

MINUTES

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

**Thursday, October 13, 2016
7:00 p.m.**

Pursuant to the foregoing notice, a Regular Meeting of the Wellington Council was held on Thursday, October 13, 2016, commencing at 7:00 p.m. at Wellington Village Hall, 12300 Forest Hill Boulevard, Wellington, FL 33414.

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

Advisors to the Council: Paul Schofield, Manager (not in attendance); Laurie Cohen, Esq., Attorney; Jim Barnes, Assistant Manager; Tanya Quickel, Director of Administrative and Financial Services; and Rachel R. Callovi, Clerk.

1. **CALL TO ORDER** – Mayor Gerwig called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE** – The Girl Scouts and Boy Scouts in attendance led the Pledge of Allegiance.
3. **INVOCATION** – Pastor Jay Carrero, Blueprints Church, Wellington, delivered the invocation.
4. **APPROVAL OF AGENDA**

Mayor Gerwig asked for an approval of the Agenda as presented.

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

5. PRESENTATIONS AND PROCLAMATIONS

- A. 16-0458 PROCLAMATION PROCLAIMING OCTOBER 23-31, 2016 AS “RED RIBBON WEEK” IN THE VILLAGE OF WELLINGTON

Mr. Barnes introduced the item. Ms. Callovi read the proclamation. Mayor Gerwig indicated this proclamation would be given to Adriana Quartarolli of the Young Marines of the Palm Beaches.

- B. 16-0581 USA FIELD HOCKEY ASSOCIATION 2016 NATIONAL FIELD HOCKEY FESTIVAL REQUEST FOR CO-SPONSORSHIP

Mr. Barnes introduced the item.

Mr. George Lindley with the Palm Beach County Sports Commission spoke about the 2016 National Field Hockey Festival taking place November 24-27, 2016 at the International Polo Club (IPC), which is the world's largest field hockey tournament owned by USA Field Hockey. He stated the Village won the bid process to host this prestigious event by beating out other major contenders.

Mr. Lindley explained the demographics and location of the National Field Hockey Festival as well as the economic benefits to the Village and Palm Beach County. He stated the festival will generate \$8 million of direct visitor spending and over 10,000 hotel room nights. He said it will also generate a lot of media and positive public relations for the Village of Wellington, Palm Beach County and the State of Florida. Mr. Lindley thanked the Village for the partnership, as it has helped transform Palm Beach County into a leading destination for sports in Florida and the United States.

Mr. O'Dell indicated the co-sponsorship included providing the mobile sound stage, Village Park for parking, and overtime for events happening Thanksgiving Day, so the Village would be contributing about \$1,500.

A motion was made by Councilman Drahos, seconded by Vice Mayor McGovern, and unanimously passed (5-0), to approve the co-sponsorship as presented.

Mayor Gerwig thanked Mr. Lindley for his work with the Sports Commission. She indicated some residents, who are bicyclists and swimmers, wanted to speak with him. Mr. Lindley stated he was looking forward to having those conversations.

C. 16-0431 FY 2017 KEELY SPINELLI GRANT AWARDS

Mr. Barnes introduced the item.

Mr. De La Vega stated, as part of the FY 2017 budget, the Village Council once again approved funding for the Keely Spinelli Grant. He said this year's budget includes a total of \$297,000 or \$27,000 for each of the eleven public schools serving Wellington residents. He indicated this total increased \$2,000 per school from the previous year's budget. He stated the funding is to be used for programs, instructional materials and/or equipment needed for students within the lowest 25 percentile in reading and/or math.

Mr. De La Vega explained an administrator from each school presented their grant applications to the Education Committee on September 6th. Based on each school's request, this year's grant will provide assistance to approximately 2,734 students across all eleven Wellington area schools. Representatives from each school and members of the Education Committee were in attendance. Also in attendance were Dr. Frank Rodriguez, Central Region Superintendent; Ms. Vivian Green and Dr. Jeff McGee, Central Instructional Superintendents; and Ms. Marcia Andrews, School Board Administrator for District 6.

At this point, Council distributed the grant checks to the school principals.

Dr. Frank Rodriguez stated he brought greetings from the Superintendent, Dr. Avossa, and Deputy Superintendent, Dr. Christiansen. Dr. Rodriguez thanked the Council for their great work and support in partnering with the schools in the region. He said it was an honor and privilege for him to serve the students of Wellington. He stated the principals and teachers do an amazing

job. He said the support they feel from the Village is quite remarkable, as it is not like this in all municipalities.

Ms. Marcia Andrews stated the Village was a partner in making a difference in the lives of the children who live in the Village. She indicated Keely Spinelli was a good friend of hers and an excellent educator in the Village of Wellington. She said Keely left a wonderful legacy, as she believed in education and worked so hard for it, and the principals thank the Village for keeping her legacy alive.

Mayor Gerwig stated this was something the Village sincerely cares about. She said Keely Spinelli was a friend of hers as well. She explained Keely's level of devotion to the kids and parents was unmatched, and it inspired everyone to do better. Mayor Gerwig thanked the previous Councils and this Council for allowing the Keely Spinelli Grant to happen.

Vice Mayor McGovern believed that every Council member and the Village was deeply committed to the schools. He explained these grants were to help fund exciting programs particular to each school that aid the students in the bottom 25% in reading and math. He thanked this Council and everyone who has made these grants possible. He also thanked the teachers for their leadership of the students.

Councilman Drahos thought this was one of the easiest and best decisions that Council gets to make throughout the year. He said investing in education is the top priority of this Council and he is extremely proud to be a part of it, particularly because he is an alumnus of the Wellington School District. He stated he could attest to the fact that their public education system is fantastic, as he could not have asked for a better experience. He looked forward to seeing what the schools were going to do with the funds. He thanked the teachers for doing a fantastic job with their kids.

Councilwoman Siskind indicated she also knew Keely Spinelli and everyone always said wonderful things about her. She thought it was great that Keely's dedication to education could live on through this grant. Councilwoman Siskind stated she still has little kids, so she sees firsthand the amazing things the teachers do with the grant money.

Councilman Napoleone stated they were all very proud to have the opportunity to give back to the schools, because they are a key component of what makes the Village a great hometown. He thought being able to help the teachers improve the lives of the students and increase the amount of the grant from last year to this year was fantastic.

At this point, Councilman Drahos congratulated the principal at Wellington High School, as their student government produced a social media video on YouTube. He said he was proud to watch it, because it provided a great impression of the culture at the school. He explained they filmed students being told they were beautiful. He said watching the kids' reactions to getting a compliment they were not expecting came across very genuine to him.

Councilwoman Siskind noted several Student Government Association students from Wellington High School were in the audience. Council praised them for their work.

6. CONSENT AGENDA

- A. 16-0577** MINUTES OF THE REGULAR WELLINGTON VILLAGE COUNCIL MEETING OF SEPTEMBER 13, 2016
- B. 16-0430** AUTHORIZATION TO: 1) UTILIZE A NATIONAL ASSOCIATION OF

- STATE PROCUREMENT OFFICIALS (NASPO) CONTRACT, AS A BASIS FOR PRICING, FOR THE PURCHASE OF CISCO UCS BLADE SERVER EQUIPMENT; 2) UTILIZE A NATIONAL JOINT POWERS ALLIANCE (NJPA) CONTRACT, AS A BASIS FOR PRICING, FOR THE PURCHASE OF ADDITIONAL BACKUP STORAGE EQUIPMENT; AND 3) DISPOSE OF AN EXISTING DATA STORAGE SERVER
- C. 16-0472** AUTHORIZATION TO UTILIZE TWO CITY OF WEST PALM BEACH CONTRACTS WITH HINTERLAND GROUP, INC. AND T.V. DIVERSIFIED, LLC FOR LIFT STATION REPAIRS AND REHABILITATION
- D. 16-0515** AUTHORIZATION TO AWARD A TASK ORDER FOR ENGINEERING DESIGN SERVICES FOR THE WASTEWATER TREATMENT FACILITY BLOWER BUILDING AND ADDITIONAL DIGESTERS
- E. 16-0428** AUTHORIZATION TO RENEW AN EXISTING AGREEMENT FOR LOBBYING SERVICES
- F. 16-0432** RESOLUTION NO. R2016-73 (WELLINGTON SENIORS CLUB AGREEMENT):
A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING A CONTRACT FOR SENIOR CITIZENS SERVICES BETWEEN WELLINGTON AND THE WELLINGTON SENIORS CLUB, INC.; AND PROVIDING AN EFFECTIVE DATE.
- G. 16-0503** RESOLUTION NO. R2016-70 (SPECIAL USE PERMIT FOR THE SMOKE INN WELLINGTON CIGAR LOUNGE):
A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING A SPECIAL USE PERMIT FOR BURN ANOTHER ONE, LLC D/B/A SMOKE INN WELLINGTON CIGAR LOUNGE OUTDOOR EVENTS UTILIZING AMPLIFIED MUSIC LOCATED AT 11924 FOREST HILL BOULEVARD, SUITE 7; AND PROVIDING AN EFFECTIVE DATE.
- H. 16-0523** RESOLUTION NO. R2016-72 (SPECIAL USE PERMIT FOR THE JUST WORLD INTERNATIONAL FUNDRAISING EVENT):
A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING A SPECIAL USE PERMIT FOR THE JUST WORLD INTERNATIONAL FUNDRAISING EVENT UTILIZING OUTDOOR AMPLIFIED MUSIC TO BE HELD AT 3206 AND 3224 OLDE HAMPTON DRIVE ON JANUARY 13, 2017; AND PROVIDING AN EFFECTIVE DATE

Mr. Barnes stated staff recommended approval of the Consent Agenda as presented.

A motion was made by Councilman Napoleone, seconded by Councilman Drahos, and unanimously passed (5-0), approving the Consent Agenda as presented.

7. PUBLIC FORUM

Mayor Gerwig indicated one comment card was received from the public.

1. Victoria McCullough, Gracida Street, Wellington. Ms. McCullough stated she has lived in Wellington for 17 years. She thought it was great to hear about the Field Hockey Festival and the Keely Spinelli Grant. She also shared a story about having dinner with Senator Abruzzo and suddenly feeling chest pain. She stated she went to Wellington Regional Hospital where they treated her within four minutes and diagnosed her with atrial fibrillation. She said it was

the most pleasant experience and encouraged everyone to go to Wellington Regional should they need to seek medical help.

Mayor Gerwig agreed the hospital care at Wellington Regional and other local hospitals was fantastic. Councilman Drahos gave well wishes to Ms. McCullough.

8. PUBLIC HEARINGS

- A. 16-0529** ORDINANCE NO. 2016-08 (MIXED USE COMPREHENSIVE PLAN TEXT AMENDMENT):
AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL;
APPROVING A COMPREHENSIVE PLAN TEXT AMENDMENT
(PETITION NUMBER 15-80 / 2015-47 CPTA) TO THE VILLAGE OF
WELLINGTON COMPREHENSIVE PLAN LAND USE ELEMENT POLICY
1.3.25. MIXED USE; AMENDING THE REQUIREMENT FOR PARCELS
WITH MIXED USE FUTURE LAND USE MAP DESIGNATION,
REQUIRING BOTH COMMERCIAL AND OFFICE LAND USE FOR MIXED
USE PROJECTS MORE THAN 30 ACRES, DELETING THE 60 ACRE
MAXIMUM LAND AREA AND REQUIRING FIVE (5) LAND USES FOR
MIXED USE PROJECTS MORE THAN 60 ACRES; AUTHORIZING THE
MANAGER TO AMEND THE COMPREHENSIVE PLAN; PROVIDING A
CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND
PROVIDING AN EFFECTIVE DATE.
- B. 16-0532** ORDINANCE NO. 2016-09 (MIXED USE PLANNED DEVELOPMENT
DISTRICT ZONING TEXT AMENDMENT):
AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL;
APPROVING A ZONING TEXT AMENDMENT (PETITION NUMBER 15-
80 / 2015-46 ZTA) TO THE VILLAGE OF WELLINGTON LAND
DEVELOPMENT REGULATIONS ARTICLE 6, ZONING DISTRICTS,
CHAPTER 8 PLANNED DEVELOPMENT DISTRICT REGULATIONS,
SECTION 6.8.7. MIXED USE PLANNED DEVELOPMENT DISTRICT
(MXPD); AMENDING THE REQUIREMENT FOR PARCELS WITH MXPD
ZONING DESIGNATION, DELETING THE 60 ACRE MAXIMUM LAND
AREA AND REQUIRING FIVE (5) LAND USES FOR MXPD PROJECTS
MORE THAN 60 ACRES; PROVIDING A CONFLICTS CLAUSE;
PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN
EFFECTIVE DATE.

Mr. Barnes introduced items A and B, and indicated they were companion items. Ms. Callovi read both Ordinances by title.

Mr. Basehart explained one ordinance is a comprehensive text amendment, because the comprehensive plan has provisions for mixed use developments. He said the other ordinance is an amendment to the zoning code text, as some requirements are also in the zoning ordinance. He stated this application would amend the mixed use portions of both the comprehensive plan and the zoning text. He said the application was originally submitted by Chip Carlson, who is in attendance to represent a property owner. He indicate the property is located on State Road 7, just north of the Wellington Regional Medical Center, where a mixed use project is being proposed.

Mr. Basehart mentioned that during the course of reviewing the ordinance amendments, staff added some suggestions and amendments. Therefore, the package contains what was applied for by Mr. Carlson as well as some staff initiated issues.

Mr. Basehart indicated Council would have to vote on these two ordinances separately, but they could be discussed together.

Mr. Basehart explained the application is to eliminate the maximum 60 acre land area. Currently, mixed use projects have a cap of 60 acres in the text of the comprehensive plan and zoning code. He said the Village has several mixed use projects all under 60 acres. However, the property initiating this particular application is over 60 acres.

In looking at the requirements and the justification for having a maximum acreage, Mr. Basehart indicated staff has come to the conclusion that there really is no justification for having a maximum acreage for mixed use projects. He said there is justification for a minimum, because properties can get too small for a good mixed use project. He stated staff was supporting the change to eliminate the 60 acre maximum.

Mr. Basehart indicated the applicant was proposing a modification to another requirement in the code, which would say that a mixed use project of over 30 acres would require a commercial element of office and retail space. Looking at the table in the ordinance, most of the various land use opportunities would need to have 10% of the projects land area in that particular use to count as meeting the requirement. But as the code sits today, someone doing a mixed use project of over 30 acres would need to have at least 10% of the land area in office use and at least 10% in retail use. He stated this modification would still require that 10% of the land be used commercially in projects over 30 acres, but it would allow the mixture of office and retail to both be counted in the same 10%, so long as neither of those uses was less than 25% of the amount provided.

Mayor Gerwig stated she has seen retail space turn into office and office space turn into retail. She asked if this was the reason staff was considering this change. Mr. Basehart stated that was not the case. He said in some cases it is dependent on the nature of the project to have 20% of the land area in a mixture of office and retail, and having 10% in each category would render the project not feasible. He thought Mr. Carlson could speak to that.

Councilman Drahos thought that scenario would allow the applicant to put more density behind the residential component. Mr. Basehart said that was not true. He stated it would allow a higher percentage of the land area to be used for residential. He supposed if someone approached the maximum amount of density allowed, they could still not exceed the maximum density the code allowed. He said this amendment would basically allow 10% more of the land area in the overall project to be used for the mixture of other uses.

Councilman Napoleone noted the footprint was 10% and not the density and intensity. Mr. Basehart stated that was correct. He said it was land area for that use and, within that land area, other regulations govern floor area ratio, building coverage and the like. He stated it would not necessarily increase the amount of density or intensity of the residential or other components that could go in there.

Mr. Basehart stated, based on the amendments requested, they were proposing an amendment that would require five different land uses for mixed use projects over 60 acres. He indicated in five or ten acre mixed use projects, two uses are required. But when the land area gets a little

bigger, they need to have three uses and the maximum is four. He said now that they are eliminating the ceiling on the acreage that can be put into mixed use projects, any over 60 acres would need to have an additional land use. He thought that would add more flexibility to the mixed use projects and force them to more closely meet the objectives.

Councilman Napoleone indicated only two parcels of land exceed 60 acres for development, the project they are currently discussing and K-Park. Mr. Basehart stated no other individual parcels would be able to reach over 60 acres.

Mr. Basehart reviewed some of the language changes made by staff for clarification:

- For both the comprehensive plan and zoning code, the references in mixed use that a mixed use project is a “single parcel” is being changed to a “single project,” as many mixed use projects are made up of a collection of properties.
- Deleted some uses previously listed in the code that are not applicable to Wellington.
- Changed locations of some uses that are referenced. Currently the code provides that congregate living facilities are an institutional use. He stated they were providing for smaller congregate living facilities, type I or II, to go into the residential portions of a mixed use project.
- Eliminated reference to community residential homes, because they are the same as congregate living facilities.
- Eliminated the provision for nursing homes, because nursing homes are covered under the definition portion of congregate living facilities.
- Eliminated other duplications and made other changes to shorten the length of the overall ordinance.

Mr. Basehart stated these amendments were taken to the Planning, Zoning and Adjustment Board, which unanimously recommended approval. He said staff was recommending approval as well.

Councilman Napoleone understood one change will be from single parcel to single project. He asked if that would open up other places besides this property and K-Park. Because one parcel may not be big enough for a 60 acre project, but if neighboring individual parcels are combined, collectively they could be one mixed use project. Mr. Basehart did not think so. He said as a practical matter, most of the mixed use projects that have been approved to date have actually been a melting of more than one parcel together. He stated Wellington Parc was originally one parcel, but a couple of parcels were involved in the Isla Verde project. He thought it was a misstatement in the code to refer to mixed use projects as a single parcel of land, as they are actually single projects that could be and often are multiple parcels. He stated for Mr. Fina's property that is currently being proposed on State Road 7, Council just recently approved annexation of a 10 acre piece that he acquired from the County to add to the original piece. He said it was 53 acres, but it is now 63 acres and has more than one property control number. He thought ultimately it would be a lot of property control numbers, because the various uses will be platted as separate parcels. He said this change was just an attempt to fix any possible confusion over the referenced parcel.

Mayor Gerwig stated sometimes they start out as one parcel, but as they get developed and sold off, they have different owners of parcels. She agreed it did not make sense to say it had to be one parcel. Mr. Basehart said Wellington Parc is a good example, as 94 townhomes were built and that single parcel was divided into more than 95 parcels because of the common area parcels and the commercial parcel.

Mr. Carlson introduced himself for the record and stated he was representing the property owner. He stated they were in accord with and in support of what staff was doing, as they went through some iterations together and arrived at what is now in front of Council.

In response to the question about the area footprint of the land, Mr. Carlson indicated the allocation of use is based on the land area and the calculation of the building area within that is on square footage. He said it was not a footprint as they may have thought. He stated the property owner looked forward to getting the project in front of Council and having it evaluated on its merits.

Councilman Drahos asked when Council could expect seeing something from the property owner. Mr. Carlson thought it would be three to four months out, as they have to redraw their plan because it currently does not have an office component. He said they need to revise the plan, address the other comments staff has made on the plan, and then bring it back through the process. He indicated these applications are pending and awaiting certification once they resubmit, and then they will enter the public hearing process from there.

Councilman Drahos questioned why Mr. Carlson was asking to merge retail and commercial. Mr. Basehart indicated the code currently states an owner with over 30 acres needs to have both retail and office. He said initially the applicant objected to having any office, because they did not believe the market was there and they thought the hospital would be upset if medical offices were put there. He stated the applicant's original request was to eliminate the requirement that over 30 acres had to have both uses.

Mr. Basehart indicated staff did not agree and they debated it at length with the applicant. He said staff believes a lot of advantages and incentives are provided in the code for doing a mixed use project. He stated the code encourages mixed use and bonuses are given for doing mixed use projects. He said staff did not believe that eliminating the requirement for more mixture within a mixed use project was the right thing to do. He stated staff and the applicant came to a compromise that they think will work, and it still requires the mixture.

Councilman Napoleone understood they were combining the uses now. Instead of 10% office and 10% commercial, it is 10% for both of which at least 25% must be one or the other. Mr. Basehart stated that was correct. He thought that was workable and fair, and would continue to support the concept of what a mixed use project should be.

Mayor Gerwig asked for an explanation of the advantages and bonuses of mixed use. Mr. Basehart stated the primary bonus is for the residential component, as they can use the entire acreage of the project to calculate their density. So a 100 acre project with 1,000 units would have 10 units to the acre. In reality, if 1,000 units are put on half of the acreage, the net density of the parcels would be 20 units to the acre. He said with mixed use they can still put the other uses, retail, office, institutional, etc., on the balance of the land even though they have counted that land for their density.

Mayor Gerwig thought the concept was they would not have as many transportation needs because everything was on one site. Mr. Basehart stated that was correct, as that was the other side of it. He explained the concept for allowing higher intensity and density in mixed use projects is to encourage the interaction of land uses and gain land use efficiency with walkability and the like. As a result, they would be reducing the external impacts from the project, especially traffic.

Councilman Drahos asked if Council was to approve these ordinances, if any greater flexibility

would be provided in increasing the density of the residential component. Mr. Basehart stated it would not, as the residential density could be counted over the whole parcel anyway.

Mayor Gerwig stated this issue was discussed on Monday as well as through the process. She thought it was important to get the right mix, and this would actually cause more mixes and allow for a larger piece of property. She said she did not understand the limitation that was there, as it seemed they could not get too big for a mixed use, but they could get too small. She did not know if they would receive any comments between now and the second reading, but she thought Mr. Basehart explained it very well.

Public Hearing

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

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

A motion was made by Vice Mayor McGovern, seconded by Councilwoman Siskind, and unanimously passed (5-0) to approve Ordinance No. 2016-08 (Mixed Use Comprehensive Plan Text Amendment) as presented on first reading.

A motion was made by Vice Mayor McGovern, seconded by Councilwoman Siskind, and unanimously passed (5-0) to approve Ordinance No. 2016-09 (Mixed Use Planned Development District Zoning Text Amendment) as presented on first reading.

Mayor Gerwig asked when the second reading would be held. Mr. Basehart indicated it may come back at the second Council Meeting in October or first meeting in November. Mayor Gerwig thought that would allow time for any public comments not made tonight.

C. 16-0273 ORDINANCE NO. 2016-19 (AMENDMENT TO CHAPTER 2, ARTICLE IV, SECTION 2-198 "HEARINGS"; SECTION 2-199 "FINES; IMPOSITION OF LIENS"; AND SECTION 2-201 "SERVICE OF NOTICE; METHODS"): AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING CHAPTER 2, ARTICLE IV, AMENDING SECTION 2-198 ENTITLED "HEARINGS"; AMENDING SECTION 2-199 ENTITLED "FINES; IMPOSITION OF LIENS"; AMENDING SECTION 2-201 ENTITLED "SERVICE OF NOTICE; METHODS"; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mr. Barnes introduced the item. Ms. Callovi read the Ordinance by title.

Ms. Cohen stated this Ordinance revises some of the provisions relating to code enforcement. She said the first revision provides that motions for rehearing or reconsideration are not permitted in code enforcement actions, and case law supports that notion. She indicated they want the residents and their counsels to understand it is not the proper forum for a motion for reconsideration. She said if they are unhappy with the result of a code enforcement hearing, their remedy is to file a direct appeal to the Circuit Court Appellate Division.

Councilman Napoleone stated the fact Village code is currently silent on this, means people are

taking the opportunity to file a Motion for Rehearing, which generally causes delay because it has to be before the same special magistrate, when the real remedy is to file the appeal with the Circuit Court. Ms. Cohen stated that was correct. She said they wanted to ensure the provision is clearly stated in the code and there would be no basis to have to bring it back before a particular magistrate.

Ms. Cohen indicated there was some Council discussion about eliminating the financial ability of the violator to pay the full amount of the fine when it comes to determining whether to reduce the fine. She said a list of factors are contained in Florida Statute 162.09 when it comes to determining the amount of fine to impose, but the financial ability factor is not among them. During Council's discussion on reducing fines, Ms. Cohen thought Council was thinking financial ability should not be a factor when reducing a fine. She was not sure whether Council understood the distinction at the time between the two provisions of imposing and reducing, but staff brought it forward because Council had asked them to.

Ms. Cohen explained the statute does not include the financial ability factor in terms of imposing the fine. So when the magistrate makes the determination to impose a daily fine, the three factors provided by the statute and to be considered are: the gravity of the violation, any actions taken by the violator to correct the violation, and any previous violations committed by the violator.

Ms. Cohen stated in Section 2-199 of the code that they are proposing to revise, the language that included the financial ability of the violator to pay does not relate to the imposition of fines, as it relates to a request by the violator to reduce the fine. She thought it seemed appropriate at that stage for the magistrate to take that factor into account. She indicated Council had instructed staff to remove that provision, but she thought at the time there was some confusion about one relating to imposition and one relating to reduction.

Councilman Drahos asked if Ms. Cohen was suggesting they remove that language. Ms. Cohen indicated the request came from Council. Mr. Koch stated back in June, they were reviewing the Fine Policy at an Agenda Review and Council indicated the ordinance seemed to be in conflict with the statute for the fine reduction.

Councilman Napoleone stated the statute lists the three criteria as stated by Ms. Cohen for imposition of a fine. For a reduction of a fine, it states an enforcement board may reduce a fine imposed pursuant to this section but does not give any criteria. Ms. Cohen indicated the Village code provides that criteria. She said it restates the three criteria in the statute for imposition and adds two additional criteria. Councilman Drahos noted one criteria was the violator's ability to pay the fine as a means of releasing it. Ms. Cohen stated Council asked staff to bring this forward, but Council may want to reject that particular change if they feel it is appropriate to consider the financial ability at that stage.

To clarify, Ms. Cohen reiterated the discussion about this particular provision. She believed in the context of the Village policy it required staff to come back to Council if the request for a fine reduction exceeded 80%. She said Mr. Koch and his department have the authority to reduce a fine up to 80%, and anything over that would need Council approval. She stated Council had a discussion about whether that was appropriate and requested staff eliminate that particular consideration. She said at the time they had that discussion, she was not sure Council understood that the criteria in the Village code only relates to fine reduction and not to fine imposition. She indicated fine imposition is based on the statute, which does not contain that factor because it really is not appropriate at the time of imposing the fine. However, it may be appropriate at the time of reducing the fine, which is for Council to decide tonight.

Ms. Cohen stated the third proposed revision has to do with service of the Notice of Violation. She said the Florida Statutes require it be served by certified mail, but it does not require a return receipt. She explained in some cases when the Village has served certified mail and someone either refuses it or fails to pick it up, the Village does not have proof notice was received. She indicated Village code provides that if the person did not receive the certified mail and the Village did not receive the return receipt, it would be at the discretion of the magistrate as to whether the Village could post the property. She stated this proposed provision removes the return receipt requirement and only requires the Village to serve notices by certified mail. She said it also allows the Village to post the property with the notice without having to go back to the magistrate to get the permission to do so.

Ms. Cohen stated the Village would be sending by certified mail and regular mail, and then have the option to post as well. She said if the only notice served was by certified mail, and there was no evidence of receipt, the Village could post the property without the magistrate's approval. She explained they were asking for this change because they had a situation that created a notice issue for the Village and they had to postpone that hearing for some period of time.

Ms. Cohen stated these were basic cleanup revisions to this provision of the code. She said staff was asking for direction, particularly on the second proposed revision.

Mayor Gerwig was concerned with the public, because she wants to make sure they are noticed if they do not pick up their certified mail. She said as long as this provision is improving notification and not making it more difficult, she thought posting it was the most likely way to get it to the person. Ms. Cohen agreed. She stated it removes the potential for someone to just ignore the certified mail and say they did not get noticed.

Ms. Cohen indicated the Village serves the notice by regular mail as well. So if it does not come back, it is kind of evidence they have received it. She stated this provision gives the Village the additional ability to post it without the magistrate's approval. She indicated the property owners who are renting their property and not within the state will receive the certified mail if they pick it up, the regular mail, and then in addition the Village would post the property. At that point, the tenant would most likely be aware that something is going on and will contact the landlord.

Mayor Gerwig thought the tenants could also contact Code Enforcement, especially in the case of not bringing in the garbage cans. She said the Village would be getting the notice to the violator quicker. Mr. Koch indicated the Village also mails the posted notice by first class mail to the property owner and whatever other address the code officer may have. Mayor Gerwig noted many property owners have management companies.

Councilman Napoleone thought they were bringing the code more in compliance with the statute by taking away the extra hurdle they threw on themselves. Ms. Cohen agreed.

Councilman Drahos asked when the magistrate decides whether or not to reduce the fine. Ms. Cohen explained when the Village sends out the Notice of Violation, it provides a period of time in which the property owner has an opportunity to cure the violation. If they fail to cure it, they will come before the magistrate for the first time to tell their side of the story and the Village will present its evidence. If the magistrate finds a violation, the property owner will be given additional time to cure it. If the violator again fails to cure the violation within that period of time, they come back before the next magistrate when the staff asks for the imposition of the fine. The magistrate will impose a fine ranging from \$60 to \$250 for the first violation and up to \$500 for a repeat violation,

and that fine will accrue daily until the violator corrects the violation. At the point the violation is corrected, the fine is fixed and they will know the total amount of the fine. The property owner can then either pay the fine or try to negotiate a reduction with Mr. Koch or request to come back before the magistrate to ask for a fine reduction. If they negotiate with Mr. Koch's department, his authority is up to 80%. If property owner requests a further reduction over and above 80%, it is brought to Council. This policy was created by prior Council and was never in place before.

Councilman Napoleone stated that was not in the Village code, which makes it confusing. He said the code says once a violator comes into compliance, the violator may request a reduction of the fine from the special magistrate. He indicated Ms. Cohen was saying they could go directly to Code Enforcement initially to reduce the fine. Ms. Cohen stated Mr. Koch has to take the fine reduction to the magistrate who will ultimately enter the amount of the fine if there is a reduction.

Mayor Gerwig preferred they take out the 80% rule and put it back on the magistrate like it was before. She said a lot of difficult situations happen to families and their financial needs end up being discussed. Therefore, she rather staff and the magistrate handle this, because of the serious nature of some conversations. She thought empowering the magistrates to do their job was appropriate for Council to do.

Councilman Drahos stated he agreed with everything Mayor Gerwig just said with one exception. If the code enforcement case is currently in active litigation, he did not want anyone making decisions without Council's consent. Ms. Cohen agreed. She said the policy applies to regular code enforcement matters.

To clarify, Mr. Barnes indicated the Council's action that revolves around staff does not apply to the magistrate, as the magistrate is still free to apply whatever fine they see fit. He said what Council governs is staff's recommendation to the magistrate. Ms. Cohen agreed, because ultimately it is the special magistrate who makes the determination.

Councilman Drahos was curious as to everyone's position on this. From his point-of-view, he does want the magistrate to be able to consider someone's ability to pay when discussing the issue of reduction. Mayor Gerwig agreed. Vice Mayor McGovern indicated the magistrate cannot consider it at imposition, because the statute does not allow it. Councilman Drahos stated that precludes the violator from even introducing any of that information at the time of imposition, which could taint the magistrate's decision. Ms. Cohen stated they do introduce it, but it is not the proper basis for the magistrate. Councilman Drahos thought if it was not admissible, someone would speak up and say they could not raise that issue right now. Ms. Cohen stated the rules of evidence are very loosely applied.

Public Hearing

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

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

Vice Mayor McGovern thought for the purposes of discussing the criteria for reduction, keeping in the financial ability to pay maybe something they want to do. If someone comes in asking for a reduction, they could take advantage of whichever criteria they want to or not.

Councilman Napoleone stated the purpose of the fine is to bring people into compliance not punitive. So when they get into compliance, they can come in and choose to say they are asking for a reduction for whatever reason, including their financial situation.

Mayor Gerwig asked if they would leave in what was struck on lines 22 and 23 of page 201. Ms. Cohen suggested they just reject the changes on those two lines.

Ms. Cohen stated she would bring a revised ordinance to the second reading.

A motion was made by Vice Mayor McGovern, seconded by Councilman Napoleone, and unanimously passed (5-0) to approve Ordinance No. 2016-19 (Amendment to Chapter 2, Article IV, Section 2-198 "Hearings"; Section 2-199 "Fines; Imposition of Liens"; and Section 2-201 "Service Of Notice; Methods") as written, except for lines 22 and 23 on page 201. These lines should not be changed and the original language should be used.

**D. 16-0493 ORDINANCE NO. 2016-22 (BOARDS AND COMMITTEES):
AN ORDINANCE OF THE VILLAGE OF WELLINGTON, FLORIDA,
AMENDING CHAPTER 2, ARTICLE VI, 2-292 ENTITLED "REMOVAL OF
BOARD AND COMMITTEE MEMBERS"; PROVIDING FOR CONFLICT;
PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY;
AND PROVIDING AN EFFECTIVE DATE.**

Mr. Barnes introduced the item. Ms. Callovi read the Ordinance by title.

Ms. Cohen indicated this Ordinance would add an additional basis for considering what constitutes an excused absence for a board or committee member. She stated Council received a revised version at the Agenda Review Meeting. She said the only change being proposed is to add subsection V that states "absence resulting from events reasonably beyond the control of the board or committee member," which could constitute an excusable absence.

Ms. Cohen indicated the current list of reasons that would result in an excused absence are: the illness of a board or committee member or other person for whom the member is a caregiver, death of a board or committee member's relative, observance of religious holidays or compliance with a subpoena or other legal process. She stated any of these reasons for the absence would result in an excused absence. However, other situations not within the member's control could happen, so staff was proposing this additional ground to account for those types of absences.

Ms. Cohen explained the Ordinance already provides for automatic removal. Therefore, if a member has two consecutive unexcused absences or four absences out of six meetings, whether excused or unexcused, it is an automatic removal.

Ms. Cohen stated Council received an e-mail, as some people do not believe the criteria needs to be changed. She said it is entirely up to Council whether they think it is appropriate to add this additional ground that could serve in such situations.

Councilman Napoleone thought the concern was that this change would make it very subjective, as the members could come up with a reason as to why they could not make a meeting. He stated Council wanted to encourage people to serve on committees and not look for ways to remove them. He thought if something prevented a member from attending a meeting, and they have a legitimate reason that is not one of the criteria, it should be an excused absence. He believed Council discussed having that vetted initially by the staff liaison and then by the Clerk,

to make sure the Clerk is uniformly applying the criteria across all committees.

Councilman Drahos stated in his experience of serving on boards and committees for eight years, these things tend to work themselves out. He thought forcibly removing a member from a committee was very rare. He said usually if there is a problem, the member will be the first to bring it up. He stated 99.9% of their volunteers take their appointment very seriously. He asked staff to let the Council members know when their appointed members are in the danger zone, so they could have a conversation with them.

Vice Mayor McGovern also thought the key was to have some degree of uniformity with the staff liaisons keeping tracking of it and reporting it to the Clerk, so it is being applied equally to all committees.

Councilwoman Siskind asked if the members needed to contact the staff liaisons if they could not make a meeting. Ms. Callovi stated that was correct. She indicated the Clerk will also notify the Council members when their appointee has their first unexcused absence, because the next one would result in automatic removal.

Mr. Barnes noted that Council discussed on Monday that the staff liaison would consult with the Clerk's office, so there would be equivalent consideration for what is excused and unexcused across all boards and committees.

Mayor Gerwig understood the concept of the e-mail Council received was that people should take the job of being a board or committee member seriously. She said "reasonably beyond their control" would be something that did not fit into the other reasons. Vice Mayor McGovern stated it could be a car accident, flat tire or out-of-town business trip. He said none of those reasons would qualify as excused absences currently, and he did not think they would want to remove members for those reasons. Mayor Gerwig noted they are not paid positions and the members do need to make a living.

Councilwoman Siskind thought they would want to give the board and committee members the benefit of the doubt, as they are taking time out of their personal lives to volunteer in this capacity.

Vice Mayor McGovern believed similarly if an at-large member starts to miss meetings, all of the Council members should be notified. Ms. Callovi advised that currently an at-large member of the Senior Advisory Committee had one unexcused absence. She also said she would speak to one Council member separately about a member of the Equestrian Committee.

Mayor Gerwig understood people had to do things outside of their committee assignment. She wanted people who are willing to be involved, and she wanted to make sure everyone has the opportunity to make their case. She said previously they had to have a hearing to remove them. Vice Mayor McGovern thought that was why notifying Council, prior to any automatic removal occurring, was so important.

Mayor Gerwig thought the Ordinance still set a pretty high standard, so they could look at it in practice and see how it plays out. She stated Council wants to encourage participation in the boards and committees, as they are a huge benefit. She said Council cannot know everything about the Tree Board, Planning and Zoning, etc., so they need their input.

Mayor Gerwig stated she supported the additional language of subsection V, but she agreed it should be funneled through one person for standardization.

Public Hearing

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

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

A motion was made by Councilman Napoleone, seconded by Councilman Drahos, and unanimously passed (5-0) to approve Ordinance No. 2016-22 (Boards and Committees) as presented on first reading.

Ms. Cohen asked if Council had any direction on bringing back the 80/20 policy for consideration. Mayor Gerwig suggested they discuss it at their next Agenda Review. She asked Ms. Cohen to provide the background, how it came about, how it has worked, how many times it has been used. Councilman Napoleone asked for a copy of the policy.

8. REGULAR AGENDA

There were no Regular Agenda items to discuss.

9. PUBLIC FORUM

Vice Mayor McGovern indicated no comment cards were received for the Public Forum.

10. ATTORNEY'S REPORT

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

- She reminded Council about the shade session on October 25, 2016, at 6:00 PM, just prior to their 7:00 PM Council Meeting, to discuss the litigation regarding the Florida Municipal Insurance Trust (FMIT) vs. Village of Wellington.

11. MANAGER'S REPORT

MR. BARNES: In Mr. Schofield's absence, Mr. Barnes presented the following report:

- The next regular Council Meeting will be held on Tuesday, October 25, 2016, at 7:00 p.m. in the Council Chambers.
- Wellington's Green Market opens for the season on Saturday, October 22, 2016, from 9:00 AM to 1:00 PM and will be located next to the Amphitheater.
- The Fall Festival is scheduled to take place on Saturday, October 22, 2016, from 6:00 PM to 10:00 PM at Village Park. Bracelets are now on sale for the event and can be purchased at the Community Center or Village Park.
- The Annual Wellington 10 Miler and Sebastian's 5K Run/Walk, previously the Horse Country 10 Miler, will take place on Sunday, October 23, 2016. This year's route will take the runners through an environmental preserve at the Marjory Stoneman Douglas Everglades Habitat. The beneficiary of the proceeds will be the Kids Cancer Foundation.

12. COUNCIL REPORTS

COUNCILWOMAN SISKIND: Councilwoman Siskind presented the following report:

- She thanked the Boy Scouts and Girl Scouts for coming out tonight.
- She congratulated the recipients of the Keely Spinelli grant.
- She invited everyone to attend the Binks Forest carnival on Saturday, November 5, 2016, from 11:00 AM to 5:00 PM. She thanked Councilman Drahos for sponsoring some of the games.

VICE MAYOR MCGOVERN: Vice Mayor McGovern presented the following report:

- He thanked Mr. Barnes for joining Council on the dais tonight.
- He also congratulated Mr. Barnes on giving a great presentation at the Central Palm Beach Chamber today.
- He thanked staff and all residents for preparing for Hurricane Matthew and taking it seriously. He said many people think they should have not put up their shutters and do not need to prepare next time. He stated that is why everyone prepares, including the Village, so it can be as uneventful as possible.
- He stated there will be a Town Hall Meeting with Commissioner McKinlay on October 26, 2016, in the Council Chambers to discuss the amendments on the ballot for the November election.
- He encouraged everyone to take advantage of Early Voting, which begins October 24th and runs to November 6th.
- He reminded all residents that the Planning, Zoning and Adjustment Board will meet in the Council Chambers on Monday, October 17, 2016, at 7:00 PM, when the Winding Trails proposal will be discussed.
- He wished Mayor Gerwig the best and much success with her daughter's wedding this coming weekend. He congratulated the Gerwig family.

COUNCILMAN DRAHOS: Councilman Drahos presented the following report:

- He said it was hard to believe that one week ago the Village was anticipating a category 4 hurricane. He reassured the residents the Village was prepared for anything, as staff was exceptional. He stated the Village Manager was sleeping on an air mattress at Village Hall so that he could address anything that came up. He said conference calls were ongoing throughout the night to address various issues. He stated the call center was open throughout the night as well for residents with any questions or concerns.
- He stated the Young Professionals of Wellington are hosting "Wicked at the Wanderers" on October 29, 2016. He said it is their premier event of the year, as it is the best Halloween party in Palm Beach County. He stated everyone comes dressed in a costume and the proceeds this year will go to the Kids Cancer Foundation. He indicated they will also honor a young professional contemporary in the community who has greatly served Wellington. He announced this year Paige Bellissimo has been chosen to receive the Community Impact Award, as she has been instrumental in raising a lot of money for charity in Wellington. He stated tickets for Wicked are available at YPwellington.com.

COUNCILMAN NAPOLEONE: Councilman Napoleone presented the following report:

- He stated Council was meeting on Thursday instead of Tuesday in respect of Yom Kippur. He hoped all who honored Yom Kippur had an easy and meaningful fast.
- He echoed the comments about Hurricane Matthew. He said regardless of how minor the damage, the Village and residents need to prepare when a hurricane off the coast of Florida could impact them. He believed the fact everyone put up shutters for nothing was still a good

idea.

- He stated if they had any leftover food from preparing for the hurricane, they could take it to the Palm Beach County food bank.

MAYOR GERWIG: Mayor Gerwig presented the following report:

- She thanked everyone for the well wishes regarding her daughter's wedding.
- Regarding the hurricane, she noticed everyone stayed home and off the roads which allowed police and fire rescue to feel confident about not having to rescue people from driving around in bad weather. She commended the residents for participating and reacting.

13. ADJOURNMENT

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

Approved:

Anne Gerwig, Mayor

Rachel R. Callovi, Clerk