr. O'Dell presented the agenda item explaining that the ordinance related to the Village's bridle path system. He noted that the bridle path system is identified in the Village's Comprehensive Plan; however, the plan being presented was one that had been developed in 2004 by CM2MHill. He indicated that it was the only map that he had, but he had a solution to that. He said that, with Council's approval, he wanted to move all of the colors over to the GIS system and then move forward with that as being the base map moving forward. He said that it would have the same colors, but would be in the Village's system.

Mr. Schofield said that given that it was unknown what that map would look like and there were also some changes discussed at the Agenda Review meeting, he recommended that this be postponed to the first meeting in January.

Councilwoman Gerwig said that the Village actually knows where the bridle paths are whether or not they can see it, but they needed to include the element. Mr. Schofield explained that the problem was that putting this in the Village's GIS system did not give it the same force as putting it in the Comprehensive Plan. He said that Mr. O'Dell had just suggested moving it into the GIS system which tells them where the trails are which they already know. Mr. O'Dell explained that he would create the same map in the Village's GIS system so that they can make any changes to it as they move forward. Mr. Schofield said that since they don't have that as a Comprehensive Plan Amendment at this time, it was appropriate to postpone the item.

**A motion was made by Councilman Coates, seconded by Councilman Willhite, and unanimously passed (5-0) to postpone Ordinance 2014-26 time certain to the first Council meeting in January 2015.**

**D. 14-782** ORDINANCE NO. 2014-25 (REASONABLE ACCOMMODATION POLICY): AN ORDINANCE OF THE VILLAGE OF WELLINGTON, FLORIDA, AMENDING ARTICLE V OF WELLINGTON'S LAND DEVELOPMENT REGULATIONS BY ADDING CHAPTER 13 "REASONABLE ACCOMMODATION", SETTING FORTH A PROCEDURE FOR PERSONS WITH DISABILITIES TO REQUEST ACCOMMODATIONS TO VILLAGE OF WELLINGTON RULES, POLICIES, AND PROCEDURES AND ESTABLISHING AN APPEAL PROCESS; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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

Ms. Cohen explained that this was an ordinance that formalized a policy that the Village has had to

provide reasonable accommodations to those with disabilities. It provides people who may want to request reasonable accommodations with the procedure that they would need to follow as well as provides an appeal process. She recommended approval.

#### Public Hearing

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

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

**A motion was made by Councilwoman Gerwig, seconded by Councilman Coates, and unanimously passed (5-0) approving Ordinance No. 2014-25 on Second Reading as presented.**

#### **8. REGULAR AGENDA**

- A. 14-858** (a) AUTHORIZATION TO ENTER INTO AN AGREEMENT FOR SOLID WASTE CONSULTING SERVICES  
(b) DIRECTION REGARDING THE SOLID WASTE REQUEST FOR PROPOSALS.

Mr. Schofield introduced the agenda item which had been separated into two distinct items.

#### **(a) AUTHORIZATION TO ENTER INTO AN AGREEMENT FOR SOLID WASTE CONSULTING SERVICES**

Mr. De La Vega said that in September Council directed staff to rebid the Solid Waste contract which was set to expire September 30, 2015. Due to the complex nature of the RFP and the contract, staff was recommending that the Village enter into a contract with David Dee. He explained that Mr. Dee, an attorney with over 35 years of solid waste consulting experience, has worked with a number of local governments bidding contracts and solid waste services and also serves as outside counsel for the Solid Waste Authority. Mr. De La Vega said that the agreement shall be an amount not to exceed \$60,000.

Councilman Willhite asked if staff anticipated that the amount could be less than \$60,000. Mr. De La Vega said that the Village will continue to do many of the things they normally do, i.e., prepare RFP draft, bid opening, bid tabulation, check references, etc., and he suspected it would be substantially less than \$60,000 unless they get into serious legal ramifications or protests. Councilman Willhite asked if the contract would continue past those problematic issues or protests. Mr. De La Vega said that the contract is for \$250.00 per hour so in order to get to the \$60,000 they would have to utilize Mr. Dee for quite a bit of time, but they don't suspect they will get there unless there are issues.

Councilwoman Gerwig said that Council was advised by the Village Attorney that they could not re-negotiate that contract because the opinion was that the clause was not strict enough; however, Mr. Dee thought otherwise. Ms. Cohen said that she was asked to get an opinion from the Inspector General's (IG) Office, and it was the opinion of the IG's staff counsel that as long as the Village did not change the terms of the contract, it was an enforceable renewable provision although not a typical one which was what she advised Council. Ms. Cohen believed there was some discomfort with the way it was worded, and the Council voted to go ahead and re-bid it. Councilwoman Gerwig said that if Ms. Cohen was uncomfortable about that provision along with the IG's opinion, and the advice from

both was not to re-negotiate it, she questioned why they would contract with someone who disagrees with that decision.

Mr. Barnes explained that the Village was not retaining Mr. Dee to address that issue from the past. He said that question came up in passing, and Mr. Dee was not specifically asked about it. Mr. Barnes said that Mr. Dee wanted to ensure that one of the items the Village addressed in the RFP and the resulting bid document was for the Village to have the ability to look at options post the initial award which was how they got to that discussion. Mr. Barnes said that staff did not foresee an issuing going forward since they would not be looking at any retroactive review of the Village's previous actions. Ms. Cohen stated that she recalled that she had not expressly said that the Council should not re-negotiate the contract, but advised that the IG had stated that if it was renewed, it should be on those exact terms.

Vice Mayor Greene thought that Council would have agreed with Mr. Dee's opinion because most of Council thought it was appropriate to try and negotiate a change. He said their protection was the Village's Legal Counsel and the IG's Counsel.

Councilwoman Gerwig said that she only wanted to ensure that they were not having a discussion similar to that at the end of the RFP process, and that she wanted to ensure they were getting their safety and comfort level particularly if they were paying up to \$60,000 for the consultant. She did not want there to be additional scrutiny from the IG.

Mayor Margolis thought this was a different situation because their previous advice was from the Village's Assistant Village Attorney who did not have as much experience in these matters as that of Mr. Dee with regard to solid waste contracts.

Ms. Cohen believed that Mr. Dee would be looking carefully at the provision and reviewing the case law and craft the provision in such a way that it would be enforceable in the future.

Councilman Willhite thought that Mr. Dee's opinion as to the relevancy of that clause was insignificant at this point because he did not work for the Village at that time. He said that what he (Councilman Willhite) was looking at then was a contract written by someone else that he had nothing to do with and he was uncomfortable with the language; however, he was now hiring someone where they would now see the RFP before it goes out and ensure that language is agreeable not only to him, but to a majority of the Council. He said that Council would direct Mr. Dee to write a contract that doesn't have those types of open-ended clauses and is consistent with the Village's clauses in other contracts. At this point, he said that he now has to be comfortable with the language he was agreeing to, and hopefully future Councils will agree to that. Councilman Willhite pointed out that Council always had the ability in the contract that if they were uncomfortable with something to go out for an RFP.

Councilman Coates said that he had disagreed with the Village Attorney regarding the interpretation, and also did not agree with the IG's opinion, but recognized Ms. Cohen's conservative approach in her advice and did not have any real objection to what was said. He did not believe that the ultimate sentiment on the Council to put this out for RFP would have changed because there was concern about the length of the contract in place and the desire to test the market.

Councilman Coates asked how soliciting this RFP differed from when the RFP was done seven years ago. He asked if they had separate independent Counsel advising them and if so, what the cost was at that time. In response, Mr. Barnes said that the Village did not have separate individual Counsel, but rather had Mr. Kurtz and Mr. Rosillo with Mr. Rosillo working on the contract with staff together

with an outside consultant on the solid waste operational side. He said at this time, staff believes that they have the in-house expertise on the operational side; however, based on the renewal discussions, they felt that they needed some assistance on the contractual and legal side. Councilman Coates asked if the issue was any more complex or sophisticated than what was done seven years ago when Mr. Rosillo worked on this that was operating as the Assistant Village Attorney. He said he had to be convinced that it was essential to spend up to \$60,000 to bring in another attorney particularly if the Village has its own operational experience and their own Village Attorney who could deal with this. In response, Mr. Barnes indicated that he did not want to speak for Ms. Cohen, but he said that staff believed they need the assistance of an outside consultant because the market has changed since the last time this was put out for bid. He believed that there was going to be a lot of attention by the potential vendors who will bid this project to try and make their company the most desirable one to contract with. Mr. Barnes said that they needed to put out a document that tries to eliminate most of the gamesmanship. Councilman Coates asked how that was different than seven years ago. Mr. Barnes said that the vendors may know more of what the Village has been going through, heard of what Council's desires are, and there are some policy decisions they would like someone else's expertise on that they can rely on more than that of staff.

Councilman Coates asked Ms. Cohen if this was an area where she believed she needed outside assistance or was it something if she got up to speed on would be comfortable handling. Ms. Cohen said that she could come up to speed with enough time devoted to it; however, it was not an area that she knew well and she felt there are some nuances in these types of contracts that specifically require someone who regularly deals with that type of contract. Councilman Coates said his understanding was that Ms. Cohen supported staff's recommendation to retain an outside Counsel. Ms. Cohen responded affirmatively explaining that it would lessen the burden on the staff, lessen the burden on the Legal Department, and in the end, the Village will get a product from someone who really understands the industry.

Councilman Coates asked how staff came up with the \$60,000 cost because he felt that seemed high for the portion that Mr. Dee would be doing. In response, Mr. De La Vega explained that the proposal that Mr. Dee provided had a range between \$40,000 to \$60,000 based on his experience with other municipalities dealing with the same type of service. Councilman Coates said that he would be prepared to support \$40,000 and anything else would have to come back to Council. He said that he reluctantly supported that because when the decision was made to create their own Legal Department, his expectation was that they would reduce their need for outside counsel yet this was another significant expenditure. Ms. Cohen did not believe that the outside legal costs were driving up the cost, but rather she attributed them largely to the litigation. She believed that the fees can be recovered in the contract which she did not think was outside the normal. She said it was standard for the consultant to work on these types of waste management contracts which are unique, and there are nuances of that business that an attorney needs to understand. Ms. Cohen reiterated that it would be a valuable thing for the Village to retain the outside counsel for this.

Councilwoman Gerwig said that she wanted to get the best legal counsel for this who understood all of the nuances because the Village needed to have the flexibility to re-negotiate the contract as much as possible within the law which was what they did not have in the last contract. She said Council was advised the RFP was going to be expensive which they accepted.

Based on the comments made by staff and Council, Councilman Coates said that he was fine with the need for the additional expertise; however, he said he will always go with the lower number when he is given a wide range because he wants to put the pressure on the service to be provided at the low end of the range. He said this could always come back to Council if he needs more funds.

Vice Mayor Greene said that this has been a discussion among multiple municipalities, so the Village knows who the players are and what the questions and challenges are. He said that he did not disagree that having an expert on the team would be valuable and may avoid more costly litigation in the future. He concurred with Councilman Coates about opting toward the lower end of the range. He said that based on the timeline that Council had discussed and the work that has already been conducted by staff as well as what has been discussed by other municipalities, he thought 100 hours would be sufficient to begin this. Vice Mayor Greene asked if they could just block 100 hours at \$250,000 and allocate \$25,000 for this. He said that he already did not want bidders to look at this and become concerned that they may have to absorb the \$60,000 and would have to find a way to work that figure into their cost which would ultimately affect taxpayers. Vice Mayor Greene preferred having Mr. Dee come back if he needed more money or set it up where it is \$25,000 and if he should exceed 100 hours, the cost would not exceed 40,000 in total.

Mr. Schofield explained that the solid waste item is a \$30 million contract depending on the time frame it is issued for. He said that this can be done in-house, but if there are items Ms. Cohen does not get done, they will be sent out. Vice Mayor Greene said that he wanted to do this right, but he did not want to write a blank check. Mr. Schofield said that Councilman Coates suggested \$40,000 which he supported and if they need additional money, staff will be back before Council. Mr. Schofield said that he would provide status updates in the Weekly Issues Report.

Councilwoman Gerwig said if this expertise was needed, she felt that they needed to approve the full \$60,000 so that they don't find themselves at the end with problems. She thought if having this expertise saves the Village money for the entire life of the contract, then it was worth approving the money up front.

Mayor Margolis said that they needed to move forward on this so they could release the RFP in January. He said that when this matter came before Council to decide whether to continue with the current contract or put it out for bid, this did not have much play in the decision to put it out for bid. He said that he was comfortable with their staff's determination that they needed Counsel; were comfortable that if Mr. Dee's work takes less hours, he would bill for fewer hours. Mayor Margolis said that Mr. Dee is well-experienced with solid waste contracts, and he did not believe that the timeframe would allow Ms. Cohen and her team to come up to speed on this.

Councilman Willhite wanted to see if a compromise could be made between the \$40,000 and \$60,000.

**A motion was made by Councilman Willhite, seconded by Councilman Coates, and unanimously passed (5-0) that the Village enter into an agreement with David Dee, Esq. Attorney with Gardner, Bist, Wiener, Wadsworth, Bowden, Bush, Dee LaVia & Wright, P.A. to provide Solid Waste Consulting Services in the amount not to exceed \$50,000, and if it is exceeded, staff will bring it back to Council.**

#### **(b) DIRECTION REGARDING THE SOLID WASTE REQUEST FOR PROPOSALS**

Mr. Schofield explained that there were ten (10) points that staff was seeking direction.

When reviewing the discussion points, Councilman Coates wanted staff to tell him how it relates to the current contract if they had extended it. He said he was adamant that he did not want there to be a reduction in the quality or nature of services.

Mayor Margolis pointed out that several discussion points impacted others, and he wanted staff to first

address those issues. In response, Mr. Barnes said he would first address those items first that could impact other ones.

### **1. New trucks or used trucks with an age limit? Diesel or Natural Compressed Gas?**

Mr. Barnes said that the issue of new trucks directly impacts the term. If the current contract had been renewed, it would have included new trucks. Mr. Schofield added that it would also have been natural gas. Mr. Barnes said that going to diesel versus natural gas was not a requirement in the contract, but was a direction that the current vendor elected to go in and the current trucks in the fleet that are new are compressed natural gas. Mr. De La Vega added that Mr. Dee did not believe that the Village should include diesel or natural compressed gas as one of the options. Mr. Dee noted the current contract was for new trucks for garbage and was not for vegetation. He explained that if they have new trucks that is indicative of a high level of service which they will pay for; it is the highest cost option for the customers. He said that they can have a cap of seven years on the age of the trucks where they are still getting good service, but were not paying as much money for the trucks. In terms of the use of compressed natural gas versus diesel fuel, a letter was received from Waste Management indicating that they were the only ones that could offer compressed natural gas. He said if that was true, that would mean that no one else could meet that spec. He recommended that you encourage people to use compressed natural gas if they have a fueling station; however, you would not want to eliminate them from the competition if they don't have one. Mr. Dee said that if someone has compressed natural gas, they can be given extra consideration when they are evaluating the merits of the proposal, but it should not be a mandatory factor.

Councilman Willhite supported the stipulation that the maximum age of the trucks could be up to seven years and there be no restriction on natural compressed gas.

Vice Mayor Greene indicated that he did not have an issue with the age of the trucks, but was more concerned with how they are maintained. He wanted language in the RFP to include that the trucks are painted, were not decaled, were not leaking hydraulic oil, and there would be some recourse if leaking occurred. Mr. Dee said those were standard requirements which would be included in the contract.

Councilman Coates indicated that that he strongly felt this RFP should attempt to provide the same level of service that the Village would have received on the extension of the current contract if it was approved. He said that he had said that he did not want them to be in a situation where they were getting lesser quality service than what the taxpayers were used to getting. He thought new trucks should be part of the RFP if they were included in the current contract extension. Councilman Coates said that he did not want this path to result in a higher cost to the taxpayers then if the contract was just extended. Councilman Coates expressed concern that when they start changing what they would have initially had; it becomes more difficult to make the comparison. He said that they may get a lower price, but they won't have new vehicles in the community which he believed the residents like as well as the natural compressed gas which is environmentally better.

Vice Mayor Greene thought the Selection Committee could weigh the scoring depending on whether or not new trucks were being provided.

Councilman Coates said that he was fine if the Selection Committee will have the ability to score higher depending on what was being presented.

Councilman Willhite said that some people would prefer having a used vehicle if it works rather than a new vehicle. He questioned the year of the trucks when they indicated they had to be new, i.e., two,

three. He thought that a two year old truck that is well-maintained can look just as good as a new truck. He felt that if they get a two year truck for a used vehicle price, the residents would be happy to have the extra money in their pockets.

Councilwoman Gerwig thought at a two year garbage truck would be considered new.

Councilman Coates thought that they were all saying that the truck can be new or used, but the decision will be made during the selection process.

Mayor Margolis stated that the Selection Committee would be staff. Councilman Willhite added that it had been recommended to Council that the staff sit as the Selection Committee because of the protests that could come forward.

Mayor Margolis said that the worst case scenario would be that the garbage trucks are coming into the Village leaking gas and breaking down. Mr. Barnes said that the decision to have new trucks was based on the Village's experience with several past contracts. Mayor Margolis said that Council was saying that having brand new trucks was not that important. Vice Mayor Greene added that the important aspect was a well-maintained fleet.

Mr. Wright asked Council if they wanted to set a year limit noting that at the end of a five-year contract, they could have a 12 year old truck. Mr. Schofield added that if the age limit is a seven year truck, if a truck being used is that age, it would be gone at the end of the contract because at the 8<sup>th</sup> service year it would not be used.

Mayor Margolis said that when this is done, Mr. Wright will have the ability to inspect the trucks and will come back with a report.

Mr. Barnes clarified that the Selection Committee will not have the ability to inspect trucks as part of the RFP. Councilman Willhite said that Council was saying that the trucks would be reviewed after the award. Councilwoman Gerwig thought the contract needed to include a failure clause.

Mr. Dee explained that one of the standard provisions in the contracts he prepares is that the Contract Administrator would have the ability to go out and inspect the trucks. If it was determined that the truck needed to be cleaned, repair, etc., he could require that the truck be removed from service.

Councilman Coates asked Mr. Dee if it was typical that a Selection Committee would be comprised of staff rather than Council on a contract of this size. In response, Mr. Dee said that each community has their own requirements, but typically staff is the Selection Committee although sometimes they add one outside person. Ms. Cohen recommended that staff sit as the Selection Committee. Mr. Schofield said that it is only a recommendation that staff sit as the Selection Committee, but Council has the ability to go with the recommendation or make another choice. Councilman Willhite asked Mr. Dee what was his recommendation regarding the composition of the Selection Committee. Mr. Dee said that he always wants to give people their options and then explain what other communities do.

**Council Consensus #1: Minimum age of trucks was seven years; that they are well maintained; and that the natural compressed gas was not a mandatory requirement.**

**Council Consensus #10: Staff will sit as the Selection Committee.**



**2. What limits on number of years of current experience, size or number of accounts for providing commercial and residential solid waste, recycling, vegetation and bulk waste services?**

Mr. Barnes explained the Village's current RFP resulted in the Village's current contract have a requirement for five years of experience with three similarly sized contracts, communities and customer-based communities and that type of thing. He said that the years of experience and similar contracts directly affected the pool of potential proposers.

Vice Mayor Greene said that he was not willing to compromise on the level of service and expectation by the community. He wanted to ensure they have an experienced and qualified hauler who provides service to the residents.

Mayor Margolis asked Mr. Wright for his recommendation on #2. In response, Mr. Wright recommended three years' experience, and currently servicing three contracts of the Village's size; He wanted to ensure that the Village has experienced people working on this.

Councilman Willhite asked what part of the criteria would be eliminated, years of service or size of the contract. Mr. Dee explained that the five largest vendors who would be likely to participate in this process will all meet the criteria with regard to years of service. He said that if they ask for three or five qualifying contracts of comparable sized communities with comparable amount of collection services, they will all meet that. He said that there was one company with only one year of service with one large contract, and then the rest have six other contracts for much smaller communities. Councilman Willhite wanted to ensure they would then not only have one viable candidate. Mr. Dee assured Councilman Willhite that they could potentially have five viable candidates. Mr. Barnes stressed that they were potential bidders as it could not be guaranteed how many bidders submit.

Councilman Coates asked what was the required years of experience in the previous RFP. In response, Mr. Barnes said that it was five years and three similar contracts. Councilman Coates indicated that he did not see any reason to change from those requirements. Mr. De La Vega noted that seven years ago, there were two firms that did not meet that minimum qualification. Councilman Coates said that he had heard that they would now meet it. He said that he did not want to limit the competition, but wanted to make sure that the same high quality standards that were included in the previous RFP are duplicated.

Vice Mayor Greene said that he was okay with Councilman Coates' recommendation, but he concurred with Councilman Willhite that he did not want to fall into the trap of reducing the number of viable bidders to two or three.

Mr. Dee said that they could use the same criteria that was used in 2007, and if anyone objected at the pre-proposal conference, they could then decide whether the criteria should be changed. He explained that at the pre-proposal conference the bidders would have the opportunity to discuss the requirements of the RFP and to submit written questions, comments and objections. Mr. Dee said if someone poses a good comment that wasn't thought of by the Village, they would be happy to listen to see if the process could be made better or to save money. He said that if they see that one or two of the companies won't meet the criteria that was used in 2007, staff can collectively decide whether they wanted to reconsider the criteria to make them less stringent.

Based on the top known contractors, Vice Mayor Greene questioned whether it mattered whether the experience was three or five years. Mr. Dee did not believe it mattered. Vice Mayor Greene said that he would support five years if it provided greater comfort.

**Council Consensus #2: Five years' experience and a minimum of three similar contracts.**

**3. Automated, semi-automated, or manual experience?**

Mr. Barnes explained that the Village's contract currently has fully automated service. He said that staff's recommendation was to go to fully automated.

Mayor Margolis and Councilwoman Gerwig supported requiring fully automated service. Councilman Willhite supported that; however, he noted that the recycling was still handled manually. He questioned how they could fully automate that service. Mr. Wright added that it was fully automated for the garbage and vegetation, but they would have to get the containers to go fully automated with the recyclables. Mr. Barnes clarified that they were recommending fully automated with the garbage and vegetation as is currently included in the contract.

Councilman Coates asked if this would preclude a provider from coming in and stating that they were prepared to offer fully automated service for the recyclables. Mr. Barnes said that the Village's containers were not set up for fully automated recycling, and the proposer would have to address that. Mr. Barnes said that the proposer could propose either but there would be a cost that they would have to absorb or it would not make their proposal as attractive. Mr. Dee thought that if the Village had to purchase recycling carts for everyone, the cost would be about \$1.2 million

**Council Consensus #3: Fully automated service for garbage and vegetation.**

**4. Roaming grapple truck to be paid by the Village?**

Mr. Barnes said that the Village's current contract did not have a provision for a roaming grapple truck. He said that in practice and operation, the Village has access to that type of truck whenever it is needed. He said that whenever the Village has had a need for such a truck, i.e., eviction, illegal dumping, the Village's Contract Manager had the ability to contact the vendor whose response was exceptional in providing one. In order to have the same level of service, staff's recommendation was to include that in the contract.

Vice Mayor Greene asked if the truck could be listed as a value added since it was not included in the previous contract. Councilman Willhite asked if it might be more cost-effective if the Village potentially did a one-time purchase of the truck. Mr. Barnes said if they look at some recent bids, it was a roll of the dice as to how the vendors priced this type of item in their bid. He noted that some would consider it a no-cost bid item while others would show it as \$100,000 plus per year.

Vice Mayor Greene thought if it was included as a requirement there would be a cost associated with it which would be evident in the bid. Ms. Cohen said that if it was not included in the contract, the Village may not receive that service.

Councilman Coates felt that it should be part of the requirement because it is a service that is being provided even though it wasn't included in the present contract.

**Council Consensus #4: The contract shall include a requirement for a roaming grapple truck to be included in the contract.**

## **5. Limit on cubic yards of bulk vegetation?**

Mr. Barnes said that currently there was no limit in the contract regarding bulk vegetation. He said that the Village's contract currently includes a limitation, but the vendor has elected to service the Village without one. He said that they can't guarantee that would be the case with a subsequent vendor. Mr. Schofield explained that would be one thing that would draw additional cost because during the original discussions with the current vendor, their primary concern was not garbage collection or recycling, but they were spending half of their cost on vegetation because the Village has a large amount of it. He said that may be the one thing that comes back differently in price then what was looked at seven years ago.

**Council Consensus #5: There should be no limit on the bulk vegetation.**

## **6. Contract term in number of years?**

Mr. Barnes said that staff's recommendation for the term of the contract was five years.

Councilwoman Gerwig asked if it would include two year renewals. Mr. Wright recommended that they just go with the five years. Councilman Coates said that in light of their previous discussions which led them to this point, he was not convinced that they would want a renewal. He said that he had no problem with the five years, but questioned if they wanted to have to make a decision on a contract that will extend it for a 10<sup>th</sup> year, when the Council has indicated they don't like long-term contracts. Councilwoman Gerwig said that the Inspector General would not have a problem with a long-term contract as long as it was competitively bid with a solid renewal provision. Mr. Schofield said that the problem with the present contract was that it did not have an explicit renewal provision. He pointed out that the shorter the term, the higher the cost.

Councilman Willhite asked Mr. Dee if he was recommending a five year contract with a five year renewal or a straight five-year contract. Mayor Margolis then asked what was the normal renewal. Mr. Dee said that in Dade and Broward Counties five year contracts were common and they typically had renewal provisions anywhere from one to five years or in between. He reiterated Mr. Schofield's comments that the longer contract is more attractive to the vendor and they are more likely to provide a good rate up front because they see a long term guaranteed stream of revenue. Mr. Dee said that a five year contract with a two year renewal would be attractive. Councilman Willhite suggested a five year contract with two, one year renewals.

Councilman Coates asked Mr. Dee if the renewal extension is included whether the contract could be drafted that protected the Village so that they could negotiate better terms if the market at the time of the renewal justified better terms. Mr. Dee said that he had not read the basis for the IG's opinion, but was surprised by what he was told about it. He said that in Florida there is no State or Federal mandate that says you have to competitively bid for these types of services. Mr. Dee said that he has always recommended doing an RFP and getting competitive prices. He said that hypothetically at the end of the five year term, they could provide in the contract for renewal under mutually acceptable terms. Councilman Coates said that language was very close to the renewal language that was in the current contract. Ms. Cohen pointed out that the Village's Purchasing Manual required competitive bidding. Councilman Coates said he would include "including the ability to negotiate better terms" with the renewal language because he believed that was where the IG believed the Village was changing the terms of the original contract. Mr. Dee indicated that Ms. Cohen was correct that if the Village has a Procurement Code, it would be the controlling document; however, the Village could always waive the provisions of that Code. Councilman Coates supported Council consensus but he wanted Mr.

Dee to be aware that his concern was to have an option to extend as well as to have the ability to negotiate the contract at the best terms.

Vice Mayor Greene asked if Mr. Dee supported a five year contract with a two year extension or a five year contract with two, one year contracts. Mr. Dee said that he liked to maintain maximum flexibility so they would have a term of sometimes, five, seven or eight years and then with the option to renew with as many as five consecutive renewal terms with the idea being if service is good, you might renew for one, or extend it depending upon the level of service that is received. He felt that doing that, they have more ability to negotiate and have extra leverage with the vendor in those negotiations. Although it might be contrary to the IG's opinion, the normal practice is to provide for a specified term and if they are buying new equipment, the minimum would be seven years and the renewals often are from five to seven years. Vice Mayor Greene suggested five years with three (3) one year renewals.

**Council Consensus #6: Initial five (5) year contract with three (3) one (1) year renewals subject to being able to negotiate a better price at the time of the renewal.**

#### **7. Containers to be provided by the Hauler or will the Village continue to purchase?**

Mr. Barnes said that at this point the Village purchases about 1,000 containers per year at a cost of about \$55,000. He said that an option that could be included in the new contract would be for the actual selected vendor to be responsible for purchasing the containers because a large vendor may have better purchasing power. He said that the Village would still require that the distribution be handled by the Village.

Mayor Margolis did not want to be committed to purchasing a certain number of containers.

Councilwoman Gerwig asked if the containers would still have the Village's logo. Mr. Barnes said that could be specified.

**Council Consensus #7: The vendor will be responsible for purchasing the containers; however, the Village would be responsible for the distribution to residents.**

#### **8. RFP Scoring Criteria weighting?**

Mr. De La Vega explained that there are typically three categories, (1) qualifications and experience with a maximum of 40 points. (2) approach and methodology: It would include the implementation plan including the scheduling, fleet, how they plan on transition, etc. for a maximum of 40 points; and (3) price would be a maximum of 20 points. He noted that there had been recent discussion so staff was requesting direction on this.

Councilman Coates voiced his opposition to the scoring criteria. He said that he would go to 30% on the two non-price categories and 40% on the price. He said that they were dealing with qualified vendors and they wanted an incentive to push that price down. He felt they would accomplish that if they put a greater emphasis on price.

Councilwoman Gerwig said that the Village was not looking for people who were only meeting the minimum requirements and just giving the best price. Councilman Coates said that he would normally concur; however, they do know the universe of potential responders are all high quality and capable companies. He believed there was enough uniformity amongst the providers that he wanted the pressure to be on the price. Councilman Willhite concurred with Councilman Coates and noted that Council had already included seven requirements. Councilman Coates had a concern that this RFP

process not result in a higher cost of service to the community which was why he felt they could not lose sight of price being and incentive. Vice Mayor Greene said he did not want to save money for the residents, only to have them complain about their service.

**Council Consensus #8:** Council consensus was that the scoring criteria should be: 30% qualifications and experience; 30% for approach and methodology and 40% for price.

#### **9. Consultant fees reimbursable by the awarded vendor?**

Mr. Barnes said that several Councilmembers asked about the consultant fees being reimbursed by the vendor. He said that Mr. Dee advised staff that he has been able to accomplish that in the past. Mr. Dee said that there are a number of items that local governments routinely recover from the hauler, but it basically means that the price is hidden in the rates. He said that he believed that the Village was currently getting free collection service at City Hall and several other city-owned properties, but at the end of the day even though they are not being billed for it, it is still worked into the rates.

Councilman Coates asked what Mr. Dee's recommendation on this item was. Mr. Dee said it was really Council's philosophical approach as to how they wanted to handle it. Mr. Schofield recommended that the Village recover the fee for the consultant because the residents are either going to pay it in their tax rate or will pay for it in the collection rate. He felt it was better for the residents to pay for it in the place where they are actually getting the service rather than the Village trying to adjust the tax rate for this.

**Council Consensus #9: Include that the consultant fees which have to be reimbursed to the Village by the awarded vendor.**

Mr. Dee asked Council if they were taking the same approach with the grapple truck. Councilman Coates said that since it was already being provided, he assumed it would be built into the price of the contract.

There were no public comments for this item.

Mr. Barnes explained to Council that staff was recommending a two-step process where the Village receives all proposals, only opens the qualifications and experience that meet the requirements, and they open up those prices. Mr. De La Vega clarified that if the proposer does not meet the qualifications, staff does not open the price proposal, it gets returned to the proposer who did not meet the requirements set forth in the RFP which they have done in the past.

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

#### **B. 14-893 DIRECTION REGARDING THE LOBBYING SERVICES AGREEMENT**

Mr. Schofield introduced the agenda item. He said in January Council approved an agreement with Ramba Law Group to provide lobbying services to the Village with an initial term of 11 months expiring on December 31<sup>st</sup> with a provision of up to two (2) additional terms. He said the decision was whether or not to renew the contract, and at Council's request, he provided the proposals from the other six firms who had originally applied for them to review.

Councilman Willhite asked Mr. Schofield to provide background on how they reached this point. Mr.

Schofield said that there was discussion on services that were and were not provided. He said they reached this point because of reservations that were expressed for renewal at the Council level. He indicated that he has had that conversation with most, but not all of Council.

Councilman Willhite said that the Village had a lobbyist who was semi-retired and sub-contracted which Council decided was not working. He said that the decision was to go out with an RFP and these were the seven people who responded to that request.

Councilwoman Gerwig asked Councilman Willhite to describe what he felt was not working with the lobbyist. In response, Councilman Willhite said his understanding was that Mr. Harvey was working for the Village as their lobbyist. He came to a point where he wanted to semi-retire, so he sub-contracted the Village to another firm, Poole McKinley. He said Mr. Dickinson was contracted through Mr. Harvey at \$1,000 per month. Councilman Willhite had expressed that he had not met with him in quite a long time to discuss any issues which was where he said it wasn't working. Councilwoman Gerwig indicated that she had met with him about issues while she was up in Tallahassee. She questioned whether Council would have to initiate things regardless of who they went with. Councilman Willhite concurred except when the Village was paying \$12,000 per year for services for Mr. Dickinson plus payment to Mr. Harvey. Councilwoman Gerwig asked Mr. Schofield what the Village was actually paying. Mr. Schofield explained that the Village was paying somewhere under \$80,000 per year; however, Mr. Harvey was doing other contract work for the Village which did not include lobbying.

Mayor Margolis thought the issue was whether the Council was satisfied with the experience and results of the Village's current lobbyist. He said if they were, then they should continue with his contract, and if not, then they have the option to select another lobbyist. Mayor Margolis said that he looked at some of the results that were delivered to them which he was not very comfortable with. He said that he has had long talks with Mr. Schofield about that. Mayor Margolis stressed how important it was to have a proactive lobbyist in Tallahassee especially with the issues that have been surfacing, i.e., AG exemptions.

Vice Mayor Greene said that perhaps part of his concern was that he did not know the results. He said that he was a strong supporter of Mr. Ramba, and he believed there was no question as to his level of experience. He said that Council's concern was that there were previous communication issues, i.e., feedback on results, important legislative issues. Vice Mayor Greene asked at what point the Village would have to start the process again. Ms. Cohen explained that lobbying services are exempt under the Village's Purchasing Manual. She said that Council asked for Letters of Interest and treated it in a hybrid fashion between an exempt purchase and one that required a formal process with a scoring and ranking. She said that she personally did not want to see Council continue with that practice because she felt it muddled the water and creates confusion for the people who are applying. She said that there was an issue during a presentation with an adjustment in price which created confusion on the part of other lobbyists as to whether they had the right to protest when it was an exempt situation. Ms. Cohen advised Council that they could renew with Mr. Ramba or could select another lobbyist from the list. She said that Council went through the process of scoring and there is a ranking which she believed should somewhat factor into their decision-making if they decide not to renew the existing contract.

Vice Mayor Greene said that the current contract was \$60,000; however, there was some redundancy in other areas of lobbying. Mr. Schofield reiterated that Mr. Harvey does not lobby for the Village. With regard to Mr. Harvey, Vice Mayor Greene said that he was an independent contractor who was being paid up to \$25,000. Mr. Schofield said there was a time when he was the person who the Village contracted with, but he wanted to cut back which he did which was when the Village entered

into the agreement with Poole McKinley. He said that Mr. Harvey had not lobbied for a number of years because he did not want to be in Tallahassee, and was not a part of this discussion. Mr. Schofield said that where they stand now is whether or not Council is happy with their current lobbyist, and if they feel they are getting what they need. Mr. Schofield said that the relationship with the lobbyist is more of a personality thing because Council has to be comfortable in talking with the lobbyist; however, in the past, lobbyists have not spoken to Council because previously the Councils wanted to be separated from them. He said that since he started in 2001 with the Village, Council only came into contact with the lobbyists when there were legislative meetings in Tallahassee. Mr. Schofield noted that the Village has better relationships with the legislators now than they did in the past, but Council has to decide where they want to be and where their comfort levels are.

Based on the contract that was signed, Mayor Margolis asked Mr. Schofield if the requirements were fulfilled. He said that he knew there was supposed to be a number of appearances before Council; however, that did not happen. Mr. Schofield said that he was happy with half of the lobbying team, but there were major deliverables specifically pertaining to grants which were only delivered in the last number of days as they came to the end of the contract. Mayor Margolis then asked Mr. Schofield if he was happy with the interaction up in Tallahassee. Mr. Schofield responded affirmatively.

Councilman Willhite said that no one on Council doubted any of the qualifications of the Ramba team. He said that he has heard from the Florida League of Cities how important the Council's voices and the lobbyist are up in Tallahassee. He said that he found that every time he went up to Tallahassee; however, he believed he was hearing that there was some lack of communication during the off season. Councilman Willhite said that he also heard perhaps splitting the responsibilities, and suggested going with #1 and #2 and splitting the contract.

Ms. Cohen explained that the Council would need to get the agreement with those other lobbying firms. Secondly, she said she did not believe that staff had spoken to any of the other lobbyists to even determine whether or not they were still willing to perform the services at their proposed price. She said that whatever action was taken by Council at this time, would require staff to go back and communicate with those firms unless the current contract is renewed.

Mayor Margolis said if it was Council's decision to split the responsibilities, would it be fair to contact the other consulting firms prior to making that decision. Ms. Cohen thought that Council could provide direction and then staff could contact them to see if they were willing to accept those terms and then bring the actual contracts back to Council. She said that Council was in a position where it was not known whether or not they would accept that.

Councilwoman Gerwig said that Wellington has one interest which is Wellington. She said if they have someone who knows the Village, looks at what is happening in Tallahassee and how it impacts Wellington and advises them when necessary; she did not understand the splitting concept. In response, Councilman Willhite clarified that Palm Beach County has a team of lobbyists who work together. He said that whoever works for Wellington has to work together. He said that there was good work that was being and could be done, but there is a potential for it to be better by having more experience from different angles. Councilwoman Gerwig indicated that she did not see a point for the Village to have two lobbyists. She felt there was some value to extend the contract another year and perhaps they needed to make their needs clearer. Councilwoman Gerwig did not know what they wanted that they did not get. Councilman Willhite stated that the Manager had advised Council that he had some concerns inclusive of #1 yet he got good value and work from him.

Councilman Coates said that this was an area where he relied on staff and Mr. Schofield because he has been one of the Council members who has chosen not to have direct interaction with the

lobbyists. He said that when they went down the path to choose a lobbyist, one of the concerns he heard from Council was they were not having enough interaction with the lobbyist. He recalled the contract included that they had to come back six times with an update. He asked if that was a part of the contract that was not complied with by the existing lobbyist. Mr. Schofield responded affirmatively. Councilman Coates asked if there were any other parts of the contract that were not complied with. Mr. Schofield said that the grant portions were not complied with. Councilman Coates asked Mr. Schofield to elaborate on how that portion was not complied with. In response, Mr. Schofield said that he did not have the contract in front of him, but the Village did not get the grant strategy until several weeks ago. He reiterated that he has spoken to most of Council and he knows their concerns. He noted the past concerns were that there was no direct contact or personal interaction with the lobbyist which he did not believe they were getting. Mr. Schofield stated that he was limited in the conversations he can have with Council as he cannot tell or even imply what the other Council members have said. He said at this time Council has to make the decision regarding the renewal of this contract, but it wasn't his sense that they were willing to do that. He made the following recommendations to Council. The first was if they were going to renew the contract with Mr. Ramba, they remove the section about grants. He said with regard to the idea of a split contract, he believed that the Village needed some local presence as well as a lobbyist who has a presence both in Tallahassee and Washington.

Councilman Coates said that he considered the attendance at the Council meetings a critical part of the agreement. He asked Mr. Schofield to explain the significance of the grants in the contract and what it was intended to accomplish. Mr. Schofield said that was a requirement of Council, and was not something that they typically included. He said that one of the primary focuses of one member of the team was supposed to be grants. Mr. Schofield reiterated that he had only received the grant strategy over the last several weeks; however, there was no timeframe for that strategy to be submitted.

Vice Mayor Greene said that he had not had an opportunity to meet with Mr. Schofield on this. He said that he did not expect any lobbyist to call him on a weekly basis to provide an update. He said that whether it is appearances before Council as a collective body or communication through the mail, he did not think a hybrid would work. He stated that if they wanted to make a change, then they should do that. He thought that since Mr. Schofield indicated there were some performance issues and there was some discomfort among Council, then he would make a motion to initiate the contract with Coker consulting.

**A motion was made by Vice Mayor Greene, seconded by Mayor Margolis, directing staff to initiate the contract with Coker Consulting.**

Councilman Coates noted that Mr. Ramba was in the audience and said that he wanted to hear his view on what had been discussed.

1. David Ramba, Ramba Consulting Group. Mr. Ramba stated that that there was a lot of misconception about how the legislative process works. Regarding their attendance at meetings, he indicated he and Ms. Dedy were before Council in January and May; in March and April he met with most of Council in Tallahassee; they were not on the agenda in July, so they sent a paralegal, and they did not meet in November since there was nothing to report except what would happen if either Charlie Crist or Rick Scott was elected. He said that as of that date, the only thing filed in the Florida Legislature were claims bills, the deadline for starting the 2015 session had not yet occurred, and committees would only be starting in January. He said that when initially hired by the Village, they were already half way through last year before their first meeting. During the session, they provided regular updates, and during the off-season they were working on a grant



proposal. Mr. Ramba explained that the reality was they have Rick Scott's priorities and Amendment One passing so they would have \$10 billion over the next 20 years for land. He said that they needed to focus on land purchases and water protection. Mr. Ramba said that the next 14 months is truly a two year cycle where last year they were half way through the second year before they even got out of the box, so there was nothing to report to Council in September which he considered the only meeting they missed. He noted it was odd to include the grant strategy in a legislative lobbying contract. He said that they put together a very comprehensive list and believed it was smart for the Village to focus heavily on grants because of the political realities since he believed their politicians did not have much leverage in getting a lot of appropriations. Mr. Ramba said that for the first time they were starting to set a two year program to affect the changes they wanted for Wellington. He said they can review the League of Cities priorities, but he did not believe they should pay him to re-enforce the League of Cities issues. He noted there has been very little change in the League's agenda over the years. He said they have spent 8 months determining the Village's needs, and believe they had an effective grant strategy they would like to finalize so that they can apply for the grants. Mr. Ramba said that the biggest thing that they can do is to provide the defense on some of the agricultural and landowner issues which are the Village's biggest threats. He indicated they would come down immediately if there was something on the agenda for them to address, and would be happy to be scheduled as a monthly agenda item. He said that when Council was up in Tallahassee, it was clear his team is qualified to do whatever Council wants, and he believed they were in a position to get a lot of things done for the Village. Mr. Ramba said that he would be happy to answer Council questions.

Vice Mayor Greene said that he did not think that anyone thought Mr. Ramba's qualifications were not strong enough to meet the Village's needs. He said that based on Mr. Ramba's analysis; there may not be enough facing the Village that requires his level of expertise. He said that looking from it at an economic standpoint; it gave him more strength to support his motion. He thought Mr. Coker being local may give them more attention and communication. He said he didn't know where or if communication broke down. He said if Mr. Ramba was doing what he was supposed to be doing, he appreciated it, but based on the analysis perhaps the scope of services was larger than what was needed in the short term.

Mr. Ramba said that he assumed there would be a workshop in December where they could determine what the Village's true issues were for the upcoming session. He said other than knowing the land use and water issues, he felt that the Village needed to be paying attention on something that was unique to them rather than general issues which required they be relayed to him. Mr. Ramba said that he looked at the 2014 material that was provided to him in January by Mr. Harvey which appeared to be just the League of Cities priorities that really did not say anything that was unique to the Village. He said if the Village was going to pay a lobbyist, they needed to sit down and discuss exactly what they wanted, but if they only wanted someone to monitor what is happening and do some things, then they only needed to retain a young professional. Mr. Ramba pointed out that the firm the Village was talking about retaining was also based in Tallahassee. He said that Ms. Deady's firm is down here because they thought Wellington needed someone who was close by to work closely with staff which hasn't occurred.

Vice Mayor Greene asked Mr. Ramba if he had ever been in a hybrid arrangement. Mr. Ramba responded affirmatively, but indicated that Wellington had to decide what they wanted from their lobbyist. He said that for the other cities he works for, he has never been before Council that he has represented. He said that the Village is unique because everyone has their own ideas about what the lobbyist should be doing which is not how he works with the other cities. He felt the logical thing would be to have a published workshop where Council tells the lobbyist what they want.

Vice Mayor Greene asked Mr. Ramba if he would have an issue working with Mr. Coker. Mr. Ramba said that he would not have any issue noting he works with multiple lobbying groups for all of his other clients which is common because everyone has different strengths. He reiterated that Council needs to decide what they want and whether it is focused on appropriations or grants; however, he noted that lobbyists do not focus on grants.

Vice Mayor Greene asked what would Mr. Ramba's response be to taxpayers who wanted to know what the return on the investment was on what was paid to his firm. Mr. Ramba said that they would look at the challenges last year in the Farm Building Act, the AG lands, the provisions where people would build million dollar barns and not meet the code which they had to stop. He said that the other things were more League of Cities type things.

Vice Mayor Greene asked if there were any challenges or obstacles that the Village needed to address to ensure that Mr. Ramba meets the Village's expectations. Mr. Ramba said that he had indicated last year that he wanted to have one person to speak to, but he did not think it should be the Village Manager because of his workload. He thought perhaps it should be another staff person who understands the legislative process and could assume that role.

Mayor Margolis thanked Mr. Ramba for attending the meeting. He stated that, in his opinion, there were some items that were not fulfilled in the contract. He thought the Council gave some direction when they retained Mr. Ramba as the lobbyist. With regard to the AG issues, Mayor Margolis felt those are yearlong issues that they need to focus on. He said that Mr. Schofield indicated that he did not see that interaction, so he thought the problem was the lack of communication. Mayor Margolis was also concerned about the lack of contact the Village had with Mr. Ramba's local representative. He thought she should have been more proactive in doing what she was supposed to do. As far as the grant applications were concerned, he did not believe they should have received the information a month or two before the expiration of the contract. Mayor Margolis said if Council decided there should be a hybrid or to continue the relationship, he wanted to be honest and discuss some of his difficulties. He appreciated the time that he spent with Mr. Ramba while up in Tallahassee.

Councilwoman Gerwig said that she was not willing to blame Mr. Ramba for the discourse, and wanted them to take the responsibility because if they wanted to hire a lobbyist she felt that their expectations needed to be clear. She said they could also decide not to have a lobbyist, but to just rely on the League of Cities. Councilwoman Gerwig thought they needed to be focused on what they wanted before hiring anyone.

Mayor Margolis said that he agreed with Councilwoman Gerwig, but his comments related to what he believed was not fulfilled in the contract. He said that if a vendor was not fulfilling a contract, staff would bring it back to them and apprise them of what was not being fulfilled.

Councilman Coates said this was difficult for him because Mr. Ramba was his top choice. He said that as a representative of the Village he felt it was incumbent upon him to ensure that the contracts are honored and complied with according to the terms. He said that it concerned him that his Village Manager was indicating that there were certain provisions of the contract that were not complied with, and he was concerned with setting a precedent renewing a contract where terms were not fulfilled. He thought that there had to be a standard where there is absolute compliance with the terms of a contract that the taxpayers support.

Mr. Schofield indicated that there were elements of the contract that the Village did not receive. He said that the Council has to be comfortable with their lobbyist. He said that staff has a very specific legislative process that they follow. Beginning in December when bills start being filed, he spends the

first hour to hour and a half of his day looking at what the legislature is doing which is part of what he has to do. He said that regardless of who the point person is, he would do that anyway because that is his ultimate responsibility. Mr. Schofield said that they do have to establish their legislative priorities for the coming year. He said that the Village does not have a lot of issues that the League of Cities doesn't address, but they do have some that are very problematic, i.e., number of attacks on the Village's land use regulations, dealing with Florida Statute 604.50, Equestrian Preserve regulations. He thought they needed to have representation in Washington at some point to address the Water Quality Standards. He said that those were really Wellington's issues. Mr. Schofield said that the Village has a legislative agenda that concentrates around agricultural issues.

Councilman Willhite said that Mr. Schofield had indicated that Mr. Ramba had done some good work which was why he suggested a hybrid approach. He thought if the Village split their legislative priorities into two aspects, then Mr. Ramba could continue working in the area he was successful.

Councilwoman Gerwig said that she hasn't heard anything that Mr. Ramba had done except to entertain Council in Tallahassee. She questioned what item Councilman Willhite thought Mr. Ramba was successful with. Mr. Ramba indicated that he did not entertain any member of Council in Tallahassee. He said that there was a bill that had a threat to Wellington, and the lobbying that had to be done with those deciding members of the legislature who were not familiar with Wellington. Councilwoman Gerwig said Mr. Ramba was successful in accomplishing Wellington's number one priority, but that the issue was that Mr. Ramba did not come before Council in November. She wanted to see where the breach of contract was. Mr. Ramba said his notes indicated those meetings would take place in January, March, April, May, July, September and November. He said that he and Ms. Deady attended the Council meetings in January and May. In March and April, they were up in Tallahassee where he had numerous meetings with the Village Manager and members of Council which he counted as meetings. In July, there was nothing on the agenda, but they had a paralegal attend the Council meeting to take notes which was sent to them. He said that September was the middle of the election and there was nothing for him to report, and October was not listed in the contract. He said that now it was November and he was present. Mr. Ramba thought that December was the logical time to have a workshop to discuss their priorities.

**At this point, Mayor Margolis called the question.**

**The motion was passed (3-2) with Councilman Willhite and Councilwoman Gerwig dissenting.**

**C. 14-890 DIRECTION REGARDING K-PARK RFP**

Mr. Schofield introduced the agenda item. At this time, Councilwoman Gerwig recused herself from this item at the advice of the Commission on Ethics. She did not believe there was a relationship with the engineer on any of these projects; however, the nexus existed in the eyes of the Commission on Ethics.

Mr. De La Vega advised Council that six proposals had been received for the sale and development of the K-Park property. He said that staff met with each member of Council individually and summarized each of the proposals. At this point, staff was seeking direction regarding the RFP: (1) reject all bids; (2) score, rank and short list and bring the short-listed firms back for interviews and presentations; or (3) bypass the short list and bring all firms in for interviews and presentations.

Vice Mayor Greene suggested Council hear all six proposals. Mayor Margolis and Councilman Coates voiced their support of that suggestion.

## Public Comments

1. Bobby Munden, 14551 Halter Road. Mr. Munden spoke in opposition and raised the following concerns: (1) residents always considered this property a park and open space would have to be replaced in the Village; (2) the current plans were not special or appealing; (3) property is worth more than what proposals offered citing value of surrounding properties;
2. Bart Novack, 15670 Cedar Grove Lane. Mr. Novack spoke in opposition to the sale of K-Park and raised the following concerns: (1) residents were promised a park; (2) taxpayers were paying for the easement between the church and the property and the church should reimburse the Village; and (3) all bids should be rejected.

Councilman Willhite said that there has been a multitude of ideas for the property, i.e., park, assisted living, gas station, horse park, Palm Beach State College. He noted that the church road was only a courtesy and it would go away when the Village utilizes the property. Mr. Schofield explained that the roadway would go away at that location; however, they are required to provide access from that property. Councilman Willhite said that roadway can also benefit this property. He said that it was difficult to say that any specific use was promised because they had the problem of funding and maintaining a park. He said that Council has said that the ultimate sales price was not the ultimate deciding factor, but rather what was the best value and return to the Village. Councilman Willhite hoped that the Council would bring in all six proposers for interviews and presentations. He said that Council will either short list them or make an ultimate decision to award the property.

Councilman Coates said that he supported hearing all six proposals, but it was a mistake to assume that he supported developing this property with any of the projects at this point because he wanted to get further information. He noted he had been a supporter to ensure that K-Park is used for public purposes. Councilman Coates said that he intended to look at this not only in terms of what could be done at K-Park, but if they went in that direction, could it be a means to acquiring other public land that gives the Village the park land that much of the Village is seeking. He reiterated that he was not going to make a decision as to whether he even supports development of the property at all until he has heard and vetted all of the proposals. Since this is such a significant decision and substantial piece of property, he reiterated that they should hear all six proposals.

Mayor Margolis said that he was on Council when the decision was made to purchase K-Park because they thought it was needed for park land. He said at that time the Village was close to not having enough park space; however, the Village fulfilled that requirement with Section 24 and other avenues. Mayor Margolis said that he wanted to move forward with the process to allow each applicant the opportunity to make their presentation and for the Council to ask questions of them. Mayor Margolis said that he was happy they purchased the property.

Mayor Margolis said that staff had Council consensus to move forward with the interview process.

Mr. De La Vega said that direction was needed on whether the Council wanted to schedule the presentations prior to or after the holidays. Mr. Barnes indicated that staff recommended conducting the interviews in January; however, Mr. Schofield indicated that he preferred to devote one whole day in December to hold the presentations. He said that the format would be 20 minutes for presentations; 20 minutes for questions and answers. Mayor Margolis requested that the meeting be held closer to the beginning of December because he would be away on vacation towards the end of the month.

Mr. De La Vega said that staff would try to schedule a day in early December for the interviews. The format would be 20 minutes for presentations; 20 minutes for questions and answers; 5-10 minute break in between proposers. The meeting would be closed to the public per Florida Statutes. The

meeting will be video and audio recorded. He said that after the presentations have concluded, the public would then be allowed in.

Vice Mayor Greene said that this was such a significant piece of land and potential development, he thought it was important for them to provide some flexibility for the presentations. Mr. Schofield said that there is a 20 minute buffer built in, and they could schedule them 70 minutes apart rather than 60 minutes. Mr. Barnes said that the caveat was that each team would be allotted the same time to present. Councilman Coates added that it was such a huge decision that he did not have a problem setting aside a full hour for the presentations. He concurred with Vice Mayor Greene about not being too restrictive on the time. He thought it should be set for 40 minute presentations, 20 minute questions and answer or something like that.

Mr. De La Vega said that typically when they short list they establish the order of the schedule as to who presents. Since they were not shortlisting, Mr. De La Vega asked that the order of presentations be established. At this point, Mr. Barnes randomly selected the names. The order of the presentations will be as follows: #1: Wellington Gardens; #2: Stiles; #3: DiVosta JKM Developers; #4: Bainbridge/Brefrank; #5: Reinvent America' and #6: Lennar.

Councilman Willhite asked if Council would be ranking them at that time. Mr. De La Vega said that the typical format has been that the interviews/presentations are conducted, the room is then opened up; the public is allowed back in, there is discussion among Council, and at that time, they will make the decision whether to score, rank, make a recommendation or move in any other direction.

Councilman Willhite's concern was that the Council would rank them; however, Councilman Coates could then say he did not want to sell the property. Councilman Coates thought the ranking had to be separate from the decision whether or not the Council decided to move forward. He said that the intent to move forward based on the rankings will be done at a public meeting. Councilman Willhite asked if Council could rank them, and then have a separate meeting to decide whether or not to sell. Mr. Schofield suggested that Council rank the proposals at the end of the meeting, they are provided to Mr. De La Vega who then seals them, and then Council makes the decision to sell without knowing who was number one on the list. Councilman Coates said that he looked at this as a whole, and felt they needed to know the rankings so that they could discuss it at a public meeting. He said it was important for him to have the public involved and provide their comment when the Council was making the decision whether or not to move forward with the development of the property.

Mr. Barnes said that when staff met individually with Council on these projects, the desire was for public input. He said that Council needed to decide when to have that input because that meeting also needed to be scheduled. Mr. De La Vega said that even if Council scores and ranks the presentations, they would still have to award the contract and enter into negotiations at a separate meeting.

Mayor Margolis asked if staff was comfortable with scheduling the presentations, and if it was not possible to get it on a public agenda, then they could discuss selling the park at a public meeting in January. Vice Mayor Greene asked if they could release the rankings prior to the public meeting. Mr. Schofield said at that point, they would be required by law to release them. Mr. Schofield said that if it was important for Council to know what the project was prior to making the decision, then they should just make it public once they rank the proposals. Vice Mayor Greene said because he likes one project better than another did not mean he was willing to execute the sale. Vice Mayor Greene thought the final decision would be based heavily on public comment. Mr. Barnes asked if there was a desire for Council to hear the public comment prior to them hearing presentations. Councilman Coates thought they should have public comments after Council had scored them because they would

have something concrete to respond to. Ms. Cohen said that was not part of the evaluation criteria, and it would be troublesome to inject that element.

Mr. De La Vega reiterated that they would have interviews and presentations in early December, the Council would score and rank them afterwards, and then it would be open to the public. The scores would be posted and then the item would be on the agenda in January.

Mr. Schofield asked if Council wanted the public comments to be given at a separate meeting where this was the only issue being discussed. Councilman Coates said if it was Council's desire to hold a special meeting, he would not have a problem holding it in December. Mayor Margolis said that he was going to be on vacation, but he did not know the exact date. Mr. Schofield indicated that there was another Council meeting in November, he would have Ms. Adler check Council's schedules and then staff would have recommendations for the interviews and the other meetings.

At this point, Councilwoman Gerwig returned to the Council Chambers.

## **9. PUBLIC FORUM**

1. Bart Novack, 15670 Cedar Grove Lane. Mr. Novack felt that the K-Park location was the best area to have a park due to the ease of moving traffic in and out of the site.

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

**MS. COHEN:** No Report.

## **11. MANAGER'S REPORTS**

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

- The next Regular Council meeting will be held on Tuesday, November 25, 2014 at 7:00 p.m. here in Council Chambers.

## **12. COUNCIL REPORTS**

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

- She thought the Veterans Day Parade and Ceremony was tremendous.

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

- He reported that he was unable to attend the Veterans Day event, but thanked the men and women who have and were currently serving the country. He thanked Mayor Margolis and Councilwoman Gerwig for attending the parade and ceremony and for representing the Council.
- He expressed his thanks to the students that attended the Civics 101 session and indicated that they had asked great questions and he appreciated their interest.
- He asked if Councilman Coates had been briefed regarding to the Wellington Community Foundation discussion held at the Agenda Review meeting on Monday.
- Vice Mayor Greene directed his expression of appreciation to Mr. Ramba for the great work done. He stated that after listening to Mr. Ramba's comments, he was hopeful that the Village could develop a hybrid system with different skill sets which would complement each other and bring value to Wellington in the near future. However, Council would need to decide the necessities of the Village provide clear direction and work with Mr. Schofield in order to represent the residents of the community.

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

- He stated that when he and his son were walking through Peaceful Waters there was a piece of the railing missing, and he voiced his concern regarding the potentially hazardous safety situation. He explained the City of West Palm Beach utilizes the “Click n Fix” program where a picture would be taken and sent to the Village staff and the problem would be immediately addressed. He requested staff look into the program.
- He explained that the City of West Palm Beach also has a rebate program for purchasing “Green” appliances and toilets which would be a great benefit to the residents. He asked staff to look into the program.
- Councilman Willhite thanked staff for handling the large crowd that attended the Veterans Day event which was the largest to date. He wished all veterans and their families a Happy Veterans Day.

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

- He saluted all of the veterans, especially his fellow Marine Corp. and stated that he regretted not being able to attend the event but felt it was one of the most important yearly events.
- Councilman Coates stated that he agreed with Vice Mayor Greene’s comment that Mr. Ramba provided a good service in a professional manner but his concern was with the contract’s compliance and felt the contract needed to be consistent.

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

- He agreed with Councilman Coates that all contracts needed to be fulfilled and if not fulfilled another vendor would need to be selected. He did not have a problem with the visits to Tallahassee, but some of his concerns were with his participation at the local level.
- Mayor Margolis spoke about a 90-year old veteran by the name of Sam that he met at the Veterans Day ceremony who led the Pledge of Allegiance. Sam served as a submariner during WWII and as a cook during the Korean War and explained that he was hoping to get his high school diploma at the end of the year because he was not able to it when he was younger because he was fighting for his country. Mayor Margolis added that he invited Sam to attend all of the Veterans Day events in the future and to provide the Pledge of Allegiance. He felt that meeting him and having him attend the event was a blessing.

### **13. ADJOURNMENT**

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

**APPROVED:**

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**Bob Margolis, Mayor**

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**Awilda Rodriguez, Clerk**