

# **Village of Wellington**

*12300 Forest Hill Blvd  
Wellington, FL 33414*



## **Summary Agenda**

**Tuesday, May 13, 2014**

**7:00 PM**

**Village Hall**

### **Village Council**

*Bob Margolis, Mayor  
John Greene, Vice Mayor  
Matt Willhite, Councilman  
Howard K. Coates Jr., Councilman  
Anne Gerwig, Councilwoman*

**1. CALL TO ORDER****2. PLEDGE OF ALLEGIANCE****3. INVOCATION**

*Rev. Peter Bartuska, Wellington Presbyterian Church, Wellington*

**4. APPROVAL OF AGENDA****5. PRESENTATIONS AND PROCLAMATIONS****A. 14-369 LEGISLATIVE UPDATE – RAMBA CONSULTING GROUP**

*Legislative Update by Mr. David E. Ramba, Ramba Consulting Group.*

**B. 14-363 WELLINGTON EDUCATION COMMITTEE PRESENTATION OF THE PALM BEACH COUNTY SCHOOL DISTRICT'S AREA 3 SUMMER MATH AND READING INCENTIVE PROGRAM**

*The Wellington Education Committee will present the Palm Beach County School District's Area 3 Summer Math and Reading Incentive Program to the Village Council.*

**6. CONSENT AGENDA****A. 14-361 MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETINGS OF MARCH 25, 2014 AND APRIL 8, 2014**

*Approval of the Minutes of the Regular Wellington Council Meetings of March 25, 2014 and April 8, 2014.*

**B. 13-0424 RESOLUTION NO. R2014-28 (TENNIS CENTER MANAGEMENT AND MAINTENANCE AGREEMENT)**

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL  
APPROVING RENEWAL OF AN EXISTING CONTRACT WITH  
CHEATHAM, INC. TO PROVIDE TENNIS CENTER MANAGEMENT  
AND MAINTENANCE SERVICES; AND PROVIDING AN EFFECTIVE  
DATE.

*Approval of Resolution No. R2014-28 renewing an existing contract with Cheatham, Inc. to provide tennis center management and maintenance.*

**C. 14-237 AUTHORIZATION TO AWARD A CONTRACT FOR ROOT PRUNING AND ROOT BARRIER INSTALLATION**

*Authorization to award a contract to Duffy's Total Care Lawn Service, Inc. for root pruning and root barrier installation Village-wide in the amount of approximately \$60,000 annually.*

- D. 14-242** AUTHORIZATION TO UTILIZE A CITY OF BAYTOWN, TEXAS CONTRACT, AS A BASIS FOR PRICING FOR UTILITY BILL PRINTING AND MAILING SERVICES

*Authorization to utilize a City of Baytown, Texas contract with Dataprose, LLC, as a basis for pricing to provide utility bill printing and mailing services to the Village.*

**7. PUBLIC HEARINGS**

- A. 14-258** ORDINANCE NO. 2014-09 (PALM BEACH EQUINE)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE FUTURE LAND USE MAP DESIGNATION (PETITION NUMBER 2013-071 CPA1) FOR CERTAIN PROPERTY KNOWN AS PALM BEACH EQUINE SPORTS COMPLEX, TOTALING 11.94 ACRES, MORE OR LESS, LOCATED ON THE SOUTHWEST CORNER OF PIERSON ROAD AND SOUTHFIELDS ROAD, AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

*Approval of Ordinance No. 2014-09, a Comprehensive Plan Amendment to the Future Land Use Map to change the Future Land Use Map designation from Residential B to Commercial Recreation for an 11.94 acre site within the Equestrian Preserve Area.*

- B. 14-301** ORDINANCE NO. 2014-11 (REVISIONS TO CHAPTER 2, CODE ENFORCEMENT)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING WELLINGTON CODE OF ORDINANCE CHAPTER 2 "ADMINISTRATION", ARTICLE IV "CODE ENFORCEMENT", DIVISION 1 "GENERALLY" AND DIVISION 2 "SUPPLEMENTAL CODE THROUGH CITATIONS", TO REFLECT REVISIONS OF VIOLATIONS; TO REINSTATE OMITTED CODE SECTIONS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

*Approval of Ordinance No. 2014-11 amending Chapter 2, Code Enforcement.*

- C. 14-319** ORDINANCE NO. 2014-01 (UPDATED TRAVEL AND TRAINING REIMBURSEMENT)

AN ORDINANCE OF THE VILLAGE COUNCIL OF WELLINGTON, FLORIDA AMENDING CHAPTER 2 "ADMINISTRATION" DIVISION 3 "REIMBURSEMENT FOR TRAVEL AND TRAINING" OF THE CODE OF ORDINANCES OF THE VILLAGE OF WELLINGTON; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

*Approval on second reading of Ordinance No. 2014-01 amending Chapter 2 "Administration" Division 3 "Reimbursement for Travel and Training" of Wellington's Code of Ordinances.*

**D. 14-249** ORDINANCE NO. 2014-19 (FIREARMS AND DANGEROUS INSTRUMENTS)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING SECTION 38-82 OF CHAPTER 38, ARTICLE III OF WELLINGTON'S CODE OF ORDINANCES RELATING TO FIREARMS AND DANGEROUS INSTRUMENTS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

*Approval on first reading of Ordinance No. 2014-19.*

**E. 14-354** ORDINANCE NO. 2014-24 (REMOVAL OF BOARD AND COMMITTEE MEMBERS)

AN ORDINANCE OF THE VILLAGE OF WELLINGTON, FLORIDA, AMENDING CHAPTER 2, ARTICLE VI, SECTION 2.292(b) ENTITLED REMOVAL OF BOARD AND COMMITTEE MEMBERS; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

*Approval on first reading of Ordinance No. 2014-24.*

**8. REGULAR AGENDA**

**A. 14-357** APPOINTMENT OF BOARD AND COMMITTEE MEMBERS

*Council selection of new appointments to the Architectural Review Board, Construction Board of Appeals and Adjustment, Education Committee, Equestrian Preserve Committee, Parks & Recreation Advisory Board, Planning, Zoning & Adjustment Board, Public Safety Committee, Senior Advisory Committee and Tree Board.*

**B. 14-358** RESOLUTION NO. R2014-30 (ESTABLISHING A CHARTER REVIEW COMMITTEE)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL ESTABLISHING A CHARTER REVIEW COMMITTEE TO REVIEW AND PROVIDE RECOMMENDATIONS ON THE NEED FOR ANY VILLAGE CHARTER MODIFICATIONS, PROVIDING AN EFFECTIVE DATE.

*Approval of Resolution No. R2014-30 establishing the formation of a Charter Review Committee.*

**9. PUBLIC FORUM**

**10. ATTORNEY'S REPORT**

**11. MANAGER'S REPORTS**

**12. COUNCIL REPORTS**

**13. ADJOURNMENT****NOTICE**

*If a person decides to appeal any decision made by the Village Council with respect to any matter considered at this meeting, you will need a record of the proceedings, and you may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (The above notice is required by State Law. Anyone desiring a verbatim transcript shall have the responsibility, at his own cost, to arrange for the transcript).*

*Pursuant to the provision of the Americans With Disabilities Act: any person requiring special accommodations to participate in these meetings, because of a disability or physical impairment, should contact the Village Manager's Office (561) 791-4000 at least five calendar days prior to the Hearing.*



# Village of Wellington

## Legislation Text

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**File #:** 14-369, **Version:** 1

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**ITEM: LEGISLATIVE UPDATE - RAMBA CONSULTING GROUP**

**REQUEST:** Legislative Update by Mr. David E. Ramba, Ramba Consulting Group.

**EXPLANATION:** Mr. David E. Ramba, Ramba Consulting Group, will present an update on the Legislative Session.

**BUDGET AMENDMENT REQUIRED:** N/A

**PUBLIC HEARING:** N/A

**QUASI-JUDICIAL:**

**FIRST READING:**

**SECOND READING:**

**LEGAL SUFFICIENCY:** N/A

**FISCAL IMPACT:** N/A

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Mr. David E. Ramba, Ramba Consulting Group, will present an update on the Legislative Session.



## Legislation Text

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**File #:** 14-363, **Version:** 1

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**ITEM: WELLINGTON EDUCATION COMMITTEE PRESENTATION OF THE PALM BEACH COUNTY SCHOOL DISTRICT'S AREA 3 SUMMER MATH AND READING INCENTIVE PROGRAM**

**REQUEST:** The Wellington Education Committee will present the Palm Beach County School District's Area 3 Summer Math and Reading Incentive Program to the Village Council.

**EXPLANATION:** The Wellington Education Committee and Area 3 of the School District of Palm Beach County will offer a Summer Math and Reading Incentive Program to students entering Kindergarten through 4<sup>th</sup> grade. The purpose of the program is to encourage students to become lifelong readers and mathematicians while providing them with fun and engaging ways to practice their reading and math skills.

Students who complete a Reading and/or Math log and bring it to the Wellington Amphitheater on the special free Movie Night on Friday, August 15<sup>th</sup> will be recognized and receive a free popcorn and goodies.

A copy of the letter to parents along with a flyer and reading/math logs are attached for reference.

**BUDGET AMENDMENT REQUIRED:** NO

**PUBLIC HEARING:** NO **QUASI-JUDICIAL:**

**FIRST READING:** **SECOND READING:**

**LEGAL SUFFICIENCY:** N/A

**FISCAL IMPACT:** N/A

**WELLINGTON FUNDAMENTAL:** Protecting Our Investment

**RECOMMENDATION:** The Wellington Education Committee will present the Palm Beach County School District's Area 3 Summer Math and Reading Incentive Program to the Village Council.



## 2014 Elementary Summer Reading and Math Incentive Program

### Dear Parents/Guardians of Students Entering Grades K-4,

We cannot believe another school year has come to a close. As you prepare for the summer, please take a few minutes to schedule time for math and reading activities. As you may know, students can lose the equivalent of up to three months of learning if they don't read throughout the summer.

The purpose of the Wellington Summer Reading and Math Program is to encourage students to become lifelong readers and mathematicians. Elementary school children should read or be read to each and every day. If this is hard for your busy schedule, try and set goals for your child in grades K-2 to read 60 minutes per week. Grades 3 and 4 should be reading at least 120 minutes per week.

We expect all Wellington elementary age students to participate in this exciting program by reading books and/or listening to stories aloud. We've attached a Summer Reading Log to keep track of their progress.

Students are also encouraged to complete math activities and record their accomplishments on the attached math log. Provide your child with the opportunity to reinforce math skills and concepts while engaging in activities that connect math to their world. The Everyday Math website: [www.everydaymathonline.com](http://www.everydaymathonline.com) provides a variety of resources and tools including games directly related to the math program used in your child's classroom.

The Reading and Math logs can be found on the PBC School District website at: <http://www.palmbeachschools.org> or on the Village of Wellington website at <http://www.wellingtonfl.gov>.

In addition, some suggested math websites for elementary students are listed below:

Practice everything from basic math skills to geometry: <http://www.mathisfun.com>  
Word problems for grade four: [www.teacher.scholastic.com/maven/](http://www.teacher.scholastic.com/maven/).

Area 3 of the School District of Palm Beach County and the Wellington Education Committee invite students who participate in this program to the FREE movie night on August 15<sup>th</sup> at the Wellington amphitheater. Participating students will be recognized at this event and rewarded for their hard work.

Learning begins at home!!! Please encourage your child and participate in this fantastic program over the summer. We look forward to seeing you on August 15, 2014!



The Wellington Education Committee and  
Area 3 of the School District  
of Palm Beach County  
is offering a

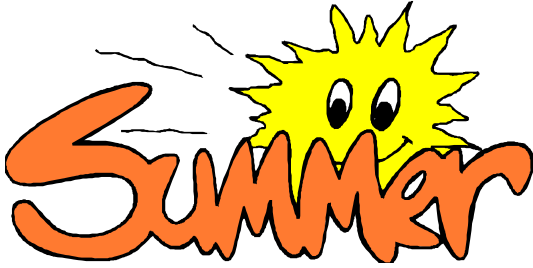
# Summer Math and Reading Incentive Program

Kindergarten through 4th Grade

The purpose of this program is to encourage students to become lifelong readers and mathematicians and provide them with fun and engaging ways to practice their reading and math skills.

Students who bring any Reading and Math Log will be recognized at a special FREE Movie Night, August 15th at the Wellington Amphitheatre and receive free popcorn and goodies. The program is open for all Wellington students grades K-4.





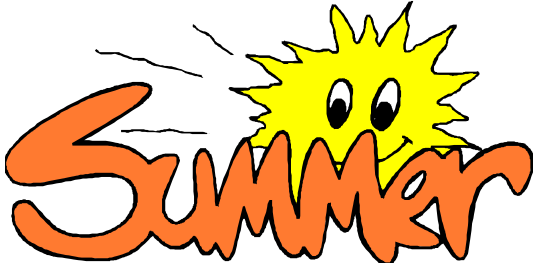
# READING LOG

NAME: \_\_\_\_\_

SCHOOL: \_\_\_\_\_

DATE	NAME OF BOOK	AUTHOR	MINUTES READ

PARENT/GUARDIAN SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_



# MATH LOG

NAME: \_\_\_\_\_

SCHOOL: \_\_\_\_\_

Date

MINUTES SPENT

NAME OF PROGRAM AND/OR TYPES OF PROBLEMS


PARENT/GUARDIAN SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_



# Village of Wellington

## Legislation Text

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**File #:** 14-361, **Version:** 1

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**ITEM: MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETINGS OF MARCH 25, 2014 AND APRIL 8, 2014**

**REQUEST:** Approval of the Minutes of the Regular Wellington Council Meetings of March 25, 2014 and April 8, 2014.

**EXPLANATION:** Attached for Council's review and approval are the Minutes of the Regular Wellington Council Meetings of March 25, 2014 and April 8, 2014.

**BUDGET AMENDMENT REQUIRED:** N/A

**PUBLIC HEARING:** N/A

**QUASI-JUDICIAL:**

**FIRST READING:**

**SECOND READING:**

**LEGAL SUFFICIENCY:** N/A

**FISCAL IMPACT:** N/A

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Approval of the Minutes of the Regular Wellington Council Meetings of March 25, 2014 and April 8, 2014.

## **MINUTES**

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

**Tuesday, March 25, 2014  
7:00 p.m.**

Pursuant to the foregoing notice, a Regular Meeting of the Wellington Council was held on Tuesday, March 25, 2014 commencing at 7:00 p.m. at Wellington Village Hall, 12300 Forest Hill Boulevard, Wellington, FL 33414.

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

Advisors to the Council: Paul Schofield, Manager; Laurie Cohen, Esq., Attorney; Awilda Rodriguez, Clerk; 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** – Rabbi Norman Klein, Temple Beth Torah, Wellington, delivered the Invocation.
4. **OATH OF OFFICE**

#### **A. COUNCIL SEAT #2 – ANNE GERWIG**

Ms. Rodriguez administered the Oath of Office to Anne Gerwig.

#### **B. COUNCIL SEAT #3 – HOWARD K. COATES, JR.**

Ms. Rodriguez administered the Oath of Office to Howard K. Coates, Jr.

### **5. APPROVAL OF AGENDA**

Mr. Schofield recommended approval of the Agenda as presented.

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

6. **PRESENTATIONS AND PROCLAMATIONS - NONE**
7. **CONSENT AGENDA**

#### **A. 14-246 MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETINGS OF JANUARY 28, 2014 AND FEBRUARY 11, 2014 AND THE MINUTES OF**

- THE JANUARY 28, 2014 ANNUAL LANDOWNERS MEETING OF THE ACME IMPROVEMENT DISTRICT**
- B. 13-0403 AUTHORIZATION TO AWARD A CONTRACT FOR THE SUPPLY AND DELIVERY OF LED LIGHTING FIXTURES**
  - C. 14-143 AUTHORIZATION TO UTILIZE A CITY OF BOCA RATON CONTRACT AS A BASIS FOR PRICING FOR BANKING SERVICES TO THE VILLAGE OF WELLINGTON**
  - D. 14-223 RESOLUTION NO. R2014-18 (AMENDMENT #1 TO THE AGREEMENT WITH THE FLORIDA DEPARTMENT OF CORRECTIONS FOR THE PROVISION OF INMATE LABOR FOR MAINTENANCE OF THE WELLINGTON ENVIRONMENTAL PRESERVE AT THE MARJORY**
  - E. 14-229 RESOLUTION NO. R2014-19 AND BUDGET AMENDMENT #2014-022 (CDBG ADA COMPLIANCE RETROFIT PROGRAM)  
A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE BUDGET FOR FISCAL YEAR 2014 BY INCREASING REVENUE AND EXPENSE IN THE CAPITAL FUND TO COVER APPROVED CDBG PROJECT EXPENSES THROUGH SEPTEMBER 30, 2013; AND PROVIDING AN EFFECTIVE DATE.**
  - F. 14-239 RESOLUTION NO. R2014-21 (NEIGHBORHOOD STABILIZATION GRANT PROGRAM AMENDMENT NO. 007)  
A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING AMENDMENT NO. 007 TO THE AGREEMENT WITH PALM BEACH COUNTY FOR THE PURPOSE OF RECEIVING A GRANT UNDER THE PROVISIONS OF THE NEIGHBORHOOD STABILIZATION GRANT PROGRAM; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Schofield presented the Consent Agenda recommending approval.

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

1. Bart Novack, 15670, Cedar Grove Lane, Wellington. Mr. Novack thought the Village should stay with a local bank and not contract with a bank in Boca Raton.

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

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

## **8. PUBLIC HEARINGS**

- A. 13-0398 ORDINANCE NO. 2014-04 (TRAFFIC PERFORMANCE STANDARDS)**  
  
**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE LAND DEVELOPMENT REGULATIONS, ARTICLE 15, TRAFFIC PERFORMANCE STANDARDS, A ZONING TEXT AMENDMENT TO UPDATE THE ARTICLE TO THE LATEST INDUSTRY STANDARDS AND PRACTICES, REMOVE REFERENCES TO PALM BEACH COUNTY AND UNINCORPORATED LANDS REGULATIONS NOT APPLICABLE TO WELLINGTON, AND ESTABLISH WELLINGTON SPECIFIC**

**STANDARDS; AMENDING ARTICLE 3, CHAPTER 2 DEFINITIONS, A ZONING TEXT AMENDMENT TO RELOCATE TRAFFIC PERFORMANCE DEFINITIONS FROM ARTICLE 15; PROVIDING FOR PURPOSE AND INTENT; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.**

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

Mr. Stillings stated he and Ms. Andrea Troutman, with Pinder Troutman Consulting, were there to present Council the proposed changes to the Village's Traffic Performance Standards (TPS). He said the primary goal was to make the code more Wellington oriented in their Land Development Regulations. Their modifications were based on changes to industry standards, changes in the Florida Statutes regarding proportionate share, and changes to the Palm Beach County Traffic Performance Standards and Department of Transportation (DOT) level of service volumes.

Ms. Troutman explained Article 15 was updated for four basic reasons: 1) many industry standards had been changed and were not reflected in their ordinance; 2) Article 15 often referenced Palm Beach County and unincorporated lands, which do not apply to Wellington; 3) the definitions included in Article 15 were moved to Article 3, where all definitions for the Code will be located; and 4) they wanted to create some Wellington specific standards.

She indicated updates to the latest industry standards removed outdated analysis requirements. Any reference in the ordinance to daily traffic volumes was eliminated, as the industry standard is to address traffic on a peak hour directional basis. Regarding pass-by trips, several tables within the ordinance were updated to standards established by the Institute of Transportation Engineers.

Ms. Troutman mentioned DOT updated the level of service volumes in their manual as they do analyses throughout the State to determine the capacity on different types of roadways, and staff was proposing to use those service volumes in the ordinance for the Village.

She noted, with the removal of any County reference, Article 15 would now be stand-alone Traffic Performance Standards. She indicated any new development would have to meet both the County standards and Wellington standards. She stated they were also removing specific Chapters not related to Wellington, including the coastal residential exception area, affordable housing exception, appeals process and constrained facilities. In addition, they were eliminating the definitions from Article 15 and only the definitions applicable to the updated Article 15 were being moved to Article 3.

Ms. Troutman indicated the Wellington specific standards addressed Council's issue with the AM and PM peak hour and provided Wellington the ability to request analyses of additional hours. She stated it could be a weekend analysis or a different time during the weekday, but it would now depend on Wellington to request this information for specific projects that may have different impacts.

She explained when there is a concurrency system, the Florida Statutes require them to have a proportionate share program, so they have added that Chapter into the Article. Ms. Troutman stated it established a method whereby the impacts of development on transportation facilities can be mitigated by a developer paying a proportionate share towards a required improvement. She indicated they provided a specific map showing the exact roadways needing analyzed in Wellington, as people were often confused with the different maps in the Comprehensive Plan.

Ms. Troutman stated, when this Ordinance was presented to the Planning, Zoning and Adjustment Board (PZAB), they also requested changes that made it more restrictive. She explained, when a

project comes through with a traffic study, the Palm Beach County standard is to look at a two mile radius if the project generates 500 trips. The Planning Board decided to eliminate that radius, so the project now has to show where it is significant anywhere in Wellington and address that facility. She said this was consistent with Martin County and Indian River County, as they address the actual impacts and do not use an established radius.

Ms. Troutman mentioned a bottleneck/intersection concern was raised at the PZAB Meeting, as intersections are an issue in Wellington as opposed to roadway lengths. She stated they tried to address that issue by two methods: 1) Requiring additional intersection analyses if a roadway is getting close to capacity; and 2) Requiring a more detailed analysis rather than a simplified analysis of just looking at the volumes. She said they needed to look at the signal timing and the phasing for a more detailed and more accurate analysis of the intersection's capacity.

Ms. Troutman indicated they also completed a truck factor sensitivity analysis and new tables were provided to Council. She said, when they ran the DOT's models, they found the capacity of the roadway was affected when the truck or heavy vehicle factors were greater than 10%. She stated the tables now specify the capacity should be decreased if the facility has 10% truck traffic.

in regards to the bottleneck/intersection section, Vice Mayor Coates stated he has noticed the Traffic Performance Standards (TPS) were not black and white. He thought the standards could tell Council whether a particular project complied with the TPS or not. He believed, when they talked about requiring additional intersection analyses and detailed signal capacity analyses, it would be an area not typically seen in evaluating whether it complied with the TPS or not. Ms. Troutman indicated it was not as clear as the County's critical movement analysis, but the County also required this signalized analysis for any intersections on State Road 80 and on the Beeline, so it was the same signal analysis.

Vice Mayor Coates asked if there would be, in terms of intersection analysis and signal capacity, guidelines and metrics for Council to look at or consider to determine whether there are issues or not. Ms. Troutman was not sure if that would come to the Council level. She explained with the phasing for signal timing there are certain guidelines to follow as to how much yellow time or red time can be given to each movement, so it is basically black and white.

Vice Mayor Coates wanted to remove the politics from this and have a defined metric that everyone had to satisfy without discretion. He asked if this analysis would move them closer to or further that. Ms. Troutman thought it would still be an engineering decision, not a political decision, as far as how an intersection is analyzed.

Councilwoman Gerwig asked if they would be required to meet the County standards and the Village's standards. Ms. Troutman stated they would be required to meet both.

### Public Hearing

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

1. Carol Coleman, 14224 Stroller Way, Wellington. Ms. Coleman thought the traffic studies presented did not reflect the innate nature of the issues in Wellington's Equestrian Overlay Zoning District (EOZD) and additional studies needed to be done. She said the discussions at the PZAB Meeting in December regarding the AM and PM peak hour studies and the truck traffic analyses, were not presented to Council.

2. Bart Novack, 15670 Cedar Grove Lane, Wellington. Mr. Novack asked that trucks and vans be defined.

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

Vice Mayor Coates asked if any of the proposed changes would adversely impact private property owner's rights. Ms. Troutman indicated the changes would not impact someone with an approved development order; however, they would have to address the new standards if they wanted to increase their development. Mr. Stillings noted these changes would not affect any project that was presently in process.

Vice Mayor Coates thought they were taking away property rights and wanted the impact on the change from five years to three years explained to him. Ms. Troutman stated the ordinance had different identifications for vested traffic. She indicated the Wellington PUD was considered one type of vesting, as it was an approved PUD prior to 1987 and before traffic performance standards were even addressed. She said that approval would not go away and it would not be affected by the five year to three year timeframe. She explained the types of vesting with the change from five years to three years was for an existing development or an existing use that has been unoccupied for five years, as they would no longer get credit for that use, but if it has only been unoccupied for three years, they would get credit.

Vice Mayor Coates believed the County's general rule was five years. He asked if the other municipalities within Palm Beach and Martin Counties adhered to the three year or five year rule. Ms. Troutman thought they followed the five year rule, but she would verify that for him.

Vice Mayor Coates asked what the advantages were to them as a Council in requiring three years versus five years. Ms. Troutman stated it was a recommendation from the PZAB. She thought they were trying to incentivize people to move forward quicker and not leave their uses vacant for five years.

Councilwoman Gerwig stated her impression from the PZAB meeting was that it was an incentive to redevelop, but most of the older parts of Wellington were in the PUD. Ms. Troutman agreed, as any redevelopment within the PUD would not have the three to five year cap as far as its use. She said if a townhome in the PUD was redeveloped into a single family home, it would still get credit as a townhome.

Vice Mayor Coates stated his concern was going through years of economic cycles again where property values decline, commercial activity subsides, and properties become vacant. He thought if they were unable to redevelop or sell a property with these vested rights after three years, their property value might be destroyed in the worst time of the market by decreasing the vesting period from five to three years. He wanted to hear staff's thinking on this because the unintended consequences of changes like this concerned him. Mr. Stillings indicated they tried to express that to the PZAB board members, but they felt three years was sufficient and made the recommendation.

Councilwoman Gerwig asked if the PZAB understood the difference between inside and outside the PUD or if it was discussed in the meeting. Ms. Troutman did not think the difference between the two types of vesting was discussed at the meeting.

Vice Mayor Coates asked Ms. Troutman to address Ms. Coleman's concern about the standards not adequately addressing the uniqueness of the EOZD. He assumed it was discussed at the PZAB, but

he did not know if staff had further follow-up. Ms. Troutman indicated Ms. Coleman mentioned the DOT volumes were weekday volumes, but they were not. She explained they were service volumes to determine the capacity of a roadway. She said they were not addressing weekday, weekend or anything, as they were just saying this facility could carry this many cars in one hour in one direction. She stated they were proposing to adopt the service volume to compare it with either weekend traffic or weekday traffic, as they would count weekday traffic and compare it to that service volume. She indicated that service volume was not specific to Wellington, because it is based upon standards and studies done throughout the State. They would have to perform a number of studies on every single roadway in order to come up with specific Wellington standards; however, she did not think the values would change dramatically. She stated they brought up the truck factor, analyzed it, and showed the sensitivity for it, but she did not think the cost benefit of doing studies to make it more Wellington specific was there.

Vice Mayor Coates thought this would allow Council to see the specific impact a particular project or activity would have, not just to the AM and PM peak times, but on weekends or holidays. Ms. Troutman agreed. She said it would determine the specific impacts of a project coming in for that project's peak hour, if it is not during the typical AM and PM peak hour.

Vice Mayor Coates acknowledged the AM and PM peak hour did not always provide enough information; however, once they start looking at data other than the AM and PM peak numbers, he wondered what would be the metric by which Council would make a decision as to whether a certain level of activity on the weekend or a holiday complied or not with the standard. Ms. Troutman admitted a project's traffic generation during other time periods was not as easy as pulling out the DOT manual and getting the AM and PM peak hour. She stated the manual provided the peak hour of the generator, which was the peak hour of the site as opposed to the peak hour of the road. She said they could also do counts at similar facilities at a certain time of day or do an operational type of analysis based on how many trucks were coming in to show how a project would operate.

Vice Mayor Coates stated Ms. Troutman was their consultant who many times had given Council her opinion as to whether something complied. He asked how she would deal with focusing on holiday or weekend impacts in responding to questions if something complied with their standards or not. Ms. Troutman indicated it would be an engineering judgment, as there were standards they could use to come up with the peak impacts. She reiterated it would not be as easy and straightforward as the AM and PM peak hour.

Councilwoman Gerwig asked about the actual percentage of trucks. Ms. Troutman stated it was about 5% on South Shore. Councilwoman Gerwig asked if South Shore was the main pass-through for trucks. Ms. Troutman stated South Shore was raised at the PZAB Meeting.

Councilwoman Gerwig indicated it was more than 2.5 times as many as originally encountered. She asked if they adjusted the standards now for 5%. Ms. Troutman said they looked at it. She explained in the South Shore example, the capacity from DOT was 840 trips in one direction in the peak hour. She stated, when they changed it to 5%, it reduced the trips to 806, but when they put in 10%, it reduced the trips to 756 and they thought it had a bigger impact, so they picked 10% as the truck factor or heavy vehicle threshold and changed that in their tables. She clarified a heavy vehicle was anything above a pickup truck with more than four wheels on the road and that definition had been added to Article 3.

Councilwoman Gerwig asked if they doubled the actual truck count in the Traffic Performance Standards for the Village. Ms. Troutman said that was correct. She indicated if a facility has a 10%

truck factor, they should use the lower service volume. She stated they could put in 5%, 7.5% or whatever they wanted, but the analyses did not impact the service volume until the 10% level.

Councilwoman Gerwig asked what time of year South Shore was studied. Ms. Troutman indicated they did a count on Wednesday, January 22<sup>nd</sup>, and Saturday, January 25<sup>th</sup>.

Councilwoman Gerwig understood peak hour was just certain times of the day, but Ms. Troutman was now suggesting peak hour was whenever peak hour is on that roadway. Ms. Troutman explained the typical peak hour of the roadway or highest volume occurred between 6:00 am and 9:00 am and between 4:00 pm and 7:00 pm, so they typically addressed those time periods. However, they were now suggesting a third time period could be requested by Wellington. She said it could be noon or a Saturday if they feel that time is peak or more critical for a specific project. She indicated that project would have to look at the roadway at noon, add their traffic to it, and show it still met the level of service standards.

Councilwoman Gerwig asked if any roads in Wellington were not currently meeting their performance standards. Ms. Troutman stated they were doing a comprehensive look at the roadways right now and none of the roadway lengths they finished analyzing showed deficiencies. She indicated South Shore was at level of service E, but that was the adopted standard in the EOZD.

Councilwoman Gerwig asked her to explain the meaning of level of service E, because people had questions about traffic backing up. She thought if they were telling people it met the standard, they should understand the standard. Ms. Troutman showed a graphic of how level of service, traffic volume and speed all related. She said as the traffic volume increases, the level of service goes from A to F, but the speed does not change until the D and E range. So most jurisdictions have adopted level of service D as their standard, because that is the point where the speed starts to decrease. She stated that was the level of service standard for all of Wellington, except the EOZD. She indicated the EOZD had level of service E to prevent unnecessary widening of roadways, because wider roadways are not required where there are horses.

Councilman Willhite stated Council discussed the relief of a specific boundary or radius for testing. He thought taking the distance out and showing the impact to all Village roadways was beneficial, because a regional draw, such as a mall, would affect all traffic performance standards throughout the Village. He somewhat agreed with changing the vesting from five years to three years, as he hoped it would encourage people to get vacancies occupied quicker. He stated the Mobile station sat vacant, was an eyesore and created problems before Dunkin' Donuts rejuvenated the area. He did not know if they could set a specific standard or timeframe, but it was a recommendation from PZAB.

Councilman Willhite liked that their definition of truck size was not a tractor-trailer. He said they were concerned about all trucks coming through the Village, delivery trucks or significant sized horse trailers, because the weight of those vehicles was on their roadways.

Regarding the 10% truck factor, Councilman Willhite wanted it explained as to why 2% meant there was less traffic than at 5% and 10% for the number of trips. Ms. Troutman indicated DOT's manual has a default truck percentage and that service volume was established for a two lane divided road. She stated South Shore was at 840 trips per hour in one direction; however, if the truck factor was increased, which means more vehicles with slower acceleration, that roadway would no longer have 840 vehicles moving through in one hour. She said it was reduced down to 806 when they ran the models.

Councilman Willhite asked if the decrease was due to increased traffic on the roadway, and if the size and speed did not allow more trips. Ms. Troutman stated the level of service volume would decrease, because the roadway would no longer be able to carry that much traffic through. She said with more trucks going slower, they would not be able to reach the speed needed to achieve level of service E, so the carrying capacity of the road is reduced with more trucks.

As had been suggested the previous day, Councilman Willhite stated they went from 2% to 10%. He asked if she would have an issue if they went to 7%. Ms. Troutman said she would not have an issue with 7%; however, she felt when the truck factor reached that 10% level it really showed a difference in the carrying capacity of the roadway, but Council could set it at any level. Councilman Willhite thought 5% was 3% greater than what they had, so they did not need to go as high as 10%. Ms. Troutman agreed they did not need to, but she felt 10% was a more accurate impact on the service volume although a 5% truck factor also had an impact on the service volume, just not as extensive.

Councilman Willhite stated they were going from a 2% to 5% truck factor, and his concern was doubling that and going as high as 10%. Ms. Troutman indicated 5% was presently on South Shore. She said the difference between 2% and 5% was not significant enough to change the service volumes for all roadways, as it changed it from 840 to 806 trips; however, with a 10% truck factor, it significantly impacted the service volume bringing it down to 756 trips, which was why she set the threshold at 10%.

Councilman Willhite stated they have included AM, PM, nights and weekends in the peak hours. He asked if Council could request a traffic study for a significant event around a holiday. Ms. Troutman indicated the ordinance currently states a third hour can be requested anytime Wellington deems an hour needs to be analyzed. She presumed they could ask for December 25<sup>th</sup> if they wanted to, but she was not sure that would be appropriate.

Councilman Greene said the County standards only identified morning and afternoon peak times, and Wellington's traffic issues are not necessarily 7:00 am to 9:00 am and 4:00 pm to 6:00 pm, as many events and activities take place later in the day or on weekends. He asked if this ordinance would be coupled with the previous standard or if Council was adopting an entirely new standard that would factor in the AM or PM peak traffic and then add the additional impact of a particular event. Ms. Troutman explained they would add the additional impact. She stated they would analyze the third peak hour requested by Wellington by getting counts for that time period and add the impact for that time of day. She clarified when she said all roadways were operating at level of service standards, she was talking about the standard AM and PM peak hours.

Councilman Greene thought significant traffic issues needed to be addressed, and they needed to come up with solutions and understand how the roadways are impacted. He stated the equestrian preserve roadways were not intended to handle the types of volume they are faced with from time to time. He asked how much was being factored into the new standards considering what they have currently and how the roadways were designed to handle traffic. Ms. Troutman thought by adding the standard they would have to address the peak hour concern for a specific event. She said they would have to go out and determine the volume on the road during that peak timeframe and then add their traffic at that period, rather than just addressing the AM and PM peak hours.

Councilman Greene asked if it was the applicant's responsibility to come back and say their studies indicate they will be in compliance with the new standards being adopted. Ms. Troutman indicated the Village would have to request them to analyze that time period; however, they would not ask an office building to address a Saturday because its impact would be the AM and PM peak hours. She said the special uses could have different peaking periods.

Councilman Greene was not concerned about a single use, a special event over a weekend, or a one or two day event, but when it becomes a permanent project or something that permanently changes the landscape inside the EOZD or commercial area, he questioned how they would address any counts that do not match or are highly underestimated. Ms. Troutman stated that issue would be addressed in a condition of approval. She said if their analysis was done based upon a certain number of people attending, the condition would be their attendance maximum for that event.

Councilman Greene asked why Council received different information from what might be provided to PZAB and the other committees. He assumed, if a staff recommendation to Council was based on a PZAB decision, they were all evaluating the same information, but he was finding that was not the case. Mr. Schofield explained previous Councils have wanted PZAB's standards and most often that is what Council gets; however, very occasionally, staff will document if they have a significant disagreement. He said if Council gets additional information than PZAB, it is usually because of what came out of the PZAB meeting. He indicated it was very unlikely the application originally submitted by the applicant would be exactly the same when it gets to Council, because it has been through a variety of review processes and thus changed during that timeframe.

Councilman Greene stated he was not disputing the application itself had changed, as he understood the evolution of information as it went through the committees and boards, the staff recommendation and DRC, but he was seeing more evidence that recommendations coming from PZAB were based on information quite different than what was put before Council. He said he could show Mr. Schofield some hard evidence, because it was concerning. Mr. Schofield indicated he would like to see it.

Councilman Greene was glad they were able to tighten up this ordinance for their unique needs in the Village of Wellington. He asked if this would give more control to fewer people. Mr. Schofield stated this ordinance would not give more control to fewer people, as the same people and committees would be reviewing the applications. He indicated it adopts some standards Council has repeatedly expressed interest in over the last several years: provide better traffic control, provide larger impact radiuses, and provide an analysis on weekends and off-day periods that current rules do not allow. He stated they were talking about the major equestrian venues, which do not happen between 6:00 am to 9:00 am or 4:00 pm to 7:00 pm, Monday through Friday, as they tended to happen around 10:00 pm on Fridays or on Saturdays and Sundays. He mentioned they did a traffic impact analysis in a previous meeting and the radius of impact was two miles. He explained there was an intersection 2.4 miles away with a significant impact, but staff could not look at it because of the current rules. He said this would remove that restriction and expand the radius to where they would have to look at an intersection 2.5 miles away if the level of significant impact is 1%. Mr. Schofield indicated Council was very adamant about being able to look at impacts beyond the actual impacts. He noted the ordinance did not change who reviewed the application or how they reviewed it, but it did tighten the standards.

Councilman Greene thought the surety bond requirement was scratched from Article 15, but he did not see it in Article 3. He asked if the surety bond requirement was still present in the new standard or if it had been changed in any way. Mr. Stillings stated it should be in the proportionate share provision, as it was not removed. He said an applicant would need to pay their proportionate share of a required improvement; however, if they are responsible for the full improvement, because they are the reason for the need, then they would provide a surety bond for that improvement.

Councilman Greene indicated Southern Blvd and other roads leading to new developments north of the Village would have increased activity, so they would have to work closely to address and monitor the traffic. Mr. Stillings indicated Ms. Troutman was in the process of doing Village-wide counts of all

roadways to give them a baseline when evaluating any future development or traffic changes in the community. Mayor Margolis thought there was a potential for 18,000 homes just north and west of the Village.

Mayor Margolis asked what would happen if there was a failure of level of service on a particular road. Ms. Troutman stated several options could be used to reduce the intensity of the project and make the failure go away. She said they could do a more operational analysis of the link that looks at the signal timing and spacing, compare the service volume, look at how the roadway operates at the right speeds even if it exceeds their service volume, and propose an improvement.

Mayor Margolis asked if there was anything the Village could do when the approval process is for 900 trips a day, but they find 1,200 trips a day are actually taking place. He thought in certain areas or for certain events more people are attending and causing bottlenecks. He did not know if this ordinance would alleviate those concerns. Ms. Troutman stated the Village was doing an analysis of all its roadways and intersections. She said, without development coming forward, they could still identify what intersections need capital improvements. Mr. Stillings noted, in a recent example in Equestrian Village, they conditioned a project to have analyses done a year later to gauge the impact and see how it related to prior analyses.

Mayor Margolis indicated this was the first reading of the ordinance, so it would be coming back and Council would have more opportunities to ask questions.

Vice Mayor Coates knew existing projects were protected and were not impacted by this ordinance, but he was concerned some projects existing in the community, such as polo, dressage, or the show grounds, might not have survived if they were evaluated by today's more restrictive standards. He questioned how the Horse Park proposal for K-Park would have been impacted by these new standards had it gone forward. He thought there would be a negative impact on projects brought to this community for consideration. Ms. Troutman stated the negative impact would be on the intensity. If the intensity was too great to accommodate the existing infrastructure, the project would have to reduce its intensity. She said these new standards would still require them to analyze the intersection of Stribling and State Road 7 as well as the intersection of Stribling and Fairlane Farms, but now they were specifically showing it on a map so there would be no argument when having to analyze those intersections. She indicated these standards would probably make them address further along Pierson Road and the intersection at Stribling and Forest Hill, but she did not think that was insurmountable.

Vice Mayor Coates thought the events with spectators would have periods when the roads would be backed up and there would have to be some flexibility when dealing with the traffic performance standards. Ms. Troutman stated there was a standard for the facility, but there was also an operational analysis of the site to look at their driveways and accesses to determine if they need a Sheriff to get the people in and out faster. She noted the site operational issues were addressed separately.

With respect to the existing uses, Vice Mayor Coates questioned when people were going to or leaving polo or the show grounds, if they had determined when their peak usage occurred or if the traffic performance standards were not being met. Ms. Troutman stated they were presently doing counts on Saturdays for the intersections of Pierson and South Shore, Pierson and 120<sup>th</sup>, and Fairlane Farms and Stribling, and the two intersections on Lake Worth at South Shore and 120<sup>th</sup>. She said she had not received any data yet to analyze, but they also had roadway link counts on Saturday.

Vice Mayor Coates asked if she was saying they did not know. Ms. Troutman said she did not have the analysis done. She stated the analysis submitted by the applicant showed it met the standards based on the counts and the peak event. She indicated they also had a camera monitoring the intersection.

Mr. Schofield explained the change in the Traffic Performance Standards (TPS) would not make the projects any more or less difficult to approve. He thought they could have some impact in the EOZD because it was specifically limited to two lane roadways. With projects like Equestrian Village, the roadways that existed on the day of approval failed to meet the TPS. He said when a project fails to meet TPS, they are provided an opportunity to mitigate. In fact, the Village's Comprehensive Plan required it. He indicated the Comprehensive Plan states if the developer is going to create an impact on a roadway or any facility, the developer then has to do the necessary facility improvements to meet the level of service. He stated they were required to build turn lanes in the Equestrian Village, so the roadways would continue to meet their level of service E. He said every turn lane as part of that construction was required in order for that facility to meet the TPS, so the roadway service would not fall below level E. He stated the fact they were changing the standards and removing a radius of impact was an impact on the roadway. He said that meant they would be doing more mitigation, as the developer would be mitigating for impacts caused by the project they were building, but the Village's Comprehensive Plan required that any way. He thought they would get a better look at the impacts without being artificially constrained by a concentric circle. He believed it would not make it more or less difficult to approve, it would just potentially expand the area for mitigating impacts the facilities cause.

Mr. Schofield mentioned a question earlier about a traffic analysis indicating 900 trips would be generated, but 1,100 trips were generated. He said in that case the Village would have to deal with it, because it was approved and it would go into the capital plan over time. He stated it happened occasionally and becomes a problem in the EOZD, because they can add turn lanes but not travel lanes. He indicated South Shore is a two lane roadway and most roads in the EOZD are shell rock, because of the Comprehensive Plan. He said those roads would not get improved absent some major changes to the Comprehensive Plan, and he did not envision that happening anytime soon.

**A motion was made by Councilman Willhite, seconded by Councilman Greene, and unanimously passed (5-0) to approve Ordinance No. 2014-04 (Traffic Performance Standards) as presented on First Reading.**

## **9. REGULAR AGENDA**

### **A. 14-182 RESOLUTION NO. R2014-14 (SPECIAL USE PERMIT FOR THE 5TH ANNUAL GPL POLO EVENT)**

**A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING A SPECIAL USE PERMIT FOR THE 5TH ANNUAL GPL POLO EVENT UTILIZING OUTDOOR AMPLIFIED MUSIC TO BE HELD AT 13444 SOUTHFIELDS ROAD; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Schofield introduced this item. Ms. Rodriguez read the resolution by title.

A motion was made by Councilman Greene, seconded by Councilwoman Gerwig, and unanimously passed (5-0) to open Public Comments.

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

**A motion was made by Councilman Greene, seconded by Councilman Willhite, and unanimously passed (5-0) to approve Resolution No. R2014-14 (Special Use Permit for the 5th Annual GPL Polo Event) as presented.**

**B. 14-191 PRESENTATION OF AUDIT RESULTS FOR THE FISCAL YEAR ENDED  
SEPTEMBER 30, 2013**

Mr. Schofield introduced the item.

Mr. Tony Grau with Grau & Associates introduced himself as the audit partner with Raquel McIntosh, the audit manager. He thanked Council, Mr. Schofield and Ms. Quickel. He stated the audit went very well, as they had constant communication between management. He indicated most issues from the prior year were resolved. He noted Ms. McIntosh would provide more detail on the findings.

Ms. McIntosh started with the Independent Auditor's report on Page 1. She indicated under the paragraph "Opinions" they had an unmodified opinion for the financial statements ended September 30, 2013, which just meant it was a clean opinion. She stated right under the opinion was an "Emphasis of Matter," because the Village adopted some governmental accounting standards during the year that changed the look of the financial statements and certain language within it. She said the emphasis was not an issue; they just wanted to mention the statements would look different than the prior year.

On the Governmental Balance Sheet on Page 18, she indicated the total fund balance for the governmental activities of the Village were \$59.08 million of which their General Fund contributed almost \$32 million. She stated the General Fund had an unassigned fund balance of \$16.3 million. She noted the audit report is as of September 30, 2013 and subsequent to that time there was a building purchase which would have reduced that amount by the purchase price of the building.

Mayor Margolis asked if the reserves she claimed were at 45% were now down to 30%, which is what Council typically like to have. Ms. McIntosh agreed, as 25% to 29% was unassigned.

Ms. McIntosh said their Income Statement for their governmental activities could be found on pages 22 and 23. She indicated their fund balance decreased approximately \$4 million and the majority of that was due to capital improvement projects done during the year. However, their general fund increased by approximately \$3.8 million, so that offset some of the decrease from capital projects.

On pages 48 and 49, she pointed out the Village had very little debt at \$6.4 million as of September 30, 2013. She said for their governmental activities they only had \$6.4 million in outstanding bonds and they already paid off the one bond in the enterprise fund.

She indicated under the Compliance Section, they could see their internal control over financial reporting and compliance report. She stated they had no material weaknesses or significant deficiencies in the current year.

Ms. McIntosh mentioned page 105 was their report to management where they reported any findings. She said there were no material weaknesses or significant deficiencies, just compliance findings they found throughout the audit.

Councilwoman Gerwig asked if the utility billing issue from last year had been corrected. Ms. McIntosh stated staff started keeping copies of the actual registers. Councilwoman Gerwig asked if they were retaining more information and if anything was missing for last year or this year. She understood they did not lose any money, they just were not able to recreate that one month billing and now they can do that anytime. Ms. McIntosh agreed, as they had a copy of the actual bill done on that date.

Councilwoman Gerwig asked for Ms. McIntosh's explanation of the FRS designation issue being overturned last year, considering it was a material deficiency at one point and talked down to being not as significant. She thought it was a significant concern for Ms. McIntosh and asked why it happened. Ms. McIntosh indicated the FRS issue was not a finding; it was just a disclosure in the notes to their financial statements. She said the problem was the timing of when staff notified them of the issue.

Councilwoman Gerwig asked Ms. McIntosh if she had an explanation for why she felt a debt was not reported and brought out in a public meeting. She indicated the Village no longer had that debt. She stated this was an issue for the people who received letters saying they were going to participate in the FRS and also received letters saying that money disappeared. She was under the impression Ms. McIntosh did not analyze the situation and was just saying they did not like being informed of the debt at the end of the audit. Ms. McIntosh agreed. Councilwoman Gerwig recalled Ms. McIntosh representing she analyzed it, as she agreed with the State and staff was wrong. Mr. Grau explained the issue was they were told there was potential unrecorded liability as of the balance sheet date related to the FRS and the Village owing money to the FRS. He indicated they did not look at how the amount was calculated, as they were told about it at the very end of the audit. He stated if they had enough time, they would have tried to determine if it was correct or not. However, the Village would have had to figure out whether the liability existed or not through FRS. He explained when something happens subsequent to the balance sheet date, whether it impacts the balance sheet or not or they are not sure if it is a liability or not, it is called a contingency, which means it is a potential liability. So based on facts known as of that date, they signed the report disclosing there may be a potential for a liability. He said if they had more information or were able to analyze it or staff said it was definitely a liability, they would have recommended it be recorded as a liability. He said that did not mean the liability may not be reversed because that happens all the time as well. They know the liability was not recorded as of September 30, 2013; however, if it was recorded during 2014 it was reversed again because it never ended up being a liability. He stated they never said they agreed with the amount. They just knew there was a situation that created a potential contingency, and they are required to disclose contingencies.

Councilwoman Gerwig asked if this issue was brought to them by Village staff. Mr. Grau stated it was.

Councilman Greene thanked Mr. Grau and his firm, as they have demonstrated great resilience in coming back from a more difficult audit a year ago. He also thanked staff for a more cooperative working relationship. He said he was looking forward to at least another year with Grau & Associates.

Councilman Greene asked Mr. Grau how the Village's financials compared to other municipalities. He credited Mr. Schofield and staff for their low debt and managing their finances so well. Mr. Grau indicated the financial condition of the Village was excellent, as it had very little debt and owed very little money. He indicated the Village also had adequate fund balance. He said they did not have to be an accountant to know the Village was doing well financially.

Councilman Greene stated Council was criticized on a couple of significant projects, and he was sure some of that discussion would take place. He thought what separated the Village from other municipalities was how they plan and budget their capital improvement projects, while maintaining or exceeding the minimal limits of their reserves. He hoped the residents, whether they liked Council's decisions or not, understood Council was mindful of their money.

Councilman Greene stated he was concerned about the increase in Public Safety from \$8.1 million to \$11.8 million, but it was explained to him that was the contract for law enforcement services, which now has been coupled with code enforcement and building permitting.

Councilman Greene asked if the \$1 million dollar gift from the acquisition of the Professional Center went into the General Fund. Ms. McIntosh indicated that was not included in this audit. Mr. Schofield noted it was put into the General Fund.

Councilman Willhite liked hearing that staff and the auditors had a better working relationship this year because it should not be hard for the auditors to get the information they need when it is public record and the Village is an open government.

Councilman Willhite was initially surprised by the 40% in reserves, but he was glad they were able to ascertain the Wellington Professional Center and keep their reserves between 29% and 30% as directed by Council.

Councilman Willhite believed there was a problem with the balance sheet because of the timeframe when some information was presented. He also thought there was a problem with recreating a bill. He said staff identified the problem and was now doing something different to create, replicate and document bills. He thought they addressed three or four significant problems and now the auditors have come up with a few more. He said that was the purpose of the audit, to identify problems that need to be fixed.

Councilman Willhite asked how Mr. Poag functioned as an internal auditor if he just answered to Mr. Schofield. He asked if Mr. Poag was identifying problems throughout the year and giving them to Mr. Schofield or to the auditors. Mr. Schofield explained that Mr. Poag had absolute freedom to look at any department or issue without reservation. He indicated he has identified some operational issues that have been corrected. On a daily basis, he checks on items or processes related to the external auditors and digs into any problems. He explained Mr. Poag answered to him and was independent of any department head; however, he did not control what Mr. Poag looks into because he knows what he has to do and does it. He said Mr. Poag had been in Utilities, Public Works, Safe Neighborhoods, Building, and at the moment he was looking at their Law Enforcement contract. He indicated employees could go to him directly with issues and they have. He stated they have seen a significant benefit to having someone who does not have a vested interest in saying "they have always done it that way." He said they have seen changes in the purchasing policy and in employment practices and policies, because Mr. Poag audits with an eye towards operational issues. He thought the Village was too small for an Audit Committee, but they could have a conversation with Mr. Poag as to whether he thought a committee was needed. Mr. Schofield believed Mr. Poag has provided enormous benefit.

Councilman Willhite asked if Mr. Poag reported to Mr. Schofield when a resident, employee or council member asked him to look into an issue. Mr. Schofield stated that depended on the issue, and it was Mr. Poag's decision about when to report it. He said more often than not he receives the results as opposed to when an issue is in progress. He thought it would defeat the purpose if Mr. Poag had to get it approved. He indicated the department heads were directed to answer Mr. Poag's questions

first and then complain if need be. Mr. Schofield stated he has not overturned a single decision, he has not asked Mr. Poag to change how he investigates, and he has not interfered with what he does. He said Mr. Poag was very aware of the internal audit function, and his position was broader than that as he looked at operational and personnel issues as well as financial issues. He encouraged Councilman Willhite to have a discussion with Mr. Poag.

Vice Mayor Coates was concerned about what he just heard, because the Village had a specific form of government and only two people reported to Council, Ms. Cohen and Mr. Schofield. He said Council was basically precluded from having direct contact with staff, so Mr. Poag had to report to Mr. Schofield. He thought to suggest anything otherwise would be a violation of their Council Manager structure of government. He did not want Mr. Schofield to be hesitant in saying the internal auditor reported to him because he was accountable for him. He said he took solace in Mr. Schofield having control over their internal auditor. He thought it was fine Mr. Poag had the freedom to do his work, but he did not want it suggested that he was not being supervised or controlled in any respect. He also did not want it suggested that Mr. Poag was being controlled by anyone on Council because that would be in violation of their Charter in his opinion.

Mr. Schofield agreed, as he did not mean to say he did not oversee Mr. Poag's work in a general way. However, the Charter says Council may not give instruction to individual staff members, but they are available to them for information. He said Council may ask staff questions or inquire of them, but Council cannot provide employees direction.

Vice Mayor Coates thought Mr. Schofield indicated Councilman Willhite could give direction to Mr. Poag, and he did not think that was proper. Mr. Schofield explained Mr. Poag will take an inquiry and determine if he should look into it or refer it to the department head. If Council asks Mr. Poag a question, it may result in a line of inquiry or not, and he may report it to the Village Manager or not, but the same process would happen with any of the department heads. Mr. Schofield did not have an issue with Council speaking to department heads and encouraged them to do so. His instruction to department heads is to answer Council's questions to the best of their ability. If it is something they think the Village Manager should know or the rest of Council should know he expects the department heads to tell him. He stated he had the same expectation of Mr. Poag, unless he is investigating a potential problem in which case, he expected him to initiate the inquiry, complete the inquiry and then report it to him because Mr. Poag has no ability to make a correction. He said he can make a recommendation, but the Village Manager decides whether to authorize the correction.

Mr. Schofield stated he has asked Mr. Poag to initiate several inquiries in the months he has been here; however, most inquiries were coming from the departments and employees themselves. He was not aware of any direct inquiries from Council. He said Council receives a lot of AT's from him indicating a Council person has asked for something, as it is his practice and policy to give them all the same information. He indicated Mr. Poag was held to the same standard. He stated he would not tell Mr. Poag how to conduct an investigation or even what to investigate except, he specifically told Mr. Poag to look into an employee based complaint about the impropriety of another employee. He indicated he received a report on everything Mr. Poag investigates. He said he shares some of the inquiries and some do not go any further than the report or the department head to fix them. Mr. Schofield believed he supervised Mr. Poag, but he does not tell him how to do his job every day.

Mayor Margolis thanked the auditors. He said he appreciated the management letter. He hoped this year went smoother for them, as he heard staff was very transparent. He knew they were not perfect, and they would move forward with their recommendations. Mayor Margolis complimented Mr. Grau and his staff for undertaking this endeavor.

Mayor Margolis said the 45% in reserves was a red flag for him, but they used some of it to pay for the Wellington Professional Center, as the reserves were typically kept between 24% and 29%. He said they had different reserve balances with the hurricane relief fund and a contingency if their medical premiums go up. He knows that is part of the total process. He noted the million dollar gift they received was in next year's budget.

Councilwoman Gerwig indicated the Village won an award last year for the transparency of their audit report, and asked if they anticipated winning that award again this year. Ms. McIntosh thought the Village would win the award again this year. She indicated the certificate for last year was in the front part of their coffer.

Mr. Schofield agreed it was a different working relationship this year. He said he met with Mr. Grau early in the year and with Ms. McIntosh throughout the year. He stated the relationship was much more operational in how they were doing some processes and what they could do to make them better. He thought staff had implemented all of their recommendations. He indicated they were not able to clean up the utility billing issue completely, but it was not significant. He stated staff wanted to thank the auditors as well. He noted Ms. Quickel and Ms. Boersma did most of the work.

Ms. McIntosh thanked Ms. Boersma in the Finance Department for her help and providing them with the information they needed.

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

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

**A motion was made by Councilman Greene, seconded by Vice Mayor Coates, and unanimously passed (5-0) to approve the Presentation of Audit Results for the Fiscal Year Ended September 30, 2013.**

- C. 14-248 A. AUTHORIZATION TO AWARD A CONTRACT TO PIRTLE CONSTRUCTION, INC. FOR THE PLANNING, DESIGN AND CONSTRUCTION OF THE WELLINGTON COMMUNITY CENTER AND TENNIS FACILITY AND APPROVAL OF RESOLUTION NO. R2014-17 AND BUDGET AMENDMENT #2014-020**

**A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE BUDGET FOR FISCAL YEAR 2014 BY TRANSFERRING MONIES FROM THE GENERAL FUND RESERVES TO GOVERNMENTAL CAPITAL PROJECTS EXPENSE AND INSURANCE RESERVES FOR THE CONSTRUCTION OF THE WELLINGTON COMMUNITY CENTER LOCATED AT 12150 FOREST HILL BOULEVARD; AND PROVIDING AN EFFECTIVE DATE.**

- B. APPROVAL OF AGREEMENT WITH ALEXIS KNIGHT ARCHITECTS, INC. (DESIGN CRITERIA PROFESSIONAL) FOR CONSTRUCTION ADMINISTRATION SERVICES FOR THE CONSTRUCTION OF THE WELLINGTON COMMUNITY CENTER AND TENNIS FACILITY**

Mr. Schofield introduced this item.

Vice Mayor Coates asked if a determination was made as to whether the budget item could be separated from the contract approval item. Ms. Cohen stated the item could potentially be separated, but it would not remove the conflict Councilwoman Gerwig had with agenda item. She indicated Councilwoman Gerwig was not permitted to vote on the funding of a contract that could inure to the special benefit of herself or her family.

Councilwoman Gerwig clarified there was no special benefit to herself or her family, as they were not working on this project in any way. She said she was recusing herself from this agenda item as she has every other time it has come up, because of a working relationship with the architect on other projects, not this project.

Vice Mayor Coates asked if it was deemed a conflict by the Commission on Ethics. Ms. Cohen stated Ms. Rogers, their Ethics Officer, reviewed the Palm Beach County and State ethics requirements, and there could be a benefit there. She said Councilwoman Gerwig was required to recuse herself because of the relationship.

Councilwoman Gerwig left the Chambers at this time.

Mr. Barnes indicated the item before Council had different parts to it, but they all related to the consideration and award of the contract to Pirtle Construction to design-build the community center and tennis facility project. He stated the separate items included the Pirtle contract, the budget amendment necessary for that contract, and some additional work to complete the scope required statutorily by the project as well as from an interest of compliance with a statute, but also risk avoidance and minimization. Mayor Margolis asked if the additional work was in reference to the architect. Mr. Barnes stated that was correct, as the architect would be Alexis Knight for construction administration services.

Councilman Willhite asked if Mr. Schofield was looking for two or three votes. Mr. Schofield indicated Council could vote once. He said they separated the item so Council could see each of three components: the Pirtle contract, the budget transfer, and the contract for administration services. Mayor Margolis confirmed they were hearing it as one item.

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

1. Bart Novack, 15670 Cedar Grove Lane, Wellington. Mr. Novack believed this issue should have been voted on by the people. He did not want them to move the tennis courts or use the 15 acres that could be used for the seniors. He also felt they should not be funding or encouraging a private business on taxpayer dollars.
2. Alexander Domb, 10633 Versailles Blvd, Wellington. Mr. Domb indicated he was the Chairman of the Government Affairs Committee for the Wellington Chamber of Commerce. He said they have been on record before, and he wanted to be on record for this final vote. He stated they opposed moving the tennis facility out of the Town Center because it would be bad for the businesses in the area.
3. Bruce Tumin, 752 Lake Wellington Drive, Wellington. Mr. Tumin stated he is a licensed engineer and always concerned about design-build projects. He asked if the architect would be signing off on all the approval and construction plans or if it would be the Building Department. He suggested putting a dock on the lake, so those living on the lake would not have to drive to the facilities.

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

Councilman Greene thanked Mr. Barnes and his staff for negotiating a reasonable price of \$12.5 million. He asked if it was significantly less to have the Village cover some of the insurance. Mr. Barnes stated it was beneficial. He explained Mr. Pirtle passed his direct cost savings to the Village for builder's risk insurance, and they received a quote of about \$36,000 based on limits specified by the Village. He indicated they could not get the entire project quoted since it had not started yet and the Village did not normally get builder's risk insurance for other projects, so the insurance is only for the tennis facility since it is within a one year horizon.

Councilman Greene asked Mr. Barnes to briefly review the modified version from the previous version. Mr. Barnes referred Council to Exhibit A in their packet. He said he could show them slides of the modified portion, but a large portion of the modified slides in the 11 x 17 attachments of their agenda package were not being considered because they actually went back to the original proposal. He indicated the "before" floor plans for the first and second floors reflected the original size of the proposed building, and they could ignore the attachments that say "after" because they were not employing them right now. He said the "before" elevations would also apply, as they would not have the reduction in the massing of the building or the popup caps around the building.

Mr. Barnes stated for the tennis center, they have to look at the "after" slides. He indicated the tennis facility was originally proposed for 23 courts, but the program and RFP required 21 courts. He said they were staying with 21 courts and allowing for future expansion by taking out the center court area, based on input from their current tennis professional and others in the business. He indicated in typical municipal facilities the center court gets the least amount of play and is the last to get booked, because the court is larger and the balls have to be chased around.

Mr. Barnes stated through some value analysis by the design-build team, they found some redundancy in costing for the court drainage that was included in the site drainage, so some savings were realized. He indicated they had originally looked at reducing the cost by reducing the second story viewing enclosure and open air deck, but they have elected to maintain a limited open air deck and enclose a conditioned space on the second floor. He noted they changed the elevation to reduce the extended portico at the front entry of the building, but they would still have an entry feature. He told Council not to pay attention to the deck modifications or the reduction in enclosed space on the second floor, because they were not pursuing those at this point.

Councilman Greene questioned the access to the upper deck. Mr. Barnes indicated there would be an elevator and stairs.

Councilman Greene asked if there would be a concession stand. Mr. Barnes stated at this point it was conditioned viewing space only with the ability to expand it to a snack bar area, viewing and concession area or seating, but the key was it will be conditioned and have the appropriate electrical and mechanical for future expansion.

Mr. Barnes indicated those were most of the changes. He said Council would be able to look at this as the starting point, given it is a design-build contract outright. He stated they would have a chance to verify and refine the program as necessary as well as provide input and comment on the design, which would take the project from the current schematic design phase to the design development and construction documents phase.

Councilman Greene asked how quickly the project would begin if it was approved that night. Mr. Barnes did not want to speak for Mr. Pirtle, but they have two years from approval of the contract to complete the project. He thought the Notice to Proceed would happen within a week or two. He said they would like to start the program refinement meetings with the individual Council members and then start the final meetings with staff to get the design development finalized and move into construction documents. He indicated tennis was proposed to go first, given the timing requirements imposed on all teams to not commence any major work outside the community center that would impact tennis until it was completely relocated. He said that would govern how fast they could go with the rest of the project. He thought turning dirt was probably close to a year for the tennis center project, as the overall project was proposed at 19 months by Pirtle and they would be moving forward in 6-8 months. He noted there would be staggered substantial completion dates for the entire project, and they would have project updates scheduled for Council and staff on a regular basis.

Councilman Greene was happy this item came before Council following the audit discussion. He thought it was important to look ahead and understand the growing needs, amenities and programs that would fit the Village into the future. He said some Council members had received strong criticism for fiscal mismanagement, but he hoped anyone concerned about how much this was costing understood Council has done this with great planning and awareness of where the Village stands financially and what kind of impact it would have on the community. He was sorry for those who felt they were making a mistake by moving the tennis facility. He hoped when the project was done, they would appreciate a first class facility for generations of Wellingtonians to enjoy. He said he would support this item, as he liked the new plans and the original plans. He was glad they were able to manage it in a fiscally responsible way.

Vice Mayor Coates believed it was a fiscally irresponsible project in that it was not responsive to the desires or needs of the community. He said he had well stated this in previous meetings, and indicated he would not be supporting the motion.

**A motion was made by Councilman Greene, seconded by Councilman Willhite, and passed (3-1), with Vice Mayor Coates dissenting, approving the Authorization to Award a Contract to Pirtle Construction, Inc. for the Planning, Design and Construction of the Wellington Community Center and Tennis Facility and Approval of Resolution No. R2014-17 and Budget Amendment #2014-020 as well as Approval of Agreement with Alexis Knight Architects, Inc. (Design Criteria Professional) for Construction Administration Services for the Construction of the Wellington Community Center and Tennis Facility.**

## **10. PUBLIC FORUM**

### **PUBLIC COMMENTS (3 MINUTES)**

1. Bart Novack, 15670 Cedar Grove Lane. He spoke of his frustration with not getting answers from the Village and could understand committees' frustration. He felt that the people should have more input and not a dictatorship by the Village. He credited prior Council for putting money in the reserves so that they could build the Wellington Community Center and Tennis Facility.
2. Bruce Tumin, 752 Lake Wellington Drive. He agreed that Dr. Radosevich had not used political correctness in her actions, but he supported her point about who should make policy.
3. Houston Meigs, 16433 Deerpath Lane. He spoke of their ability to question their leaders without fear of repercussion. Although he felt it was unacceptable to use the Nazis salute, he also felt it was unacceptable to use bullying and intimidation tactics by organizations.
4. Michael Whitlow, 2070 Appaloosa Trail. Mr. Whitlow identified himself as a member of the Equestrian Preserve Committee. He spoke about his recently building a house and the difficulties

that he experienced with Village staff. He felt that the people were always fighting against the government and that the staff was not working for the people. He said that the overwhelming feeling of the people is that the government is solely for themselves. Mr. Whitlow said that he understood Dr. Radosevich's frustration.

5. Alexander Domb, 10633 Versailles Blvd. Mr. Domb identified himself as the Government Affairs Chairman for the Wellington Chamber of Commerce. He pointed out that the Chamber had called for Dr. Radosevich's resignation from her position on the PZAB because of her actions at the meeting, particularly because of her treatment of a public employee which they found to be offensive and reprehensible. Although he felt that Dr. Radosevich is a smart woman, he felt there is animosity in the Village against employees fostered by certain Council members. He spoke about Dr. Radosevich's inappropriate treatment of employees that came before her on the Board.
6. Jack VanDell, Wellington Trace. He spoke about his being the first founder of the Wellington Chamber and how upset he was about how it has changed through the years, particularly its divisiveness. He did not feel the Chamber should have a Political Action Committee which has evolved into a hate match with people who have the best interest of the Village. He believed that the Chamber should support those people. He urged the residents to stand behind Council and support them.

At this point, Vice Mayor Coates questioned what Dr. Radosevich's current status was on the Planning Board as he heard several different stories. In response, Councilman Willhite said that she was his appointment and he had accepted her resignation. He said that he has already appointed Andrew Carduner to fill the seat on the Planning Board.

### **PUBLIC FORUM (15 MINUTES)**

Dr. Marcia Radosevich, 5121 Las Palmas Avenue. Dr. Radosevich thanked Council for the opportunity to apologize to them as well as to the Wellington residents for her use of an offensive gesture at the March 5, 2014 Planning, Zoning & Adjustment Board meeting. Dr. Radosevich went on to explain that she is a third generation Nazi fighter and the impact the horror of World War II had on her given her family history. She then elaborated on her family members' involvement with the Nazis particularly her grandfather, uncle and what her mother and aunt witnessed. She said that she grew up with the emotional scars caused by that tyranny and how it shaped who she is. Dr. Radosevich said that her fear of tyranny was only equaled by her love for American democracy which saved her family. She said that she agreed to become a member of the Planning, Zoning & Adjustment Board because of her commitment to the democratic process and that she wanted to serve as a strong advocate for the residents. She then went on to explain what led up to her actions at the Planning Board meeting. She said that when she learned of the changes that were being proposed, she was shocked that instead of streamlining the process which she initially thought was the case, she found that the plan was to take the decisions from the Development Review Committee and consolidate it into the power of an individual. Dr. Radosevich spoke of her frustration with Mr. Stillings and his inability to answer her questions and that the truth of what was being planned only came out after 3 hours of discussions. She said at that point she lost her temper, patience and temporarily her power of thought, and it brought her back to her family history. She hoped that although her actions were inexcusable that perhaps her explanation would help people better understand what led to them. She also apologized to Council that the Chamber's Political Action Committee tried to make them responsible for her actions which she accepted as her own. She said that they also wanted to know who on Council had wanted her to remain. Dr. Radosevich said that it was the many residents who asked her to remain because they wanted a strong voice advocating for them against special interests group. She also spoke of the smear campaign that was launched against her so that good people are frightened to serve the public. She felt that when good people, even though flawed, join together they are stronger than evil. Dr. Radosevich urged the Council to take control, create a town government

that is responsible to the residents and taxpayers, and that they have staff that respects the public. She thanked everyone for their understanding and forgiveness particularly the Anti-Defamation League and the residents. She hoped that this could be put behind them and they can move ahead.

## **11. ATTORNEY'S REPORT**

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

- She reported that Wellington received a lawsuit that was filed by the Equestrian Village relative to the appeals taken by the Jacobs with respect to staff interpretation as it applied to Equestrian Village. Ms. Cohen said that Wellington accepted service of that complaint and will be preparing a response. She indicated that she would be calling an attorney/client session in the near future to update Council with respect to that litigation.

## **12. MANAGER'S REPORT**

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

- The next Regular Wellington Council meeting is scheduled for Tuesday, April 8, 2014, at 7:00 p.m. In the Council Chambers.
- The Florida League of Cities Legislative Action days will be held on April 1st and April 2nd in Tallahassee. He indicated that he and the Mayor would be attending as well as several other Council members.

## **13. COUNCIL REPORTS**

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

- With regard to the issue that arose at the Planning, Zoning & Adjustment Board meeting, Councilwoman Gerwig accepted the apology from Dr. Radosevich, but felt they need to treat the professional staff in a proper way. She expressed her understanding of the proposed change, and asked Mr. Schofield to recap the development review process and Ms. Cohen to respond to comments she made at the meeting.
- She reported that "A Touch of Broadway" will be presented on April 4th at the Amphitheatre.
- She asked if they could look at moving the public forum up in the meeting.

**VICE MAYOR COATES:** Vice Mayor Coates presented the following report:

- Vice Mayor Coates thanked Dr. Radosevich for her attendance at the meeting and for her comments
- Vice Mayor Coates thanked everyone for their support during the recent campaign. He encouraged Mr. Kurit and Ms. Lascola to stay involved with Wellington's committees.

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

- He thanked Dr. Radosevich for having the courage to face adversity and relate a very heart-warming story.

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

- He requested that Mr. Schofield have the latest Idol winner attend a Council Meeting

- Councilman Willhite suggested that when they make legislative changes from the different committees that they are identified by different colors in order for council to distinguish the changes made by the various committees.
- Councilman Willhite requested that Mr. Schofield bring the Landlord 411 information back to Council for review.
- Councilman Willhite appreciated Dr. Radosevich's offering her resignation so that it would not cause any more divisiveness in the community.

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

- Mayor Margolis thanked Dr. Radosevich for her apology. He spoke of Dr. Radosevich's presentation to Council which he felt was done with so much dignity.

#### **14. ADJOURNMENT**

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

**Approved:**

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**Bob Margolis, Mayor**

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**Awilda Rodriguez, Clerk**

## **MINUTES**

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

**Tuesday, April 8, 2014  
7:00 p.m.**

Pursuant to the foregoing notice, a Regular Meeting of the Wellington Council was held on Tuesday, April 8, 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; 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** – The captains of the Wellington Baton Twirlers led the Pledge of Allegiance.
3. **INVOCATION** – Mr. Ken Adams delivered the Invocation.
4. **APPROVAL OF AGENDA**

Mr. Schofield presented the agenda recommending approval noting the following change(s): 1) add Resolution No. R2014-24 (Special Use Permit for the Temporary Use of Stabling, Equestrian Village) to the Regular Agenda as item 9B.

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

#### **5. APPOINTMENT OF VICE MAYOR**

**A motion was made by Councilman Willhite, seconded by Mayor Margolis, appointing Councilman Greene to serve as their next Vice Mayor.**

Vice Mayor Coates stated the history and custom of Council was to appoint the senior member who had not yet served as Vice Mayor. He did not understand why they would depart from the custom and practice of this body going forward. He felt it set a bad precedent, and took what should have been a fairly non-controversial appointment of a ceremonial title, and injected politics, acrimony and further division. He strongly suggested Council not depart from their custom and practice. He indicated he could not support the motion.

Although it is ceremonial, Councilman Willhite said it is a title and a position held with high regard as it will serve in the absence of the Mayor. He indicated that Council had previously deviated from this practice when Councilman Miles was not appointed Vice Mayor. He said it was a Council decision and a Council option.

Councilwoman Gerwig noted she was the people's choice, as she was re-elected with 63% of the vote. She agreed the appointment was highly ceremonial and it would be proper to appoint her as Vice Mayor.

**A motion was made by Councilman Willhite, seconded by Mayor Margolis, and passed (3-2), with Vice Mayor Coates and Councilwoman Gerwig dissenting, to appoint Councilman Greene as Vice Mayor.**

*From this point forward, Councilman Greene will be recognized as Vice Mayor Greene in this document.*

## **6. PRESENTATIONS AND PROCLAMATIONS**

### **A. PROCLAMATION RECOGNIZING WELLINGTON BATON TWIRLERS FOR THEIR ACHIEVEMENTS AT TWIRL MANIA IN ORLANDO**

Mr. Schofield introduced the item and Ms. Rodriguez read the proclamation. Council congratulated the Wellington Baton Twirlers on their achievements.

## **7. CONSENT AGENDA**

- A. 14-279 MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETINGS OF FEBRUARY 25, 2014 AND MARCH 11, 2014**
- B. 13-0333 AUTHORIZATION TO UTILIZE A CITY OF FLORENCE, SOUTH CAROLINA CONTRACT FOR THE PURCHASE OF WHEELED TRASH CONTAINERS**
- C. 14-282 AUTHORIZATION TO UTILIZE AN EXISTING STATE OF FLORIDA IT CONTRACT AS A BASIS FOR PRICING FOR THE LEASE OF IT NETWORK INFRASTRUCTURE EQUIPMENT**
- D. 14-273 RESOLUTION NO. R2014-23 (INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY TO LEASE FUEL DISPENSING EQUIPMENT): A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE A FUEL CONTROL EQUIPMENT AGREEMENT WITH PALM BEACH COUNTY; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Schofield presented the Consent Agenda recommending approval.

A motion was made by Councilwoman Gerwig, seconded by Councilman Willhite, and unanimously passed (5-0) to open Public Comments.

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

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

## 8. PUBLIC HEARINGS

- A. 14-205 ORDINANCE NO. 2014-11 (CODE OF ORDINANCE CHAPTER 2):  
AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL; AMENDING  
WELLINGTON CODE OF ORDINANCE CHAPTER 2,  
"ADMINISTRATION", ARTICLE IV, "CODE ENFORCEMENT", DIVISION 1  
"GENERALLY" AND DIVISION 2, "SUPPLEMENTAL CODE THROUGH  
CITATIONS", TO REFLECT REVISIONS OF VIOLATIONS; TO  
REINSTATE OMITTED CODE SECTIONS; PROVIDING A REPEALER  
CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN  
EFFECTIVE DATE.**

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

Mr. Koch indicated Ordinance No. 2014-11 was an update to Chapter 2, the Wellington Code of Ordinances that regulates code enforcement. He stated it was primarily a housekeeping update to the code sections within the citation code. He reviewed the changes being made that were not included in Council's packet: 1) Page 105: the attorney suggested updating Section 201(b)3 to make it more in line with the Village rather than the general term that is there now. He said that would be in the second reading; 2) Code Section 2-199(b): removing Wellington's super priority clause in relation to the Florida Supreme Court's decision overruling municipalities' super priority clauses; 3) Page 105: updating the notice section of the code to reflect current Florida Statute 162 that regulates code enforcement, as there were some minor tweaks from the Legislature.

Councilman Willhite referred to Section 2-199(b) where it states "Village code enforcement liens shall remain liens and then go onto the super priority." He understood the super priority but asked if the Village would still have the ability to issue some form of lien. Ms. Cohen stated the Village has liens, but they were not super priority. For example, if the Village is named as a defendant as a result of code enforcement liens on property that goes through foreclosure, those liens will be foreclosed out and the Village will lose those liens. She noted that the liens could remain if a resolution is worked out with the bank and the foreclosure action is dismissed.

Councilman Willhite asked if they could leave line 42 and part of line 43 and still show it as a lien, just not a super priority lien. Ms. Cohen indicated nothing there changed their ability to impose a lien, as that sentence really related to the co-equal status with a tax lien or a state lien. She was comfortable with the Village's ability to lien properties even with the removal of this particular language.

Mr. Schofield indicated line 22 stated "a certified copy of the order imposing the fine may be recorded in the public records and thereafter shall constitute a lien against the land." He said this was put in to make it a super priority after having foreclosure issues in 2006, and they were just taking it back out; however, the lien language was in the first sentence of the paragraph.

Mr. Koch stated another revision was creating a Class V in the citation section. He said they were bringing the citation table in line with the ordinance, which the statute required them to do in order to issue citations. He indicated on page 107, the citation ordinance already called for a maximum fine of \$500 and they were just updating the table, from \$250 to \$500, to match the ordinance.

Vice Mayor Greene asked about Class V and the penalty for repeat violators, as no timetable was established for repeat violations. He asked if defining language could be added because with the seasonal businesses it could take 6-7 months to determine if something has been complied with and

the violation may no longer be ongoing. He thought the process favored those who looked at it as a cost of doing business because there was no strength to the Village's position. He suggested the language stated if a violation reoccurred within a twelve month period, it would be deemed a repeat violation. Mr. Koch indicated no verbiage in the statute set a limit. He explained a five year cease and desist was placed on all orders, so it is considered a repeat violation if they come in violation within five years of the original order.

Vice Mayor Greene thought it was more of an enforcement issue, as they have not gone after the people who ignore the rules and regulations of the Village, so they continue to get away with it. Ms. Cohen understood there was no limitation, so one would be considered a repeat violator if they repeated the violation within that timeframe, but if they placed a limit of one year, it would actually weaken it as opposed to strengthen it.

Ms. Cohen thought Vice Mayor Greene was talking about enforcement. She stated they had discussed ways to strengthen their enforcement and they were still planning to move forward with that. She said they have taken a more proactive position with respect to properties having numerous violations or having very high fines. She recommended against adding language that would actually make the ordinance weaker than it is. Vice Mayor Greene did not want to weaken it. If there was a language in place to keep them strong, they needed to step up the enforcement side and bring those not compliant to compliance.

Councilwoman Gerwig indicated a repeat violator had already been to the Magistrate and told not to do it again for five years. She stated yesterday it was mentioned that many things were at the discretion of the code enforcement officer, but a repeat violator was not one of them. Mr. Koch said that was correct.

Councilman Coates stated a while back Mr. Koch was seeking to increase the fines to the statutory maximum, but Council rejected his request. Councilman Coates wanted to make sure this was not a backdoor increase because he was not in favor of an increase at this point. He asked Mr. Koch if Wellington's ordinance providing for \$500 was a discretionary \$500, or if it was fixed when the statute kicked in. He also asked if this was discretionary at either the Magistrate level or the Code Enforcement Officer level. Mr. Koch stated Wellington's ordinance basically mirrored the statute, as it was a maximum of up to \$500 for repeat violations. Councilman Coates thought it sounded discretionary if it was a maximum. He asked if the change requested in section 2-230 took something that was discretionary up to a maximum of \$500 and now made it a mandatory \$500 fine based on the fine schedule. Mr. Koch believed the fine schedule in the citation portion is what needed to be cited. He did not believe the table was discretionary when it came to writing citations.

Councilman Coates said Council members were talking about all the people looking at these things as a cost of doing business and flouting their code. He questioned what the real extent of the problem was. He knew of one or two, but he never had the impression of it being a real problem throughout their community. He thought this change was directed at one or two individuals within the community noting that he would have a problem with an ordinance that was specifically tailored to a small group. Mr. Koch believed they had 35 repeat violators since 2011 and about 15 repeat violators FY to date. He indicated they issued an average of 7,000 violations a year. He thought they had a 98% compliance rate overall, but that did not include anyone with a current lien.

Councilman Coates asked if the 15 repeat violators from this year were separate individuals. Mr. Koch did not have that information with him, but stated he could get it for him. He did not think they were multiple violators.

Councilman Coates asked if part of the reason for this change was to increase their enforcement abilities regarding certain individuals or certain companies within the Village. Mr. Koch indicated it was just another tool for them to use, as there were instances where a code officer may have to issue a citation.

Councilman Coates said when Mr. Koch comes before him requesting a change like this; he would like to know two things: 1) is there a real problem; and 2) who is the problem which he as not hearing. He wanted to know who the problem was, so he could put this ordinance request into context. Mr. Koch did not believe there was any one individual. He said they have repeat violators, but the citation code is not used very often. He stated they issued citations primarily for water drought situations, which is about a handful every year.

Mayor Margolis presented a scenario where he put up a temporary tent without going through the proper procedures, was cited by code enforcement, and went before the Special Magistrate and paid a fine because he did not think it would get approved as it was a nonconforming structure. He said next year comes around and he put up a tent again, and the same thing happened year after year. He asked if that was a repeat violator. Mr. Koch agreed it would be a repeat violator and they would be subject up to a maximum of \$500 per day.

Mayor Margolis indicated the fine is applied when the new tent is put up and does not go back to last year because a lot of it is statutorily regulated; however, he asked if someone is deemed a repeat violator even though they continue to do it, as they know that often happens in the equestrian community during the equestrian season. Mr. Koch stated the one difference in a repeat violator status is the Village is not required to give them time to comply, and they go straight to a hearing.

Councilwoman Gerwig asked if Mr. Koch felt there was any reason not to give a \$500 penalty or if he could see it being less as a repeat violation, as he just said it should be the maximum. Mr. Koch stated in the case of a citation, by statute and ordinance they have to issue a warning first, so they have already had their warning. Councilwoman Gerwig thought they had already seen the magistrate for a repeat violation. Mr. Koch indicated that was not true with the citation process, as the citation process goes through circuit court. He said if they appeal the citation, it goes in front of a Circuit judge; however, the five year cease and desist is still enforced.

Councilwoman Gerwig asked if the \$500 fine was per day. Mr. Koch indicated it was per violation, so it would be \$500 per citation.

As an example, Councilwoman Gerwig stated she has five acres in the equestrian preserve area, has an agricultural exemption on her property and puts up a tent without a permit. She asked what Mr. Schofield thought about that. Mr. Schofield stated if they applied for an agricultural exemption under Florida Statute 604.50, they would be exempt from municipal regulation. Councilwoman Gerwig understood she could put up her tent without a permit as long as she had an agricultural exemption. Mr. Schofield stated if she was agriculturally exempt and did the paperwork, she would be exempt from the non-residential farm building, but it was not an exclusive exemption. Councilwoman Gerwig stated she was not dwelling in her tent, so it would be exempt. Mr. Schofield agreed, assuming she had the exemption.

Vice Mayor Greene stated this ordinance was not driven by him, as it was brought to Council a year ago and they never voted on it. He thought it was kicked back because there were a lot of unanswered questions and more work to be done on refining their code policy. He wanted everyone to know it was not about targeting any individual but about protecting everyone who was doing it the right way. He indicated businesses and homeowners pay the application fee, play by the rules and do

it the right way, and it was frustrating when their neighbor or business down the street does not do it the right way and without consequence. He said the message that those people have repeatedly sent to the community was that it was cheaper to not follow the rules. He wanted to do whatever it took to hold those who were not playing by the rules accountable. Vice Mayor Greene did not think this ordinance was enough, but he would live with it as they could always come back and revisit it.

Councilwoman Gerwig indicated they did not talk about this issue a year ago, as they had discussed \$5,000 fines for the first time. She understood they were just changing it to come into compliance with state law regarding their super priority lien and to make the table match the existing fine. Mr. Koch agreed, stating this was primarily a housekeeping update.

Mr. Schofield indicated, line 22 on page 107 of 129, the text of the code said all violations of the Code of Ordinances shall be considered a civil infraction with a maximum civil penalty not to exceed \$500. He stated they were not changing that. They were only changing the table as it referenced Notices by Citation to make those issues going to the court system have the same maximum daily fine as those subject to Special Magistrate review. He said it was not a guaranteed maximum, as it is up to \$500. So the Special Magistrate does not always apply a \$500 fine, and occasionally they only apply \$25 or \$100.

#### Public Hearing

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

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

**A motion was made by Councilman Willhite, seconded by Vice Mayor Greene, and unanimously passed (5-0) to approve Ordinance No. 2014-11 (Code Of Ordinance Chapter 2) as amended on First Reading.**

**B. 14-268 ORDINANCE NO. 2014-01 (UPDATED TRAVEL AND TRAINING REIMBURSEMENT POLICY)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF WELLINGTON, FLORIDA AMENDING CHAPTER 2 "ADMINISTRATION" DIVISION 3 "REIMBURSEMENT FOR TRAVEL AND TRAINING" OF THE CODE OF ORDINANCES OF THE VILLAGE OF WELLINGTON; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

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

Mr. Schofield explained there was an error in what had previously been presented and what was in the Code of Ordinances. The correction to the ordinance made it consistent with the Code.

#### Public Hearing

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

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

**A motion was made by Vice Mayor Greene, seconded by Councilman Willhite, and unanimously passed (5-0) to approve Ordinance No. 2014-01 (Updated Travel and Training Reimbursement Policy) as presented on First Reading.**

## **9. REGULAR AGENDA**

### **A. 14-274 RESOLUTION NO. R2014-25 (REQUEST FOR MONETARY SUPPORT FROM THE WESTERN COMMUNITIES COUNCIL TO ADVANCE SUPPORT OF THE SR7 EXTENSION PROJECT THROUGH THE HIRING OF A LOBBYIST)**

**A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING AND AUTHORIZING MONETARY SUPPORT FOR THE WESTERN COMMUNITIES COUNCIL TO ADVANCE SUPPORT OF THE SR7 EXTENSION PROJECT THROUGH THE HIRING OF A LOBBYIST; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Schofield introduced this item. He indicated he and Councilman Coates were members of the Western Communities Council (WCC). He explained the WCC had retained a lobbyist, Lewis, Longman & Walker, to support the extension of State Road 7 from its current terminus to Northlake Blvd. He stated the WCC was asking members to contribute \$10,000. He said Council had already approved \$5,000, so this would be an additional \$5,000. He mentioned Royal Palm Beach and Indian Trails had already made similar commitments. Mr. Schofield noted the importance of the State Road 7 project and staff was recommending support.

Councilwoman Gerwig thought it was an important issue for the Village, as it was not only a quality of life of issue but a safety issue for their residents. She felt the amount, and possibly even more, was worthy of their support.

Councilman Willhite concurred. He did not believe the SR7 extension would contaminate the City of West Palm Beach's water supply as some had argued. He thought it would have endless benefits to the Village of Wellington and Royal Palm Beach, because it would help with traffic, attract more businesses, and help in times of emergency for people to get north. He believed it would be inappropriate for someone to dictate what happens in the western community. He was in total support of this issue and appreciated the Western Communities Council for prioritizing it. Councilman Willhite agreed \$10,000 was nothing for the Village when other municipalities were spending hundreds of thousands of dollars to fight it.

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

1. Ken Adams, (no address given), Wellington. Mr. Adams talked about his familiarity with this project and property over the past 40 years. He explained the road does not and never belonged to Ibis. He thought the extension would help people when evacuating for a hurricane or getting a fire truck to a family. He hoped Council would do everything in their power to extend State Road 7.
2. Bart Novack, 15670 Cedar Grove Lane, Wellington. Mr. Novack asked how the extension of State Road 7 would affect the future development of thousands of homes in that area and if it would create more development. He was not opposed to it being used as an evacuation route.

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

Councilman Willhite explained the restriction placed on the land was a 120 foot easement along that corridor, with a proposed 40 feet on the western side. So 80 feet would still separate the road from the closest body of water with a swale and berm in the middle of it. He said when they talk about this being a significant sized road, it is already there, they do not have to acquire land and it has been previously routed. He thought they were fighting some political aspect trying to impact the western communities, which was why he is so supportive of it.

**A motion was made by Councilman Willhite, seconded by Councilman Coates, and unanimously passed (5-0) to approve Resolution No. R2014-25 (Request for Monetary Support From the Western Communities Council to Advance Support of the SR7 Extension Project Through the Hiring of a Lobbyist) as presented.**

**B. 14-287 RESOLUTION NO. R2014-24 (EQUESTRIAN VILLAGE SPU)**

**A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING A SPECIAL PERMIT FOR WELLINGTON CLASSIC DRESSAGE FOR USE OF THE TEMPORARY STABLING TENT LOCATED AT EQUESTRIAN VILLAGE FOR SEVEN (7) DAYS IN OCTOBER 2014; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Schofield introduced the item and read the Resolution by title. He indicated Mr. Stillings would make the presentation.

Mr. Stillings explained this was a special permit for a temporary tent because the Equestrian Village had a condition in its compatibility determination approval for the commercial equestrian arena limiting the tent to the period between January and March. He said the request was for a four day event in October and the tent would be up for no more than seven days. He stated the tent would be in the same location as the tent that was approved on the site plan for Equestrian Village and would have the same number of stalls. He indicated the applicant, Mrs. O'Sullivan, was there to answer any questions related to the event. Mr. Stillings noted the number of horses competing exceeded the number of stalls in the permanent barns and they needed to stable the competing horses on site. He stated the two permanent barns had 96 stalls each for a total of 192, and the temporary barn had 160 stalls. He said they anticipated 320 and 30 of the stalls were reserved for the riding school, which is why there is a shortage. He indicated the applicant was requesting Council approval, so they could then go to the Dressage Federation and ask for their permission to use this venue.

Councilman Coates asked how early the tent could be put up on the property under the Special Use Permit. Mr. Stillings stated the applicant could request a one month extension, but December 1<sup>st</sup> would be the earliest it could be put up. Councilman Coates said there was also a provision that stated the applicant could start putting up the tent 30 days prior to use. He asked if that meant the applicant could ask for an administrative extension from January 1<sup>st</sup> back to December 1<sup>st</sup> for use, which would then give them the ability to start putting up the tent on November 1<sup>st</sup>. He said he was raising the issue because of the expense to tear the tent down at the end of October and then put it back up at the beginning of November potentially. Mr. Stillings agreed that was what the condition said, but they had not yet been asked to consider that. He said the Village would need some justification to approve a one month extension as well as a month in advance to erect the tent.

Councilwoman Gerwig asked if 30 days prior would be December 1<sup>st</sup>. Councilman Coates indicated the use in the approval was from January to March, but a 30 day extension request where it could be

administratively approved would push the use back to December 1<sup>st</sup>. He stated that tied in with the provision that said the applicant could start putting the tent up 30 days prior to use, so the tent could be erected November 1<sup>st</sup>.

Councilman Coates understood the cost of deconstructing the tent was from \$25,000 to \$40,000. He said they were only talking about 15 or 20 days and the tent would not be used, so he did not see the need to tear it down. He asked if staff looked at that issue. Mr. Stillings stated they looked at it, but they did not receive a request to have the tent put up sooner. Councilman Coates indicated it would be up before January 1<sup>st</sup> because that would be the first day of use. Mr. Stillings stated they expected the tent would be erected in mid-December, so barring a request that is how they viewed this application. Councilman Coates asked, without a request for an extension and just going by history, if the applicant could actually start putting the tent up and be in full compliance with the approvals as of December 1<sup>st</sup>. Mr. Stillings said they could.

Councilwoman Gerwig asked if this would preclude another entity from asking for that additional consideration by approving this or were they going to instruct them to take it down. Mr. Stillings stated as a part of this request the applicant would take the tent down by October 22<sup>nd</sup>. Councilwoman Gerwig thought they could amend it if it was requested, as she agreed it would be senseless to tear it down; however, she did not want to hold up this Special Use Permit for that purpose.

Councilman Coates reiterated that he believed under the current approvals, the applicant could start putting up the tent without an extension as of December 1<sup>st</sup> and that potentially could be pushed back to November 1<sup>st</sup> if they requested an extension and it was administratively approved; however, he understood no request for an extension had been made. He noted the applicant would save \$40,000 if the Village allowed the tent to stay on the property and not be used for approximately 35 days. Councilman Coates stated the current teardown date was October 22<sup>nd</sup>, so it would be 38 or 39 days.

Councilman Willhite thought the owner was leasing the property, so it would be two separate people. He said this Special Use Permit was just requesting a timeframe change, and the owner was not requesting it. He thought it would work if the applicant had coordinated it, but they were not asking for an extension at this point. He did not know if it would impact or slow down this Special Use Permit, or if the owner would want the tent to stay up.

Councilman Willhite indicated page 5 of the application listed the owner as Michael Stone. He asked if Michael Stone was the owner of the property. Mr. Stillings thought he was a registered agent who signed for the owner. Councilman Willhite stated it was noted there, and noted that Council has previously requested that when people are representing someone else they either note it or indicate they have a Power of Attorney. Ms. Cohen thought they should get the Power of Attorney or other document to support this. Councilman Willhite indicated this was to protect the Lessee, so they know they are dealing with the proper owner. Ms. Cohen said they would look at it and ask for additional documentation if need be.

Vice Mayor Greene asked the applicant to speak on this issue. The applicant, Noreen O'Sullivan, 14457 Draft Horse Lane, indicated Mr. Stone signed on behalf of Equestrian Sport Productions. She stated he was unclear when he signed the application, so he submitted a list of the owners. Mayor Margolis believed Ms. Cohen needed documentation saying Mr. Stone had been given a Power of Attorney. Ms. O'Sullivan indicated Mr. Stone was the President of Equestrian Sports Production and not the owner of the property.

Councilman Willhite was agreeable to the tent for this period of time, but if it was going to be more permanent or if they were going to consider leaving the tent up the entire time, additional shielding

would be needed between the tent and the eastern area. So if the tent was going to stay there and become useful December 1<sup>st</sup>, it would be on the owner to start putting that in place.

Councilwoman Gerwig did not think they were considering that at this point. She understood Councilman Coates brought it up and the applicant did not request it.

Councilman Coates thought it would be a waste of \$40,000 if they were required to tear it down. Ms. O'Sullivan indicated they could have split the cost, but if it has to come down they will each have to pay that same cost twice. She said Councilman Coates brought up this point, as they had not even thought about it, but it would be much more economical to do it this way.

Vice Mayor Greene asked if \$40,000 was an accurate figure. Ms. O'Sullivan stated it was an accurate figure to put the tent up and tear it down. She indicated it would have to be paid twice if it is used for the event in October, tore down, and then put up again for the season. Otherwise, they could share the cost or prorate the days they were using it from their cost. She noted it was for the Wellington Classic Dressage and it was a for-profit event.

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

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

**A motion was made by Councilman Willhite, seconded by Vice Mayor Greene, and unanimously passed (5-0) to approve Resolution No. R2014-24 (Equestrian Village SPU) as presented.**

## **10. PUBLIC FORUM**

1. Bart Novack, 15670 Cedar Grove Lane, Wellington. Mr. Novack wanted Council to do something about the missing documents that he read about in the paper. He questioned when the Village was going back to a five day work week and if it is a cost savings. He thought people in upper management should follow a Code of Conduct, as he had asked for someone to resign. He felt the Village had a lot of upper management, and they should look at reducing their overhead.

Mr. Schofield clarified Mr. Novack did not ask for his resignation, as he asked for the resignation of one of his directors.

Mayor Margolis asked Mr. Schofield to meet with Mr. Novack regarding the five day work week. Mr. Schofield stated that he would meet with him, as they do not normally answer those questions at this time. He mentioned that part of their budget process this year will be to transition back to the five day work week.

## **11. ATTORNEY'S REPORT**

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

- Ms. Cohen indicated she had no report.

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

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

- The next regular Wellington Council Meeting is scheduled for Tuesday, April 22, 2014, at 7:00 p.m. in the Council Chambers.
- A request was received from the Council of Community Associates for the use of Wellington's Council Chambers for two candidate forums, one for the primaries and one for the general election. Council agreed to the use of the Council Chambers for the candidate forums.
- The Solid Waste Authority will be meeting tomorrow to consider a proposal to accept waste from outside Palm Beach County at a tipping fee of \$25.00 per ton while Palm Beach County residents pay \$42.00 per ton for the same service. Mr. Schofield was seeking authorization for him and Mayor Margolis to attend the Solid Waste Authority meeting and voice their objections to that proposal. Council provided that authorization.
- The Village is accepting applications for its high school summer intern program. Space is limited, so students are encouraged to apply. Those interested can contact Scott Campbell at 791-4105 or look on the Village website.

### 13. COUNCIL REPORTS

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

- She felt it was an affront to her personally as well as to women in general that she was not designated as the Vice Mayor especially since she has faithfully served the Village. Councilwoman Gerwig pointed out that she was re-elected with 63% of the vote, and although she might not be the Council's choice, she would be perfectly happy to be the people's choice. She felt that the action was a declaration of war, that it was not a smart move to not appoint her as Vice Mayor and believed it set a very bad precedent.
- She said she had a very nice evening Friday night at the Amphitheater noting that Joe Piconcelli had done a spectacular job with the high school musical preview. She announced that Palm Beach Central High School was presenting *Beauty and the Beast* this week at their auditorium and the King's Academy's production of *Phantom of the Opera* starts April 24<sup>th</sup>. She said Wellington High School was doing their musical this week or next. She encouraged everyone to get out and see some of their local talent.

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

- He thought that the customs and practices of this Council are important and haphazardly dispensing of them does a disservice to this community. He felt that such an action creates tension and acrimony where it normally need not occur. Councilman Coates made a commitment to Councilwoman Gerwig that two years from now they will still be Council, he will speak first to nominate her for Vice Mayor. He thought that Council should have stood on form and custom and appointed her as the Vice Mayor. He stated this was not an affront to Vice Mayor Greene at all as he was nominated by Councilman Willhite. Councilman Coates reiterated that their practices and procedures were important and he believed to dispense with custom because of political differences sets a bad precedent for this community. He hoped that they had gotten past what they had to deal with over the past two years, but he believed this action tells him that they may not be any further along to healing.

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

- He thanked Councilman Willhite and Mayor Margolis for their support noting that he was surprised and flattered by the nomination. He did not believe that there was an attempt to start war or continuing a war that was started two elections ago. He also did not believe this was an affront to women. He found Councilwoman Gerwig's comments to be unprofessional, and

he was insulted by them. Vice Mayor Greene stated he looked forward to serving this community.

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

- He thanked staff for their hard work on the blue roof house. He thought it was a big step forward working on some of the problematic neighborhoods. He felt Council's decision to move forward sends a message to the landlords and banks that do not want to work with the Village as well as any individual that feels like Council is not interested in their community. Councilman Willhite indicated their attorney worked diligently at the courthouse and held the bank to their feet. He noted that waiting until the 11<sup>th</sup> hour to ask for an extension was too late considering all of the work that needed to be done. He appreciated that this action was happening.
- He requested that Mr. Schofield provide Council with the Landlord 441 information that he had previously requested.
- Councilman Willhite asked for an update from staff noting there has been a lot of work going on in the Palm Beach Point bridal trail area that goes over Section 24. He knew there were some concerns concerning the guardhouse. He was aware there was a meeting with the landowners of Grand Prix Village about continuing the bridal trail there. He stated he traveled that road yesterday and spoke of its poor condition. Councilman Willhite wanted to move forward on that aspect of their bridle trails system.
- He stated he had requested some documentation relating to some other discussion items they have had. He said in the reading them, he found that Council had made a motion for something to come back time certain which never happened. He questioned what happens when Council gives such direction and it doesn't occur. He asked if that was practice or policy. Ms. Cohen said if it did not come back to Council, they would certainly have the ability to request that it be brought back, but she would have to look in Robert's Rules and see if there is any rule that addresses that issue. She would provide that information to Council either by memo or at the next meeting.
- He asked if Lyons Road was the Village's responsibility or was it more of the County's. He said as he traveled down Lyons Road, he noticed that road south of Forest Hill is landscaped beautifully and he knows that is under a developer's agreement. He said that north of Forest Hill was just an ugly median; however, it is still in the boundaries of Wellington, and he felt it should be consistent with the appearance of Wellington that the rest of Lyons Road has. Mr. Schofield stated he would have to look into that. He was not certain Lyons Road north of Forest Hill is in the boundary. He stated that if Council wants a landscaping project there, they will put a line item for a capital project in the budget and Council can vote on it.
- Councilman Willhite noted that there was a differentiation in the speed limit on Stribling between 441 and Lyons noting that the speed limit changes multiple times there. He asked if there was a reason for that, and if Wellington controls the speed there. Mr. Schofield stated that Wellington controls the speed limit on Stribling. He said there is a small part that is located in the Equestrian Preserve, but he was not sure what the speed limit is. Councilman Willhite indicated the portion he was referring to was east of 441. Mr. Schofield stated east of 441, Stribling was a Village roadway, and it should be marked consistently with every other collector road.
- Councilman Willhite pointed out that they were still having issues with Comcast. He did not know if they had any control over it, but he was hoping that as the IT Director explained at the Agenda Review, he was trying to work things out. Mr. Schofield indicated they should have seen significant improvements in the Webcast. He stated they have no control over what Comcast does once it leaves the building, but there are some upgrades happening to the Webcast portion of it. He said he would have Mr. Silliman sit with him and go through them.

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

- He stated they were up in Tallahassee last week, and he believed their lobbyist was going to be giving them a presentation at the end of the legislative session. Mr. Schofield thought they were looking at May 13<sup>th</sup>. Mayor Margolis asked Mr. Schofield to give them a five minute update of what has transpired to date. He wanted the residents to understand the ramifications of some of those laws if in fact they get passed. Mr. Schofield indicated it would be on the next agenda.

#### **14. ADJOURNMENT**

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

**Approved:**

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**Bob Margolis, Mayor**

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**Awilda Rodriguez, Clerk**



## Legislation Text

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**File #:** 13-0424, **Version:** 1

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**ITEM: RESOLUTION NO. R2014-28 (TENNIS CENTER MANAGEMENT AND MAINTENANCE AGREEMENT)**

**A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING RENEWAL OF AN EXISTING CONTRACT WITH CHEATHAM, INC. TO PROVIDE TENNIS CENTER MANAGEMENT AND MAINTENANCE SERVICES; AND PROVIDING AN EFFECTIVE DATE.**

**REQUEST:** Approval of Resolution No. R2014-28 renewing an existing contract with Cheatham, Inc. to provide tennis center management and maintenance.

**EXPLANATION:** The Parks and Recreation Department currently utilizes a contract with Cheatham, Inc. for the operation and maintenance of the tennis center. The initial term of the contract was for one (1) year with the provision for four (4) additional one (1) year renewals.

On September 11, 2012 Council approved the third renewal option valid through September 30, 2014. As part of the contract, any additional renewals must be executed by both parties on or before June 1<sup>st</sup> of each year.

Staff has evaluated Cheatham, Inc.'s contract for compliance covering the 2013 fiscal year based on the terms and conditions outlined in the existing agreement. In addition, a review of Cheatham's financial reporting in accordance with the agreement was conducted. A report on all findings is attached for reference.

Staff recommends exercising the final renewal option effective from October 1, 2014 until the opening of the new tennis center facility, which is not expected until May 2015. Staff will re-bid these services in late 2014 with the intention of having a new contract in place for the opening of the new facility.

**BUDGET AMENDMENT REQUIRED:** NO

**PUBLIC HEARING:** NO

**QUASI-JUDICIAL:**

**FIRST READING:**

**SECOND READING:**

**LEGAL SUFFICIENCY:** YES

**FISCAL IMPACT:** Revenues and expenditures will be budgeted in the proposed fiscal year 2015 budget.

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Approval of Resolution R2014-28 renewing an existing contract with Cheatham, Inc. to provide tennis center maintenance and operations.

**RESOLUTION NO. R2014-28****A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL  
APPROVING RENEWAL OF AN EXISTING CONTRACT  
WITH CHEATHAM, INC. TO PROVIDE TENNIS CENTER  
MANAGEMENT AND MAINTENANCE SERVICES; AND  
PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on September 30, 2010 through Resolution R2010-58, a contract was entered into entitled "Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham, Inc." (copy attached as Exhibit "B") for operation and maintenance of the tennis center; and

**WHEREAS**, pursuant to Paragraph 4 of the Agreement, the parties have the ability to renew the Agreement on an annual basis and such renewal is required to be executed by the parties on or before June 1<sup>st</sup> of each year; and

**WHEREAS**, the initial term of the Agreement was for a term of one (1) year with the provision for four (4) additional one (1) year renewals; and

**WHEREAS**, the parties have exercised their ability to renew the agreement annually through the approval of Amendments No. 1 thru 3, with Amendment No. 3 containing an expiration of September 30, 2014; and

**WHEREAS**, the parties mutually desire to extend the Agreement for a fifth year and exercise their final renewal option effective from October 1, 2014 until the opening of the new tennis center facility expected on or after May 2015.

**NOW, THEREFORE, BE IT RESOLVED BY WELLINGTON, FLORIDA'S COUNCIL** that:

**SECTION 1.** The foregoing recitals are hereby affirmed and ratified as being true and correct.

**SECTION 2.** The Wellington Council hereby accepts and approved Amendment No. 4 to the Tennis Center Management and Maintenance Agreement between Wellington and Cheatham, Inc. and hereby authorizes the Village Manager and Clerk to execute the Amendment attached hereto as Exhibit "A".

**SECTION 3.** This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** this 13<sup>th</sup> day of May, 2014.

**ATTEST:**

**WELLINGTON**

1  
2 By: \_\_\_\_\_  
3 Awilda Rodriguez, Clerk

By: \_\_\_\_\_  
Bob Margolis, Mayor

4  
5 **APPROVED AS TO FORM**  
6 **AND LEGAL SUFFICIENCY**

7  
8  
9 By: \_\_\_\_\_  
10 Megan Rogers, Assistant Village Attorney

EXHIBIT A
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**AMENDMENT NO. 4 OF THE TENNIS CENTER MANAGEMENT AND MAINTENANCE SERVICES AGREEMENT BETWEEN WELLINGTON AND CHEATHAM INC., FOR A ONE YEAR TERM BEGINNING OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2015**

COMES NOW, this \_\_\_\_ day of \_\_\_\_\_, 2014, the Village of Wellington, a Florida municipal corporation (hereinafter referred to as "Wellington"), and Cheatham, Inc., a Florida for Profit corporation with offices located at 1768 Hollyhock Road, Wellington, Florida, 33414 (hereinafter referred to as "Cheatham") and exercise their rights under the Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham, Inc., dated September 23, 2010 and extend the term of the agreement for a fifth year being from October 1, 2014 to September 30, 2015:

**WHEREAS**, in June, 2010, Wellington issued a request for proposal entitled "Tennis Center Management and Maintenance Services RFP 014-10/JM" seeking proposals for the operation and maintenance of its tennis center located at the Wellington Community Center, 12165 Forest Hill Boulevard, Wellington, Florida 33441; and

**WHEREAS**, Cheatham responded to the RFP and was selected by Wellington's Council to be the operator and maintenance provider for the tennis center; and

**WHEREAS**, a contract between the parties was entered into entitled Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham, Inc. dated September 30, 2010 (the "Agreement") ( a copy of which is attached hereto and incorporated herein as **Exhibit B**); and

**WHEREAS**, pursuant to paragraph 4 of the Agreement, the parties have the ability to renew the Agreement on an annual basis; and

**WHEREAS**, the parties have exercised their ability to renew the agreement annually through the approval of Amendments No. 1 thru 3, with Amendment No. 3 containing an expiration of September 2014;

**WHEREAS**, the parties mutually desire to extend the Agreement for an additional (fifth) year from October 1, 2014 to September 30, 2015, subject to the same terms and conditions as set forth in the Agreement, as amended ("Amendment No. 4"); and

**WHEREAS**, the extension from October 1, 2014 to September 30, 2015 shall be cancellable by Wellington on or before May 1, 2015, in anticipation of the completion of a new, relocated tennis facility.

NOW THEREFORE, in consideration and mutual obligation set forth below, Cheatham and Wellington hereby agree as follows:

1. The foregoing whereas clauses are true and correct and are incorporated herein by this reference.

2. The Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham shall be extended for a final one year period from October 1, 2014 to September 30, 2015.

3. This fourth renewal of the Agreement shall be cancellable by Wellington, without penalty to Wellington, on or before May 1, 2015, in anticipation of the completion of a new, relocated tennis facility.

4. All terms and conditions of the Agreement, except as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, and this Amendment No.4 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Wellington and Cheatham have executed this Amendment No. 4 to the Agreement as of the day and year first written above.

CHEATHAM, INC.

\_\_\_\_\_  
Name: Tommy Cheatham  
Title: President

Seal:

STATE OF FLORIDA

COUNTY OF PALM BEACH

Before me, the undersigned authority, personally appeared \_\_\_\_\_, who produced as identification a \_\_\_\_\_ Driver's License, showing him/her to be the person described in and who executed the foregoing instrument as \_\_\_\_\_ of CHEATHAM, INC., a Florida corporation and did acknowledge before me that he/she executed the same for and on behalf of said corporation as such officer by due and regular corporate and company authority.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Notary Public

State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

ATTEST:

VILLAGE OF WELLINGTON

By: \_\_\_\_\_  
Awilda Rodriquez, Clerk

By: \_\_\_\_\_  
Paul Schofield, Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: \_\_\_\_\_  
Megan C. Rogers, Assistant Village Attorney

**RESOLUTION NO. R2012-55****A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL  
APPROVING AMENDMENT #2 AND AMENDMENT #3 TO  
THE TENNIS CENTER MANAGEMENT AND  
MAINTENANCE AGREEMENT BETWEEN WELLINGTON  
AND CHEATHAM, INC. EXTENDING SAID AGREEMENT  
FOR THE 2012-2013 AND 2013-2014 FISCAL YEARS; AND  
PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, in June, 2010, Wellington issued a request for proposal entitled "Tennis Center Management and Maintenance Services RFP #014-10/JM" seeking proposals for the operation and maintenance of its tennis center located at the Wellington Community Center, 12165 Forest Hill Boulevard, Wellington, Florida 33414; and

**WHEREAS**, Cheatham, Inc. was selected by Wellington's Council to be the operator and maintenance provider for the tennis center; and

**WHEREAS**, a contract between the parties was entered into entitled "Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham, Inc." dated September 30, 2010 (a copy of which is attached hereto and incorporated herein as Exhibit "A"); and

**WHEREAS**, pursuant to paragraph 4 of the Agreement, the parties have the ability to renew the agreement on an annual basis and such renewal is required to be executed by the parties on or before June 1<sup>st</sup> of each year; and

**WHEREAS**, in June, 2011, the parties agreed to extend the Agreement for a second year from October 1, 2011 to September 30, 2012 ("Amendment No. 1"); and

**WHEREAS**, the parties mutually desire to extend the Agreement for an additional (third) year from October 1, 2012 to September 30, 2013, subject to the same terms and conditions as set forth in the Agreement, as amended by Amendment No. 1 and this Amendment No. 2 to the Agreement; and

**WHEREAS**, the parties mutually desire to extend the deadline for the renewal of the third year of the Agreement from June 1, 2012 to September 15, 2012; and

**WHEREAS**, the parties mutually desire to extend the Agreement for an additional (fourth) year from October 1, 2013 to September 30, 2014, subject to the same terms and conditions as set forth in the Agreement, as amended ("Amendment No. 3"); and

**WHEREAS**, the extension from October 1, 2013 to September 30, 2014 shall be cancellable by Wellington on or before March 1, 2013, in anticipation of the completion

1 of a new, relocated tennis facility or, in the alternative, upon a decision by the  
2 Wellington Council to keep the tennis facility at its current location.

3  
4 **NOW, THEREFORE, BE IT RESOLVED BY WELLINGTON, FLORIDA'S**  
5 **COUNCIL that:**

6  
7 **SECTION 1.** The foregoing recitals are hereby affirmed and ratified.

8  
9 **SECTION 2.** The Wellington Council hereby accepts and approves Amendment  
10 No. 2 and Amendment No. 3 to the Tennis Center Management and Maintenance  
11 Agreement between Wellington and Cheatham, Inc. and hereby authorizes the Village  
12 manager and Clerk to execute the Amendments attached hereto as Exhibit "B" and "C".

13  
14 **SECTION 3.** This Resolution shall become effective immediately upon adoption.

15  
16 **PASSED AND ADOPTED** this 11<sup>th</sup> day of September, 2012.

17  
18 **ATTEST:**

**WELLINGTON**

19  
20 By: Awilda Rodriguez  
21 Awilda Rodriguez, Wellington Clerk  
22

By: Bob Margolis  
Bob Margolis, Mayor

23  
24 **APPROVED AS TO FORM**  
25 **AND LEGAL SUFFICIENCY**

26  
27 By: Jeffrey S. Kurtz  
28 Jeffrey S. Kurtz, Attorney for Wellington  
29  
30  
31

**RESOLUTION NO. R2010-58****A RESOLUTION OF WELLINGTON, FLORIDA'S  
COUNCIL APPROVING THE TENNIS CENTER  
MANAGEMENT AND MAINTENANCE AGREEMENT  
BETWEEN WELLINGTON AND CHEATHAM, INC.; AND  
PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Wellington issued a Request for Proposals entitled "Tennis Center Management and/Maintenance Services RFP #014-10/JM" in June of 2010 seeking proposals for the operation and maintenance of its tennis center located at the Wellington Community Center, 12165 Forest Hill Boulevard, Wellington, Florida 33414; and

**WHEREAS**, Cheatham responded to the RFP and was selected by Wellington's Council to be the operator and maintenance provider for the tennis center; and

**WHEREAS**, Cheatham desires to provide the tennis center maintenance and operation services on behalf of Wellington and Wellington desires for Cheatham to perform those services subject upon the terms and conditions set forth in this Agreement; and

**NOW, THEREFORE, BE IT RESOLVED BY WELLINGTON'S COUNCIL OF WELLINGTON, FLORIDA that:**

**SECTION 1.** The foregoing recitals are hereby affirmed and ratified.

**SECTION 2.** The Council hereby accepts and approves the Tennis Center Management and Maintenance Agreement between Cheatham, Inc. and Wellington and hereby authorizes the Mayor and Clerk to execute the Agreement attached hereto as Exhibit "A".

**SECTION 3.** This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** this 13<sup>th</sup> day of September, 2010.

**ATTEST:**

BY:

  
Awilda Rodriguez, Wellington Clerk

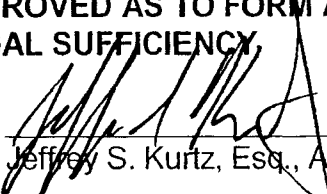
**VILLAGE OF WELLINGTON**

By:

  
Darell Bowen, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY,**

BY:

  
Jeffrey S. Kurtz, Esq., Attorney for Wellington

**TENNIS CENTER MANAGEMENT AND  
MAINTENANCE SERVICES AGREEMENT BETWEEN  
WELLINGTON AND CHEATHAM, INC.**

September, 2010

## Table of Contents

1. Recitals . . . . .	Page 1
2. Scope of Services . . . . .	Page 1
3. Tennis Center Description . . . . .	Page 2
4. Term of Agreement. . . . .	Page 3
5. Compensation . . . . .	Page 3
6. Responsibilities for Cheatham for Tennis Center Management. . . . .	Page 4
7. Tennis Center Hours of Operation . . . . .	Page 5
8. Court Schedule . . . . .	Page 6
9. Tournament Schedules . . . . .	Page 6
10. Cheatham Responsibilities for Maintenance Services. . . . .	Page 6
11. Maintenance of Licenses and Permits . . . . .	Page 7
12. Taxes . . . . .	Page 8
13. Insurance . . . . .	Page 8
14. Indemnification . . . . .	Page 8
15. Background Checks . . . . .	Page 8
16. Purchasing Authority . . . . .	Page 9
17. Fees paid to Wellington . . . . .	Page 9
18. Accounting Procedures . . . . .	Page 9
19. Key Personnel . . . . .	Page 10
20. Wellington Not Responsible for Employee Compensation or Benefits . . . . .	Page 11
21. Advertising and Promotions . . . . .	Page 11
22. Utility Services . . . . .	Page 11
23. Capital Maintenance and Repair . . . . .	Page 11
24. Termination . . . . .	Page 11
25. Notice . . . . .	Page 12

26. Uncontrollable Forces . . . . .	Page 13
27. Non-Discrimination . . . . .	Page 13
28. Waiver . . . . .	Page 14
29. Governing Law and Venue . . . . .	Page 14
30. Severability . . . . .	Page 14
31. Modification . . . . .	Page 14
32. Entirety on the Agreement . . . . .	Page 14
Exhibit "A" - Wellington Tennis Center Program and Lesson Fees for 2010-2011	Page 16

**TENNIS CENTER MANAGEMENT AND MAINTENANCE SERVICES  
AGREEMENT BETWEEN WELLINGTON AND CHEATHAM, INC.**

September, 2010

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of September, 2010, by and between the Village of Wellington, a Florida Municipal Corporation (hereinafter referred to as "Wellington"), and Cheatham, Inc., a Florida For Profit Corporation, with offices located at 1768 Hollyhock Road, Wellington, Florida 33414 (hereinafter referred to as "Cheatham").

WHEREAS, Wellington issued a Request for Proposals entitled "Tennis Center Management and Maintenance Services RFP #014-10/JM" in June of 2010 seeking proposals for the operation and maintenance of its tennis center located at the Wellington Community Center, 12165 Forest Hill Boulevard, Wellington, Florida 33414; and

WHEREAS, Cheatham responded to the RFP and was selected by Wellington's Council to be the operator and maintenance provider for the tennis center; and

WHEREAS, Cheatham desires to provide the tennis center maintenance and operation services on behalf of Wellington and Wellington desires for Cheatham to perform those services subject upon the terms and conditions set forth in this Agreement; and

WHEREAS, Cheatham shall at all times faithfully and industriously and to the best of their ability, experience and talent perform all duties that may be required of and from them pursuant to the express and implied terms articulated herein to the reasonable satisfaction of Wellington.

NOW, THEREFORE, in consideration of the mutual obligations set forth below, Cheatham and Wellington hereby agree as follows:

1. **RECITALS.**

The foregoing recitals are true and correct and are incorporated herein by reference.

2. **SCOPE OF SERVICES.**

Cheatham shall direct and oversee the operations and maintenance of the tennis center located at the Wellington Community Center, 12165 Forest Hill Boulevard, Wellington, Florida 33414 for the duration of this Agreement. These services will include: assuming primary responsibility of the operation of the tennis center including, fiscal management of same and coordinating with Wellington Parks & Recreation Department for the scheduling of tennis courts, instructions and

clinics and supervision of the tennis center and facilities and related staff. Cheatham will operate and manage a tennis pro shop to be located at the tennis center offering to the public tennis balls, rackets, tennis wear and other tennis related accessories. Cheatham shall be responsible for selecting and purchasing the inventory, maintain stock, selling merchandise and managing the staff of the tennis pro shop. Cheatham shall be responsible for all duties related to bookkeeping and accounting and any and all state and federal financial reporting requirements and shall insure that the tennis pro shop is adequately stocked at all times with high and medium quality merchandise. Cheatham will also provide maintenance services for the tennis courts as specifically set forth below. Cheatham will provide quality tennis instruction for individuals or groups and promote general and tournament use of the tennis center facilities. The fees for such services including annual passes and daily use of the tennis center shall be set by Cheatham but are subject to the approval of the Wellington's Parks & Recreation Director. All duties and responsibilities shall be performed by Cheatham subject to the review and coordination of same with the Wellington Parks & Recreation Department.

### 3. TENNIS CENTER DESCRIPTION.

The tennis center is currently part of the Wellington's Community Center located at 12165 Forest Hill Boulevard, Wellington, Florida. The tennis center facilities that are subject of this Agreement and made available for the use of Cheatham consist of the following:

- a. 16, lighted, hard true clay tennis courts;
- b. 10X15 maintenance shed adjacent to the courts;
- c. Tennis pro shop consisting of customer service counter, merchandise display area and two offices totaling approximately 1,200 square feet;
- d. One men's restroom/locker room area of approximately 600 square feet;
- e. One women's restroom/locker room area of approximately 600 square feet;
- f. Immediately adjacent to the tennis pro shop is a concrete deck of approximately 1,600 square feet covered with a canvas canopy overlooking the tennis courts with patio tables and chairs on the set on the deck;
- g. Parking lot adjoining the Wellington Community Center which is available for tennis center patrons;

During the term of this Agreement the Wellington Community Center may be renovated requiring the relocation of the pro shop, restroom/locker room areas and maintenance shed, and deck area. Cheatham understands that the relocation and/or reconfiguration of those areas are a possibility and the design and allocation of space are solely up to the discretion of Wellington. If the Community Center is renovated, space will be provided for tennis operations but

the extent and nature of those areas are solely up to the discretion of Wellington. Cheatham understands that there is no guarantee as to the amount of space that will be dedicated to tennis operations or its location and further understands that movement to temporary facilities may be necessary during the course of the construction or renovation. Wellington will provide temporary facilities during at the time of such reconstruction or renovation. However, Wellington will be the sole determiner of the extent nature and adequacy of those temporary facilities. Cheatham understands that a reduction in the size, nature or quality of the facilities and location is not the basis for their termination of the Agreement or a lessening of their obligations under this Agreement including any fees that may be payable by them to Wellington. Wellington shall insure that the Community Center architect, engineer, design consultants and staff provide notice to Cheatham during the preliminary design process and advise Cheatham in regard to the design, set up and location of the tennis center offices, pro shop and covered deck. Wellington shall provide Tommy Cheatham and Cheatham, Inc. with a minimum of sixty (60) days notice prior to the commencement of any demolition or construction at the Community Center/Tennis Center.

4. TERM OF THE AGREEMENT.

The effective date of this Agreement is October 1, 2010. The term of the Agreement shall be for one (1) year beginning on October 1, 2010 and ending on September 30, 2011 and may be renewed by the parties for up to four (4) additional one (1) year renewal periods. The renewals shall be under the same terms and conditions as set forth in this Agreement unless mutually agreed to by the parties in writing. The renewal Agreements shall be executed by the parties on or before June 1<sup>st</sup> of each year. In the event a renewal has not been executed by the parties on or before June 1<sup>st</sup>, Cheatham shall be prepared to vacate the premises and close down its operations by the end of its term. In the event of a transition in management and/or maintenance services to another party, Cheatham shall cooperate with the successor party to make a smooth and cohesive transition.

5. COMPENSATION.

As compensation for the services rendered during the term of this Agreement, Cheatham shall receive 100% of all tennis center revenues including annual pass fees, daily fees, lesson fees, tournaments, camp fees, revenues derived from the sale of goods and services at the pro shop and any other activity generating revenue by the tennis center. In addition for the maintenance services to be provided hereunder Wellington shall pay Cheatham in equal quarterly installments due on the 1<sup>st</sup> day of each quarter and payable by the 10<sup>th</sup> day of each quarter the annual sum of \$110,000.00 (110,000.00) dollars.

6. RESPONSIBILITIES FOR CHEATHAM FOR TENNIS CENTER MANAGEMENT.

Cheatham agrees to provide the public with tennis instruction and promote the game of tennis and use of the tennis center as follows:

- a. Cheatham must employ at least one person who is a USPTA Certified Professional.
- b. Provide sufficient qualified staff (over the age of 16) to provide the services herein.
- c. Complete Wellington's mandated background screening check for Cheatham and all personnel, instructors, staff, or contractors associated with provision of tennis management and maintenance services. Cheatham is to pay for all background screening costs.
- d. Cheatham is responsible for hiring and compensating the staff and professionals required to operate the Tennis Center.
- e. Direct and manage the operation of the Tennis Center at the Wellington Community Center.
- f. Fiscally manage the Tennis Center in coordination with the Wellington Parks and Recreation Department. Maintain complete accounting records and implement appropriate account controls consistent with standard business practices. Accounting records shall be available for audit/inspection by Wellington during regular working hours.
- g. Establish the rates for annual passes, private lessons, group lessons, clinics, camps, and league participation, etc. Provided, however; the rates are subject to Wellington approval and cannot be amended without prior approval by Wellington. The approved rates to be in effect from October 1, 2010 to September 30, 2011 are those set forth in Exhibit "A" attached hereto. On an annual basis increases in the rates, from those previously approved, of 10% or less shall be deemed approved so long as Wellington has received notice of the change at least 60 days prior to the advertisement of the new rates to customers and the new rates are effective on or after the renewal date of the Agreement. Interim changes in the rates or charges must be specifically approved by Wellington.

- h. Schedule use of the tennis courts and provide tennis instructions and clinics.
- i. Supervise the Tennis Center and any tennis contractual staff.
- j. Operate and manage a Tennis Pro Shop offering clientele and the public tennis balls and rackets, tennis wear, and other tennis related accessories.
- k. Select and purchase Tennis Pro Shop inventory, maintain stock, and sell merchandise. Inventory is to be adequately stocked at all times with high and medium quality merchandise.
- l. Provide all duties related to tennis center bookkeeping and state and federal financial reporting requirements.
- m. Provide quality tennis instruction for individuals or groups and promote general and tournament use of the Tennis Center.
- n. Have a manager who maintains an office schedule comprising a minimum of ten (10) hours per week for administrative functions and duties.
- o. Management activities are not to infringe upon the public's use and enjoyment of the Tennis Center, except as in accordance with this agreement and the rules and regulations provided by Wellington.
- p. Provide all equipment, which includes balls, ball machines, racquets and any other necessary equipment, required to conduct lessons, clinics, camps, etc.
- q. Distribute to their customers an annual customer satisfaction survey and provide annual results to Wellington. Wellington will prepare the survey and be responsible for any mailing and copying costs associated with the survey.

7. TENNIS CENTER HOURS OF OPERATION.

- a. Open every day throughout the year, weather permitting, at hours which are consistent with tennis industry practices and the community's needs, except for Thanksgiving Day, the day after Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Day.

- b. The Tennis Center is at a minimum to be accessible to the public from 8:00 a.m. to 10:00 p.m., Monday through Thursday, and from 8:00 a.m. through 5:00 p.m. on Fridays, Saturdays, and Sundays.
- c. The Tennis Center is to be accessible on certain holidays, as defined by Wellington, except for Thanksgiving Day, the day after Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Day.

8. COURT SCHEDULE.

At all times, a minimum of two (2) courts will be available for general public use subject to either daily or annual fees. This schedule may be revised from time to time by Wellington.

9. TOURNAMENT SCHEDULES.

The Organization and conduct of tennis tournaments by Cheatham is permissible. The annual schedule for these tournaments is to be submitted to the Parks and Recreation Director for approval prior to October 1<sup>st</sup> of each year.

10. CHEATHAM RESPONSIBILITIES FOR MAINTENANCE SERVICES.

All maintenance (internal/external/minor) of the Tennis Center, including the Tennis Pro Shop, is the responsibility of Cheatham. All tools and equipment for the Tennis Center maintenance will be the sole responsibility of Cheatham. All equipment, materials, and supplies to maintain the tennis courts will be the responsibility of Cheatham. Maintenance duties include:

- a. Drag all tennis courts three (3) times each day.
- b. Brush all of the lines on the courts three (3) times each day.
- c. Water all of the courts three (3) times each day.
- d. Blow off all of the concrete pads and sidewalks two (2) times each day.
- e. Re-organize chairs in the proper positions.
- f. Pick up all the trash and tennis balls lying around three (3) times each day.
- g. Change all of the garbage bags around the Tennis Center and inside the Tennis Pro Shop.
- h. Add additional clay to the courts, when needed, in low areas.

- i. After heavy rains, add additional clay to washed out areas of the courts.
- j. Zip-tie and/or replace the windscreen or nets that have become loose or have ripped.
- k. Unlock all gates in the morning and lock all gates at night.
- l. Clean Tennis Center restrooms and replenish supplies.
- m. Vacuum the Tennis Pro Shop.
- n. Remove and install new lines on the courts.
- o. Pressure wash concrete and canopies.
- p. Clean water fountains.
- q. Inspect the Tennis Center for maintenance or repairs once per week.
- r. Cheatham shall provide all materials and supplies used annually for maintenance of the courts, tennis pro shop, lockerooms/bathrooms and the deck area.
- s. Wellington currently has available for Cheatham's use in performing the maintenance functions the following equipment and tool inventory.
 

i. Service Alloy Cart -	Qty: 2
ii. 30" lute brush -	Qty: 4
iii. 48" lute brush -	Qty: 4
iv. Tow/rake panels -	Qty: 4
v. Rear brush carts -	Qty: 4
vi. Blowers -	Qty: 2
vii. Brooms -	Qty: 4
viii. Cleaning supplies -	Assorted
ix. Paper goods -	Assorted
x. Pressure washer -	Qty: 1

During the term of the agreement as the above equipment wears out, it shall be Cheatham's responsibility to replace the equipment and tool items with those of like kind and quality.

#### 11. MAINTENANCE OF LICENSES AND PERMITS.

Cheatham shall secure and maintain all licenses necessary to do business in Palm Beach County, Village of Wellington and the State of Florida and shall

secure all necessary permits and licenses for the operation of a pro shop and all other operations provided by Cheatham at the tennis center. All such licenses and permits shall be obtained at Cheatham's sole cost and expense. Cheatham shall comply with all applicable federal state and local laws, codes and ordinances and rules and regulations relating to Cheatham's performance under the Agreement.

12. TAXES.

Cheatham is solely responsible for the payment of any and all pertinent federal state or local business, employment, self-employment, workers' compensation or income taxes or other assessments levied by governmental authorities on any monies earned as a result of their contractual relationship with Wellington. Cheatham agrees to reimburse Wellington for any claim or assessment, including interest and penalties, by any taxing authority arising from this paragraph.

13. INSURANCE.

Cheatham shall provide workers' compensation insurance coverage to the extent required by Florida State Statute as well as a valid copy of liability insurance coverage throughout the term services are provided, or a comparable group (minimum coverage: One Million Dollars (\$1,000,000) per occurrence/aggregate, naming the Village of Wellington as an additional insured), for any acts/injuries involving Cheatham related to or arising from performance of services, or proof of exemption from the State of Florida. Coverage must include liability for acts/injuries occurred in connection with or related to performance of services. Cheatham is responsible for acquiring insurance covering Tennis Pro Shop merchandise for fire, theft, etc., should Cheatham so desire.

14. INDEMNIFICATION.

Cheatham shall indemnify and hold harmless, Wellington and its affiliates, their respective officers, directors, agents, representatives from and against all liabilities, damages, claims, costs, fees and expenses whatsoever (including reasonable attorneys' fees and court costs at any trial and appellate levels) arising out of or in connection with the performance of or failure to perform Cheatham's duties and responsibilities under this Agreement. The provisions of this paragraph shall survive the termination of the Agreement.

15. BACKGROUND CHECKS.

All of Cheatham's independent contractors and employees providing services under the terms of this Agreement shall complete the Wellington Parks and Recreation Department's mandated background check process on an annual basis and Cheatham shall pay for any and all associated background screening costs.

16. PURCHASING AUTHORITY.

Cheatham may not incur any costs or expenses on behalf of Wellington as a result of Cheatham's performance or duties under this Agreement. As such costs and expenses shall be the sole and exclusive responsibility of Cheatham.

17. FEES PAID TO WELLINGTON.

In exchange for the right granted to Cheatham under this Agreement, Cheatham shall pay quarterly to Wellington a fee equal to 4% of its gross revenues from any and all sources for the previous quarter, excluding from the calculation of gross revenues, any and all maintenance fees paid by Wellington to Cheatham pursuant to paragraph 5 of this Agreement.

18. ACCOUNTING PROCEDURES.

1. Cheatham will maintain complete and adequate accounting records supporting all charges, fees, expenses and costs associated with the contract.
2. Cheatham will implement appropriate accounting controls consistent with standard business practices.
3. All transactions generated as a result of instruction shall be accounted for as follows:
  - a. Cheatham shall maintain and have available for Wellington quarterly participation and revenue reports to include:
    - i. all participant names;
    - ii. addresses of participants;
    - iii. whether the participant is a non-resident or resident of Wellington and whether they are a junior, adult, or senior participant;
    - iv. type of instruction (including use of ball machine);
    - v. frequency of lesson;
    - vi. amount paid by participant; and
    - vii. gross revenues broken down by category including but not limited to annual passes, daily fees, lessons, clinics, camps, league play, events, tournament receipts, tennis pro shop merchandise sales, stringing fees, maintenance fees paid by Wellington and food and beverage sales;
    - viii. Trial balance which must contain quarter end balances for all accounts including cash, accounts payable, revenues and expenses;
    - ix. Sales tax returns;

- x. Documentation of court usage (copies of calendar indicating reservations and actual usage is acceptable); and
- xi. Report on the number and frequency of tournaments; leagues, camps, clinics and special events.

The quarterly reports are to be delivered to Wellington on or before the thirtieth (30) day following the end of the quarters. The quarters' end on December 31, March 30, June 30 and September 30 of each year.

- b. Cheatham shall provide Wellington with Financial Statements for the tennis center operations on an annual basis. Such Financial Statements shall be due within one hundred twenty days of the anniversary date of the effective date of the contract. The Financial Statements shall reflect Cheatham's financial position at the conclusion of the previous fiscal year. The Financial Statements shall include such information as Wellington's Finance Director may reasonably require, which shall include an annualized statement of the quarterly information required in paragraph 18. 3 (a) above, and a balance sheet and income statement, tax return, general ledger, bank statement along with documentation of amounts paid to independent contractors and employees. Wellington shall have the right to review Financial Statements more frequently during the year and at Wellington's discretion may require monthly reports. Wellington at its own cost and expense may audit contractor operations from a financial and management perspective at any time during the term of the Agreement
- c. Cheatham's accounting records shall be available for audit and inspection by Wellington during hours of operation.

19. KEY PERSONNEL.

Cheatham shall notify Wellington in the event of key personnel changes which might effect this Agreement. Notification shall be made within ten (10) days of said changes. Wellington has the right to reject proposed changes in key personnel and/or terminate the Agreement in the event of the unavailability of key personnel. The following personnel shall be considered key personnel: Thomas Cheatham.

20. WELLINGTON NOT RESPONSIBLE FOR EMPLOYEE COMPENSATION OR BENEFITS.

Cheatham is not entitled to any benefits provided by Wellington to its employees which include but are not limited to workers' compensation insurance, health insurance, unemployment insurance and pension plan coverage.

21. ADVERTISING AND PROMOTIONS.

Wellington may promote the services of Cheatham using Cheatham's name in any advertising or promotion. The Wellington logo will appear on all promotional and advertising materials. The cost of advertising for promotion promulgated by Wellington will be paid for by Wellington. Cheatham will be authorized to advertise and promote Cheatham's services offered under this contract at Cheatham's expense.

22. UTILITY SERVICES.

All electrical, water and sewer, trash collection, telephone, internet, and cable television service costs are paid by Wellington.

23. CAPITAL MAINTENANCE AND REPAIR.

Major repairs and capital improvements will be provided by Wellington as set forth below:

- a. Fencing repairs when the cost of such repairs is in excess of \$1,000.00,
- b. All lighting repair and/or replacements,
- c. All repairs and maintenance of the irrigation system for the tennis courts,
- d. Any and all laser grading of courts as necessary,
- e. Any and all of the repairs or replacements to the facility when such individual repair or replacement exceeds \$1,000.00 in cost

24. TERMINATION.

Either party may terminate this Agreement at any time with just cause by giving the other party at least ninety (90) days prior written notice (the notice period; however, Wellington reserves the right to terminate this Agreement immediately and without notice in the event of misconduct or material breach of the Agreement by Cheatham including but not limited to Cheatham's failure to perform the duties, responsibilities or other obligations under this Agreement or

Cheatham's negligence, willful misconduct, fraud, theft, dishonestly, or embezzlement.

Upon termination of this Agreement:

- a. Cheatham shall receive pro rata share, based upon his annual rate of compensation, for days of service completed through the effective date of their termination.
- b. Cheatham shall receive income derived from private tennis lessons provided personally by Cheatham, as provided in paragraph 3 of this Agreement, only for services rendered during the term of this Agreement, and only for income received within thirty (30) days after the effective date of Cheatham's termination.
- c. Cheatham will make a good faith effort during the notice period, if applicable, to perform the duties described in this Agreement and to act in the best interest of Wellington.
- d. Cheatham will be responsible for removal of all pro shop merchandise within thirty (30) days of notice of termination. Failure to do so will result in disposal of merchandise by Wellington as deemed appropriate.

25. NOTICE.

Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage pre-paid as follows:

As to Wellington:

Attn: Parks & Recreation Director  
14000 Greenbrier Boulevard  
Wellington, Florida 33414

With a copy to:

Attn: Paul Schofield, Manager  
14000 Greenbrier Boulevard  
Wellington, Florida 33414

**AMENDMENT NO. 2 TO THE TENNIS CENTER MANAGEMENT  
AND MAINTENANCE SERVICES AGREEMENT BETWEEN  
WELLINGTON AND CHEATHAM INC.**

COMES NOW, this 11<sup>th</sup> day of September, 2012, the Village of Wellington, a Florida municipal corporation (hereinafter referred to as "Wellington"), and Cheatham, Inc., a Florida for Profit corporation with offices located at 1768 Hollyhock Road, Wellington, Florida, 33414 (hereinafter referred to as "Cheatham") and do exercise their rights under that certain Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham, Inc., dated September 23, 2010 (the "Agreement") to amend the Agreement as follows:

**WHEREAS**, in June, 2010, Wellington issued a request for proposal entitled "Tennis Center Management and Maintenance Services RFP 014-10/JM" seeking proposals for the operation and maintenance of its tennis center located at the Wellington Community Center, 12165 Forest Hill Boulevard, Wellington, Florida 33441; and

**WHEREAS**, Cheatham was selected by Wellington's Council to be the operator and maintenance provider for the tennis center; and

**WHEREAS**, a contract between the parties was entered into entitled Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham, Inc. dated September 30, 2010 ( a copy of which is attached hereto and incorporated herein as **Exhibit A**); and

**WHEREAS**, pursuant to paragraph 4 of the Agreement, the parties have the ability to renew the agreement on an annual basis and such renewal is required to be executed by the parties on or before June 1<sup>st</sup> of each year; and

**WHEREAS**, in June 2011, the parties agreed to extend the Agreement for a second year from October 1, 2011 to September 30, 2012 ("Amendment No. 1"); and

**WHEREAS**, the parties mutually desire to extend the Agreement for an additional (third) year from October 1, 2012 to September 30, 2013, subject to the same terms and conditions as set forth in the Agreement, as amended by Amendment No. 1 and this Amendment No. 2 to the Agreement; and

**WHEREAS**, the parties mutually desire to extend the deadline for the renewal of the third year of the Agreement from June 1, 2012 to September 15, 2012; and

**WHEREAS**, the remaining terms and conditions of the Agreement, except as amended by Amendment No. 1 and this Amendment No. 2, shall remain in effect; and

NOW THEREFORE, in consideration and mutual obligation set forth below, Cheatham and Wellington hereby agree as follows:

1. The foregoing whereas clauses are true and correct and are incorporated herein by this reference.

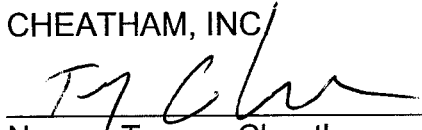
2. Paragraph 4 "Term of the Agreement" of the Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham shall be amended, in part, as follows: "The renewal agreement for October 1, 2012 through September 30, 2013 shall be executed by the parties on or before September 15, 2012. All remaining renewal agreements shall be executed by the parties on or before June 1<sup>st</sup> of each year."

3. The Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham shall be extended for a one year period from October 1, 2012 to September 30, 2013.

4. All terms and conditions of the Agreement, except as amended by Amendment No. 1 and this Amendment No. 2, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Wellington and Cheatham have executed this Amendment No. 2 to the Agreement as of the day and year first written above.

CHEATHAM, INC.

  
Name: Tommy Cheatham  
Title: President

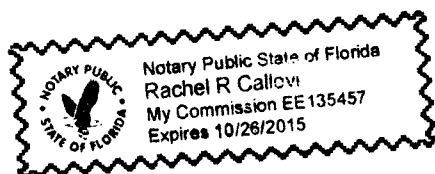
Seal:

STATE OF FLORIDA

COUNTY OF PALM BEACH

Before me, the undersigned Personally Known to me authority, personally appeared Tommy Cheatham who produced as identification a Driver's License, showing him/her to be the person described in and who executed the foregoing instrument as President of CHEATHAM, INC., a Florida corporation and did acknowledge before me that he/she executed the same for and on behalf of said corporation as such officer by due and regular corporate and company authority.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 11 day of September, 2012.



  
Notary Public

My commission expires: 10/26/2015

State of Florida

ATTEST:

VILLAGE OF WELLINGTON

By: Awilda Rodriguez  
Awilda Rodriguez, Clerk

By: Paul Schofield  
Paul Schofield, Village Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Jeffrey S. Kurtz  
Jeffrey S. Kurtz, Wellington Attorney

**AMENDMENT NO. 3 OF THE TENNIS CENTER MANAGEMENT AND MAINTENANCE SERVICES AGREEMENT BETWEEN WELLINGTON AND CHEATHAM INC., FOR A ONE YEAR TERM BEGINNING OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014**

COMES NOW, this 11<sup>th</sup> day of September, 2012, the Village of Wellington, a Florida municipal corporation (hereinafter referred to as "Wellington"), and Cheatham, Inc., a Florida for Profit corporation with offices located at 1768 Hollyhock Road, Wellington, Florida, 33414 (hereinafter referred to as "Cheatham") and do exercise their rights under that certain Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham, Inc., dated September 23, 2010 and extend the term of the agreement for a fourth year being from October 1, 2013 to September 30, 2014:

**WHEREAS**, in June, 2010, Wellington issued a request for proposal entitled "Tennis Center Management and Maintenance Services RFP 014-10/JM" seeking proposals for the operation and maintenance of its tennis center located at the Wellington Community Center, 12165 Forest Hill Boulevard, Wellington, Florida 33441; and

**WHEREAS**, Cheatham was selected by Wellington's counsel to be the operator and maintenance provider for the tennis center; and

**WHEREAS**, a contract between the parties was entered into entitled Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham, Inc. dated September 30, 2010 (the "Agreement") ( a copy of which is attached hereto and incorporated herein as **Exhibit A**); and

**WHEREAS**, pursuant to paragraph 4 of the Agreement, the parties have the ability to renew the Agreement on an annual basis; and

**WHEREAS**, in June 2011, the parties agreed to extend the Agreement for a second year from October 1, 2011 to September 30, 2012 ("Amendment No. 1"); and

**WHEREAS**, by a companion amendment to this current amendment, the parties agreed to extend the Agreement for a third year from October 1, 2012 to September 30, 2013 ("Amendment No. 2"); and

**WHEREAS**, the parties mutually desire to extend the Agreement for an additional (fourth) year from October 1, 2013 to September 30, 2014, subject to the same terms and conditions as set forth in the Agreement, as amended ("Amendment No. 3"); and

NOW THEREFORE, in consideration and mutual obligation set forth below, Cheatham and Wellington hereby agree as follows:


1. The foregoing whereas clauses are true and correct and are incorporated herein by this reference.

2. The Tennis Center Management and Maintenance Services Agreement between Wellington and Cheatham shall be extended for a one year period from October 1, 2013 to September 30, 2014.

3. All terms and conditions of the Agreement, except as amended by Amendment No. 1, Amendment No. 2 and this Amendment No. 3, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Wellington and Cheatham have executed this Amendment No. 3 to the Agreement as of the day and year first written above.

CHEATHAM, INC.

  
Name: Tommy Cheatham  
Title: President

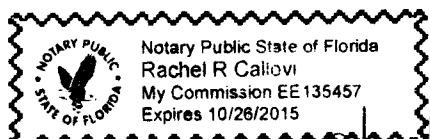
Seal:

STATE OF FLORIDA

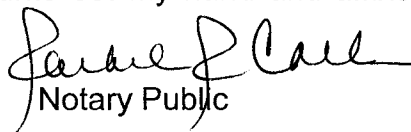
COUNTY OF PALM BEACH

Before me, the undersigned authority, personally appeared Tommy Cheatham who produced as identification a Personally known to me Driver's License, showing him/her to be the person described in and who executed the foregoing instrument as President of CHEATHAM, INC., a Florida corporation and did acknowledge before me that he/she executed the same for and on behalf of said corporation as such officer by due and regular corporate and company authority.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 11<sup>th</sup> day of September, 2012.



My commission expires: 10/26/2015

  
Notary Public  
State of Florida

ATTEST:

By: Awilda Rodriguez

VILLAGE OF WELLINGTON

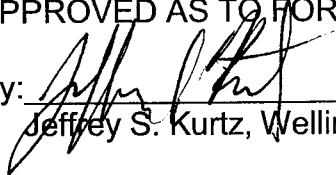
By: Paul Schumacher

Awilda Rodriguez, Clerk

Paul Schofield, Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:

  
\_\_\_\_\_  
Jeffrey S. Kurtz, Wellington Attorney

# Tennis Center Management & Maintenance Services Agreement Evaluation

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## Background

On September 13 2010, The Village of Wellington (the Village) entered into an agreement with Cheatham Inc. (Cheatham) for Tennis Center Management and Maintenance Services (Agreement). The Agreement commenced on October 1, 2010 for a period of one year and allowed four (4) additional one year renewals if agreed upon by both parties. The Agreement is currently on the third renewal, with one remaining.

According to the scope of services outlined in the Agreement, Cheatham shall direct and oversee the operations and maintenance of the tennis center located at the Wellington Community Center, 12165 Forrest Hill Blvd., Wellington, FL 33414. Cheatham is responsible for the primary operation of the tennis center including, fiscal management and coordinating with Wellington Parks and Recreation Department for the scheduling of tennis courts, instructions, clinics and the supervision of the tennis center facilities and staff.

Cheatham is also responsible for the operation and management of the tennis pro shop located at the tennis center. The pro shop will offer to the public tennis balls, rackets, tennis wear and other tennis related accessories.

## Scope

This contract compliance review covered the 2013 fiscal year. The terms and conditions of the Agreement were reviewed and evaluated for compliance. Staff completed an analysis of the documentation submitted by Cheatham for completeness and accuracy based on the terms and conditions outlined in the Agreement. Staff also conducted a review of Cheatham's financial reporting in accordance with the Agreement.

Specifically, the following areas were reviewed for compliance:

- I. Compensation
- II. Responsibilities for Cheatham for Tennis Center management
- III. Tennis Center Hours of Operation
- IV. Court Schedule
- V. Tournament Schedules
- VI. Cheatham Responsibilities for Maintenance Services
- VII. Taxes
- VIII. Insurance
- IX. Background Checks
- X. Fee Paid to Wellington
- XI. Accounting Procedures

# Tennis Center Management & Maintenance Services Agreement Evaluation

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## Results

The Tennis Center Management and Maintenance Services Agreement is divided into three distinct segments, management of the Tennis Center and its employees; facility maintenance and the accounting and payment of fees to the Village.

Based on the procedures performed and a review of the supporting documentation it was determined that the terms of the agreement were substantially brought into compliance as to the management of the tennis center. A number of items in the agreement did not clearly define or provide a metric for measuring the level of compliance and as such could not be completely vetted. The maintenance of the Tennis Center is undocumented by Cheatham, but periodically checked by Village Staff for minimum standards. The payments to the Village have been reviewed and remediated.

## Findings & Recommendations:

Finding #1: Background screenings: the terms of the agreement require Cheatham to "Complete Wellington's mandated background screening check for Cheatham and all personnel, instructors, staff, or contractors associated with provision of tennis management and maintenance services. Cheatham is to pay for all background screening costs".

Recommendation: Cheatham should maintain a list of all employees and contractors along with the date they were last screened. A list of contractors who have been screened was not provided, however, his employees were screened by Village staff at his cost.

Finding #2: Tournament Schedule: the terms of the agreement require Cheatham to organize and conduct tennis tournaments and provide the annual schedule for these tournaments to the Parks and Recreation Director for approval prior to October 1<sup>st</sup> each year.

Recommendation: The tournament schedule needs to be delivered in a timely manner.

Finding #3: the Maintenance Services for the Tennis Center is not measured or recorded. The Agreement has specific guidelines for maintenance of the courts and cleaning of the facility.

Recommendation: Cheatham and Village staff should prepare a maintenance record monthly to measure specific tasks identified and times they are completed. Job descriptions for Cheatham staff could also be used to identify specific tasks and times completed.

# Tennis Center Management & Maintenance Services Agreement Evaluation

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Finding #4: Accounting procedures and Quarterly Reporting. The reports provided were not definitive. The statements provided were based on a different accounting cycle than the Village's fiscal year. Annual reporting statements were used to determine the outstanding balance. Cheatham's Accountant provided profit and loss statements and staff is satisfied that the terms of the agreement have been met.

## Conclusion

After meeting with the vendor and various staff members from the Parks and Recreation Department, the agreement has been substantially brought into compliance. A number of deficiencies were found with the reporting requirements; including the delivery of schedules and maintenance records which have been addressed and resolved. The fees paid to the Village have been discussed and clarified by Cheatham's accountant and an additional payment of \$ 5,723.47 has been remitted to the Village. For all future reporting, it has determined that consistent sources of information will be provide by the vendor and fees will be calculated based on these reports.



# Village of Wellington

## Legislation Text

**File #: 14-237, Version: 1**

### **ITEM: AUTHORIZATION TO AWARD A CONTRACT FOR ROOT PRUNING AND ROOT BARRIER INSTALLATION**

**REQUEST:** Authorization to award a contract to Duffy's Total Care Lawn Service, Inc. for root pruning and root barrier installation Village-wide in the amount of approximately \$60,000 annually.

**EXPLANATION:** The Public Works Department is seeking authorization to award a root pruning and barrier installation contract in order to protect existing concrete sidewalks, asphalt pathways/roadways, parking lots and other infrastructure on an as needed basis. A large majority of Wellington's existing asphalt and concrete sidewalks are bordered by hedges and trees, which have continually migrating roots, causing potential trip hazards. Public Works will be utilizing the contract during the upcoming reconstruction and/or resurfacing of several miles of pathways and sidewalks.

On March 12, 2014, Wellington released ITB #010-14/DZ on Demandstar. The solicitation was also advertised in the Palm Beach Post and posted on Wellington's website. On April 2, 2014, three (3) proposals were received.

<b>Contractor</b>	<b>Local Vendor</b>
Duffy's Total Care Lawn Service, Inc.	Palm Beach County
Tropic Landscape & Lawn Maintenance, Inc.	Not Local
Sunshine Land Design, Inc.	Not Local

Staff is recommending award of contract to Duffy's Total Care Lawn Service Inc., a Palm Beach County local vendor and the lowest responsive, responsible bidder. The initial term of the contract shall be for two years with the option to renew for two additional one year terms, at a cost of approximately \$60,000 annually.

Although many of the projects under this contract are expected to be under \$25,000, the following individual project is estimated to exceed \$25,000:

<b>Project Description</b>	<b>Estimated Cost</b>
Village Park Heart Trail (Phase II)	\$40,000

The unit price contract will be utilized for the Village Park Heart Trail project as well as any additional root pruning and root barrier installation projects required Village-wide, during the term of the contract.

**BUDGET AMENDMENT REQUIRED:** NO

**PUBLIC HEARING:** NO

**QUASI-JUDICIAL:**

**FIRST READING:**

**SECOND READING:**

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**File #: 14-237, Version: 1**

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**LEGAL SUFFICIENCY:** YES

**FISCAL IMPACT:** Funds for this project are available in various Public Works operating accounts and capital projects.

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Authorization to award a contract to Duffy's Total Care Lawn Service, Inc. for root pruning and root barrier installation Village-wide in the amount of approximately \$60,000 annually.

**BID SUBMITTAL**

To:

Village of Wellington

12300 Forest Hill Blvd.

Wellington, Florida 33414

Duffy's Total Care Lawn Service, Inc.

(Vendor)

agrees to provide material for the **Root Pruning and Root Barrier Installation** in accordance with the requirements and specifications of the Bid Documents for the Village of Wellington as specified according to ITB 010-14/DZ

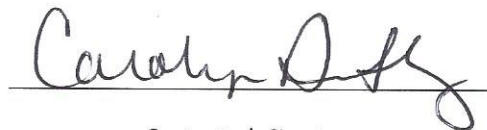
Gentlemen:

The undersigned Bidder has carefully examined the Specification requirements, Bid/Contract Documents and is familiar with the nature and extent of the Work and any local conditions that may in any manner affect the Work to be done.

The undersigned agrees to provide the service called for by the Specifications and Bid Documents, in the manner prescribed therein and to the standards of quality and performance established by the Wellington for the Bid price stated in the spaces herein provided.

The undersigned agrees to the right of the Wellington to hold all Bids and Bid guarantees for a period not to exceed ninety (90) days after the date of Bid opening stated in the Invitation to Bid.

The undersigned accepts the invoicing and payment policies specified in the Bid.



Contractor's Signature

Dated this 15<sup>th</sup> day of April, 2014  
(Month) (Year)

## BID ACKNOWLEDGEMENT COVER PAGE

<b>SUBMIT BIDS TO:</b> Wellington Attn: Clerk's Office 12300 Forest Hill Blvd Wellington, FL 33414	<b>REFER ALL INQUIRIES TO PRIMARY CONTACT:</b> Purchasing Division 12300 Forest Hill Blvd Wellington, FL 33414 Phone:(561)791-4055/Fax:(561)904-5817	<b>Wellington</b> <b>INVITATION TO BID</b> <b>COMMODITY/SERVICE</b>
<b>BID TITLE:</b> Root Pruning and Root Barrier Installation		<b>BID NO:</b> 010-14/DZ

<b>NAME OF FIRM, ENTITY, or ORGANIZATION:</b> Duffy's Total Care Lawn Service Inc.				
<b>NAME OF CONTACT PERSON</b> Brian Duffy	<b>VENDOR MAILING ADDRESS:</b> 10190 52nd Pl.S.	<b>CITY:</b> Lake Worth	<b>ZIP:</b> 33449	<b>STATE:</b> FL
<b>TITLE:</b> Owner	<b>VENDOR HEADQUARTERS ADDRESS (IF DIFFERENT):</b>	<b>CITY:</b>	<b>ZIP:</b>	<b>STATE:</b>
<b>PHONE NUMBER:</b> 561-433-0095		<b>FEDERAL EMPLOYER IDENTIFICATION NUMBER (EIN):</b> 59-2752441		
<b>EMAIL ADDRESS:</b> duffyslandscape@comcast.net		<b>STATE OF FLORIDA BUSINESS LICENSE NUMBER (IF APPLICABLE)</b>		
<b>FAX NUMBER:</b> 561-433-0006				
<b>ORGANIZATIONAL STRUCTURE (Please Check One):</b> Corporation <input checked="" type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other <input type="checkbox"/> If Corporation, please provide the following: (A) Date of Incorporation: 2/85 (B) State or Country of Incorporation: Florida				

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all terms and conditions of this bid and certify that I am authorized to sign this bid for the bidder and that the bidder is in compliance with all requirements of the Invitation to Bid, including but not limited to, certification requirements.

Carolyn Duffy	Carolyn Duffy	President
<b>AUTHORIZED SIGNATURE (MANUAL)</b>	<b>AUTHORIZED SIGNATURE (PRINT OR TYPED)</b>	<b>TITLE (PRINT OR TYPED)</b>

I certify  
 material  
 certifi  
 not limit

## SCHEDULE OF VALUES

### SECTION A – 12" WIDE BARRIER

Item	Unit of Measure	Unit Cost
1. Root Pruning per specifications	LF	4.50
2. Supply and Install Root Barrier per specifications	LF	7.25
	<b>Section A Total (Items 1 + 2)</b>	

### SECTION B – 19.5" WIDE BARRIER

Item	Unit of Measure	Unit Cost
1. Root Pruning per specifications	LF	6.50
2. Supply and Install Root Barrier per specifications	LF	9.50
	<b>Section B Total (Items 1 + 2)</b>	

EXCEPTIONS TO BID: Yes \_\_\_\_\_ No ☒, if so explain and provide original manufacturer's brochure with bid submittal

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## QUESTIONNAIRE

The following Questionnaire shall be completed and submitted in with the Bid. By submission of this Bid, Bidder guarantees the truth and accuracy of all statements and answers herein contained.

1. How many years has your organization been in business? 29 years
2. What is the last project of this nature that you have completed?  
The City (Parks) of Wellington
3. Have you ever failed to complete work awarded to you? If so, where and why? NO
4. Name three individuals or corporations for which you have performed work and to which you refer:
 

1.	<u>Villa San Remo 18398 Viadi Sorrento Boca Raton FL 33496</u> <small>Name Address</small>	<u>561-213-8045</u> <small>Phone</small>	<u>ovf@v.sr@gmail.com</u> <small>Email</small>
2.	<u>Jonathan's Landing 3755 Parrauskland Rd Jupiter FL 33477</u> <small>Name Address</small>	<u>561-743-2032</u> <small>Phone</small>	<u>jlp@jlp.com</u> <small>Email</small>
3.	<u>Mission Bay 10555 Diego Dr. S. Boca Raton, FL 33428</u> <small>Name Address</small>	<u>561-479-1900</u> <small>Phone</small>	<u>mbc@agm.net</u> <small>Email</small>
5. List the following information concerning all contracts in progress as of the date of submission of this bid. (In case of co-venture, list the information for all co-venturers.)

Name of Project	Owner	Total Contract Value	Contracted Date of Completion	% of Completion to Date

6. Has the bidder or his or her representative inspected the proposed project and does the Bidder have a complete plan for its performance? yes
7. Will you subcontract any part of this work? If so, give details including a list of each subcontractor(s) that will perform work in excess of the percent (10%) of the contract amount and the work that will be performed by each subcontractor(s). NO

Subcontractor	Work to be Performed

8. What equipment do you own that is available for the work? \_\_\_\_\_

Equipment Type	Equipment Type
<u>Vermeer - V 1850</u>	
<u>Vermeer - RT-200</u>	
<u>Vermeer - New Root Pruner Machine: S800TX</u>	

9. What equipment will you purchase for the proposed work? None

10. What equipment will you rent for the proposed work? None
11. State the name of your proposed project manager and give details of his or her qualifications and experience in managing similar jobs.  
MARIC ROE - 20 YEARS IN ARBORIST AND MANAGING WELLINGTON PROJECTS
12. The address of principal place of business is 10190 52nd Place South, Lake Worth, FL 33449
13. The names of the Corporate Officers, or Partners, or Individuals doing business under a trade name, are as follows: Brian Duffy - VP, Carolyn Duffy - P Mark Roe - T
14. List all organizations which were predecessors to Bidder or in which the principals or officers of the Bidder were principals or officers. None
15. List and describe all bankruptcy petitions (Voluntary or Involuntary) which have been filed by or against the Bidder, its parent or subsidiaries or predecessor organizations during the past five (5) years. Include in the description the disposition of each such petition. None
16. List and describe all successful Performance or Payment Bond claims made to your surety(ies) during the last five (5) years. The list and descriptions should include claims against the bond of the Bidder and its predecessor organization(s). NO CLAIMS
17. List all claims, arbitrations, administrative hearings and lawsuits brought by or against the Bidder or its predecessor organization(s) during the last five (5) years. The list shall include all case names; case, arbitration, or hearing identification numbers; the name of the project over which the dispute arose; and a description of the subject matter of the dispute. NONE
18. List and describe all criminal proceedings or hearings concerning business related offenses in which the Bidder, its principals or officers or predecessor organization (s) were defendants. None
19. Has the Bidder, its principals, officers, or predecessor organization(s) been debarred or suspended from bidding by any government during the last five (5) years? If yes, provide details. No
20. List and disclose any and all business relations with any members of Wellington Council. NONE

**DRUG FREE WORKPLACE**

Preference shall be given to businesses with drug-free workplace programs. In order to have a drug-free workplace program, a business must attest to the following:

1. We publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. We inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. We give each employee engaged in providing the commodities or contractual services that are under Bid a copy of the statement specified in subsection (1).
4. We, in the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under Bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. We impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. We make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

  
\_\_\_\_\_  
Contractor's Signature

**SWORN STATEMENT UNDER SECTION 287.133(3)(a),  
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to Wellington, FL [print name of the public entity]  
by Duffy's Total Care Lawn Service Inc. for Carolyn Duffy, President  
[print name of entity submitting sworn statement] [print individual's name and title]
- whose business address is 10190 52nd Place S. LW, FL 33449 and (if applicable) its Federal Employer Identification Number (FEIN) is 59-2752441 (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_.)
2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
  - a. A predecessor or successor of a person convicted of a public entity crime; or
  - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
4. I understand that a "person" as defined in Paragraph 287.133(1)(c), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Please indicate which statement applies.]  
☒ Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.  
 \_\_\_\_\_ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.  
 \_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. [attach a copy of the final order]

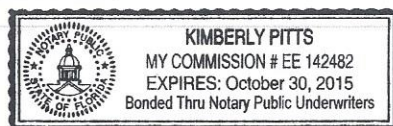
I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

STATE OF Florida Carolyn Duffy  
[signature]  
COUNTY OF Palm Beach 4/11/14  
[date]  
Subscribed and Sworn to (or affirmed) before me on 4/11/14 by Carolyn Duffy  
[date] [name]

He/she is personally known to me or has presented \_\_\_\_\_ as identification.  
[type of identification]

Kimberly Pitts  
[Notary's Signature and Seal]

Kimberly Pitts #EE 142482  
Print Notary Name and Commission No.



**APPLICATION TO BE CONSIDERED A LOCAL BUSINESS IN ACCORDANCE WITH WELLINGTON OF WELLINGTON FLORIDA'S LOCAL PREFERENCE POLICY (SECTION 2.12.F OF WELLINGTON'S PURCHASING AND PROCEDURE MANUAL)**

Wellington gives preference to local businesses in certain purchasing situations as set forth in Chapter 9 of Wellington's Purchasing and Procurement Manual. In order to be considered a local business, entitled to be given preference, the business must make application with Wellington and meet one of the following criteria as such is more fully set forth in Chapter 9, of Wellington's Purchasing and Procurement Manual:

**Chapter 9, LOCAL PREFERENCE**

**Western Communities Local Business** - For the purpose of determining a "Western Communities local business" a vendor must have a principal permanent business location and headquarters within Wellington of Wellington, Florida or west of the Florida Turnpike to the Palm Beach County western boundary line as depicted in Exhibit "A" hereto. This applies to all entity formations, including, but not limited to, limited liability companies, partnerships, limited partnerships and the like or sole proprietors. Further, the entity or sole proprietor must provide that it, he or she has been domiciled and headquartered in the jurisdictional boundaries of the Western Communities for at least six months prior to the solicitation. Post Office boxes will not be considered a permanent business location within the Western Communities. Home business offices shall be considered as a business location if it otherwise meets the requirements herein. In order to be eligible for such local preference the vendor shall have a local business tax receipt pursuant to the County's and/or municipalities' Code of Ordinances, having jurisdiction over the location of the business, unless otherwise exempt therefrom. Further, the vendor must be properly licensed and authorized by law to provide the goods, services or professional services to the extent applicable and the location of the business must be properly zoned in order for the vendor to conduct its business.

**Palm Beach County local business** - For the purpose of determining a "Palm Beach County local business" a vendor must have a principal permanent business location and headquarters within Palm Beach County, Florida. This applies to all entity formations, including, but not limited to, limited liability companies, partnerships, limited partnerships and the like or sole proprietors. Further, the entity or sole proprietor must provide that it, he or she has been headquartered and domiciled in the jurisdictional boundaries of Palm Beach County, Florida for at least six months prior to the solicitation. Post Office boxes will not be considered a permanent business location within Palm Beach County, Florida. Home business offices shall be considered as a business location if it otherwise meets the requirements herein. In order to be eligible for such local preference the vendor shall have a local business tax receipt pursuant to the Palm Beach County Code of Ordinances as amended from time to time, unless otherwise exempt there from. Further, the vendor must be properly licensed and authorized by law to provide the goods, services or professional services to the extent applicable and the location of the business must be properly zoned in order for the vendor to conduct its business.

**Subcontractor utilization** - In competitive bid situations, a business may also qualify as either a Palm Beach County or Western Community local business if they are utilizing subcontractors to perform the work or materialmen to supply the job and more than fifty (50%) percent of their proposed bid price will be paid to subcontractors and/or materialmen who qualify, under the above standards, as Palm Beach County and/or Western Community local businesses.

Please check the box below indicating which preference category your business is applying for:

☐ Western Communities Local Business

☒ Palm Beach County Local Business

☐ Subcontractor Utilization

1. The name of the business is: Duffy's Total Care Lawn Service Inc.
2. The address of the business is: 10190 52nd Place South Lake Worth, FL 33449
3. How long has the business been located at its current address: 20 years
4. If the business has relocated within the last six months, please provide the answers to questions 1-3 for the previous location:
5. The previous name of the business is: \_\_\_\_\_
6. The previous address of the business is: \_\_\_\_\_

7. How long was this business at the previous location: 12 years
8. If the business is attempting to qualify under the subcontractor utilization provision, please provide a breakdown of the subcontractors who would qualify for either the Palm Beach County or Western Community, business classification, the requisite information, provide their responses to the above 1 - 7 questions and for each of the subcontractors, indicate the amount that they are proposed to be compensated at under the bid price.
9. The business as a local business tax receipt from: (1) Palm Beach County ☒ (2) the following municipality: \_\_\_\_\_ (3) located in unincorporated Palm Beach County: ☐
10. Please provide a copy of Local Business Tax Receipts from Palm Beach County and the applicable municipality are attached.
11. Please provide a Certificate of Good Standing indicating the formation or domestication of the entity in and for the State of Florida is attached.
12. Please provide copies of licenses if applicable from the State of Florida authorizing the business to provide the good services or professional services contemplated in the bid documents.

By signing below, I hereby certify that under penalty of perjury I believe my business qualifies as a Palm Beach County, Western Community or subcontractor utilization business in accordance with Wellington's Local Preference Policy and that I have submitted current and accurate information and documents relating to my qualifications. I further acknowledge and agree that any fraudulent or duplicitous information submitted in furtherance of this application will be grounds for disqualification from bidding on this project and doing business with Wellington in the future.

Applicants Federal Tax ID Number - 59-2752441 Applicants Business Address Duffy's Total Care Lawn Serv  
10190 52nd Pl. S.  
LW, FL 33449

### CONFLICT OF INTEREST STATEMENT

This Proposal/Agreement (whichever is applicable) is subject to the conflict of interest provisions of the policies and Code of Ordinances of WELLINGTON, the Palm Beach County Code of Ethics, and the Florida Statutes. During the term of this Agreement and any renewals or extensions thereof, the VENDOR shall disclose to WELLINGTON any possible conflicts of interests. The VENDOR's duty to disclose is of a continuing nature and any conflict of interest shall be immediately brought to the attention of WELLINGTON. The terms below shall be defined in accordance with the policies and Code of Ordinances of WELLINGTON, the Palm Beach County Code of Ethics, and Ch. 112, Part III, Florida Statutes.

CHECK ALL THAT APPLY.

☒ To the best of our knowledge, the undersigned business has no potential conflict of interest for this Agreement due to any other clients, contracts, or property interests.

☒ To the best of our knowledge, the undersigned business has no employment or other contractual relationship with any WELLINGTON employee, elected official or appointed official.

☒ To the best of our knowledge, the undersigned business has no officer, director, partner or proprietor that is a WELLINGTON purchasing agent, other employee, elected official or appointed official. The term "purchasing agent", "elected official" or "appointed official", as used in this paragraph, shall include the respective individual's spouse or child, as defined in Ch. 112, Part III, Florida Statutes.

☒ To the best of our knowledge, no WELLINGTON employee, elected official or appointed official has a material or ownership interest (5% ownership) in our business. The term "employee", "elected official" and "appointed official", as used in this paragraph, shall include such respective individual's relatives and household members as described and defined in the Palm Beach County Code of Ethics.

☒ To the best of our knowledge, the undersigned business has no current clients that are presently subject to the jurisdiction of WELLINGTON's Planning, Zoning and Building Department.

☐ The undersigned business, by attachment to this form, submits information which may be a potential conflict of interest due to any of the above listed reasons or otherwise.

THE UNDERSIGNED UNDERSTANDS AND AGREES THAT THE FAILURE TO CHECK THE APPROPRIATE BLOCKS ABOVE OR TO ATTACH THE DOCUMENTATION OF ANY POSSIBLE CONFLICTS OF INTEREST MAY RESULT IN DISQUALIFICATION OF YOUR BID/PROPOSAL OR IN THE IMMEDIATE CANCELLATION OF YOUR AGREEMENT, WHICHEVER IS APPLICABLE.

Duffy's Total Care Lawn Service Inc.  
COMPANY NAME

Carolyn Duffy  
AUTHORIZED SIGNATURE

Carolyn Duffy  
NAME (PRINT OR TYPE)

President  
TITLE



# CERTIFICATE OF LIABILITY INSURANCE

DUFFY-1

OP ID: KE

DATE (MM/DD/YYYY)

03/25/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Atlantic Pacific - Stuart 620 SE Central Parkway Stuart, FL 34994 Thomas N.Tardonia		<b>CONTACT NAME:</b> Thomas N.Tardonia <b>PHONE (A/C, No, Ext):</b> 772-223-0400 <b>FAX (A/C, No):</b> 772-223-1919 <b>E-MAIL ADDRESS:</b>	
		<b>INSURER(S) AFFORDING COVERAGE</b>	
		<b>INSURER A:</b> White Pine Insurance Company	
		<b>INSURER B:</b> Wesco Insurance Co	
		<b>INSURER C:</b> St. Paul Fire & Marine Ins. Co	
		<b>INSURER D:</b>	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

**INSURED** Duffy's Total Care Lawn  
 10190 52nd Place South  
 Lake Worth, FL 33467

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Per Project Agg GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			WPP113209200	01/01/2014	01/01/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			QCP0037300	02/26/2014	02/26/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (PER ACCIDENT) \$
C	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB OCCUR CLAIMS-MADE DED RETENTION \$ 10,000			ZUP15R78175-14-NF	01/01/2014	01/01/2015	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATUTORY LIMITS E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

## CERTIFICATE HOLDER

## CANCELLATION

DUFFYSL

Duffy's Total Care Lawn  
 Service, Inc  
 10190 52nd Place South  
 Lake Worth, FL 33449

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Wellington Council Meeting May 13, 2014

**ANNE M. GANNON**  
CONSTITUTIONAL TAX COLLECTOR  
Serving Palm Beach County

P.O. Box 3715, West Palm Beach, FL 33402-3715  
www.taxcollectorpbc.com Tel: (561) 355-2264

Page 94 of 251

**\*\*LOCATED AT\*\***

10190 52ND PLACE SO  
LAKE WORTH, FL 33467-0000

*Serving you.*

TYPE OF BUSINESS	OWNER	CERTIFICATION #	RECEIPT #/DATE PAID	AMT PAID	BILL #
56-0030 LAWN MAINTENANCE	DUFFY BRIAN		B13.1336103 - 07/03/13	\$99.00	B40132916

This document is valid only when receipted by the Tax Collector's Office.

B3 - 104

DUFFY'S TOTAL CARE LAWN SERVICE INC  
DUFFY'S TOTAL CARE LAWN SERVICE INC  
10190 52ND PL S  
LAKE WORTH, FL 33449-5418



STATE OF FLORIDA  
PALM BEACH COUNTY  
2013/2014 LOCAL BUSINESS TAX RECEIPT

**LBTR Number: 200302236**  
**EXPIRES: SEPTEMBER 30, 2014**

This receipt grants the privilege of engaging in or managing any business profession or occupation within its jurisdiction and MUST be conspicuously displayed at the place of business and in such a manner as to be open to the view of the public.



**ANNE M. GANNON**  
CONSTITUTIONAL TAX COLLECTOR  
Serving Palm Beach County

P.O. Box 3715, West Palm Beach, FL 33402-3715  
www.taxcollectorpbc.com Tel: (561) 355-2264

**\*\*LOCATED AT\*\***

10190 52ND PLACE SO  
LAKE WORTH, FL 33467

*Serving you.*

TYPE OF BUSINESS	OWNER	CERTIFICATION #	RECEIPT #/DATE PAID	AMT PAID	BILL #
56-0081 TREE SERVICE	DUFFY BRIAN		B13.1336104 - 07/03/13	\$33.00	B40132915

This document is valid only when receipted by the Tax Collector's Office.

B1 - 105

DUFFY'S TOTAL LAWN SERVICE INC  
DUFFY'S TOTAL LAWN SERVICE INC  
10190 52ND PL S  
LAKE WORTH, FL 33449-5418



STATE OF FLORIDA  
PALM BEACH COUNTY  
2013/2014 LOCAL BUSINESS TAX RECEIPT

**LBTR Number: 200302238**  
**EXPIRES: SEPTEMBER 30, 2014**

This receipt grants the privilege of engaging in or managing any business profession or occupation within its jurisdiction and MUST be conspicuously displayed at the place of business and in such a manner as to be open to the view of the public.

**FLORIDA DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS****Detail by Entity Name****Florida Profit Corporation****DUFFY'S TOTAL CARE LAWN SERVICE, INC.****Filing Information**

<b>Document Number</b>	J23883
<b>FEI/EIN Number</b>	592752441
<b>Date Filed</b>	07/14/1986
<b>State</b>	FL
<b>Status</b>	ACTIVE

**Principal Address**

10190 52ND PLACE S  
LAKE WORTH, FL 33449

Changed: 01/04/2008

**Mailing Address**

10190 52ND PLACE S  
LAKE WORTH, FL 33449

Changed: 01/04/2008

**Registered Agent Name & Address**

BRIAN DUFFY  
10190 52ND PLACE SOUTH  
LAKE WORTH, FL 33449

Name Changed: 09/24/1998

Address Changed: 01/04/2008

**Officer/Director Detail****Name & Address**

Title VPD

DUFFY, BRIAN

10190 52ND PLACE SOUTH  
LAKE WORTH, FL 33449

Title T

ROE, MARK  
642 OAK STREET  
BOYNTON BEACH, FL 33435

Title PD

DUFFY, CAROLYN M  
4949 SOUTHARD ST  
LAKE WORTH, FL 33463

### Annual Reports

Report Year	Filed Date
2012	01/06/2012
2013	03/21/2013
2014	01/14/2014

### Document Images

<a href="#">01/14/2014 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/21/2013 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">01/06/2012 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/20/2011 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/27/2010 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">08/19/2009 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/21/2009 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">01/04/2008 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">01/29/2007 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/10/2006 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/02/2005 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/14/2004 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">05/29/2003 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/16/2001 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/15/2000 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/11/1999 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">09/24/1998 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>

<a href="#">03/21/1997 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">05/01/1996 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/28/1995 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>

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State of Florida, Department of State

**Root Pruning and Root Barrier Installation**

BID OPENING DATE: April 2, 2014  
 BID OPENING TIME: 9:00AM(local time)  
 ITB #010-14/DZ

"Offers from the vendors listed herein are the only offers  
 received timely as of the above receiving date and time.  
 All other offers submitted in response to this solicitation,  
 if any, are hereby rejected as late"

VENDORS	Duffy's Total Care Lawn Service, Inc	Tropic Landscaping & Lawn Maintenance, Inc	Sunshine Land Design, Inc.
Original and one PFD	YES	YES	YES
Bid Acknowledgment Cover Sheet	YES	YES	YES
Bid Submittal	YES	YES	YES
Schedule of Value	YES	YES	YES
Questionnaire and References	YES	YES	YES
Drug Free Workplace	YES	YES	YES
Sworn Statement under Section 287.133(3) (a)	YES	YES	YES
Wellington Local Preference Form	Palm Beach County	Not local	Not Local
Insurance Certificates	YES	YES	YES
Conflict of Interest Statement	YES	YES	YES
Copy of Appropriate Licenses	YES	YES	YES
<b>SECTION A – 12" BARRIER</b>			
<b>Item</b>			
1. Root Pruning per specifications	\$4.50	\$6.00	\$16.49
2. Supply and Install Root Barrier per specifications	\$7.25	\$7.00	\$10.27
<b>Section A Total (Items 1 + 2)</b>	<b>\$11.75</b>	<b>\$13.00</b>	<b>\$26.76</b>
<b>SECTION B – 19.5" BARRIER</b>			
1. Root Pruning per specifications	\$6.50	\$7.00	\$21.62
2. Supply and Install Root Barrier per specifications	\$9.50	\$8.00	\$14.05
<b>Section B Total (Items 1 + 2)</b>	<b>\$16.00</b>	<b>\$15.00</b>	<b>\$35.67</b>
<b>Grand Total</b>	<b>\$27.75</b>	<b>\$28.00</b>	<b>\$62.43</b>

**Council**

Bob Margolis, Mayor  
Howard K. Coates, Jr., Vice Mayor  
Matt Willhite, Councilman  
Anne Gerwig, Councilwoman  
John Greene, Councilman

**Manager**

Paul Schofield

April 9, 2014

**NOTICE OF INTENT TO AWARD**

Pursuant to Wellington, notice is provided as follows:

INVITATION TO BID (ITB) #010-14/DZ –Root Pruning and Root Barrier Installation bid Opening Date and Time April 2, 2014, 9:00 AM local time.

1. Wellington has completed its evaluation of ITB #010-14/DZ and intends to recommend to Council the award of the Root Pruning and Root Barrier Installation contract to

**Duffy's Total Care Lawn Service, Inc.**

2. This Notice is conditioned upon and subject to Wellington's reservation of rights as contained in the ITB Documents and approval by the Wellington Council.



# Village of Wellington

## Legislation Text

**File #: 14-242, Version: 1**

### **ITEM: AUTHORIZATION TO UTILIZE A CITY OF BAYTOWN, TEXAS CONTRACT, AS A BASIS FOR PRICING FOR UTILITY BILL PRINTING AND MAILING SERVICES**

**REQUEST:** Authorization to utilize a City of Baytown, Texas contract with Dataprose, LLC, as a basis for pricing to provide utility bill printing and mailing services to the Village.

**EXPLANATION:** In May 2009, the Village Council approved use of an Okaloosa Gas District contract, with Dataprose, LLC, to provide utility bill printing services through May 2012. The contract included a provision for automatic annual renewals unless written notice of cancellation was received by either party ninety (90) days prior to contract expiration.

In September 2012, Council approved authorization to utilize a City of Ocala contract with Infosend, Inc. to provide utility bill printing services. The anticipated savings under this contract were estimated to be between \$15,000-\$20,000 annually. However, such savings were based on the Village implementing new, comprehensive payment software (Summation 360) that would provide e-billing, mobile payment processing, bill print and mail services, and customer notifications in a single, consolidated service. The implementation of Summation 360 involves major upgrades for multiple payment platforms used throughout the Village, including our utility services, building, and recreation departments. The isolated implementation of the utility bill printing services individually did not provide these savings. Subsequently, rather than incurring the cost to transition to a new utility bill printing provider and jeopardizing the level of service to our customers, we continue to utilize the services of Dataprose, LLC.

While staff continues to research the Summation 360 product, in order to ensure the Village pays the most competitive pricing, staff found an existing City of Baytown, Texas contract which provides better pricing than our existing agreement, with the same vendor. The Baytown contract provides pricing to print utility bill statements at \$.088 (includes cost to provide envelopes, forms, data process/laser print, fold, sort, tray, tag mail and drop at USPS) each compared to the existing contracted price of \$.10 each, for an estimated annual savings of approximately \$1,500.00.

Staff also researched two online government procurement pricing services (Smart Procure and Procure Source) and found pricing from other government agencies, and the city of Baytown contract provides the best pricing as summarized below:

Agency	Per Statement Pricing
City of Baytown (Dataprose, LLC)	\$.088
Hillsborough County	\$.09
City of Ocala (Infosend, Inc.)	\$.095
City of Altamonte Springs	\$.13

In addition, staff found that the Southeast Florida Co-op and the State of Florida do not have existing contracts for this type of service and Palm Beach County handles all of their statement printing and mailing in-house.

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**File #: 14-242, Version: 1**

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Additionally, the City of West Palm Beach recently bid these services and received eight bids ranging from \$.08-\$.48, however put the bid on hold since a new Utility Director was recently hired.

Dataprose is a leading provider of billing statement services, providing billing statement design, print, mail, and electronic presentment and payment for municipalities nationwide.

Staff recommends utilizing an existing City of Baytown, Texas contract with Dataprose, LLC, as a basis for pricing for these services, through January 31, 2015, while staff continues to research the Summation 360 product. The agreement includes a provision for successive annual renewals upon agreement by both parties.

Estimated expenditures under this contract include approximately \$30,000 in statement printing and \$90,000 in mailing expenses for a total of \$120,000 annually.

**BUDGET AMENDMENT REQUIRED:** NO

**PUBLIC HEARING:** NO

**QUASI-JUDICIAL:**

**FIRST READING:**

**SECOND READING:**

**LEGAL SUFFICIENCY:** YES

**FISCAL IMPACT:** Funding for utility bill printing and mailing services are allocated in the fiscal year Utility Customer Service budget. Estimated annual expenditures for bill printing and mailing services are \$120,000.

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Authorization to utilize a City of Baytown, Texas contract with Dataprose, LLC, as a basis for pricing to provide utility bill printing and mailing services to the Village.



# CITY OF BAYTOWN

Purchasing  
P. O. BOX 424

(281) 420-6524  
Baytown, Texas 77522-0424

DECEMBER 2011

## NOTICE TO BIDDERS

### ANNUAL OUTSOURCING OF UTILITY BILLS CONTRACT

BID NUMBER 026-12

All **sealed bids** shall be sent in to the Purchasing Department of the City of Baytown by:

All sealed bids should be sent **with one (1) original and two (2) duplicates** to the Purchasing Manager of the City of Baytown at the address listed below by:

2:00 P.M.

WEDNESDAY, JANUARY 4, 2012

Bidders' shall include with this **Invitation to Bid** the **Specification sheets** appropriately filled out according to instructions in the Terms and Conditions.

**FAILURE TO SUBMIT A BID OR NO-BID NOTIFICATION MAY RESULT IN REMOVAL FROM FUTURE BIDDERS' LISTS.**

DREW POTTS  
PURCHASING MANAGER  
Phone: (281) 420-6525  
Fax No: (281)420-6542

**NOTE: BIDS ARE TO BE TURNED IN TO PURCHASING AT THE MUNICIPAL SERVICE CENTER LOCATED AT 2123 MARKET STREET, BAYTOWN, TEXAS 77520.**

**LATE BIDS WILL NOT BE CONSIDERED.**

PUBLISHED: 12-13-11  
12-20-11



P.O. Box 424  
Baytown, Texas 77522-0424

**BID TITLE: ANNUAL OUTSOURCING OF UTILITY  
BILLS CONTRACT**  
**BID NUMBER: 026-12**

**BID OPENING DATE: WEDNESDAY, JANUARY 4,  
2012 @ 2:00 P.M.**

**LATE BIDS WILL NOT BE CONSIDERED.**

BIDDER **AGREES** TO COMPLY WITH ALL CONDITIONS BELOW, ATTACHED SPECIFICATIONS, AND NOTES. BIDDER HAS **READ** AND **AGREES** TO COMPLY WITH ALL TERMS AND CONDITIONS ON BACK OF INVITATION TO BID. PURCHASES MADE FOR CITY USE ARE EXEMPT FROM THE STATE SALES TAX AND FEDERAL EXCISE TAX. **DO NOT** INCLUDE TAXES IN YOUR BID. BIDDER **GUARANTEES** PRODUCT OFFERED SHALL **MEET** OR **EXCEED** MINIMUM SPECIFICATION IDENTIFIED IN THIS INVITATION TO BID.

SHIPMENT DESTINATION

CITY OF BAYTOWN UTILITY BILLING DEPARTMENT, 2505 MARKET  
STREET, BAYTOWN, TEXAS 77520

Bidder Must Fill In & Sign

Name of Firm, Company

Page 103 of 251

Agent's Name

Agent's Title

Mailing Address

City

State

Zip

Telephone

Fax No.

Email address:

**AUTHORIZED SIGNATURE**

**FAILURE TO MANUALLY SIGN  
SHALL DISQUALIFY BID**

ITEM NO.	ITEM AND DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
	ANNUAL OUTSOURCING: UTILITY BILLING CONTRACT, per attached specifications.			
1.	One Time Setup Charge for reformatting of form & Programming and Data Processing Set-up – Utility Bill Letters. Includes ability to extract from City of Baytown customer print file and process into usable format through data manipulation.	<b>One time cost</b>	*****	\$ _____
2.	Notification of Address Change (NOCA) to be performed at beginning of contract and six (6) months thereafter.	<b>2 times</b> (Per Each Usage based on 22,000 customers)	\$ _____ Cost per each usage	\$ _____
3.	Utility letter bill -Cost to provide envelopes, forms and data process/laser print. Fold, sort, tray, tag mail and drop at USPS.	<b>22,000</b>	\$ _____ Cost per each bill.	\$ _____
4.	One Time Setup Charge for Delinquent letters for reformatting of form & Programming and Data Processing Set-up. Includes ability to extract from City of Baytown customer print file and process into usable format through data manipulation.	<b>One time cost</b>	*****	\$ _____
5	Delinquent Letter - Cost to provide envelopes, forms and data process/laser print. Fold, sort tray, tag mail and drop at USPS.	<b>4,000</b>	\$ _____ Cost per each letter.	\$ _____
			<b>GRAND TOTAL:</b>	\$ _____

"By the signature hereon affixed, the bidder hereby certifies that neither the bidder nor the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of the State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business."

1. The City of Baytown will accept **sealed proposals** Monday through Friday, 8:00 a.m. – 12:00 p.m. and 1:00 p.m. – 5:00 p.m. Purchasing Department is **closed** from 12:00 p.m. to 1:00 p.m. Proposals must be received by the PURCHASING DEPARTMENT and in the PURCHASING DEPARTMENT before the specified hour and date of the opening. At that time the proposals will be publicly opened and read aloud.
2. Sealed Proposal is to be properly identified with proposal number, time and date of opening. Proposer shall submit one (1) unbound original and duplicate copies as specified in proposal requirements.
3. Late proposals will be UNOPENED. Late proposals will not be considered under any circumstances.
4. No proposal may be withdrawn after opening without approval, and based on a written acceptable reason.
5. The City of Baytown reserves the right to revise or amend the specifications prior to date set for opening proposals. Such revisions or amendments, if any, will be announced by amendments or addendum to these specifications. Copies of such amendments or addendum so issued will be furnished to all prospective Proposers. If Proposer demonstrates just reason for a change, the City of Baytown must have at **least five working days'** notice prior to proposal opening date.
6. **Should Proposer find discrepancies in or omissions from the specifications or other documents or be in doubt as to their meaning, Proposer should at once notify the Purchasing Department and obtain clarification prior to submitting a proposal.**
7. **QUOTE F.O.B. destination.** Price should include all costs including shipping, handling, and other related costs. Proposal unit price on quantity specified – extend and show total. In case of errors in extension, **UNIT prices shall govern.** Proposals subject to unlimited price increases will not be considered.
8. Proposal offered shall be valid for ninety (90) days from opening date.
9. The City of Baytown is exempt from taxes. **DO NOT INCLUDE TAX IN PROPOSAL.**
10. The City of Baytown reserves the right to terminate this contract with cause by notifying Contractor/Supplier in writing within ten (10) days and without cause by notifying the Contractor/Supplier in writing thirty (30) days prior to the termination of this agreement.
11. Proposer **MUST** give full firm name and address. Person signing proposal should show **TITLE or AUTHORITY TO BIND HIS FIRM IN A CONTRACT.**
12. Any catalog, brand name or manufacturer's reference used in proposal invitation is descriptive – NOT restrictive – it is to indicate type and quality desired. Proposals on brands of like nature and quality will be considered. If proposing on other than reference specifications, Proposer must show manufacturer, brand or trade name, lot number, etc., of article offered. If other than brand(s) specified is offered, illustrations and complete description should be made part of the proposal. If Proposer takes no exceptions to specifications or reference data, he will be required to furnish brand names, numbers, etc., as specified. All items proposed shall be new, in first class condition and manufacturer's latest model and design including containers suitable for shipment and storage, unless otherwise indicated in the request for proposals. Verbal agreements to the contrary will not be recognized. Deviations from specifications and alternate proposals must be clearly shown on the Exceptions to Proposal form with complete information attached to form. They may or may not be considered. If no exceptions or deviations are listed, it will be assumed that the proposal meets or exceeds the minimum requirements.
13. NO substitutions or cancellations shall be permitted without written approval of the City of Baytown.
14. All Proposers **must meet or exceed the minimum specifications** to be considered as a valid proposal. The City of Baytown reserves the right to accept or reject all or any part of any proposal, waive minor technicalities and award the proposal to best serve the interests of the City of Baytown.
15. Consistent and continued tie proposing could cause rejection of proposals by the City of Baytown and/or investigation for Anti-Trust violations.
16. **If a proposal contains proprietary information, the Proposer must declare such information as proprietary if Proposer does not want information to become public. Any proprietary information must be indicated in the index and clearly identified in the proposal.**
17. The Contractor/Supplier agrees to protect the City of Baytown from claims involving infringement of patents or copyrights.
18. Purchase order number should be on original invoice and invoice sent to the City of Baytown, PO Box 424, Baytown, TX 77522-0424; Attn: Accounts Payable.
18. The City of Baytown shall pay for the product/service within thirty (30) days of receipt and acceptance or within thirty (30) days after receipt of an invoice for the same, whichever is later. Acceptance by the City of Baytown shall constitute all items proposed being received and in good working order to the City of Baytown's satisfaction.
19. **Proposer shall sign, date and complete CONFLICT OF INTEREST QUESTIONNAIRE and return with proposal.**
20. Bidder must complete and execute the Affidavit of Ownership or Control included in the bid package and required by Chapter 2 "Administration," Article V "Finance," Division 4 "City Contracts: Indebtedness to City" of the Code of Ordinances, Baytown, Texas. Such affidavit must be included in the sealed envelope with the Bid at the time the bid is submitted to the Purchasing Manager.

## **SPECIFICATIONS**

### **ANNUAL OUTSOURCING OF UTILITY BILLS CONTRACT**

**BID NUMBER: 026-12**

#### **SPECIFICATIONS (MINIMUM):**

**SCOPE:** The City of Baytown seeks competitive bids for outsourcing billing for utilities. Service to include print file manipulation, material, laser printing, and mailing utilizing digit automation for postal discount rates. The purpose of these specifications is to describe the minimum requirements of the City of Baytown for the annual outsourcing of the utility billing contract. The quantities on this Invitation to Bid are estimates based on previous usage. These estimates are for acquainting the bidder with probable quantities to be expected during the contract period. These estimates are not intended to set forth minimum or maximum quantities of this contract and shall not be construed as such. This contract is intended for routine and continuous usage. For large projects that occur, the City of Baytown reserves the right to go out for bids.

**COOPERATIVE PURCHASING:** As permitted under the Texas Local Government Code, Chapter 791025, other government entities may wish to also participate under the same terms and conditions contained in this contract (piggyback). Each entity wishing to piggyback must have prior authorization from the City of Baytown and vendor. If such participation is authorized, all purchase orders will be issued directly from and shipped directly to the entity requiring supplies/services. The City of Baytown shall not be held responsible for any orders placed, deliveries made or payment for supplies/services ordered by these entities. Each entity reserves the right to determine their participation in this contract.

**REQUIREMENTS:** Any variance in any item must be specified clearly under the Exceptions to Bidder's Proposal by Bidder in order to have a valid bid. Any exceptions taken may be just cause for disqualification.

**QUANTITIES:** The Utility Billing Division bills customers in two (2) cycles per month. Cycle I billing is approximately 12,000 customers and Cycle II billing is approximately 10,000 customers per month. Bidder shall take into consider an additional estimated 255 final bills which accompany cycle bills twice per month. Quantities are based on customer fluctuation and 22,000 bills will be used as the estimated total for evaluation purposes. The City of Baytown reserves the right to increase or decrease quantities during the term of this contract at any time during the entire term of this contract for the same pricing as specified by Bidder.

**DESCRIPTION:** The City of Baytown Utility Department seeks to outsource the file manipulation, material, laser printing and mailing of the City's utility bills and delinquent letters. Successful supplier shall provide all material and labor to produce utility bills and delinquent letters in 8-1/2" x 11" letter form. Attached with bid packet are City's currently used letter bill and delinquent letter for an example of the minimum requirements. Bidder shall utilize 1<sup>st</sup> class digit automated for full postage discounts.

Letter Bills and Delinquent Letters shall include the following:

- Initial programming and set-up of customers address files.
- Receive and convert customer address file for mailing.
- Mail stream and sort for "First Class" automated discount rates.
- Provide 8.5x11" 24# Perforated paper 1/0.
- Provide #10 double window envelope to enclose bill and attachments.

- Provide #9 Std. White closed face return envelope, black 1/0 with City's address.
- Mail within 24 hours after receiving mail file.
- Manipulate file, data process, and laser-print approximately 22,000 simplex statements.
- Convert barcode numbers in billing file to barcode.
- Receive, convert Publisher file/City's Newsletter and print on back of utility bill.
- Manipulate file, data process, and laser-print approximately 4,000 delinquent letters.
- Fold, insert, tray and tag mail and drop at USPS.
- Provide PDF's of address mail file.
- Insert additional forms (2) in bills at no additional charge.
- Provide pricing for inserting additional forms (1<sup>st</sup> 2 forms at no charge as outlined above).
- Process address file through NCOA twice a year.

Successful supplier shall provide their own comparable weight stock and have the ability to utilize both sides of the letter bills and delinquent letters. All billing information currently printed on attached samples, from the print file, must be included in bidder's format. Bidder shall include in bid packet a sample layout of front and back utility bill utilizing Bidder's experience in lay-out design. Letter bills and delinquent letters shall include as minimum requirements as follows:

- Customer's Name
- Customer's Address
- City of Baytown's return address
- Customer's Account Number
- Due By Date (shall include date and dollar amount)
- Due After Date (shall include date and dollar amount)
- Billing information breakdown (i.e., water charge, sewer charge, garbage charge, garbage tax, service fees)
- Printed "Return This Stub With Payment" on both letter bills and delinquent letters. The bottom of both the bills and delinquent letters should have a perforated section that the customer may tear off.
- Printed "Change of Address Notification Requested" where appropriate
- Room for messages on one side (messages may vary with different customers)
- Bar-coding for five (5) digit discounts needs to be converted and printed on bottom of bills.

**SAMPLES:** Bidder shall include an example of the proposed letter bill layout and delinquent letter layout along with the bid. Each sample must be labeled with Bidder's name and Bid number. (City samples are included with packet.)

**MODIFICATIONS:** After award, Bidder must have approval from the City of Baytown Utility Billing Manager, Gina Rivon at 281-420-7160, for any modifications in utility bills regarding laser printing, set up, or quality of services.

**SET-UP/SOFTWARE CAPABILITY:** Bidder shall have the technology and ability to transfer City of Baytown's customer files, do file manipulation, and print out all pertinent information required. The City of Baytown uses Pentamation's Community Plus billing software. Bidder shall provide a secure site for the City to File Transfer Protocol (FTP). The bidder will be responsible for physical security of the data received and ensuring data integrity is maintained. Bidder shall develop data file program and indicate on the Invitation to Bid a one-time cost for said program development to allow processing/manipulation of the City's billing print file. Upon request by bidder, The City of Baytown will provide an example of the City's billing print file. Any questions pertaining to file transfer are to be directed to Asim Khan, Information Technology Services (ITS) Department, at 281-420-7100.

**CHANGE OF ADDRESS NOTIFICATION:**

Bidder shall utilize software program National Change of Address (NCOA) twice a year and notify the City of Baytown when any change of addresses or other customer information may occur in order to update the City of Baytown's customer files. Successful Bidder shall run customer file through NCOA at the beginning of the contract and six (6) months thereafter. Bidder shall utilize the NCOA software program in order to obtain maximum postal discounts with bar-coding. Usage of NCOA will ensure all bills being mailed to the correct addresses. Bidder shall through usage of NCOA electronically notify the City of Baytown of all change of addresses. Bidder shall indicate on the Invitation to Bid the charge per usage of NCOA.

**POSTAGE AND MAILING:**

In addition to providing material, transferring files, performing file manipulation, and laser printing, bidder shall establish an account with the United States Postal Office, and bidder shall perform all handling and mailing of customer bills on a routine basis. Each bill shall be 1<sup>st</sup> class and receive the best automated discounts available. The City of Baytown desires to achieve maximum postal discounts for billing which shall be lowest automated rate for 5-digit discounts. Bidder shall indicate on the Invitation to Bid the cost per each utility bill for postage computing lowest automated rate for 5-digit discounts according to the U. S. Postal Service requirements. The Bidder shall pay all postal charges. The Bidder may submit billing for reimbursement of such postage charges to the City of Baytown immediately after each billing cycle or include a separate monthly invoice for reimbursement of postage charges with the monthly invoice for billing services. The invoice for postage reimbursement must include the U.S. Postal Service Form 3600R – statement of mailing - a postal receipt, and detail for each billing cycle listing the number of bills and postal rates for which the Bidder paid the postage. Bidder shall maintain all permits and maintenance of the account established with the Post Office.


**CYCLE DATES:**

The City of Baytown will provide billing dates for each calendar year. Cycles are based on the due dates. Print file will be electronically submitted by the Utility Department to successful Bidder the day prior to mail/bill date. Bidder will complete billing/ mailing cycle in a twenty-four (24) hour turnaround. Bidder shall mail customers utility bills as follows:

<b>CYCLE I</b>	<b>CYCLE II</b>
<i>Bills to be mailed as follows:</i>	<i>Bills to be mailed as follows:</i>
01/25/12	01/11/12
02/22/12	02/08/12
03/21/12	03/07/12
04/25/12	04/11/12
05/23/12	05/09/12
06/20/12	06/06/12
07/25/12	07/11/12
08/22/12	08/08/12
09/26/12	09/12/12
10/24/12	10/10/12
11/21/12	11/07/12
12/26/12	12/12/12

The Bidder shall mail or deliver, by the end of business on the first working day after each mailed billing cycle, a copy of that billing cycle's U.S. Postal Service Form 3600R – Statement of Mailing – to the City of Baytown Utility Billing Division, 2505 Market Street, Baytown, Texas 77520. FAILURE TO MEET CYCLE DATE REQUIREMENTS MAY RESULT IN TERMINATION OF THIS CONTRACT.

**ALTERNATE PROCESSING PLAN:** Successful Bidder shall have an alternate processing plan to ensure timely delivery of Utility Billing should their primary facility be rendered unable to provide the necessary services for the City of Baytown. This service would be at no additional cost to the City of Baytown.

Alternate plan available: (Indicate Yes or No) 

If an alternate plan is available, Bidder shall include a description of plan. 

**CAPABILITY SURVEY:** The City of Baytown reserves the right to perform a complete facility survey prior to award of bid to determine if the Bidder has the capability to successfully perform services as outlined in specifications.

**ACCEPTANCE AND NONCONFORMING STANDARDS:** All service shall be accepted subject to inspection, count and/or testing. A waiver on one occasion does not constitute a waiver on future occasions.

**EVALUATION CRITERIA:** Contract may be awarded to the bidder who provides goods or services at the best value for the City of Baytown. Extended pricing for letter bills and delinquent letters will be totaled to determine evaluation. The one-time up-front cost for developing file program manipulation of the City's billing print file will be considered in the evaluation as well as the charge to utilize NCOA and postage rates. The City of Baytown reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interest of the City of Baytown.

**AUDIT:** Supplier shall provide the City of Baytown a line item report of quantities and expenditures on a monthly basis or at any time during the term of this contract for materials, commodities, or services rendered as requested by the Purchasing Department.

**REFERENCES:** If Bidder has not performed service for the City of Baytown previously, Bidder shall provide a list of customers to whom he has supplied the specified services for the last three (3) years. Bidder shall provide a list of a minimum of three (3) customers to whom Bidder has supplied the specified material, product, equipment, or service bid. Attachment I – References is attached for Bidder's convenience and shall be returned with the Invitation to Bid. The list shall include the customer's name, address, telephone number, and the name of an individual to contact. References will be contacted.

**NON-FUNDING CLAUSE:** The City of Baytown's budget is funded on an October 1<sup>st</sup> to September 30<sup>th</sup> fiscal year basis. Accordingly, the City of Baytown reserves the right to terminate this contract by giving Bidder thirty (30) days written notice, without liability to the City, in the event that funding for this contract is discontinued or is no longer available.

**CONTRACT PERIOD:** This is an annual contract for the period of one (1) year, from FEBRUARY 1, 2012, through JANUARY 31, 2013. This contract may be renewed under the same terms and conditions for successive one-year periods, upon the agreement of both parties. Each such renewal must be evidenced in writing and approved by the appropriate authorities of each party. Such renewal shall be for the same compensation set forth in the Invitation to Bid and prices may be adjusted to reflect the Consumer Price Index (Urban) sixty-three (63) days prior to expiration date.

Additionally, the Bidder understands and agrees that upon the City's written request, this contract may be extended for a period of time, not to exceed two (2) months after the expiration of the initial term or any renewal thereof, for the same compensation as the Bidder was receiving for the goods and/or services during the expired term immediately preceding the extension. Nothing contained herein, however, shall obligate the City during the extension period to renew and/or relet a contract with the Bidder for such goods and/or services. The City of Baytown may terminate extension at any time for any reason without prior notice.

**ACCEPTANCE AND NONCONFORMING STANDARDS:** All deliveries shall be accepted subject to inspection, count and/or testing. A waiver on one occasion does not constitute a waiver on future occasions.

**CONTRACT:** The specifications included herein upon award shall become the legal and binding contract.

**INSURANCE REQUIREMENTS: BIDDER SHALL INCLUDE CERTIFICATE OF INSURANCE PRIOR TO AWARD OF BID. BIDDER OR BIDDER'S INSURANCE AGENT SHALL INCLUDE BID NUMBER AND DESCRIPTION OF BID ON THE CERTIFICATE OF INSURANCE. THE COMPANIES AFFORDING COVERAGE OF THE CERTIFICATE OF INSURANCE SHALL BE LICENSED WITH THE STATE BOARD OF INSURANCE TO DO BUSINESS IN THE STATE OF TEXAS.**

**Bidder shall include contract name, contract number, and attention to Purchasing Department on the Insurance Certificate.**

Bidder shall procure and maintain at its sole cost and expense for the duration of the Agreement, insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the Work hereunder by Bidder, its agents, representatives, volunteers, employees or subconsultants.

- a. Bidder's insurance coverage shall be primary insurance with respect to the City, its officials, employees and agents. Any insurance or self-insurance maintained by the City, its officials, employees or agents shall be considered in excess of Bidder's insurance and shall not contribute to it. Further, Bidder shall include all subconsultants, agents and assigns as additional insureds under its policy or shall furnish separate certificates and endorsements for each such person or entity. All coverages for subcontractors, subconsultants and assigns shall be subject to all of the requirements stated herein.

The following is a list of standard insurance policies along with their respective minimum coverage amounts required in this Agreement:

1. Commercial General Liability
  - General Aggregate: \$1,000,000
  - Products & Completed Operations Aggregate: \$1,000,000
  - Personal & Advertising Injury: \$1,000,000
  - Per Occurrence: \$500,000
  - Fire Damage: \$50,000
  - Coverage shall be at least as broad as ISO CG 00 01 10 93
  - No coverage shall be deleted from standard policy without notification of individual exclusions being attached for review and acceptance.
2. Business Automobile Policy
  - Combined Single Limits: \$500,000
  - Coverage for "Any Auto"
3. Errors and Omissions, if applicable
  - Limit: \$500,000 for this project.
  - *For all architects, engineers, and/or design companies*
  - Claims-made form is acceptable
4. Workers' Compensation

- Statutory Limits
- Employer's Liability: \$500,000
- Waiver of Subrogation required.

b. The following shall be applicable to all policies of insurance required herein.

1. Insurance carrier must have an A.M. Best Rating of B+:VIII or better.
2. Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted.
3. Liability policies must be on occurrence form. Errors and Omissions can be on claims-made form, if applicable.
4. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
5. The City, its officers, agents and employees are to be added as Additional Insureds to all liability policies, with the exception of the Errors and Omissions Policy required herein.
6. Upon request and without cost to the City, certified copies of all insurance policies and/or certificates of insurance shall be furnished to the City.
7. Upon request and without cost to the City, loss runs (claims listing) of any and/or all insurance coverages shall be furnished to the City.
8. All insurance required herein shall be secured and maintained in a company or companies satisfactory to the City, and shall be carried in the name of Bidder. Bidder shall provide copies of insurance certificates required hereunder to the City on or before the effective date of this Agreement.

**Please include on Certificate of Insurance under Description of Operations exact verbiage as follows:**

**Certificate Holder, its officers, agents & employees are included as Additional Insured (except as respects all coverage afforded by the Workers Compensation Policy) and Waiver of Subrogation is in favor of Certificate Holder as written contract and as their interests may appear.**

**INDEMNITY AGREEMENT:**

**THE BIDDER HEREBY AGREES TO AND SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, DEMANDS, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEYS' FEES, FOR INJURY TO OR DEATH OF ANY PERSON, FOR LOSS OF USE OR REVENUE, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE ACTUAL OR ALLEGED MALFUNCTION, DESIGN OR WORKMANSHIP IN THE MANUFACTURE OF EQUIPMENT, THE FULFILLMENT OF CONTRACT, OR THE BREACH OF ANY EXPRESS OR IMPLIED WARRANTIES UNDER THIS CONTRACT. SUCH INDEMNITY SHALL APPLY WHERE THE CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS OR LIABILITY ARISE IN PART FROM (I) THE**

Wellington Council Meeting May 13, 2014 Page 11 of 251

**JOINT NEGLIGENCE OF THE CITY AND THE BIDDER, AND/OR THEIR RESPECTIVE OFFICERS, AGENTS AND/OR EMPLOYEES OR (II) THE SOLE NEGLIGENCE OF THE BIDDER, ITS OFFICERS, AGENTS AND EMPLOYEES. IT IS THE EXPRESSED INTENTION OF THE PARTIES HERETO, BOTH BIDDER AND THE CITY, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY BIDDER TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCE OF (I) THE CITY'S OWN NEGLIGENCE WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE WITH THAT OF THE BIDDER OF THE INJURY, DEATH OR DAMAGE AND/OR (II) THE BIDDER'S OWN NEGLIGENCE WHERE THAT NEGLIGENCE IS THE SOLE CAUSE OF THE INJURY, DEATH, OR DAMAGE. FURTHERMORE, THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS, DAMAGE, CAUSE OF ACTION, SUIT AND LIABILITY WHERE IN INJURY, DEATH OR DAMAGE RESULTS FROM THE SOLE NEGLIGENCE OF THE CITY UNMIXED WITH THE FAULT OF ANY OTHER PERSON OR ENTITY. IN THE EVENT ANY ACTION OR PROCEEDING IS BROUGHT AGAINST THE CITY BY REASON OF ANY OF THE ABOVE, THE BIDDER AGREES AND COVENANTS TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO THE CITY. THE INDEMNITY PROVIDED FOR HEREIN SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT. (REVISED 4-29-08)**

**RELEASE:** The Bidder assumes full responsibility for its work performed hereunder and hereby releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person (whether they be either of the parties hereto, their employees, or other third parties) and any loss of or damage to property (whether the property be that of either of the parties hereto, their employees, or other third parties) that is caused by or alleged to be caused by, arising out of, or in connection with the Bidder's work to be performed hereunder. This release shall apply with respect to the Bidder's work regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance.

**COMPLIANCE WITH LAWS:** Bidder shall comply with all Federal and State laws and City Ordinances and Codes applicable to the Bidder's operation under this contract. These Specifications and the contract resulting herefrom shall be fully governed by the laws of the State of Texas, and shall be fully performable in Harris County, Texas, where venue for any proceeding arising hereunder will lie.

**SILENCE OF SPECIFICATIONS:** The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality shall be used. All interpretations of specifications shall be made on the basis of this statement.

**ASSIGNMENT:** The successful bidder may not assign, sell or otherwise transfer this contract without prior written consent of the City Council of the City of Baytown.

**SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

**CONTRACT TERMINATION:** The City of Baytown reserves the right to terminate this contract for any reason by notifying the contractor in writing thirty (30) days prior to the termination of this agreement.

**RIGHT OF ASSURANCE:** Whenever one (1) party to this contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give a written assurance of this intent to

perform. In the event that demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Wellington Council Meeting, May 13, 2014

Page 112 of 251

**PRICING:** The price shall include all costs including stock material, production costs, file transfer, file manipulation, processing, laser printing, mailing of bills, shipping, handling, pickup, delivery, and any other related costs. Data Program File developed by successful bidder shall incur a one-time cost upon the City of Baytown's approval of program submitted. All quotes shall be F.O.B. destination Utility Billing Division, 2505 Market Street, Baytown, Texas. Postage shall not be included in evaluation of this contract. The City of Baytown will make payment to the Postmaster for all postage.

**INVOICE:** The Bidder shall invoice the City of Baytown monthly, per bill, for the number of bills mailed. The Bidder's invoice shall include a detail of the number of bills mailed on each billing cycle of the month. Bidder shall include Purchase Order number on corresponding invoice. Invoice shall be approved by Utility Billing prior to payment. Approved Invoice shall be sent to:

CITY OF BAYTOWN  
P. O. BOX 424  
BAYTOWN, TX 77522-0424  
ATTN: ACCOUNTS PAYABLE

**PAYMENT:** The City of Baytown shall pay for services within fifteen (15) working days of receipt and acceptance. Acceptance by the City of Baytown shall constitute all services bid being received to the City's satisfaction.

**BID DELIVERY:** The City of Baytown Purchasing Department shall accept sealed bids Monday through Friday, 8:00 a.m. - 12:00 p.m. and 1:00 p.m. - 5:00 p.m. The Purchasing Department is closed from 12:00 p.m. - 1:00 p.m. Bids must be received by the Purchasing Department before the specified hour and date of the opening. Each bid must be sealed and should be placed in a properly identified envelope with bid number, time and date of bid opening.

Submit to:

CITY OF BAYTOWN  
PURCHASING DEPARTMENT  
2123 MARKET STREET  
BAYTOWN, TX 77520

lkm/026-12

## BIDDER'S CERTIFICATION

The 1985 Texas Legislature passed HB620 relating to bids by nonresident contractors. The pertinent portion of the Act has been extracted and is as follows:

**Section 1. (a)**

(2) "Nonresident bidder" means a bidder whose principal place of business is not in this state, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

(3) "Texas resident bidder" means a bidder whose principal place of business is in this state, and includes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

(b) The state or a governmental agency of the state may not award a contract for general construction, improvements, services, or public works projects or purchases of supplies, materials, or equipment to a nonresident bidder unless the nonresident's bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

I certify that \_\_\_\_\_ is a resident bidder of Texas as defined in HB 620.  
(Company Name)

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

I certify that \_\_\_\_\_ is a Nonresident bidder as defined in HB 620  
(Company Name)  
and our principal place of business is \_\_\_\_\_.  
(City and State)

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

## EXCEPTIONS TO SPECIFICATIONS

If any item, material or equipment submitted as a part of this bid does not fully meet or exceed the minimum specifications as published, the exception(s) MUST be listed on this sheet and attached to the bid.

Section	Item/Material/Equipment Bid	Reason

If no exceptions are listed, it will be assumed that the bid meets or exceeds the minimum specifications and any purchase contract as a result of this bid will be contingent on that condition.

Company \_\_\_\_\_

Agent \_\_\_\_\_

## REFERENCES

Each Bidder is to provide a minimum of three (3) verifiable references in which the bidder has sold, maintained or provided this or similar product or service.

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone : (        ) \_\_\_\_\_

Product Purchased by Reference: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone : (        ) \_\_\_\_\_

Product Purchased by Reference: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone : (        ) \_\_\_\_\_

Product Purchased by Reference: \_\_\_\_\_

## SUPPLIER INFORMATION FORM

<b>COMPANY'S FULL BUSINESS NAME:</b>	
<b>PHYSICAL ADDRESS:</b>	
<b>PHONE #:</b>	
<b>FAX #:</b>	
<b>CONTACT PERSON:</b>	
<b>PHONE #:</b>	
<b>REMITTANCE ADDRESS:</b>	
<b>PHONE #:</b>	
<b>FAX #:</b>	
<b>CONTACT PERSON:</b>	
<b>PHONE #:</b>	
<b>PAYMENT TERMS DISCOUNT:</b>	
<b>COMPANY TAX ID#:</b>	

**CITY OF BAYTOWN**  
**PURCHASING DEPARTMENT**  
**NO BID NOTIFICATION**

BID TITLE: \_\_\_\_\_

BID NUMBER: \_\_\_\_\_

SUPPLIER NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AGENT'S NAME: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

The CITY OF BAYTOWN is interested in receiving competitive pricing on all items bid. We also desire to keep your firm as a bidder and a supplier of materials and equipment. Therefore, it is important for us to determine why you are not bidding on this item. We will analyze your input carefully and try to determine if future changes are needed in our specifications and procedures.

I did not bid for the following reasons: (PLEASE CHECK ONE OF THE LISTED REASONS)

- \_\_\_\_\_ Do not supply the requested product.
- \_\_\_\_\_ Quantities offered are too small or too large to be supplied by your company. (Please circle one of the underlined.)
- \_\_\_\_\_ Specifications are "too tight" or written around a particular product. (Please elaborate on this item.)
- \_\_\_\_\_ Cannot bid against manufacturer or jobber on this item. (Please circle one of the underlined).
- \_\_\_\_\_ Time frame for bidding was too short for my organization.
- \_\_\_\_\_ Not awarded a previous contract by the City when you felt you were low bidder.
- \_\_\_\_\_ Other \_\_\_\_\_

~~~~~  
 If you wish to remain on the City's bid list for this item, please indicate:

\_\_\_\_\_ I wish to remain. \_\_\_\_\_ I do not wish to remain.

**INSTRUCTION: ENTITIES USING AN ASSUMED NAME SHOULD DISCLOSE SUCH FACT TO AVOID REJECTION OF THE AFFIDAVIT. THE FOLLOWING FORMAT IS RECOMMENDED: CORPORATE/LEGAL NAME DBA ASSUMED NAME.**

STATE OF \_\_\_\_\_ §  
 COUNTY OF \_\_\_\_\_ § **AFFIDAVIT OF OWNERSHIP OR CONTROL**

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ [FULL NAME] (hereinafter "Affiant"),  
 \_\_\_\_\_ [STATE TITLE/CAPACITY WITH  
**CONTRACTING ENTITY]** of \_\_\_\_\_ [CONTRACTING  
**ENTITY'S CORPORATE/LEGAL NAME]** ("Contracting Entity"), who being by me duly sworn on  
 oath stated as follows:

1. Affiant is authorized to give this affidavit and has personal knowledge of the facts and matters herein stated.
2. Contracting Entity seeks to do business with the City in connection with \_\_\_\_\_ [DESCRIBE PROJECT OR MATTER] which is expected to be in an amount that exceeds \$50,000.
3. The following information is submitted in connection with the proposal, submission or bid of Contracting Entity in connection with the above described project or matter.
4. Contracting Entity is organized as a business entity as noted below (check box as applicable).

**FOR PROFIT ENTITY:**☐ SOLE PROPRIETORSHIP☐ CORPORATION☐ PARTNERSHIP☐ LIMITED PARTNERSHIP☐ JOINT VENTURE☐ LIMITED LIABILITY COMPANY☐ OTHER (Specify type in space below):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_**NON-PROFIT ENTITY:**☐ NON-PROFIT CORPORATION☐ UNINCORPORATED ASSN.

5. The information shown below is true and correct for the Contracting Entity and all owners of 5% or more of the Contracting Entity and, where the Contracting Entity is a non-profit entity, the required information has been shown for each officer. [NOTE: IN ALL CASES, USE FULL NAMES, LOCAL BUSINESS AND RESIDENCE ADDRESSES AND TELEPHONE

NUMBERS. DO NOT USE POST OFFICE BOXES FOR ANY ADDRESS. INCLUSION OF E-MAIL ADDRESSES IS OPTIONAL, BUT RECOMMENDED. ATTACH ADDITIONAL SHEETS AS NEEDED.]

**Contracting Entity**

Name: \_\_\_\_\_

Business Address [NO./STREET] \_\_\_\_\_

[CITY/STATE/ZIP CODE] \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address [OPTIONAL] \_\_\_\_\_

Residence Address [NO./STREET] \_\_\_\_\_

[CITY/STATE/ZIP CODE] \_\_\_\_\_

Telephone Number [OPTIONAL] (\_\_\_\_) \_\_\_\_\_

Email Address [OPTIONAL] \_\_\_\_\_

**5% or More Owner(s)/Officers of Non-Profit Corporation  
(IF NONE, STATE "NONE.")**

Name: \_\_\_\_\_

Business Address [NO./STREET] \_\_\_\_\_

[CITY/STATE/ZIP CODE] \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address [OPTIONAL] \_\_\_\_\_

Residence Address [NO./STREET] \_\_\_\_\_

[CITY/STATE/ZIP CODE] \_\_\_\_\_

Telephone Number [OPTIONAL] (\_\_\_\_) \_\_\_\_\_

Email Address [OPTIONAL] \_\_\_\_\_

6. Optional Information  
Contracting \_\_\_\_\_ Entity \_\_\_\_\_ and/or  
[NAME OF \_\_\_\_\_]

Orig. Dept.: \_\_\_\_\_

**OWNER OR NON-PROFIT OFFICER]** is actively protesting, challenging or appealing the accuracy and/or amount of taxes levied against \_\_\_\_\_ **[CONTRACTING ENTITY, OWNER OR NON-PROFIT OFFICER]** as follows:

Name of Debtor: \_\_\_\_\_

Type of Debt: \_\_\_\_\_

Account Nos.: \_\_\_\_\_

Case or File Nos.: \_\_\_\_\_

Attorney/Agent Name: \_\_\_\_\_

Attorney/Agent Phone No.: \_\_\_\_\_

Delinquent Years/Months: \_\_\_\_\_

Status of Appeal [DESCRIBE]: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Affiant certifies that he or she is duly authorized to submit the above information on behalf of the Contracting Entity, that Affiant is associated with the Contracting Entity in the capacity noted above and has personal knowledge of the accuracy of the information provided herein, and that the information provided herein is true and correct to the best of Affiant's knowledge and belief.

\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED before me this \_\_ day of \_\_\_\_\_, 20\_\_.

(Seal)

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

**NOTE:**

This affidavit constitutes a government record as defined by Section 37.01 of the Texas Penal Code. Submission of a false government record is punishable as provided in Section 37.10 of the Texas Penal Code.

Attach additional pages if needed to supply the required names and addresses.

R:\Karen\Files\Contracts\Affidavit of Ownership or Control.doc



Utility Billing Division  
P.O. Box 424  
2505 Market Street  
Baytown, Texas 77522-0424

## FINAL BILL

**Return Service Requested**

\*\*\*\*\*AUTO\*\*DIGIT 77520

MAIL TO:

H R RICHARD'S RESTAURANT

1902 GARTH RD

BAYTOWN TX 77521-8564



**ACCOUNT INFORMATION:**

|                    |               |
|--------------------|---------------|
| ACCOUNT:           | 2390-19586-02 |
| SERVICE ADDRESS:   | 1902 GARTH RD |
| FINAL BALANCE DUE: | \$59.94       |

**THIS IS YOUR FINAL BILL.  
DUE IMMEDIATELY UPON RECEIPT**

| SERVICE             | CURRENT<br>READING | DATE<br>READ | PREVIOUS<br>READING | CONSUMPTION | CURRENT<br>AMOUNT DUE |
|---------------------|--------------------|--------------|---------------------|-------------|-----------------------|
| WATER               | 52                 | 10/15/2011   | 49                  | 3K          | 18.46                 |
| SEWER               |                    |              |                     | 3K          | 18.53                 |
| GARBAGE             |                    |              |                     |             | 17.56                 |
| RECYLING            |                    |              |                     |             | 2.25                  |
| GARBAGE TAX         |                    |              |                     |             | 1.45                  |
| RECYLING TAX        |                    |              |                     |             | 0.19                  |
| MDUS FEE            |                    |              |                     |             | 1.50                  |
| TOTAL OF FINAL BILL |                    |              |                     |             | 59.94                 |

All final bills must be paid in full before account holder can re-establish water service with Utility Billing.

Night drop payments, online payments and payments by phone are posted the next business day. Our office and drive through window are open Monday – Friday, excluding holidays, from 8 a.m. – 4 p.m. To pay by phone call 866-528-0686. For quick response questions please contact us at [ubservices@baytown.org](mailto:ubservices@baytown.org).

**THIS IS YOUR FINAL BILL.  
DUE IMMEDIATELY UPON RECEIPT**

**RETURN THIS STUB WITH PAYMENT  
PAYMENT COUPON**

|                    |               |
|--------------------|---------------|
| ACCOUNT:           | 2390-19586-02 |
| SERVICE ADDRESS:   | 1902 GARTH RD |
| FINAL BALANCE DUE: | \$59.94       |

AMOUNT ENCLOSED: \_\_\_\_\_

THIS IS YOUR FINAL BILL DUE UPON RECEIPT

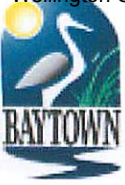
REMIT PAYMENT TO:

H R RICHARD'S RESTAURANT  
1902 GARTH RD  
BAYTOWN TX 77521-8564

CITY OF BAYTOWN  
PO BOX 203622  
HOUSTON TX 77216-3622



128308809089 111520113 000190428



## PAST DUE NOTICE

### ACCOUNT INFORMATION:

ACCOUNT: 2390-19586-02  
SERVICE ADDRESS: 1902 GARTH RD  
NOTICE DATE: 11/3/11  
DISCONNECT DATE: 11/15/11

\*\*\*\*\*AUTO\*\*DIGIT 77520

MAIL TO:

H R RICHARD'S RESTAURANT  
1902 GARTH RD  
BAYTOWN TX 77521-8564



TOTAL AMOUNT DUE (IF PAID BY 11/15/11): \$205.49  
TOTAL AMOUNT DUE (IF PAID AFTER 11/15/11): \$240.49

## NOTICE OF NON-PAYMENT

ACCOUNT IS SUBJECT TO DISCONNECT IF PAYMENT IS NOT RECEIVED BY 4 P.M. 11/15/11

ACCOUNT IS PAST DUE IN THE AMOUNT OF: \$205.49 (IF PAID BY 11/15/11)

PLUS ACCRUED PENALTIES AND LATE CHARGES: \$35.00

TOTAL DUE: \$240.49 (IF PAID AFTER 11/15/11)

ACCOUNT NUMBER: 2390-19586-02

SERVICE AT: 1902 GARTH RD  
BAYTOWN, TX 77521-8564

Please avoid additional late charges and fees by coming in and paying your past due account balance before 4:00 p.m. on the date listed above. Once a disconnect work order is issued, a \$35.00 fee will be automatically added to the account. Night drop payments, online payments and payments by phone are not processed immediately. They are posted the next business day. To pay by phone, 866-528-0686. For quick response questions please contact us at [ubservices@baytown.org](mailto:ubservices@baytown.org).

### RETURN THIS STUB WITH PAYMENT PAYMENT COUPON

ACCOUNT: 2390-19586-02  
SERVICE ADDRESS: 1902 GARTH RD  
NOTICE DATE: 11/3/11  
DISCONNECT DATE: 11/15/11

TOTAL DUE (IF PAID BY 11/15/11): \$205.49  
TOTAL DUE (IF PAID AFTER 11/15/11): \$240.49

AMOUNT ENCLOSED: \_\_\_\_\_

H R RICHARD'S RESTAURANT  
1902 GARTH RD  
BAYTOWN TX 77521-8564

REMIT PAYMENT TO:  
CITY OF BAYTOWN  
PO BOX 203622  
HOUSTON TX 77216-3622



128308809089 111520113 000190428



**Return Service Requested**

\*\*\*\*\*AUTO\*\*DIGIT 77520

MAIL TO:  
 H R RICHARD'S RESTAURANT  
 1902 GARTH RD  
 BAYTOWN TX 77521-8564



**ACCOUNT INFORMATION:**

ACCOUNT: 2390-19586-02  
 SERVICE ADDRESS: 1902 GARTH RD  
 PAST DUE BALANCE: \$205.49  
 CURRENT AMOUNT DUE: \$59.94  
 TOTAL AMOUNT DUE: \$265.43

**PAST DUE BALANCE DUE: IMMEDIATELY**  
**CURRENT AMOUNT DUE: 11/9/11**

CURRENT AMOUNT DUE IF PAID AFTER 11/9/11: \$65.93  
 TOTAL AMOUNT DUE IF PAID AFTER 11/9/11: \$271.42

| SERVICE                      | CURRENT<br>READING | DATE<br>READ | PREVIOUS<br>READING | CONSUMPTION | CURRENT<br>AMOUNT DUE |
|------------------------------|--------------------|--------------|---------------------|-------------|-----------------------|
| WATER                        | 52                 | 10/15/2011   | 49                  | 3K          | 18.46                 |
| SEWER                        |                    |              |                     | 3K          | 18.53                 |
| GARBAGE                      |                    |              |                     |             | 17.56                 |
| RECYLING                     |                    |              |                     |             | 2.25                  |
| GARBAGE TAX                  |                    |              |                     |             | 1.45                  |
| RECYLING TAX                 |                    |              |                     |             | 0.19                  |
| MDUS FEE                     |                    |              |                     |             | 1.50                  |
| <b>TOTAL OF CURRENT BILL</b> |                    |              |                     |             | <b>59.94</b>          |

To avoid late charges on your current bill, payment must be received in the Utility Billing Office before 4:00 p.m. on the date listed above. The past due balance is subject to disconnect and due immediately.

Night drop payments, online payments and payments by phone are posted the next business day. To avoid disconnection, please do not use these forms of payment if your account is past due and you are paying on the final due date. Our office and drive through window are open Monday – Friday, excluding holidays, from 8 a.m. – 4 p.m. To pay by phone call 866-528-0686. For quick response questions please contact us at [ubservices@baytown.org](mailto:ubservices@baytown.org).

**RETURN THIS STUB WITH PAYMENT  
 PAYMENT COUPON**

ACCOUNT: 2390-19586-02  
 SERVICE ADDRESS: 1902 GARTH RD  
 PAST DUE BALANCE: \$205.49  
 CURRENT AMT DUE (BY 11/9/11): \$59.94  
 TOTAL AMOUNT DUE: \$265.43

CURRENT AMT DUE (IF PAID AFTER 11/9/11): \$65.93  
 TOTAL AMT DUE (IF PAID AFTER 11/9/11): \$271.42

AMOUNT ENCLOSED: \_\_\_\_\_

REMIT PAYMENT TO:  
 CITY OF BAYTOWN  
 PO BOX 203622  
 HOUSTON TX 77216-3622



H R RICHARD'S RESTAURANT  
 1902 GARTH RD  
 BAYTOWN TX 77521-8564

128308809089 111520113 000190428

## INVITATION TO BID



P.O. Box 424  
Baytown, Texas 77522-0424

BID TITLE: ANNUAL OUTSOURCING OF UTILITY  
BILLS CONTRACT  
BID NUMBER: 026-12

BID OPENING DATE: WEDNESDAY, JANUARY 4,  
2012 @ 2:00 P.M.

LATE BIDS WILL NOT BE CONSIDERED.

## Bidder Must Fill In &amp; Sign

Name of Firm, Company: DP2 Billing Solutions LLC  
Agent's Name: William K. Murray  
Agent's Title: CEO  
Mailing Address: 1603 Hart Court  
City: Southlake, State: TX Zip: 76092  
Telephone: 817 488-5800  
Fax No.: 817 488-5817  
Email address: bmurray@dp-2.com  
William K. Murray  
AUTHORIZED SIGNATURE  
FAILURE TO MANUALLY SIGN  
SHALL DISQUALIFY BID

BIDDER AGREES TO COMPLY WITH ALL CONDITIONS BELOW, ATTACHED SPECIFICATIONS, AND NOTES. BIDDER HAS READ AND AGREES TO COMPLY WITH ALL TERMS AND CONDITIONS ON BACK OF INVITATION TO BID. PURCHASES MADE FOR CITY USE ARE EXEMPT FROM THE STATE SALES TAX AND FEDERAL EXCISE TAX. DO NOT INCLUDE TAXES IN YOUR BID. BIDDER GUARANTEES PRODUCT OFFERED SHALL MEET OR EXCEED MINIMUM SPECIFICATION IDENTIFIED IN THIS INVITATION TO BID.


## SHIPMENT DESTINATION

CITY OF BAYTOWN UTILITY BILLING DEPARTMENT, 2505 MARKET  
STREET, BAYTOWN, TEXAS 77520

| ITEM NO.     | ITEM AND DESCRIPTION                                                                                                                                                                                                                           | QUANTITY                                           | UNIT PRICE                                    | EXTENSION   |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|-----------------------------------------------|-------------|
|              | ANNUAL OUTSOURCING: UTILITY BILLING CONTRACT. per attached specifications.                                                                                                                                                                     |                                                    |                                               |             |
| 1.           | One Time Setup Charge for reformatting of form & Programming and Data Processing Set-up - Utility Bill Letters. Includes ability to extract from City of Baytown customer print file and process into usable format through data manipulation. | One time cost                                      | *****                                         | \$ NC       |
| 2.           | Notification of Address Change (NOCA) to be performed at beginning of contract and six (6) months thereafter.                                                                                                                                  | 2 times (Per Each Usage based on 22,000 customers) | \$ 0.40 / Verified Hit<br>Cost per each usage |             |
| 3.           | Utility letter bill -Cost to provide envelopes, forms and data process/laser print. Fold, sort, tray, tag mail and drop at USPS.                                                                                                               | 22,000                                             | \$ 0.088<br>Cost per each bill.               | \$ 1,936.00 |
| 4.           | One Time Setup Charge for Delinquent letters for reformatting of form & Programming and Data Processing Set-up. Includes ability to extract from City of Baytown customer print file and process into usable format through data manipulation. | One time cost                                      | *****                                         | \$ NC       |
| 5.           | Delinquent Letter - Cost to provide envelopes, forms and data process/laser print. Fold, sort tray, tag mail and drop at USPS.                                                                                                                 | 4,000                                              | \$ 0.088<br>Cost per each letter.             | \$ 352.00   |
| GRAND TOTAL: |                                                                                                                                                                                                                                                |                                                    |                                               | \$ 2,288.00 |

"By the signature hereon affixed, the bidder hereby certifies that neither the bidder nor the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of the State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business."

**ALTERNATE PROCESSING PLAN:** Successful Bidder shall have an alternate processing plan to ensure timely delivery of Utility Billing should their primary facility be rendered unable to provide the necessary services for the City of Baytown. This service would be at no additional cost to the City of Baytown.

Alternate plan available: (Indicate Yes or No) Yes 

If an alternate plan is available, Bidder shall include a description of plan.  See Proposal

**CAPABILITY SURVEY:** The City of Baytown reserves the right to perform a complete facility survey prior to award of bid to determine if the Bidder has the capability to successfully perform services as outlined in specifications.

**ACCEPTANCE AND NONCONFORMING STANDARDS:** All service shall be accepted subject to inspection, count and/or testing. A waiver on one occasion does not constitute a waiver on future occasions.

**EVALUATION CRITERIA:** Contract may be awarded to the bidder who provides goods or services at the best value for the City of Baytown. Extended pricing for letter bills and delinquent letters will be totaled to determine evaluation. The one-time up-front cost for developing file program manipulation of the City's billing print file will be considered in the evaluation as well as the charge to utilize NCOA and postage rates. The City of Baytown reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interest of the City of Baytown.

**AUDIT:** Supplier shall provide the City of Baytown a line item report of quantities and expenditures on a monthly basis or at any time during the term of this contract for materials, commodities, or services rendered as requested by the Purchasing Department.

**REFERENCES:** If Bidder has not performed service for the City of Baytown previously, Bidder shall provide a list of customers to whom he has supplied the specified services for the last three (3) years. Bidder shall provide a list of a minimum of three (3) customers to whom Bidder has supplied the specified material, product, equipment, or service bid. Attachment I – References is attached for Bidder's convenience and shall be returned with the Invitation to Bid. The list shall include the customer's name, address, telephone number, and the name of an individual to contact. References will be contacted.

**NON-FUNDING CLAUSE:** The City of Baytown's budget is funded on an October 1<sup>st</sup> to September 30<sup>th</sup> fiscal year basis. Accordingly, the City of Baytown reserves the right to terminate this contract by giving Bidder thirty (30) days written notice, without liability to the City, in the event that funding for this contract is discontinued or is no longer available.

**CONTRACT PERIOD:** This is an annual contract for the period of one (1) year, from FEBRUARY 1, 2012, through JANUARY 31, 2013. This contract may be renewed under the same terms and conditions for successive one-year periods, upon the agreement of both parties. Each such renewal must be evidenced in writing and approved by the appropriate authorities of each party. Such renewal shall be for the same compensation set forth in the Invitation to Bid and prices may be adjusted to reflect the Consumer Price Index (Urban) sixty-three (63) days prior to expiration date.

Additionally, the Bidder understands and agrees that upon the City's written request, this contract may be extended for a period of time, not to exceed two (2) months after the expiration of the initial term or any renewal thereof for the same compensation as the Bidder was receiving for the goods and/or services during the expired

## BIDDER'S CERTIFICATION

The 1985 Texas Legislature passed HB620 relating to bids by nonresident contractors. The pertinent portion of the Act has been extracted and is as follows:

**Section 1. (a)**

(2) "Nonresident bidder" means a bidder whose principal place of business is not in this state, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

(3) "Texas resident bidder" means a bidder whose principal place of business is in this state, and includes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

(b) The state or a governmental agency of the state may not award a contract for general construction, improvements, services, or public works projects or purchases of supplies, materials, or equipment to a nonresident bidder unless the nonresident's bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

I certify that DPZ Billing Solutions LLC is a resident bidder of Texas as defined in HB 620.  
(Company Name)

Signature William K. Murray  
Print Name William K. Murray

I certify that \_\_\_\_\_ is a Nonresident bidder as defined in HB 620  
(Company Name)  
and our principal place of business is \_\_\_\_\_  
(City and State)

Signature \_\_\_\_\_  
Print Name \_\_\_\_\_

## EXCEPTIONS TO SPECIFICATIONS

If any item, material or equipment submitted as a part of this bid does not fully meet or exceed the minimum specifications as published, the exception(s) MUST be listed on this sheet and attached to the bid.

| Section     | Item/Material/Equipment Bid | Reason |
|-------------|-----------------------------|--------|
| <u>None</u> | <u>Taken</u>                |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |
|             |                             |        |

If no exceptions are listed, it will be assumed that the bid meets or exceeds the minimum specifications and any purchase contract as a result of this bid will be contingent on that condition.

Company DP2 Billing Solutions LLC

Agent William K. Murray

## ATTACHMENT I

## REFERENCES

Each Bidder is to provide a minimum of three (3) verifiable references in which the bidder has sold, maintained or provided this or similar product or service.

Company Name: Sun Gard Public Sector  
Address: 1000 Business Center Dr., Lake Mary, FL 32746  
Contact Person: David Haas or Peggy Serena  
Telephone: (800) 727-8086  
Product Purchased by Reference: \_\_\_\_\_

Company Name: Tyler Technologies  
Address: 5519 53rd Street, Lubbock, TX 79414  
Contact Person: Robin Reeves  
Telephone: (800) 646-2633  
Product Purchased by Reference: \_\_\_\_\_

Company Name: StW Municipal Software  
Address: 212 E. Franklin, Grapevine, TX 76051  
Contact Person: Adolfo Urquieto  
Telephone: (817) 329-1711  
Product Purchased by Reference: \_\_\_\_\_

**SUPPLIER INFORMATION FORM**

|                                      |                                        |
|--------------------------------------|----------------------------------------|
| <b>COMPANY'S FULL BUSINESS NAME:</b> | DPZ Billing Solutions LLC              |
| <b>PHYSICAL ADDRESS:</b>             | 1603 Hart Court<br>Southlake, TX 76092 |
| <b>PHONE #:</b>                      | 817 488-5800                           |
| <b>FAX #:</b>                        | 817 488-5817                           |
| <b>CONTACT PERSON:</b>               | Lokie Perez                            |
| <b>PHONE #:</b>                      | 469 361-6486                           |
| <b>REMITTANCE ADDRESS:</b>           | Same as above                          |
| <b>PHONE #:</b>                      |                                        |
| <b>FAX #:</b>                        |                                        |
| <b>CONTACT PERSON:</b>               |                                        |
| <b>PHONE #:</b>                      |                                        |
| <b>PAYMENT TERMS DISCOUNT:</b>       |                                        |
| <b>COMPANY TAX ID#:</b>              | ETN - 45 - 3370297                     |

Orig. Dept.: \_\_\_\_\_

File/I.D. No.: \_\_\_\_\_

**INSTRUCTION: ENTITIES USING AN ASSUMED NAME SHOULD DISCLOSE SUCH FACT TO AVOID REJECTION OF THE AFFIDAVIT. THE FOLLOWING FORMAT IS RECOMMENDED: CORPORATE/LEGAL NAME DBA ASSUMED NAME.**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_



## AFFIDAVIT OF OWNERSHIP OR CONTROL

BEFORE ME, the undersigned authority, on this day personally appeared William K. Murray [FULL NAME] (hereinafter "Affiant"), California [STATE] CEO [TITLE/CAPACITY] WITH CONTRACTING ENTITY] of DPZ Billing Solutions LLC [CONTRACTING ENTITY'S CORPORATE/LEGAL NAME] ("Contracting Entity"), who being by me duly sworn on oath stated as follows:

1. Affiant is authorized to give this affidavit and has personal knowledge of the facts and matters herein stated.
2. Contracting Entity seeks to do business with the City in connection with Annual Outsourcing of Utility Billing [DESCRIBE PROJECT OR MATTER] which is expected to be in an amount that exceeds \$50,000.
3. The following information is submitted in connection with the proposal, submission or bid of Contracting Entity in connection with the above described project or matter.
4. Contracting Entity is organized as a business entity as noted below (check box as applicable).

FOR PROFIT ENTITY:☐ SOLE PROPRIETORSHIP☐ CORPORATION☐ PARTNERSHIP☐ LIMITED PARTNERSHIP☐ JOINT VENTURE☒ LIMITED LIABILITY COMPANY☐ OTHER (Specify type in space below):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_NON-PROFIT ENTITY:☐ NON-PROFIT CORPORATION☐ UNINCORPORATED ASSN.

5. The information shown below is true and correct for the Contracting Entity and all owners of 5% or more of the Contracting Entity and, where the Contracting Entity is a non-profit entity, the required information has been shown for each officer. [NOTE: IN ALL CASES, USE FULL NAMES, LOCAL BUSINESS AND RESIDENCE ADDRESSES AND TELEPHONE

Orig. Dept.: \_\_\_\_\_

File/I.D. No.: \_\_\_\_\_

NUMBERS. DO NOT USE POST OFFICE BOXES FOR ANY ADDRESS.  
INCLUSION OF E-MAIL ADDRESSES IS OPTIONAL, BUT RECOMMENDED.  
ATTACH ADDITIONAL SHEETS AS NEEDED.]

Contracting EntityName: DP2 Billing Solutions LLC

Business Address [NO./STREET] 1603 Hart Court  
[CITY/STATE/ZIP CODE] Southlake, TX 76092

Telephone Number (817) 488-5800Email Address [OPTIONAL] bmurray@dp-2.com

Residence Address [NO./STREET] 765 Arroyo Rd  
[CITY/STATE/ZIP CODE] Los Altos, CA 94024

Telephone Number [OPTIONAL] (408) 255-5006Email Address [OPTIONAL] bmurray@dp-2.com

5% or More Owner(s)/Officers of Non-Profit Corporation  
(IF NONE, STATE "NONE.")

Name: \_\_\_\_\_

Business Address [NO./STREET] \_\_\_\_\_  
[CITY/STATE/ZIP CODE] \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address [OPTIONAL] \_\_\_\_\_

Residence Address [NO./STREET] \_\_\_\_\_  
[CITY/STATE/ZIP CODE] \_\_\_\_\_

Telephone Number [OPTIONAL] (\_\_\_\_) \_\_\_\_\_

Email Address [OPTIONAL] \_\_\_\_\_

6. Optional Information  
Contracting

Entity

and/or

[NAME OF

Orig. Dept.: \_\_\_\_\_

File/I.D. No.: \_\_\_\_\_

**OWNER OR NON-PROFIT OFFICER**] is actively protesting, challenging or appealing the accuracy and/or amount of taxes levied against \_\_\_\_\_ **[CONTRACTING ENTITY, OWNER OR NON-PROFIT OFFICER]** as follows:

Name of Debtor: \_\_\_\_\_

Type of Debt: \_\_\_\_\_

Account Nos.: \_\_\_\_\_

Case or File Nos.: \_\_\_\_\_

Attorney/Agent Name: \_\_\_\_\_

Attorney/Agent Phone No.: \_\_\_\_\_

Delinquent Years/Months: \_\_\_\_\_

Status of Appeal [DESCRIBE]: \_\_\_\_\_

Affiant certifies that he or she is duly authorized to submit the above information on behalf of the Contracting Entity, that Affiant is associated with the Contracting Entity in the capacity noted above and has personal knowledge of the accuracy of the information provided herein, and that the information provided herein is true and correct to the best of Affiant's knowledge and belief.

*William K. Murray*  
 \_\_\_\_\_  
 Affiant

SWORN TO AND SUBSCRIBED before me this 26<sup>th</sup> day of Dec., 2011.

(Seal)



*[Signature]*  
 \_\_\_\_\_  
 Notary Public in and for the State of  
 CA

**NOTE:**

This affidavit constitutes a government record as defined by Section 37.01 of the Texas Penal Code. Submission of a false government record is punishable as provided in Section 37.10 of the Texas Penal Code.

Attach additional pages if needed to supply the required names and addresses.

R:\Karen\Files\Contracts\Affidavit of Ownership or Control.doc

**CONFLICT OF INTEREST QUESTIONNAIRE****FORM CIQ****For vendor or other person doing business with local governmental entity**

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.008(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

**OFFICE USE ONLY**

Date Received

1 Name of person who has a business relationship with local governmental entity.

N/A

2 ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name of local government officer with whom filer has employment or business relationship.

N/A

Name of Officer

This section (Item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

☐ Yes☒ No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes☒ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes☒ No

D. Describe each employment or business relationship with the local government officer named in this section.

None

4

Signature of person doing business with the governmental entity

Date

12/29/2011

Adopted 06/29/2007

This form was completed  
by William K. Murray  
William K. Murray



**CITY OF BAYTOWN**  
P.O. Box 424  
Baytown, TX 77522-0424

**ACCOUNT STATEMENT**

for the period of Nov. 11, 2011 to Dec. 16, 2011

Customer Number: 999999

Service Address: 12345 W MAIN STREET

Account Number  
**0099999999**

Due Date  
**12/28/2011**

Amount Due  
**\$95.44**

\*\*SINGLE-PIECE 1 SGL E-4DA-1025-1-A-1  
4 1 SP 0.410

|||||...|||||...|||||...|||||...|||||...|||||...|||||...|||||...|||||...|||||...  
JOHN Q SAMPLE  
12345 W MAIN STREET  
BAYTOWN TX 75021-3022

Questions about your Statement

Customer Service.....281-420-6515

Payments.....281-420-6512

Email.....utilitybilling@baytown.org

Office Hours

Monday-Friday.....8 a.m. - 4 p.m.

Drop box located in front of City Hall

WATER USAGE

| Meter Number | Previous | Current | Consumption |
|--------------|----------|---------|-------------|
| 67341736     | 127440   | 127560  | 120 kGal    |

CURRENT CHARGES

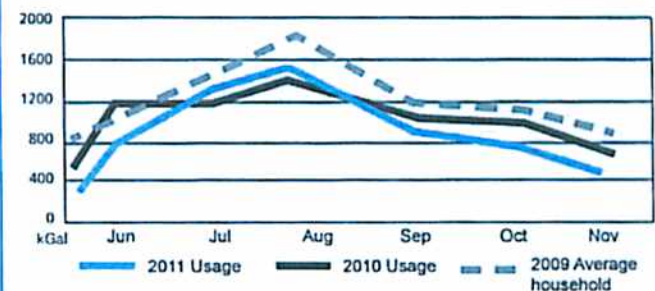
Water — 120kGal @ 0.634.....\$76.08  
Refuse.....\$16.50  
Park.....\$ 1.50  
Tax.....\$ 1.36  
Balance from your last bill.....\$112.35  
Payment(s) — thank you.....\$112.35-  
Balance Forward.....\$ 0.00

**Total Amount Due Now .....\$95.44**

Total amount due after 12/28/11 .....\$100.44

**Do Not Wait To Fix Leaks**

Hidden leaks caused by a corroded flush valve can waste over 73,000 gallons of water per year.

**YOU'RE MAKING A DIFFERENCE**

↓ **Congratulations**, your water usage has decreased for this months statement!

**How does my home compare**

Total costs from November 11, 2011 to December 16, 2011



**Good!**

**Stage 2 Water Restrictions in Effect****Payment Coupon** — Please return this portion along with your payment and make your check payable to the City of BaytownAccount Information

Account Number: 0099999999  
Cycle: 01  
Service Address: 12345 W Main Street  
Last Payment: 11/07/2011 -112.35  
Service Period: 05/15/10 to 06/15/10  
Billing Date: 12/04/11

John Q Sample  
12345 W Main Street  
Baytown, TX 75021-3022

Account Number  
**0099999999**

Due Date  
**12/28/2011**

Amount Due  
**\$95.44**

Amount Enclosed: \$    .

Return this coupon with your payment made payable to :

|||||...|||||...|||||...|||||...|||||...|||||...|||||...|||||...  
CITY OF BAYTOWN  
UTILITY BILLING  
P.O. BOX 424  
BAYTOWN, TX 77522-0424



**Electric Rates** — Electric rates are per kilowatt hour (kWh)

|                                     |                                                                                                                                                                                                |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Basic Charge                        | Minimum monthly charge for electric customer                                                                                                                                                   |
| Electric Delivery Charge, Res - kWh | The charge for the city utility to deliver electricity to the customers.                                                                                                                       |
| Cost of Purchased Power, Res - kWh  | A monthly pass-through charge to the customer for the city's cost of purchasing power. This charge includes the generation, transmission, administrative, and fuel cost of the purchased power |

**Residential Water Rates** - Water rates are per 1000 gallons

| Inside-City Water Rates        |                |             |  | Outside-City Water Rates       |                |             |  |
|--------------------------------|----------------|-------------|--|--------------------------------|----------------|-------------|--|
| <u>Lifeline Rate</u>           |                | <u>Rate</u> |  | <u>Lifeline Rate</u>           |                | <u>Rate</u> |  |
| First 8,000 gallons -          |                |             |  | First 8,000 gallons -          |                |             |  |
| Minimum Bill                   |                | 19.93       |  | Minimum Bill                   |                | 24.92       |  |
| 8,001 - 10,000 gallons         | Water Block 2: | 4.67        |  | 8,001 - 10,000 gallons         | Water Block 2: | 5.85        |  |
| 10,001 - 25,000 gallons        | Water Block 3: | 5.85        |  | 10,001 - 25,000 gallons        | Water Block 3: | 7.31        |  |
| Over 25,000 gallons            | Water Block 4: | 6.49        |  | Over 25,000 gallons            | Water Block 4: | 8.11        |  |
| <u>5/8" - 3/4" Water Meter</u> |                | <u>Rate</u> |  | <u>5/8" - 3/4" Water Meter</u> |                | <u>Rate</u> |  |
| First 2,000 gallons -          |                |             |  | First 2,000 gallons -          |                |             |  |
| Minimum Bill                   |                | 19.93       |  | Minimum Bill                   |                | 24.92       |  |
| 2,001 - 10,000 gallons         | Water Block 2: | 4.67        |  | 2,001 - 10,000 gallons         | Water Block 2: | 5.85        |  |
| 10,001 - 25,000 gallons        | Water Block 3: | 5.85        |  | 10,001 - 25,000 gallons        | Water Block 3: | 7.31        |  |
| Over 25,000 gallons            | Water Block 4: | 6.49        |  | Over 25,000 gallons            | Water Block 4: | 8.11        |  |
| <u>1" Water Meter</u>          |                | <u>Rate</u> |  | <u>1" Water Meter</u>          |                | <u>Rate</u> |  |
| First 4,000 gallons -          |                |             |  | First 4,000 gallons -          |                |             |  |
| Minimum Bill                   |                | 39.86       |  | Minimum Bill                   |                | 49.83       |  |
| 4,001 - 10,000 gallons         | Water Block 2: | 4.67        |  | 4,001 - 10,000 gallons         | Water Block 2: | 5.85        |  |
| 10,001 - 25,000 gallons        | Water Block 3: | 5.85        |  | 10,001 - 25,000 gallons        | Water Block 3: | 7.31        |  |
| Over 25,000 gallons            | Water Block 4: | 6.49        |  | Over 25,000 gallons            | Water Block 4: | 8.11        |  |

**Residential Sewer Rates (Winter Average)** - Sewer rates are per 1000 gallons

Residential Sewer Rates are based on the average water consumption for the previous December, January and February. Accounts that do not have water usage history for December, January or February are set at 5000 gallons. The winter average rate is set for a 12 month period.

No additional charge is applied to Single-Family residential customers for wastewater volumes in excess of 9,000 gallons.

**City of San Marcos Telephone Numbers**

|                                |              |                                        |              |
|--------------------------------|--------------|----------------------------------------|--------------|
| City Hall                      | 512 393-8000 | Environmental Health/ Code Enforcement | 512 393-8440 |
| Airport                        | 512 393-8160 | Social Services Information            | 2-1-1        |
| Animal Shelter/Animal Services | 512 393-2650 | Electric Repairs/Power Failures        | 512 393-8313 |
| City Job Line                  | 512 393-8290 | Garbage, Recycling, Bulky Waste        | 512 393-8026 |
| Crime Stoppers                 | 512 353-TIPS | Public Works, Streets, Drainage        | 512 393-8036 |
| Fire Rescue Non-Emergency      | 512 393-8460 | Recreation Programs/Facilities         | 512 393-8400 |
| Library                        | 512 393-8200 | Utility Connects/Disconnects/Bills     | 512 393-8383 |
| Municipal Court                | 512 393-8190 | Utility Service (Automated Line)       | 512 393-8333 |
| Police Non-Emergency           | 512 753-2108 | Water/Wastewater Repairs               | 512 393-8010 |

\*\*Additional information about residential and commercial utility rates and charges is available on the city website at [www.ci-san-marcos.tx.us](http://www.ci-san-marcos.tx.us).

Sample Back side - DP2 - RFP 026-12



City of Clinton  
PO Box 1177  
Clinton, OK 73601

For Inquiries Call:

Utilities Office - (580) 323-0217  
After Hours Emergency - (580) 323-2323  
Office Hours: 8:00 a.m. - 4:45 p.m., Monday-Friday

\*\*\*\*\*AUTO\*\*5-DIGIT 73601 T NOB 6298 A 1 1 1 1 0 273



JOHN Q SAMPLE  
123 MAIN ST  
CLINTON OK 73601-3416



## FINAL NOTICE

ACCOUNT INFORMATION



ACCOUNT: 01-2345-67  
SERVICE ADDRESS: 123 MAIN ST  
DISCONNECT DATE: 06/09/2005  
AMOUNT DUE  
TOTAL AMOUNT DUE 83.84

## Late Notice

According to our records your account is past due. This is to notify you that we must receive your payment or you must have a written payment arrangement in our office BEFORE the disconnection date shown. If no payment or arrangement is received, your account will be assessed a service charge and may be disconnected on cut-off date.

**THIS IS A FINAL NOTICE...**  
**NO FURTHER NOTICE WILL BE GIVEN**

I Believe in ★  
**CLINTON**

## Payment Coupon

TDD #800-722-0353  
Equal Opportunity Provider

PLEASE RETURN THIS PORTION ALONG WITH YOUR PAYMENT AND MAKE YOUR CHECK PAYABLE TO CITY OF CLINTON.

### ACCOUNT INFORMATION

ACCOUNT: 01-2345-67  
SERVICE ADDRESS: 123 MAIN ST  
DISCONNECT DATE: 06/09/2005

JOHN Q SAMPLE  
123 MAIN ST  
CLINTON OK 73601-3416

### AMOUNT DUE

TOTAL AMOUNT DUE 83.84

### AMOUNT ENCLOSED

\$

Remit Payment to:

CITY OF CLINTON  
PO BOX 1177  
CLINTON, OK 73601

Sample - DP2 - RFP 026-12

# Municipal Code Corporation

From Wikipedia, the free encyclopedia

**Municipal Code Corporation (MCC)** was founded in 1951 by George Langford who remains the Chairman of the Board of Directors. The company, located in Tallahassee, Florida, is involved in publishing legal documents<sup>[1]</sup>. These include the original codification, recodification, or republication of municipal legislation (i.e. Codes of Ordinances, Land Use Codes, and Charters), and the updating and supplementation of municipal legislation through printed looseleaf pages and various electronic formats.

The company's Code Department publishes Codes of Ordinances, which requires the original codification, recodification, or republication of a local government's local legislation. Staff attorneys within this department (also known as "code attorneys") have the overall responsibility of supervising each publication project. A code attorney reviews the local legislation, organizes the individual pieces of legislation into logical classifications, and then performs a legal review of that legislation, involving an analysis of the legislation compared to state statutes, court decisions, and constitutional principles. The code attorney points out any inconsistencies between the municipality's legislation and the statutes or case law, and makes recommendations to the municipal attorney regarding how to cure any defects found in the local legislation. When the new language is approved by the municipality, the code attorney releases the project to a team of indexer, editors and proofreaders. The company also has full printing and binding capabilities in-house.

The MCC Online Library [1] (<http://www.municode.com/Library/Library.aspx>) contains a publicly accessible collection of more than 2700 Codes of Ordinances that the company has published for local governments in 50 states. The collection of Codes of Ordinances available are integrated with a search engine, and include various research tools that make it a valuable repository of local laws. Searches may be made within an individual Code of Ordinances for free, or in multiple Codes of Ordinances, including an entire state, the entire country or individually selected content, as a premium service.

On July 31, 2003 the company created a subsidiary, MCCi,LLC, that is a value added reseller (VAR) of document management and agenda automation software. MCCi was recognized in 2008, 2009 and 2010 by Laserfiche, the manufacturer of the document management software, as the top VAR serving the local government market.

## External links

- <sup>^</sup> Municipal Code Corporation (<http://www.municode.com>)

Retrieved from "[http://en.wikipedia.org/w/index.php?title=Municipal\\_Code\\_Corporation&oldid=448853524](http://en.wikipedia.org/w/index.php?title=Municipal_Code_Corporation&oldid=448853524)"

Categories: Publishing companies of the United States | Publishing companies established in 1951  
| United States publishing company stubs

- 
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#### CONNECT WITH US



## PROPOSAL FOR SERVICES

December 30, 2011

Attention: Drew Potts  
Purchasing Manager  
City of Baytown  
2123 Market Street  
Baytown, TX 77520

Reference: Bid Number 026-12

Dear Mr. Potts,

The following proposal is provided by DP2 Billing Solutions to the City of Baytown for Utility Bill printing and mailing services. The information contained in this proposal has been compiled by a team of professionals from DP2. The proposal has been developed with every effort to meet the City of Baytown's unique needs for output services.

We believe the key to success is building relationships with our clients. DP2 greatly appreciates the opportunity to present this proposal to the City of Baytown. DP2 offers decades of experience in the document production industry. DP2 has the experience of building and delivering document print presentment and payment services to over 400 utility and telecom companies nationwide. In fact, our experience includes implementing over 70 SunGard Public Sector clients – both Pentamotion and Naviline. I can personally assure you that DP2 will provide you the highest level and quality service available in the market today. Following are a few additional points regarding our response: 1) Postage is not included in the price quoted. The City of Baytown will receive the lowest postage rate based on eligibility. 2) Our bid package did not contain a Conflict of Interest Questionnaire. The questionnaire included in our response was pulled from the City's website and completed as requested. 3) DP2 meets or exceeds all insurance requirements. 4) As part of DP2's standard automated processes we run NCOALink on each billing cycle. Verified moves are billed at a rate of \$0.40/hit, including a report listing the old vs. new address. If this is not acceptable to the City we can perform this process every six months as outlined in the RFP. The pricing will remain the same.

Our team thanks you for the opportunity and we welcome your questions and input.

We look forward to the opportunity to work with you. If you have any questions or comments, please feel free to contact me directly.

Best Regards,

A handwritten signature in blue ink that reads "Bill".

William K. Murray  
CEO  
DP2 Billing Solutions LLC  
817 488-5800  
[bmurray@dp-2.com](mailto:bmurray@dp-2.com)

Modified - 12/29/2011 12:58:00 PM

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## PROPOSAL FOR SERVICES

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### EXECUTIVE SUMMARY

DP2 Billing Solutions is a leading provider of outsourced billing, print and mail services. DP2 was founded by a team of industry leaders from DataProse, Inc. and have become intimately familiar with Utility Billing printing and mailing process through longstanding relationships with software providers in the industry such as Tyler Technologies, SunGard PS, Harris Computer Services, STW, and many others.

DP2 is the industry leader in document management, printing and presentment services. For almost 20 years, DP2's leadership team has managed document composition, print and electronic delivery capabilities by serving the most demanding transaction-oriented consumer markets – the utility and telecom industries. We have made the production of customer documents a core part of our business and understand how mission critical it is for all our clients.

DP2 operates a state-of-the-art production facility in Southlake, Texas – which is also our Corporate Headquarters. Our history of creating and managing complex applications has been praised by many of our business partners. In an effort to exceed your expectations, we will work closely as a team to ensure the entire process is handled with a professional urgency unlike any other. Our advanced technology and expertise, coupled with the variety of services we offer will dramatically reduce costs and risk. Our goal is to exceed your expectations in quality, timeliness and customer service.

Below are some examples of what make DP2 a leading provider of print and mail services:

1. The DP2 team has the experience of implementing more than 500+ customers on various billing systems and software platforms.
2. We have worked with countless software providers on the print & mail distribution of their client's billing packages.
3. Our core competency is in producing high quality customer communications that get results.
4. Our staff's experience, technical expertise and customer management skills, can help reduce costs by streamlining the document production process.
5. DP2 has partnerships with some of the largest software providers and leading financial companies for printing and mailing services.

### DESCRIPTION OF SERVICES

#### ACCOUNT MANAGEMENT

From the very beginning of your conversion project, we will begin the process by documenting the initial steps and setting a schedule which our team will ensure we hit. You will be given plenty of time to ensure you have ample time to complete the review and approval process. In addition, your Account Manager works closely with your software provider, to ensure that all changes and new information is addressed.

#### FLEXIBILITY

We understand the complexity of the entire process and have made every effort to ensure we move quickly in order to benefit both you and your customers. This flexibility exists from setting the schedule to making last minute changes. We will accommodate your hectic schedule and make sure our efforts work around the client's schedule. We will work extensively with all parties to make sure your data is outputting correctly and that you



## PROPOSAL FOR SERVICES

---

documents are delivered with only the best quality standards in mind. Your Account Manager will be available 24/7 throughout this project plan to ensure issues are address swiftly and the schedule is maintained.

### **DOCUMENT LAYOUT & DESIGN**

DP2 utilizes the latest in document layout and design software which allows us to incorporate personalized one-to-one marketing / informational content on the document. DP2 has unlimited capabilities to redesign the current documents as required by you, if desired. Our systems can support variable text processing, all special character emphasis requirements, variable graphics as well as custom data-driven graphics (bar charts, pie charts, etc.) as well as replication of current bill layout.

### **DATA**

#### **Data Processing**

DP2 will create a customized program to meet your distinct needs. DP2 will perform the following preprocessing functions to compile, print, determine postage, and mail the documents. Our software will ensure that you will receive the maximum postage discounts for First Class automated bar code rates.

#### **Data Transmission and Processing**

When DP2 detects a file transmission from a customer, our automation system triggers the processing of the client data. This import processing generates two main reports for the customer:

**Import Summary** – this report typically lists the record and page count received per data file, document type, and document date. If there are any records suppressed during the import process, there will be a Rejected count shown on this report. Customers will use this report to verify that we received all of the data transmitted. If the customer generated 8,000 records to send to DP2 and the import summary only showed 7,400, this would indicate a problem in the data transmission where we didn't receive all of the data files or there was a partial file received. In most cases, DP2 doesn't know how many documents to expect so it is important that the customer review this report carefully to ensure that all documents to be processed have been received.

**Rejection Summary** – this report will list detailed information about all of the records that were suppressed during the import process. Records may be suppressed for a variety of customer-defined criteria including but not limited to: state-specific suppressions, dollar amount restrictions, unknown document types, auto-pay customers, etc. This report typically will contain the data filename, document type, document date, account number, address line1, and the reason why it was suppressed. When customers provide custom criteria for suppressing documents, it's very important that this report is reviewed closely to be sure the appropriate records are being suppressed. This report is only generated when documents are suppressed.

There may be additional reports that are created for the customer upon request or depending on different processing configurations. However, these two reports are the most critical to ensure that we are processing the correct data. If the data sent is not shown on the import summary then we did not process it and the customer should contact us immediately so that the appropriate actions are taken.



## PROPOSAL FOR SERVICES

In addition to the reports that are generated, DP2 will also generate a set of PDF QA Proofs to show what the documents would look like in production. We typically will include only a subset of the documents transmitted in the QA proofs. We'll show you at least one document of every type (i.e., different letters, invoices, statements, etc.). If there is conditional processing on the documents, we'll include at least one proof of every instance of the conditional logic. Where there is state-specific verbiage on the documents, we'll include an instance of each state used. We also have the ability to seed the QA proofs with certain customer-supplied accounts or criteria and to increase the quantity of proofs provided for each set of criteria. This is an actual representation of the final printed document that will be mailed to the addressee. It is very important that these proofs are carefully reviewed for content and accuracy.

When programming changes are requested, DP2 will perform all of the coding, testing and proofing in our development system. The customer will ultimately approve the changes based on proofs generated from the development system. Once these proofs are approved, DP2 must roll out the changes into our production system. The first time this code runs in the production system, it is critical that the customer review the QA proofs generated to be sure that the change is correct based on our production code and the customer supplied production data. There are many scenarios where the test data originally provided to programming to make the change may be different from the data actually received in production that may cause undesired results to the final documents.

DP2 offers two types of processing to our customers: AutoApprove and ConfirmationHold:

### ConfirmationHold

DP2 processing will stop after the import reports and QA proofs are generated. The customer must review the reports and can either approve the job for production or indicate that the job should be rejected. DP2 offers a web portal, to allow the customer to take all of these actions and review all of the documents via a secure, real-time web site. This offers the customer the greatest protection against mailing errors since they have the time to carefully review and approve all documents before they are introduced into production. In this scenario, our mail guarantee is to drop within 24 hours of the time that the documents were approved for production. If there are errors in the documents, the customer has the ability to reject the files for processing and can either fix the error if it was from the data transmitted to DP2 and then retransmit, or work with the DP2'S Customer Service department to correct and/or change any of the programming issues with the documents.

### AutoApprove

DP2 processing will continue after the import reports and QA proofs are generated and the documents will proceed immediately into production. The responsibility will be on the customer to review the reports and proofs and notify DP2 as soon as possible if any problems are detected. There is typically a slight delay between the time the documents are prepared for production and when production actually begins. As long as the production job has not left the building, we can stop a mailing but once the USPS has taken the mail, there is nothing we can do. If the job has already begun production (lasering and/or inserting) when it needs to be stopped, the customer is responsible for any costs incurred including components (paper, envelopes), laser charges, postage reclamation charges and labor. The AutoApprove option offers the customer the greatest performance in the fact that there are no delays waiting for the job to be approved but it comes with the largest amount of risk given that errors may go undetected and additional costs may be incurred due to stoppage of production and/or resending a mailing with an apology/correction notice.

Modified - 12/29/2011 12:58:00 PM



## PROPOSAL FOR SERVICES

---

### Preprocessing to Maximize Postage Savings

To insure the highest postage discounts while guaranteeing the accuracy of the addresses and zip codes supplied by you, DP2 will:

- Utilize our software to verify valid addresses from the client's data
- Create a data stream for documents with missing zip codes or bad addresses
- Sort data into mail streams required by the USPS for postage discounts
- Add and verify Zip+4 Postnet barcode to all addresses to aid presorting, if necessary

### BUSINESS CONTINUITY

DP2 understands that your data is your most valuable asset. With this in mind, we have developed comprehensive measures to ensure our data and facility security is fail-safe. Physical site security measures such as zoned access and other theft deterrents ensure your information and materials are handled only by approved personnel. Meanwhile, transmission and storage of your data is protected by state-of-the-art firewall software, data integrity audits, intrusion detection, data encryption, and password-secure application access. Additionally, DP2 maintains access to a back-up production facility within 15 miles of our Southlake facility, for business continuity as well as for the growing needs of our customers. These facilities boast "mirror" processes and equipment and have a tested disaster recovery plan as well as an off-site datacenter.

### PRODUCTION SERVICES

From data processing, to reporting, printing and mailing services, DP2<sup>has</sup> integrated state of the art software and technology in this process. From the time data is transmitted to our servers, we pride ourselves in the ability to track each and every record throughout the process. Each record is processed and receives a time-stamp when inserted and mailed – Piece-level tracking is critical to our process and to your peace-of-mind as it not only gives us the ability to manage production; it provides you with an electronic view into our operation as well – all in 'real-time'.

### QUALITY ASSURANCE

The success of an alliance with DP2 would be based on a consistent level of excellence in product dependability, availability and stabilized pricing. Equally important is the assurance of excellence in customer service responsiveness, problem solving, and solutions.

DP2 has in place measures to ensure:

- Quality control
- Availability and uninterrupted work flow
- On-time delivery
- Pricing and contract adherence
- Corporate identity and specification adherence
- Strict data security and confidentiality
- Customer service responsiveness
- Accurate and verifiable billing and cost allocation
- Accurate history and usage reports



## PROPOSAL FOR SERVICES

### CAMERA SYSTEM

DP2 utilizes a camera verification system to track and verify document specific data to ensure the integrity of each mail piece. The camera captures images of the mail pieces (address window) as they travel through the inserting process in a predefined sequence. The images are transmitted to our system and OCR software reads the barcodes to spot any breaks in the sequence or document specific information. The information that we check and verify includes:

- |                        |                   |
|------------------------|-------------------|
| - Envelope Id          | - Job Id          |
| - Print Id             | - Address Type Id |
| - First Page Indicator | - Client Id       |
| - Envelope Sequence Id | - Custom Stock    |
| - Component Id         |                   |

A simulated image of a mail piece's address window. It features a barcode at the top with the text "FIN-206" and "A-1R3-AM-00001" above it. Below the barcode, the address "JOE SMITH", "16 EAST PORT HIGHWAY", and "ANYTOWN, NJ 33321-0098" is printed. To the right of the address is a small square icon with the number "1" below it.

FIN-206  
A-1R3-AM-00001  
JOE SMITH  
16 EAST PORT HIGHWAY  
ANYTOWN, NJ 33321-0098  
1

### HIPAA

DP2 has established a dedicated team whose focus is to ensure that every aspect of our business is in compliance with the applicable legislation and its required effective dates. Our continuing goal is ongoing interpretation of the HIPAA regulations and their applicability to DP2's printing's operations.

Questions or comments related to this proposal can be directed to:

**William Murray**  
CEO  
817 488-5800  
[bmurray@dp-2.com](mailto:bmurray@dp-2.com)

**Lokie Perez**  
Account Executive  
469 361-6486  
[lperez@dp-2.com](mailto:lperez@dp-2.com)



## PROPOSAL FOR SERVICES

### PRICING

|                                                                                                                    |             |
|--------------------------------------------------------------------------------------------------------------------|-------------|
| Container Price                                                                                                    | \$0.088 Ea. |
| - Bill/Letter                                                                                                      |             |
| Data processing                                                                                                    |             |
| Simplex two color laser printing                                                                                   |             |
| 8.5x11 paper with perforated payment coupon                                                                        |             |
| #10 double window envelope with security tint                                                                      |             |
| #9 return envelope                                                                                                 |             |
| Fold, Insert, presort and deliver to USPS                                                                          |             |
| Pricing based on 22,000 regular statements/month and includes two additional inserts as outlined in the RFP specs. |             |
| Additional Inserts (after the two included)                                                                        | \$0.005 Ea. |
| Optional Statement Archive<br>- includes 12 months of storage                                                      | \$0.015 Ea. |

### Glossary of Terms:

|                           |                                                                                                                                                                    |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Impressions</i>        | Laser imaging of one side of one piece of paper. Each piece of paper potentially contains two (2) impressions.                                                     |
| <i>USPS</i>               | United States Postal Service                                                                                                                                       |
| <i>Laser Imaging</i>      | The process where the application of dry toner (ink) is electro statically applied and bonded to a piece of paper.                                                 |
| <i>Simplex</i>            | Laser imaging of one (1) side of a piece of paper.                                                                                                                 |
| <i>Duplex</i>             | Laser imaging of both sides of a piece of paper.                                                                                                                   |
| <i>OE</i>                 | Outer Envelope                                                                                                                                                     |
| <i>RE</i>                 | Reply Envelope                                                                                                                                                     |
| <i>Presorting</i>         | The act of organizing mail according to the rules and regulations defined by the USPS in order to achieve lower postage rates and increase deliverability of mail. |
| <i>Additional Inserts</i> | Any item requested to be placed into the mail container above and beyond the bill and the RE                                                                       |
| <i>Container</i>          | One complete piece of mail packaged into one OE                                                                                                                    |
| <i>Business Day</i>       | Any day in which the USPS as well as the U.S. Federal Reserve are open for business                                                                                |



# CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)  
 1/31/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| <b>PRODUCER</b><br><b>INSURICA</b><br>2301 West Plano Parkway<br>Suite 108<br>Plano TX 75075-8428 |        | <b>CONTACT NAME:</b> Brett Atwell<br><b>PHONE (A/C No. Ext.):</b> (469) 443-3488 <b>FAX (A/C. No.):</b> (469) 443-3977<br><b>E-MAIL:</b> batwell@INSURICA.com<br><b>ADDRESS:</b> batwell@INSURICA.com                                                                                                                                                                                                                                                   |  |                               |        |                                      |       |                                          |       |                                         |       |            |  |            |  |            |  |
|---------------------------------------------------------------------------------------------------|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------|--------|--------------------------------------|-------|------------------------------------------|-------|-----------------------------------------|-------|------------|--|------------|--|------------|--|
| <b>INSURED</b><br><b>DataProse, LLC</b><br>1122 W. Bethel Rd.<br>Suite 100<br>Dallas TX 75219     |        | <table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: National Fire Ins. Co. of</td> <td>20478</td> </tr> <tr> <td>INSURER B: Continental Insurance Company</td> <td>35289</td> </tr> <tr> <td>INSURER C: Continental Casualty Company</td> <td>20443</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table> |  | INSURER(S) AFFORDING COVERAGE | NAIC # | INSURER A: National Fire Ins. Co. of | 20478 | INSURER B: Continental Insurance Company | 35289 | INSURER C: Continental Casualty Company | 20443 | INSURER D: |  | INSURER E: |  | INSURER F: |  |
| INSURER(S) AFFORDING COVERAGE                                                                     | NAIC # |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                      |       |                                          |       |                                         |       |            |  |            |  |            |  |
| INSURER A: National Fire Ins. Co. of                                                              | 20478  |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                      |       |                                          |       |                                         |       |            |  |            |  |            |  |
| INSURER B: Continental Insurance Company                                                          | 35289  |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                      |       |                                          |       |                                         |       |            |  |            |  |            |  |
| INSURER C: Continental Casualty Company                                                           | 20443  |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                      |       |                                          |       |                                         |       |            |  |            |  |            |  |
| INSURER D:                                                                                        |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                      |       |                                          |       |                                         |       |            |  |            |  |            |  |
| INSURER E:                                                                                        |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                      |       |                                          |       |                                         |       |            |  |            |  |            |  |
| INSURER F:                                                                                        |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                      |       |                                          |       |                                         |       |            |  |            |  |            |  |

**COVERAGES** **CERTIFICATE NUMBER:** 13-14 Liability **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                        | ADDL SUBR INSR                                      | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                               |
|----------|----------------------------------------------------------------------------------------------------------|-----------------------------------------------------|---------------|-------------------------|-------------------------|------------------------------------------------------|
| A        | GENERAL LIABILITY                                                                                        |                                                     | 4031209640    | 12/1/2013               | 12/1/2014               | EACH OCCURRENCE \$ 1,000,000                         |
|          | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY                                         |                                                     |               |                         |                         | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 |
|          | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR                           |                                                     |               |                         |                         | MED EXP (Any one person) \$ 10,000                   |
|          | <input checked="" type="checkbox"/> Includes Errors & Omissions                                          |                                                     |               |                         |                         | PERSONAL & ADV INJURY \$ 1,000,000                   |
|          | GENL AGGREGATE LIMIT APPLIES PER:                                                                        |                                                     |               |                         |                         | GENERAL AGGREGATE \$ 2,000,000                       |
|          | <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC |                                                     |               |                         |                         | PRODUCTS - COMP/OP AGG \$ 2,000,000                  |
| B        | AUTOMOBILE LIABILITY                                                                                     |                                                     | 5092174977    | 12/1/2013               | 12/1/2014               | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000     |
|          | <input checked="" type="checkbox"/> ANY AUTO                                                             |                                                     |               |                         |                         | BODILY INJURY (Per person) \$                        |
|          | <input type="checkbox"/> ALL OWNED AUTOS                                                                 | <input type="checkbox"/> SCHEDULED AUTOS            |               |                         |                         | BODILY INJURY (Per accident) \$                      |
|          | <input checked="" type="checkbox"/> HIRED AUTOS                                                          | <input checked="" type="checkbox"/> NON-OWNED AUTOS |               |                         |                         | PROPERTY DAMAGE (Per accident) \$                    |
|          |                                                                                                          |                                                     |               |                         |                         | single limit \$                                      |
| C        | UMBRELLA LIAB                                                                                            | <input checked="" type="checkbox"/> OCCUR           | 4031209833    | 12/1/2013               | 12/1/2014               | EACH OCCURRENCE \$ 2,000,000                         |
|          | EXCESS LIAB                                                                                              | <input type="checkbox"/> CLAIMS-MADE                |               |                         |                         | AGGREGATE \$ 2,000,000                               |
|          | DED <input checked="" type="checkbox"/> RETENTION \$ 10,000                                              |                                                     |               |                         |                         |                                                      |
|          |                                                                                                          |                                                     |               |                         |                         |                                                      |
|          | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY                                                            |                                                     |               |                         |                         | WC STATUTORY LIMITS                                  |
|          | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)                              | <input type="checkbox"/> Y/N                        | N/A           |                         |                         | OTH-ER                                               |
|          | If yes, describe under DESCRIPTION OF OPERATIONS below                                                   |                                                     |               |                         |                         | E.L. EACH ACCIDENT \$                                |
|          |                                                                                                          |                                                     |               |                         |                         | E.L. DISEASE - EA EMPLOYEE \$                        |
|          |                                                                                                          |                                                     |               |                         |                         | E.L. DISEASE - POLICY LIMIT \$                       |
| B        | Network Cyber Liability                                                                                  |                                                     | 4031209704    | 12/1/2013               | 12/1/2014               | Limit 1,000,000                                      |
|          |                                                                                                          |                                                     |               |                         |                         | Aggregate 1,000,000                                  |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

City of Baytown, its officers, agents and employees are included as additional insured as respects to all liability policies where required by written contract.

## CERTIFICATE HOLDER

## CANCELLATION

City of Baytown  
 2123 Market Street  
 Baytown, TX 77520

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

M Haselden, CPCU, AIM

ACORD 25 (2010/05)

INSR025 (01/10/05) 01

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January 31, 2014

Linda Malak  
Contract Administrator  
City of Baytown  
2123 Market Street  
Baytown, Texas 77520

Re: Contract Renewal

Dear Linda,

Thank you for putting your trust in DataProse and allowing us to handle your bill processing and printing production process. This letter serves as notice of our intent to renew the contract with the City of Baytown. The contract renewal will begin on January 31, 2014 and will continue for a period of not less than one (1) year, ending on January 31, 2015.

As busy as you are, I'm sure it's virtually impossible to stay informed of every issue, every day – I urge you to let me know if you need anything else in this process. My direct phone number is (972) 462-5410.

Once again, thank you very much and I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Curtis Nelson".

Curtis Nelson  
COO, DataProse, LLC

Acknowledgement:

By: A handwritten signature in blue ink, appearing to read "Purch. Mgr.".

Title: PURCH. MGR.

Date: 2-2-2014



January 31, 2014

Linda Malak  
Contract Administrator  
City of Baytown  
2123 Market Street  
Baytown, Texas 77520

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Thank you for putting your trust in DataProse and allowing us to handle your bill processing and printing production process. This letter serves as notice of our intent to renew the contract with the City of Baytown. The contract renewal will begin on January 31, 2014 and will continue for a period of not less than one (1) year, ending on January 31, 2015.

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Once again, thank you very much and I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Curtis Nelson".

Curtis Nelson  
COO, DataProse, LLC

Acknowledgement:

By:

Title: PURCH. MGR.

Date: 2-2-2014

## Linda.Malak

---

**From:** Bill Murray <bmurray@dataprose.com>  
**Sent:** Friday, January 31, 2014 11:49 AM  
**To:** Linda.Malak  
**Subject:** RE: CITY OF BAYTOWN - ANNUAL OUTSOURCING OF UTILITY BILLS 026-14

Hi Linda,

Thanks for reaching out. Christine Carroll, our Client Services Manager, will be reaching out to you soon.

Regards, Bill

---

WILLIAM K MURRAY | CEO | 408.255.5006 OFFICE | 972.462.5428 FAX



**From:** Linda.Malak [<mailto:Linda.Malak@baytown.org>]  
**Sent:** Friday, January 31, 2014 9:45 AM  
**To:** Bill Murray  
**Subject:** CITY OF BAYTOWN - ANNUAL OUTSOURCING OF UTILITY BILLS 026-14

Your contract described above expires on 1-31-14. If you would like to exercise your renewal option for another term for the same compensation, please submit your request in writing via email, fax, or letter to my attention.

We will need an updated certificate of insurance with the City, its officers, agents and employees added as Additional Insured to all liability policies.

If you have any questions, please feel free to contact me.

I apologize for the short notice. I overlooked getting this out to you.

I see where your company is now DataProse. I will take care of the changes.

Thanks.

Linda Malak  
Contract Administrator  
City of Baytown  
2123 Market Street  
Baytown, Texas 77520

Tel: 281-420-6524 Fax: 281-837-7002

[linda.malak@baytown.org](mailto:linda.malak@baytown.org)



# Village of Wellington

## Legislation Text

---

**File #: 14-258, Version: 1**

---

**ITEM: ORDINANCE NO. 2014-09 (PALM BEACH EQUINE)**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE FUTURE LAND USE MAP DESIGNATION (PETITION NUMBER 2013-071 CPA1) FOR CERTAIN PROPERTY KNOWN AS PALM BEACH EQUINE SPORTS COMPLEX, TOTALING 11.94 ACRES, MORE OR LESS, LOCATED ON THE SOUTHWEST CORNER OF PIERSON ROAD AND SOUTHFIELDS ROAD, AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**REQUEST:** Approval of Ordinance No. 2014-09, a Comprehensive Plan Amendment to the Future Land Use Map to change the Future Land Use Map designation from Residential B to Commercial Recreation for an 11.94 acre site within the Equestrian Preserve Area.

**EXPLANATION:** Wellington CountryPlace PUD was approved by Palm Beach County prior to the incorporation of the Village of Wellington in 1996. The subject site, known as Palm Beach Equine Sports Complex (see Exhibit A - Legal Description), is within Pod C of the CountryPlace PUD Master Plan (Exhibit B) located in the northeast corner of the PUD. The Master Plan designates the subject site as Equestrian Facilities and Veterinary Clinic. The site was developed and has operated as an Equine Veterinary Clinic since 1982. When the current owner purchased the property in 2001, their intention was to continue the equine clinic operations and expand the clinic. This petition request is to amend the Future Land Use Map designation to allow the equine veterinary clinic to expand.

**BUDGET AMENDMENT REQUIRED:** NO

**PUBLIC HEARING:** YES

**QUASI-JUDICIAL:** NO

**FIRST READING:** YES

**SECOND READING:**

**LEGAL SUFFICIENCY:** YES

**FISCAL IMPACT:** NO

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Approval of Ordinance No. 2014-09, a Comprehensive Plan Amendment to the Future Land Use Map to change the Future Land Use Map designation from Residential B to Commercial Recreation for an 11.94 acre site within the Equestrian Preserve Area.

**ORDINANCE NO. 2014- 09**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE FUTURE LAND USE MAP DESIGNATION (PETITION NUMBER 2013-071 CPA1) FOR CERTAIN PROPERTY KNOWN AS PALM BEACH EQUINE SPORTS COMPLEX, TOTALING 11.94 ACRES, MORE OR LESS, LOCATED ON THE SOUTHWEST CORNER OF PIERSON ROAD AND SOUTHFIELDS ROAD, AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on March 12, 2014, the Equestrian Preserve Committee has considered the appropriateness of the proposed land use designation in the Comprehensive Plan of the Village of Wellington for the property which is the subject of this ordinance and has submitted its recommendation to the Planning, Zoning and Adjustment Board; and

**WHEREAS**, on April 2, 2014, the Planning, Zoning and Adjustment Board, sitting as the Local Planning Agency, after notice and public hearing, has considered the appropriateness of the proposed land use designation in the Comprehensive Plan of the Village of Wellington for the property which is the subject of this ordinance and has submitted its recommendation to the Village Council; and

**WHEREAS**, the Village Council, after notice and public hearing, voted to transmit this proposed amendment to the Florida Department of Economic Opportunity and complied with applicable provisions of the Florida Statutes governing amendments of local Comprehensive Plans; and

**WHEREAS**, the Village Council has taken the recommendations from the Local Planning Agency and the Village staff and the comments from the public into consideration.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF WELLINGTON, FLORIDA, THAT:**

**SECTION 1:** The Future Land Use Designation for the property described in Exhibit A is hereby established as Commercial Recreation on the Future Land Use Map of the Village of Wellington Comprehensive Plan.

**SECTION 2:** The Future Land Use Map is amended as illustrated in Exhibit B.

**SECTION 3:** The Village Manager is hereby authorized and directed to transmit this proposed Comprehensive Plan Amendment to the Florida Department of Economic Opportunity pursuant to Chapter 163 of the Florida Statutes.

49       **SECTION 4:** The Village Manager is hereby directed to amend the Wellington  
50 Future Land Use Map to include an adopted date and ordinance number in accordance  
51 with this Ordinance.

52  
53       **SECTION 5:** Should any section paragraph, sentence, clause, or phrase of this  
54 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision  
55 shall not affect the validity of this Ordinance as a whole or any portion or part thereof,  
56 other than the part to be declared invalid.

57  
58       **SECTION 6:** Should any section, paragraph, sentence, clause, or phrase of any  
59 prior Wellington ordinance, resolution, or municipal code provision, then in that event  
60 the provisions of this Ordinance shall prevail to the extent of such conflict.

61  
62       **SECTION 7:** The effective date of this plan amendment, if the amendment is not  
63 timely challenged, shall be 31 days after the Florida Department of Economic  
64 Opportunity notifies the local government that the plan amendment package is  
65 complete. If timely challenged, this amendment shall become effective on the date the  
66 Florida Department of Economic Opportunity or the Administrative Commission enters a  
67 final order determining this adopted amendment to be in compliance. No development  
68 orders, development permits, or land uses dependent on this amendment may be  
69 issued or commence before it has become effective. If a final order of noncompliance is  
70 issued by the Administrative Commission, this amendment may nevertheless be made  
71 effective by adoption of a resolution affirming its effective status, a copy of which  
72 resolution shall be sent to the Florida Department of Economic Opportunity.

73  
74  
75  
76  
77  
78  
79  
80  
81  
82                               (The remainder of this page left intentionally blank)  
83

**PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2014 upon first reading.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_ 2014, on second and final reading.

**WELLINGTON**

**FOR**

**AGAINST**

BY: \_\_\_\_\_

Bob Margolis, Mayor

\_\_\_\_\_  
John Greene, Vice Mayor

\_\_\_\_\_  
Matt Willhite, Councilman

\_\_\_\_\_  
Howard K. Coates, Jr., Councilman

\_\_\_\_\_  
Anne Gerwig, Councilwoman

**ATTEST:**

BY: \_\_\_\_\_

Awilda Rodriguez, Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY: \_\_\_\_\_

Laurie Cohen, Village Attorney

**EXHIBIT A**

## Legal Description

PARCEL "B" OF **SOUTHFIELDS-PHASE I OF PALM BEACH POLO AND COUNTRY CLUB – WELLINGTON COUNTRYPLACE – P.U.D.**, IN SECTION 21, TOWNSHIP 44, SOUTH, RANGE 41 EAST, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 39, PAGES 19 THROUGH 22, INCLUSIVE.

TOGETHER WITH:

PARCEL "C" OF **SOUTHFIELDS-PHASE I OF PALM BEACH POLO AND COUNTRY CLUB – WELLINGTON COUNTRYPLACE – P.U.D.**, IN SECTION 21, TOWNSHIP 44 SOUTH, RANGE 41 EAST, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 39, PAGES 19 THROUGH 22, INCLUSIVE.

SAID LANDS SITUATED IN PALM BEACH COUNY, FLORIDA.  
CONTAINING 520,106.4 SQUARE FEET OR 11.94 ACRES, MORE OR LESS.



## **I. PETITION DESCRIPTION**

**Project Name:** Palm Beach Equine Comprehensive Plan Amendment

**Petition No:** 2013-071CPA1/HTE13-164

**Owner:** Palm Beach Equine Realty, LLC  
13125 Southfields Road  
Wellington, Florida 33414  
Attn: Dr. Scott Swerdlin, Managing Member

Palm Beach Equine Sports Complex, LLC  
13125 Southfields Road  
Wellington, Florida 33414  
Attn: Dr. Scott Swerdlin, Managing Member

**Agent:** Josh Nichols, LEED AP  
Jon E. Schmidt & Associates, Inc.  
2247 Palm Beach Lakes Blvd, Suite 101  
West Palm Beach, Florida 33409

**Requests:** A Comprehensive Plan Amendment to the Future Land Use Map to change the Future Land Use Map designation from Residential B to Commercial Recreation for an 11.94 acre site within the Equestrian Preserve Area.

## **II. SITE DATA**

**Existing Use:** Equine Veterinary Clinic and Barns

**Parcel Size:** 11.94 acres

**Zoning Designation:** AR/PUD/EOZD

**Current Future Land Use Map Designation:** Residential B (0.1 du/acre-1.0 du/acre)

**Proposed Future Land Use Map Designation:** Commercial Recreation

**Parcel Control No.:** 73-41-44-21-03-002-0000 (5.37 ac of portion of Parcel B)  
73-41-44-21-03-003-0010 (5.19 ac of portion of Parcel C)  
73-41-44-21-03-003-0020 (1.38 ac of portion of Parcel C)

**Location:** Southwest Corner of Pierson Road and Southfields Road



### III. LAND USE AND ZONING

|                     | Existing Uses                | Future Land Use                      | Zoning                         |
|---------------------|------------------------------|--------------------------------------|--------------------------------|
| <b>Subject Site</b> | Veterinary Clinic and Barns  | Residential B                        | AR/PUD/EOZD (CountryPlace PUD) |
| <b>North</b>        | Polo Fields                  | Commercial Recreation                | AR/PUD/EOZD (Wellington PUD)   |
| <b>South</b>        | Residential                  | Residential B                        | AR/PUD/EOZD (Countryplace PUD) |
| <b>East</b>         | Residential                  | Residential B (No development order) | AR/EOZD                        |
| <b>West</b>         | Feed Store and Covered Arena | Commercial Recreation                | AR/PUD/EOZD (CountryPlace PUD) |

### IV. BACKGROUND

Wellington CountryPlace PUD was approved by Palm Beach County prior to the incorporation of the Village of Wellington in 1996. The subject site, known as Palm Beach Equine Sports Complex (see Exhibit A – Legal Description), is within Pod C of the CountryPlace PUD Master Plan (Exhibit B) located in the northeast corner of the

PUD. The Master Plan designates the subject site as Equestrian Facilities and Veterinary Clinic. The site was developed and has operated as an Equine Veterinary Clinic since 1982. When the current owner purchased the property in 2001, their intention was to continue the equine clinic operations and expand the clinic. This petition request is to amend the Future Land Use Map designation to allow the equine veterinary clinic to expand.

**V. DEVELOPMENT REVIEW COMMITTEE (DRC)**

The Comprehensive Plan Amendment to the Future Land Use Map application was certified for public hearings at the January 8, 2014 DRC meeting.

**VI. APPLICABLE STATE STATUTORY PROVISIONS**

The Comprehensive Plan Amendment to the Future Land Use Map application will be processed in accordance with Section 163.3184 of the Florida Statutes regarding processing of amended Comprehensive Plan Map Amendments and Comprehensive Plan Text Amendments.

**VII. STAFF ANALYSIS**

The agent, Josh Nichols (Jon E. Schmidt and Associates, Inc.), on behalf of the owner, is seeking a Comprehensive Plan Amendment to the Future Land Use Map to change the Future Land Use Map designation from Residential B to Commercial Recreation for the 11.94 acre site (Parcel B and C) within the Equestrian Preserve Area known as Palm Beach Equine Sports Complex. When Wellington incorporated and adopted the Comprehensive Plan, the portion of the property that contains the Vet Clinic and barns was designated with a Residential B Future Land Use. The contiguous Parcel D that contains the feed store, oval track, covered arena and lake was given a Commercial Recreation Future Land Use Map (FLUM) designation. When the owner proposed to expand the Vet Clinic buildings, it was determined a Vet Clinic was not a permitted use within the Residential B FLUM category. The previous adoption of the Residential B FLUM category inadvertently made the existing Vet Clinic operation a non-conforming use. Pursuant to the Wellington Land Development Regulations, a non-conforming use may not be expanded until the non-conformity is corrected. Below is a map that illustrates the subject site.

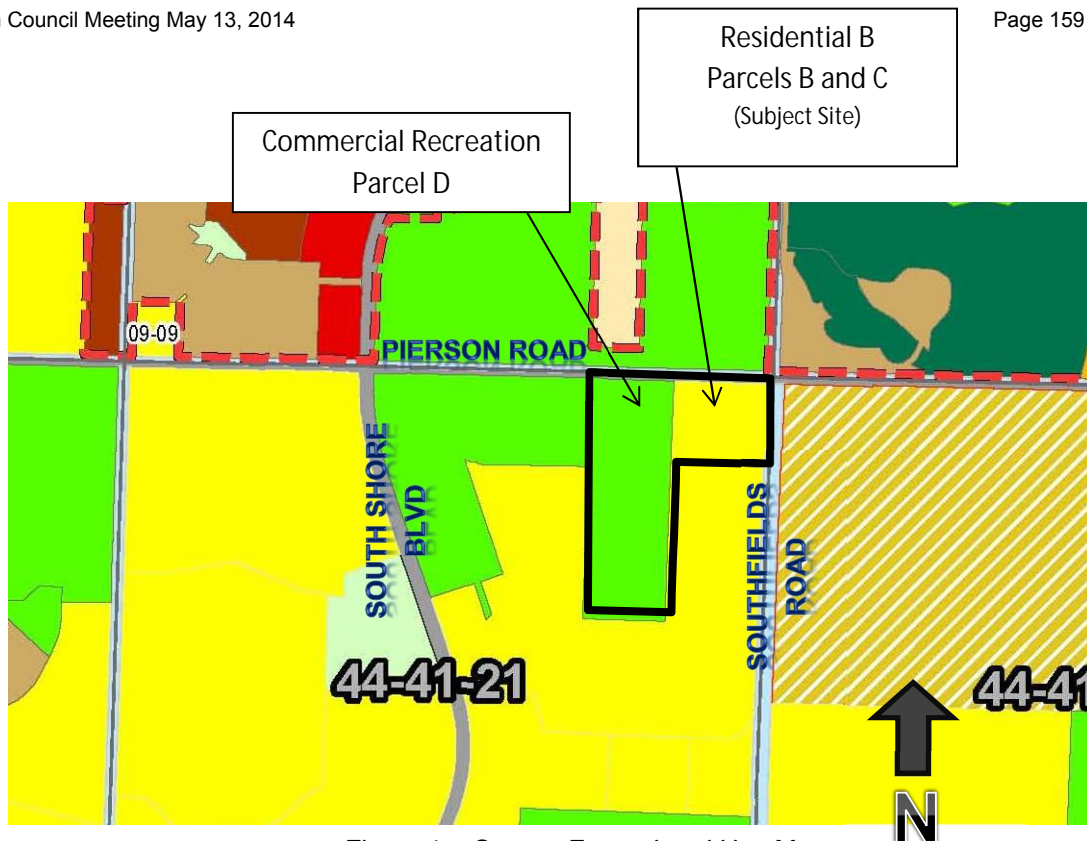


Figure 1 – Current Future Land Use Map

The property owners have been working to change the Future Land Use Map designation, as illustrated in figure 1 above, to allow expansion of the vet clinic. The owners recorded a Unity of Title for Parcels D and B to construct a covered arena north of the lake. Additionally, the owners recorded a subsequent Unity of Control over Parcels B, C, and D to meet land development regulations regarding lot coverage and floor area. The three parcels collectively function as an equestrian facility and are all owned by companies with a common managing member. At this time, the applicant is requesting to modify the Future Land Use Map designation from Residential B to Commercial Recreation. This will allow the existing Vet Clinic use to expand to accommodate additional surgery recovery stalls.

Staff recommends approval of the CPA request based on consistency with the following specific requirements of the Wellington Comprehensive Plan:

***Future Land Use Element - Policy 1.3.15 Commercial Recreation:*** Properties designated Commercial Recreation support commercial uses which are recreational in nature and are compatible with residential and rural development patterns. Uses such as equestrian arenas, stadiums and show rings, golf courses, clubhouses, tennis houses, pools and other private recreational facilities are consistent with the designation. There are also a variety of quasi-commercial uses as veterinary clinics, feed stores, tack shops and commercial stables scattered throughout the Equestrian Preserve Area of Wellington that are ancillary to the equestrian community and will be permitted in the Commercial Recreation Land Use Plan Sub-category.

***Equestrian Preserve Element – Goal 1.0:*** The goal of this element is to ensure the preservation and protection of the neighborhoods which comprise this area, the equestrian industry and the rural lifestyles which exist in the Equestrian Preserve.

**Equestrian Preserve Element – Objective 1.1.3:** Provide for the limited commercial uses which support the equestrian industry;

**Equestrian Preserve Element – Objective 1.1.4:** Provide for the preservation of the rural lifestyles and land uses which exist in the overlay area while ensuring compatibility of the land uses; and

**Equestrian Preserve Element – Objective 1.1.5:** Establish site development regulations that recognize the characteristics of equestrian and similar uses and structures.

## VIII. Public Facilities Analysis

| Public Facility/Service | Level of Service (LOS)          | Estimated Impact on Levels of Service Based Upon Use Change |                                |            | Status of Facility/Service                                                                                                                                                                                                       | LOS Standard Achieved (Y or N) |
|-------------------------|---------------------------------|-------------------------------------------------------------|--------------------------------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
|                         |                                 | Current Residential B                                       | Proposed Commercial Recreation | Difference |                                                                                                                                                                                                                                  |                                |
| Sanitary Sewer          | 93 gallons per day (GPD)/capita | 4,700 GDP                                                   | 7,000 GPD                      | +2,300 GPD | The maximum capacity of the waste water plant is 6.5 million gallons per day (MGD).                                                                                                                                              | YES                            |
| Solid Waste             | 7.1 pounds per day (PPD)/capita | 257.71 PPD                                                  | 257.71 PPD*                    | 0 PPD      | The North County Landfills have approximately 30,355,863 cubic yards of landfill capacity remaining. Based on population projections, the Solid Waste Authority forecasts that capacity will be available through the year 2046. | YES                            |
| Potable Water           | 120 GPD/capita                  | 5,500 GPD                                                   | 8,500 GPD                      | +3,000 GPD | The maximum capacity of the water plant is 12.8 MGD. The plant is currently running at an average daily flow of 7.1 MGD.                                                                                                         | YES                            |

| Public Facility/Service | Level of Service (LOS)     | Estimated Impact on Levels of Service Based Upon Use Change                           |                                                                              |                                                                                                                                                                                                | Status of Facility/Service                                                                                                                                           | LOS Standard Achieved (Y or N) |
|-------------------------|----------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
|                         |                            | Current Residential B                                                                 | Proposed Commercial Recreation                                               | Difference                                                                                                                                                                                     |                                                                                                                                                                      |                                |
| Parks                   | 10 acres/1,000 ppl         | 0.36 acres                                                                            | 0.36 acres*                                                                  | 0 acres                                                                                                                                                                                        | Wellington's 2010 population of 56,508 requires 5,650 acres of active/passive, recreational/ open space to meet LOS standards. Currently Wellington has 7,678 acres. | YES                            |
| Traffic                 | LOS E                      | 110 Trips per day<br><br>(8 peak hour trip – a.m.)<br><br>(14 peak hour trips – p.m.) | 286 tpd<br><br>(7 peak hour trips – a.m.)<br><br>(19 peak hour trips – p.m.) | +176 tpd<br><br><i>Based on the review of the Traffic Statement by Pinder Troutman Consulting, Inc. the amendment is consistent with the Transportation Element of the Comprehensive Plan.</i> | See Exhibit C – Traffic Statement                                                                                                                                    | YES                            |
| Public Schools          | SF – 0.29 K-12 Students/DU | 3.46 Students                                                                         | 3.46 Students*                                                               | 0 Students                                                                                                                                                                                     | FY 13/14 average projected enrollment for all public school located in the Concurrency Service Area 16 (Wellington) is 89.4% of the schools maximum capacity.        | YES                            |

\* The Commercial Recreation FLUM designation retains an underlying Residential B FLUM designation so the Residential B standard would still apply for solid waste, parks and public schools.

**IX. PUBLIC NOTIFICATION/COMMENTS**

As required by the Land Development Regulations and Florida Statutes, legal ads for public notifications were placed in the Palm Beach Post, mailings were sent to surrounding property owners within 500 feet and the actual property was posted with yellow signs. All notices advised that a public hearing on the proposed Ordinance 2014-09 would take place on the dates noted below.

**Planning, Zoning and Adjustment Board**

|               |                |
|---------------|----------------|
| Mailing:      | March 18, 2014 |
| Newspaper:    | March 18, 2014 |
| Posted Signs: | March 18, 2014 |
| Meeting Date: | April 2, 2014  |

**Village Council**

|               |                |
|---------------|----------------|
| Mailing:      | April 28, 2014 |
| Newspaper:    | April 28, 2014 |
| Posted Signs: | April 28, 2014 |
| Meeting Date: | May 13, 2014   |

As of May 1, 2014, staff has not received objections or comments regarding the proposed Future Land Use Map designation amendment.

**X. CODE COMPLIANCE HISTORY**

There are no open code cases related to this property as of March 31, 2014.

**XI. EQUESTRIAN PRESERVE COMMITTEE**

The request was heard at the March 12, 2014 Equestrian Preserve Committee and was recommended for approval to the PZAB with a unanimous vote (5-0).

**XII. PLANNING, ZONING AND ADJUSTMENT BOARD**

The request was heard at the April 2, 2014 Planning, Zoning and Adjustment Board and recommended for approval to the Village Council with a (6-0) vote.

**XIII. VILLAGE COUNCIL**

The request is tentatively scheduled to be heard by the Village Council for a first reading on May 13, 2014. If approved for transmittal to the State Community Planning Agency, the second reading will be scheduled after the 30 day review period.

**XIV. STAFF RECOMMENDATION**

Staff recommends approval of Ordinance No. 2014-09, a Comprehensive Plan Amendment to the Future Land Use Map (2013-071 CPA) to change the FLUM designation on the 11.94 acre site known as Palm Beach Equine Sports Complex located on the southwest corner of Pierson Road and Southfields Road from Residential B to Commercial Recreation.

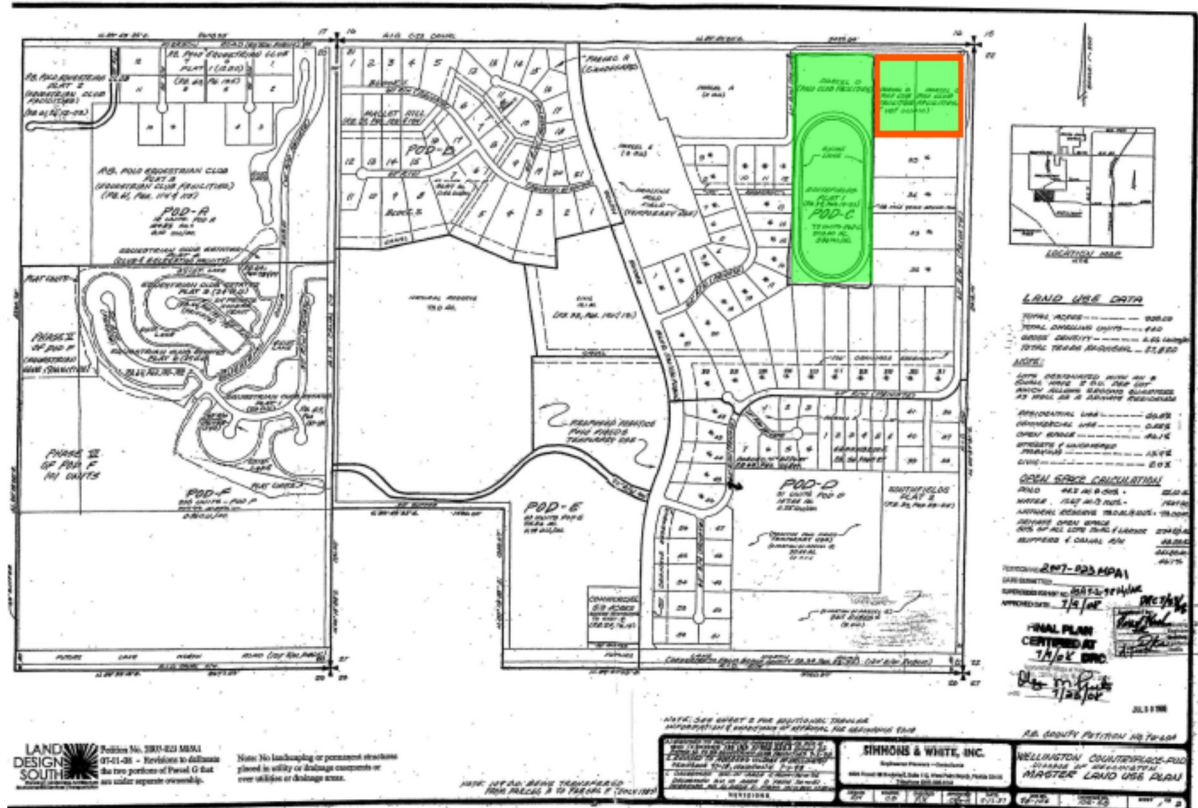
## Staff Report – Exhibit A: Legal Description

PARCEL "B" OF SOUTHFIELDS - PHASE 1 OF PALM BEACH POLO AND COUNTRY CLUB - WELLINGTON COUNTRYPLACE - P.U.D. IN SECTION 21, TOWNSHIP 44 SOUTH, RANGE 41 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 39, PAGE 19, PALM BEACH COUNTY, FLORIDA, PUBLIC COUNTY RECORDS,

TOGETHER WITH:

PARCEL "C" OF SOUTHFIELDS - PHASE 1 OF PALM BEACH POLO AND COUNTRY CLUB - WELLINGTON COUNTRYPLACE - P.U.D. IN SECTION 21, TOWNSHIP 44 SOUTH, RANGE 41 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 39, PAGE 19, PALM BEACH COUNTY, FLORIDA, PUBLIC COUNTY RECORDS

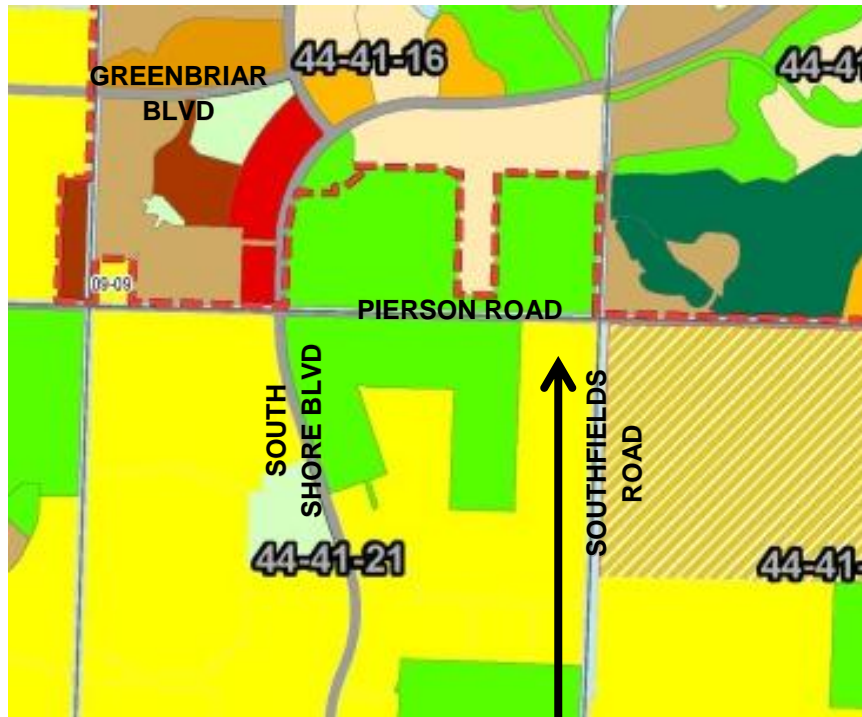
+/- 11.94 Acres



Staff Report - Exhibit B: CountryPlace PUD Master Plan

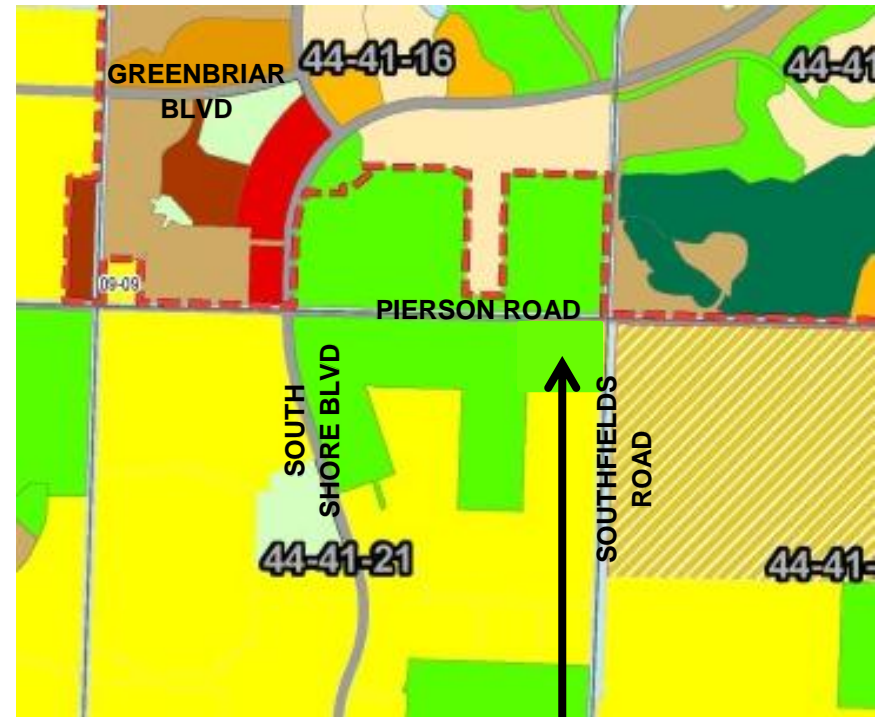
## Ordinance 2014-09 - Exhibit B Future Land Use Map

Current Future Land Use Map

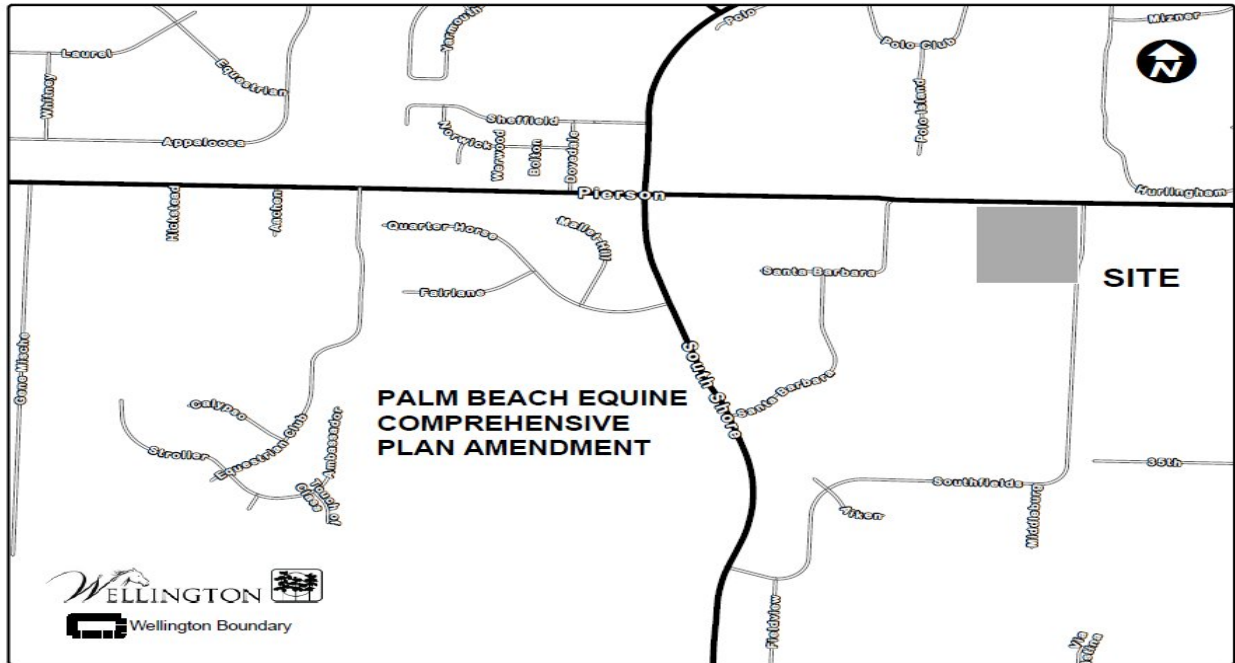


Residential B FLUM  
Designation

Proposed Future Land Use Map



Commercial Recreation FLUM  
Designation



**WELLINGTON  
NOTICE OF PUBLIC HEARING  
ON PROPOSED  
COMPREHENSIVE PLAN AMENDMENT**

In accordance with the requirements of Chapter 163, Part II, Florida Statutes, the Wellington Council will hold a public hearing on the transmittal of the proposed Comprehensive Plan Amendment.

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE FUTURE LAND USE MAP DESIGNATION (PETITION NUMBER 2013-071 CPA1) FOR CERTAIN PROPERTY KNOWN AS PALM BEACH EQUINE SPORTS COMPLEX, TOTALING 11.94 ACRES, MORE OR LESS, LOCATED ON THE SOUTHWEST CORNER OF PIERSON ROAD AND SOUTHFIELDS ROAD, AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

Said public hearing will be held as follows:

**WELLINGTON COUNCIL**

Location: Village Hall, 12300 Forest Hill Blvd, Wellington, Florida.

**Date:** Tuesday, May 13, 2014 at 7:00 P.M. or as soon thereafter as may be heard in the orderly course of business. The hearing of the request may be continued from time to time as may be found necessary

All interested parties are invited to attend and be heard with respect to the proposed ordinance. Copies of all documents pertaining to the proposed ordinance are available in the Planning and Zoning Division at the address listed below and can be reviewed by the public on weekdays between the hours of 7:00 a.m. and 6:00 p.m.

**Planning & Zoning Division  
12300 West Forest Hill Boulevard  
Wellington, Florida, 33414  
(561) 753-2430**

**Appeals:** If a person decides to appeal any decision with respect to any matter considered at such hearing, he/she will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is to be based. All appeals must be filed in accordance with the applicable provisions of the Wellington Land Development Regulations.

Pursuant to the provisions of the Americans With Disabilities Act, any person requiring special accommodations to participate in this hearing, because of a disability or physical impairment, should contact the Wellington Manager's Office at (561) 791-4000 at least five calendar days prior to the Hearing.

**Dated:** April 22, 2014

**Publish:** The Post  
April 28, 2014

**Note to Publisher:** Pursuant to Florida Statutes, the required advertisement shall be no less than 2 columns wide by ten inches long, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement **shall not** be placed in that portion of the newspaper where legal notices and classified advertisements appear.



# Village of Wellington

## Legislation Text

**File #: 14-301, Version: 2**

**ITEM: ORDINANCE NO. 2014-11 (REVISIONS TO CHAPTER 2, CODE ENFORCEMENT)**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING WELLINGTON CODE OF ORDINANCE CHAPTER 2 "ADMINISTRATION", ARTICLE IV "CODE ENFORCEMENT", DIVISION 1 "GENERALLY" AND DIVISION 2 "SUPPLEMENTAL CODE THROUGH CITATIONS", TO REFLECT REVISIONS OF VIOLATIONS; TO REINSTATE OMITTED CODE SECTIONS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**REQUEST:** Approval of Ordinance No. 2014-11 amending Chapter 2, Code Enforcement.

**EXPLANATION:** The current "Violations and Penalties" section of the Citation Code does not reflect the revised code sections enacted with the adoption of the current Land Development Regulations and Codes of Ordinances. In addition, staff is correcting an error in the Noise Code Section, reinstating Code Section 36-33, "Specific Prohibitions". Section 36-33 was omitted in error with the adoption of Ordinance No. 2006-26. Removal of Wellington's super priority clause found in Section 2-199 (b) to reflect a Florida Supreme Court Decision. Staff is recommending the addition of citation Class V violations consisting of repeat violations of Class I, II, III and IV, increasing the potential fine from the existing \$250.00 to \$500.00 as outlined in Florida Statute 162 and Wellington Code Section 2-230. Amendments to reflect the removal of "Special Master" and addition of "Special Magistrate." Amendments to code Section 2-201 to reflect changes to FS 162.12 Notices. Changes contained in the draft are summarized in Table 1.

| Section Number                | Proposed Amendment                                                                                                          |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| <b>Code Section 2-199 (b)</b> | Removes Wellington's super priority clause                                                                                  |
| <b>Code Section 2-201</b>     | Amends current Notices section to reflect updates within FS 162.12 Notices                                                  |
| <b>Code Section 2-229</b>     | Amends the current subsection 30-144 (a) - (f) to reflect the current subsections 30-144 (a) - (e) Water Conversation       |
| <b>Code Section 2-229</b>     | Amends the current ULDC to LDR Article 6 Zoning Districts                                                                   |
| <b>Code Section 2-229</b>     | Amends the current ULDC to LDR 6.4.4.96 Transient Sales                                                                     |
| <b>Code Section 2-229</b>     | Amends the current ULDC to LDR 7.5 Vegetation Removal                                                                       |
| <b>Code Section 2-229</b>     | Amends the current ULDC to LDR 7.14 Prohibited Signs                                                                        |
| <b>Code Section 2-229</b>     | Creates Citation Class V violations, increases amount to a maximum of \$500.00 for a second and additional repeat violation |
| <b>Code Section 2-229</b>     | Amends the current ULDC to LDR Article 5 Chapter 5 Special Use Permit                                                       |
| <b>Special Master</b>         | Replacement of the title Special Master to current title of Special Magistrate                                              |

**BUDGET AMENDMENT REQUIRED:** NO

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**File #: 14-301, Version: 2**

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**PUBLIC HEARING:** YES**QUASI-JUDICIAL:** NO**FIRST READING:****SECOND READING:** YES**LEGAL SUFFICIENCY:** YES**FISCAL IMPACT:** N/A**WELLINGTON FUNDAMENTAL:** Neighborhood Renaissance**RECOMMENDATION:** Approval of Ordinance No. 2014-11 amending Chapter 2, Code Enforcement.

**ORDINANCE NO. 2014-11**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL;  
AMENDING WELLINGTON CODE OF ORDINANCE CHAPTER  
2, "ADMINISTRATION", ARTICLE IV, "CODE  
ENFORCEMENT", DIVISION 1 "GENERALLY" AND DIVISION 2,  
"SUPPLEMENTAL CODE THROUGH CITATIONS", TO  
REFLECT REVISIONS OF VIOLATIONS; TO REINSTATE  
OMITTED CODE SECTIONS; PROVIDING A REPEALER  
CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING  
AN EFFECTIVE DATE.**

**WHEREAS**, this Ordinance is enacted pursuant to Article VIII of the Florida Constitution, Chapter 166, Florida Statutes, Wellington's Charter, and the police power of the Municipality; and

**WHEREAS**, Wellington is aware of and understands that efficient and stringent enforcement of the Village's Codes and Ordinances has positive impacts on community health, safety and welfare and overall quality of life including property values; and

**WHEREAS**, Chapter 2 Article IV, "Code Enforcement" was enacted to promote, protect, and improve the health, safety, and welfare of the citizens of the Wellington by providing an equitable, expeditious, effective, and inexpensive method of enforcing Wellington's Codes of Ordinances and Land Development Regulations. Division 2, "Supplemental Code Enforcement Procedures: Enforcement Through Citations" was enacted to provide an additional tool in the enforcement of Wellington's Codes of Ordinances; and

**WHEREAS**, the Florida Supreme Court has determined that state law preempts a municipality's "super priority" code enforcement ordinances and it is therefore appropriate to amend Wellington Code Section 2-199 (b) to reflect the Court decision; and

**WHEREAS**, Amendments to reflect the change of title from "Special Master" to "Special Magistrate."; and

**WHEREAS**, the current "Violations and Penalties" section of the Citation Code does not reflect the revised code sections enacted with the adoption of the current Land Development Regulations and Codes of Ordinances; and

**WHEREAS**, code section 2-201, "Service of notice; methods" does not reflect amendments to FS 162.12 "Notices".

**SECTION 1.** The above recitals are true and correct and by this reference are incorporated herein and made an integral part hereof.

**SECTION 2.** Chapter 2, Article IV "CODE ENFORCEMENT" is hereby amended to read as follows:

**Sec. 2-192. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1        *Code enforcement clerk* means any employee of the village so designated by the manager.  
2        *Code inspector* means those authorized agents or employees of the village whose duty it is  
3 to assure code compliance.

4  
5        *Enforcement board* or *board* means the village code enforcement board that was in  
6 existence prior to June 11, 2006.

7  
8        *Repeat violation* means a violation of a provision of a code or ordinance by a person who  
9 has been previously found through the enforcement board or special ~~master~~ magistrate or any  
10 other quasi-judicial or judicial process to have violated or has admitted violating the same  
11 provision within five years prior to the violation, notwithstanding, the violations occur at different  
12 locations.

13  
14        *Special ~~master~~ magistrate* means a person who is a member in good standing with the  
15 Florida Bar appointed by the village council and authorized to hear and decide cases involving  
16 code violations.

17  
18        *Village attorney* means the legal counselor for the village.

19  
20        (Ord. No. 96-19, § 2, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
21 06)

22 **Cross reference—** Definitions generally, § 1-2.

23 **State law reference—** Definitions, F.S. § 162.04.

24  
25 **Sec. 2-193. Ex parte communications.**

26  
27        No ex parte communication relative to the merits of any pending action, threat, or offer of  
28 reward shall be made to special ~~master~~ magistrate by any employee of the village, or any party  
29 to the proceeding, or any person who directly or indirectly would have a material interest in such  
30 an action pending before the special ~~master~~ magistrate, or the authorized representative or  
31 counsel of any such party.

32        (Ord. No. 96-19, § 3, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
33 06)

34  
35 **Sec. 2-194. Village attorney's legal capacity for service.**

36  
37        The village attorney may act as prosecutor for the village in cases brought before the  
38 special ~~master~~ magistrate.

39        (Ord. No. 96-19, § 7, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
40 06)

41 **State law reference—** Similar provisions, F.S. § 162.05(5).

42  
43 **Sec. 2-195. Waiver of right to hearing; consent to fine.**

44  
45        The alleged violator may, if he so elects, waive his right to a hearing and consent to the  
46 imposition of a fine after a stated period of time in which to comply. The waiver shall be in  
47 writing on a form provided by the village, signed by all violators named in the notice of violation  
48 and witnessed.

49        (Ord. No. 96-19, § 11, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
50 06)

**Sec. 2-196. Duties of code inspector.**

- (a) *Enforcement proceedings; initiation.* It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes. No special ~~master~~ magistrate shall have the power to initiate such enforcement proceedings.
- (b) *Notice of violation; time for correction.* If a violation of a code is found, the code inspector shall notify the violator, unless subsection (c) or (d) of this section applies, and give the violator a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the special ~~master~~ magistrate and request a hearing pursuant to the procedure set forth in this section. Notice shall be served upon the violator as provided in this article. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for the correction by the code inspector, the case may be presented to the special ~~master~~ magistrate even if the violation has been corrected prior to the hearing, and the notice shall so state.
- (c) *Action on violations posing threat to public or irreparable by nature.* If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the special ~~master~~ magistrate and request a hearing.
- (d) *Repeat violators.* If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the special ~~master~~ magistrate and request a hearing. The special ~~master~~ magistrate, through their clerical staff, shall schedule a hearing and shall provide notice as set forth in this article. The case may be presented to the special ~~master~~ magistrate even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the special ~~master~~ magistrate retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his rights to this hearing and pay such costs as determined by the special ~~master~~ magistrate.  
(Ord. No. 96-19, § 12, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06)

**State law reference—** Similar provisions, F.S. § 162.06.

**Sec. 2-197. Subpoena of evidence.**

The code inspector, the special ~~master~~ magistrate, or the alleged violator may request that witnesses, records (including surveys, plats, and other materials) and other evidence are subpoenaed to any violation hearing. Subpoenas shall be served by the sheriff of the county. These subpoenas shall be available through the clerk of the enforcement division. A nominal administrative fee shall be charged for the preparation and service of the subpoenas, the amount of which administrative fee shall be established by resolution of the village council.

(Ord. No. 96-19, § 13, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06)

**Sec. 2-198. Hearings.**

- (a) *Conduct.* Hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. They shall, however, be conducted in accordance with accepted parliamentary procedures relative to motions, votes and decisions. Fundamental due process shall be observed and shall govern all hearings.
- (b) *Minutes; provision of clerical and administrative personnel.* Minutes shall be kept of all hearings, and all hearings shall be open to the public. The code enforcement clerk shall provide clerical and administrative personnel as may be reasonably required by the special ~~master~~ magistrate for the proper performance of its duties.
- (c) *Presentation of case; recovery of costs.* Each case before the special ~~master~~ magistrate shall be presented by the village attorney, or by a member of the village staff. If the village prevails in prosecuting a case before the special ~~master~~ magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the special ~~master~~ magistrate, and such costs may be included in a lien authorized by this article and applicable laws.
- (d) *Testimony.* The special ~~master~~ magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The special ~~master~~ magistrate shall take testimony from the code inspector and the alleged violator.
- (e) *Rights of parties to hearing.* Each party to the hearing shall have the right to:
  - (1) Call and examine witnesses.
  - (2) Introduce exhibits.
  - (3) Cross-examine opposing witnesses.
  - (4) Impeach witnesses.
  - (5) Rebut evidence.
- (f) *Representation of alleged violator.* The alleged violator has the right to be represented by an attorney at all hearings before the special ~~master~~ magistrate.
- (g) *Evidence.* All relevant evidence shall be admitted if, in the opinion of the special ~~master~~ magistrate, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make such evidence inadmissible over objections in civil actions. The special ~~master~~ magistrate may exclude irrelevant or unduly repetitious evidence. Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not in and of itself be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.
- (h) *Findings of fact; issuance of orders.* At the conclusion of the hearing, special ~~master~~ magistrate shall issue findings of fact based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted in this article. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in F.S. § 162.09(1), the cost of repairs may be included along with the fine if the order is not complied with by such date. (Ord. No. 96-19, § 14, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06)

**State law reference—** Similar provisions, F.S. § 162.07(4).

**Sec. 2-199. Fines; imposition of liens.**

(a) The special ~~master~~ magistrate, upon notification by the code inspector that a previous order of the enforcement board or special ~~master~~ magistrate has not been complied with by the set time, may order the violator to pay a fine not to exceed \$250.00 for each day that the violation continues past the date set for compliance for a first violation, or in the case of a repeat violation may order the violator to pay a fine not to exceed \$500.00 for each day the violation continues beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare, or if the violation is irreparable or irreversible in nature, the special ~~master~~ magistrate shall notify the village council, which may make all repairs which are required to bring the property into compliance and charge the violator with the cost of the repairs as part of the fine imposed pursuant to this article. If, after due notice and hearing, the special ~~master~~ magistrate finds a violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.

(b) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. It may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property. A fine imposed pursuant to this article shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to F.S. § 162.09, whichever occurs first. Once a violator comes into compliance, the violator may request a reduction of the fine from the special ~~master~~ magistrate. In making the determination on whether to reduce a fine, following compliance, the special ~~master~~ magistrate may take into consideration the gravity of the violation, any actions taken by the violator to correct the violation, any previous or subsequent violations committed by the violator, whether there was intervening matters that prevented or obstructed the violator from timely complying with the order to correct the violation, and/or the financial ability of the violator to pay the full amount of the fine. A lien arising from a fine imposed pursuant to this article runs in favor of the village council, and the village council may execute a satisfaction or release of lien entered pursuant to this article. After three months from the filing of any such lien which remains unpaid, the special ~~master~~ magistrate may authorize the village attorney to foreclose on the lien, or to sue to recover a money judgment for the amount of the lien, plus accrued interest. No lien created pursuant to the provisions of this article may be foreclosed on real property which is a homestead under section 4, article X of the state constitution. ~~Effective June 13, 2006, village code enforcement liens shall remain liens, coequal with the liens of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles and claims until paid. The priority of code enforcement lines versus mortgages, liens and encumbrances in existence prior to June 13, 2006, shall be determined upon the date of recording of the lien.~~

(Ord. No. 96-19, § 15, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06)

**State law reference—** Similar provisions, F.S. § 162.09.

**Sec. 2-200. Duration of lien; action to foreclose; costs collection; continuance of lien.**

No lien provided in this article shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is

commenced in a court of competent jurisdiction pursuant to F.S. 162.09(3). In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The village council shall be entitled to collect all costs incurred in recording and satisfying a valid lien.

(Ord. No. 96-19, § 16, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06)

**State law reference**— Similar provisions, F.S. § 162.10.

## **Sec. 2-201. Service of notice; methods.**

~~All notices shall be provided to the alleged violator by certified mail, return receipt requested, or by hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the village council; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age, and informing such person of the contents of the notice. In the case of commercial premises, leaving the notice with the manager or other person in charge in addition to providing notices as set forth in this section, at the option of the special master magistrate, notice may also be served by publication or posting, as follows:~~

- ~~(1) If publication is the method of notice to be utilized, such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet the requirements as are prescribed under F.S. ch. 50, for legal and official advertisements.~~
- ~~(2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.~~
- ~~(3) In lieu of publication as described in subsection (1) of this section, such notice may be posted for at least ten days prior to the hearing or prior to any deadline for compliance, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be in a conspicuous place at the village hall.~~
- ~~(4) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.~~
- ~~(5) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required in this section.~~
- ~~(6) Evidence that an attempt has been made to hand deliver or mail a notice as provided in this section, together with proof of publication or posting as provided in this section, shall be sufficient to show that the notice requirements set forth in F.S. ch. 162, have been met, without regard to whether or not the alleged violator actually received such notice.~~

(a) All notices required by this part must be provided to the alleged violator by:

(1) Certified mail, return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database. The local government may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in subsection (b).;

(2) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;

1       (3) Leaving the notice at the violator's usual place of residence with any person  
2       residing therein who is above 15 years of age and informing such person of the  
3       contents of the notice; or

4  
5       (4) In the case of commercial premises, leaving the notice with the manager or other  
6       person in charge.

7  
8       **(b) In addition to providing notice as set forth in subsection (a), at the option of the code**  
9       **enforcement board, notice may also be served by publication or posting, as follows:**

10  
11       (1) Such notice shall be published once during each week for 4 consecutive weeks  
12       (four publications being sufficient) in a newspaper of general circulation in the county  
13       where the code enforcement board is located. The newspaper shall meet such  
14       requirements as are prescribed under chapter 50 for legal and official advertisements.

15  
16       (2) Proof of publication shall be made as provided in ss. 50.041 and 50.051.

17  
18       (3) In lieu of publication as described in paragraph (a), such notice may be posted at  
19       least 10 days prior to the hearing, or prior to the expiration of any deadline contained in  
20       the notice, in at least two locations, one of which shall be the property upon which the  
21       violation is alleged to exist and the other of which shall be in a conspicuous place at  
22       the village municipal complex.

23  
24       (4) Proof of posting shall be by affidavit of the person posting the notice, which affidavit  
25       shall include a copy of the notice posted and the date and places of its posting.

26  
27       (5) Notice by publication or posting may run concurrently with, or may follow, an  
28       attempt or attempts to provide notice by hand delivery or by mail as required under  
29       subsection (1).

30  
31       Evidence that an attempt has been made to hand deliver or mail notice as provided in  
32       subsection (a), together with proof of publication or posting as provided in subsection (b),  
33       shall be sufficient to show that the notice requirements of this part have been met, without  
34       regard to whether or not the alleged violator actually received such notice.

## 35 36 **Sec. 2-202. Appeals of administrative orders.**

37  
38       An aggrieved party, including the village, may appeal a final administrative order of the  
39       special ~~master~~ magistrate to the circuit court. Such an appeal shall not be a hearing de novo,  
40       but shall be limited to appellate review of the record created before the enforcement board or  
41       special ~~master~~ magistrate. An appeal shall be filed within 30 days of the execution of the order  
42       to be appealed.

43       (Ord. No. 96-19, § 18, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
44       06)

45       **State law reference—** Similar provisions, F.S. § 162.11.

## 46 47 **Sec. 2-203. Special magistrate.**

48  
49       One or more persons may be appointed as special magistrate by the Wellington's Council.  
50       An appointee shall serve a two-year term and may be reappointed, provided that for the period  
51       beginning in June of 2010, half of the special magistrates shall serve an initial one-year term

ending on May 31, 2011, so that the appointments would be staggered in future years. Special magistrates appointed in June of 2012 and beyond may serve a maximum of four consecutive two-year terms after which such special magistrates may not be eligible for reappointment until one two-year term has expired. The compensation for special magistrate services may be authorized as specified in the appointing resolution. A special magistrate may be suspended or removed with or without cause by the Wellington's Council.

(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2010-12, § 1, 5-11-10; Ord. No. 2012-18, § 2, 8-14-12)

#### **Sec. 2-226. Authority.**

This division is authorized and adopted pursuant to [F.S.] pt. II of ch. 162. The provisions of the section are additional and supplemental means of enforcing municipal codes and ordinances and may be used for the enforcement of any code or ordinance or for the enforcement of all codes and ordinances except as set forth herein above. Nothing contained in this section shall prohibit the village from enforcing its codes or ordinances by any other means.

(Ord. No. 2001-03, § 1, 2-13-01)

#### **Sec. 2-227. Authority of code enforcement officers.**

A code enforcement officer is authorized to issue a citation to a person when, based on personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and this citation will be heard by the county court.

(Ord. No. 2001-03, § 1, 2-13-01)

#### **Sec. 2-228. Notice.**

Prior to issuing a citation, a code enforcement officer shall provide notice to the person that has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period allowed, the code enforcement officer may issue a citation to the person who has committed the violation. If the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, the code enforcement officer is not obligated to provide the person with a reasonable time period within which to correct the violation prior to the issuance of the citation.

(Ord. No. 2001-03, § 1, 2-13-01)

#### **Sec. 2-229. Form of citation.**

The citation issued by the code enforcement officer shall be in a form prescribed by the village and shall contain the following:

- (1) The name and address of the person to whom this citation is issued.
- (2) The date and time the civil infraction was committed for the facts constituting reasonable cause.
- (3) The number or section of the code or ordinance violated.
- (4) The name and authority of the code enforcement officer.

- (5) The procedure for the person to follow in order to pay the civil penalty or contest the citation.
- (6) The applicable civil penalty if the person elects to contest the citation.
- (7) The applicable civil penalty if the person elects not to contest the citation.
- (8) A conspicuous statement if the person fails to pay the civil penalty within the time allowed or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.  
(Ord. No. 2001-03, § 1, 2-13-01)

### Sec. 2-230. Violations and penalties.

All violations of the Code of Ordinances shall be considered as civil infractions with a maximum civil penalty not to exceed \$500.00. Certain ordinances lend themselves to be enforced by means of a citation method and as such, the village has deemed the following sections of the Code those that may be enforced through the citation method and has provided a schedule of violations and penalties to be assessed as follows:

| Class I<br>\$50.00<br>Penalty                                                       | Class II<br>\$75.00<br>Penalty                                                                                                                              | Class III<br>\$125.00<br>Penalty                                                                                                       | Class IV<br>\$250.00<br>Penalty                                            | Class V<br>\$500.00<br>Penalty                                         |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|------------------------------------------------------------------------|
| Prohibited Signs<br><del>ULDC LDR</del><br>Section 7.14                             | Water Restrictions Codes & Ordinances Section 30-144(a) <del>– (f) (a)</del> – (e) unless due to drought conditions more stringent penalties are applicable | Failure to obtain Building Permit prior to commencement of construction Building Codes Enforcement Administrative Code Section 104.1.1 | Livestock Waste BMP's Section 30-153                                       | <u>Repeat Violations of items listed under Class I, II, III and IV</u> |
| Noise Codes & Ordinances Sections <del>36-34 and 36-34</del> <u>36-33 and 36-34</u> | Solid Waste All violations of Codes & Ordinances Section 36-22(d), 36-23(b), 46-40, 46-41, 46-42                                                            | Failure to obtain Local Business Tax Receipt Codes of Ordinances Section 58-61                                                         | <del>Repeat Violations of items listed under Class I, II, III and IV</del> |                                                                        |
| Property                                                                            |                                                                                                                                                             | Failure to                                                                                                                             | Vegetation                                                                 |                                                                        |

|                                                |  |                                                                                                              |                                                                                                 |  |
|------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|--|
| Maintenance Codes and Ordinances Section 36-22 |  | Obtain Special Use Permit—<br><del>ULDC</del> <u>LDR</u><br>Section 5.5 and 5.6.4 <u>Article 5 Chapter 5</u> | Removal w/o permit<br><del>ULDC</del> <u>LDR</u><br>Section 7.5                                 |  |
|                                                |  | Failure to Comply with Article 6 of the <del>ULDC</del> <u>LDR</u> (Zoning Districts)                        | Transient (Mobile) Sales-- <del>ULDC</del> <u>LDR</u><br>Section 6.4.83 <u>Section 6.4.4.96</u> |  |
| <u>LDR= Land Development Regulations</u>       |  |                                                                                                              |                                                                                                 |  |

(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2003-25, § 1, 11-18-03; Ord. No. 2006-26, § 1, 12-12-06)

**Sec. 2-231. Citations not applicable to certain portions of building codes.**

The provisions of this section shall not apply to the enforcement pursuant to sections 553.79 and 553.80 of the building codes adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the municipality. For the purpose of this subsection, building codes means only those codes adopted pursuant to section 553.73.

(Ord. No. 2001-03, § 1, 2-13-01)

**Sec. 2-232. Processing citations; county court.**

- (a) *Disposition by county court.* After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one copy of the citation with the county court for further disposition.
- (b) Upon receipt of a citation, the person alleged to have violated the village code may request a court appearance. The county court judge may assess a maximum civil penalty not to exceed \$500.00 if contested. If the citation is not contested, the amount of fine is the face value of the citation plus costs.
- (c) Should any person receiving a citation desire to contest same, such person shall have the right to appear in county court in order to present his case and have the determined position made by the court.
- (d) *Failure to accept citation; misdemeanor.* Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 755.082 or 775.083.

**SECTION 3.** Should any section, paragraph, sentence clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington Ordinance, Resolution, or municipal Code provision, then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

**SECTION 4.** Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

**SECTION 5.** Specific authority is hereby granted to codify this Ordinance.

**SECTION 6.** This Ordinance shall become effective immediately upon adoption by the Wellington Council following second reading.

**PASSED** this 8 day of April 2014, upon first reading.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2014, on second and final reading.

VILLAGE OF WELLINGTON

FOR                      AGAINST

|                                    |       |       |
|------------------------------------|-------|-------|
| BY: _____                          | _____ | _____ |
| Bob Margolis, Mayor                |       |       |
| _____                              | _____ | _____ |
| John Greene, Vice Mayor            |       |       |
| _____                              | _____ | _____ |
| Matt Willhite, Councilman          |       |       |
| _____                              | _____ | _____ |
| Howard K. Coates Jr., Councilwoman |       |       |
| _____                              | _____ | _____ |
| Anne Gerwig, Councilman            |       |       |

ATTEST:

BY: \_\_\_\_\_  
Awilda Rodriguez, Village Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

BY: \_\_\_\_\_  
Laurie Cohen, Village Attorney

**ORDINANCE NO. 2014-11**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL;  
AMENDING WELLINGTON CODE OF ORDINANCE CHAPTER  
2, "ADMINISTRATION", ARTICLE IV, "CODE  
ENFORCEMENT", DIVISION 1 "GENERALLY" AND DIVISION 2,  
"SUPPLEMENTAL CODE THROUGH CITATIONS", TO  
REFLECT REVISIONS OF VIOLATIONS; TO REINSTATE  
OMITTED CODE SECTIONS; PROVIDING A REPEALER  
CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING  
AN EFFECTIVE DATE.**

**WHEREAS**, this Ordinance is enacted pursuant to Article VIII of the Florida Constitution, Chapter 166, Florida Statutes, Wellington's Charter, and the police power of the Municipality; and

**WHEREAS**, Wellington is aware of and understands that efficient and stringent enforcement of the Village's Codes and Ordinances has positive impacts on community health, safety and welfare and overall quality of life including property values; and

**WHEREAS**, Chapter 2 Article IV, "Code Enforcement" was enacted to promote, protect, and improve the health, safety, and welfare of the citizens of Wellington by providing an equitable, expeditious, effective, and inexpensive method of enforcing Wellington's Code of Ordinances and Land Development Regulations. Division 2, "Supplemental Code Enforcement Procedures: Enforcement Through Citations" was enacted to provide an additional tool in the enforcement of Wellington's Code of Ordinances; and

**WHEREAS**, the Florida Supreme Court has determined that state law preempts a municipality's "super priority" code enforcement ordinances and it is therefore appropriate to amend Wellington Code Section 2-199 (b) to reflect the Court decision; and

**WHEREAS**, Wellington desires to Amend its code to reflect the change of title from "Special Master" to "Special Magistrate."; and

**WHEREAS**, the current "Violations and Penalties" section of the Citation Code does not reflect the revised code sections enacted with the adoption of the current Land Development Regulations and Codes of Ordinances; and

**WHEREAS**, code section 2-201, "Service of notice; methods" does not reflect amendments to FS 162.12 "Notices".

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF WELLINGTON, FLORIDA:**

**SECTION 1.** The above recitals are true and correct and by this reference are incorporated herein and made an integral part hereof.

**SECTION 2.** Chapter 2, Article IV "CODE ENFORCEMENT" is hereby amended to read as follows:

1   **Sec. 2-192. Definitions.**  
2

3       The following words, terms and phrases, when used in this article, shall have the meanings  
4 ascribed to them in this section, except where the context clearly indicates a different meaning:

5  
6       *Code enforcement clerk* means any employee of the village so designated by the manager.

7       *Code inspector* means those authorized agents or employees of the village whose duty it is  
8 to assure code compliance.  
9

10       *Enforcement board* or *board* means the village code enforcement board that was in  
11 existence prior to June 11, 2006.  
12

13       *Repeat violation* means a violation of a provision of a code or ordinance by a person who  
14 has been previously found through the enforcement board or special magistrate or any other  
15 quasi-judicial or judicial process to have violated or has admitted violating the same provision  
16 within five years prior to the violation, notwithstanding, the violations occur at different locations.  
17

18       *Special magistrate* means a person who is a member in good standing with the Florida Bar  
19 appointed by the village council and authorized to hear and decide cases involving code  
20 violations.  
21

22       *Village attorney* means the legal counselor for the village.  
23

24       (Ord. No. 96-19, § 2, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
25 06)

26   **Cross reference**— Definitions generally, § 1-2.

27   **State law reference**— Definitions, F.S. § 162.04.  
28

29   **Sec. 2-193. Ex parte communications.**  
30

31       No ex parte communication relative to the merits of any pending action, threat, or offer of  
32 reward shall be made to the special magistrate by any employee of the village, or any party to  
33 the proceeding, or any person who directly or indirectly would have a material interest in such  
34 an action pending before the special magistrate, or the authorized representative or counsel of  
35 any such party.

36       (Ord. No. 96-19, § 3, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
37 06)  
38

39   **Sec. 2-194. Village attorney's legal capacity for service.**  
40

41       The village attorney may act as prosecutor for the village in cases brought before the  
42 special magistrate.

43       (Ord. No. 96-19, § 7, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
44 06)

45   **State law reference**— Similar provisions, F.S. § 162.05(5).  
46

47   **Sec. 2-195. Waiver of right to hearing; consent to fine.**  
48

49       The alleged violator may, if he so elects, waive his right to a hearing and consent to the  
50 imposition of a fine after a stated period of time in which to comply. The waiver shall be in

1 writing on a form provided by the village, signed by all violators named in the notice of violation  
2 and witnessed.

3 (Ord. No. 96-19, § 11, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
4 06)

5  
6 **Sec. 2-196. Duties of code inspector.**

7  
8 (a) *Enforcement proceedings; initiation.* It shall be the duty of the code inspector to initiate  
9 enforcement proceedings of the various codes. No special magistrate shall have the power  
10 to initiate such enforcement proceedings.

11  
12 (b) *Notice of violation; time for correction.* If a violation of a code is found, the code inspector  
13 shall notify the violator, unless subsection (c) or (d) of this section applies, and give the  
14 violator a reasonable time to correct the violation. Should the violation continue beyond the  
15 time specified for correction, the code inspector shall notify the special magistrate and  
16 request a hearing pursuant to the procedure set forth in this section. Notice shall be served  
17 upon the violator as provided in this article. If the violation is corrected and then recurs, or if  
18 the violation is not corrected by the time specified for the correction by the code inspector,  
19 the case may be presented to the special magistrate even if the violation has been  
20 corrected prior to the hearing, and the notice shall so state.

21  
22 (c) *Action on violations posing threat to public or irreparable by nature.* If the code inspector  
23 has reason to believe a violation or the condition causing the violation presents a serious  
24 threat to the public health, safety or welfare, or if the violation is irreparable or irreversible in  
25 nature, the code inspector shall make a reasonable effort to notify the violator and may  
26 immediately notify the special magistrate and request a hearing.

27  
28 (d) *Repeat violators.* If a repeat violation is found, the code inspector shall notify the violator but  
29 is not required to give the violator a reasonable time to correct the violation. The code  
30 inspector, upon notifying the violator of a repeat violation, shall notify the special magistrate  
31 and request a hearing. The special magistrate, through their clerical staff, shall schedule a  
32 hearing and shall provide notice as set forth in this article. The case may be presented to  
33 the special magistrate even if the repeat violation has been corrected prior to the board  
34 hearing, and the notice shall so state. If the repeat violation has been corrected, the special  
35 magistrate retains the right to schedule a hearing to determine costs and impose the  
36 payment of reasonable enforcement fees upon the repeat violator. The repeat violator may  
37 choose to waive his rights to this hearing and pay such costs as determined by the special  
38 magistrate.

39 (Ord. No. 96-19, § 12, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
40 06)

41 **State law reference—** Similar provisions, F.S. § 162.06.

42  
43 **Sec. 2-197. Subpoena of evidence.**

44  
45 The code inspector, the special magistrate, or the alleged violator may request that  
46 witnesses, records (including surveys, plats, and other materials) and other evidence are  
47 subpoenaed to any violation hearing. Subpoenas shall be served by the sheriff of the county.  
48 These subpoenas shall be available through the clerk of the enforcement division. A nominal  
49 administrative fee shall be charged for the preparation and service of the subpoenas, the  
50 amount of which administrative fee shall be established by resolution of the village council.

(Ord. No. 96-19, § 13, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06)

**Sec. 2-198. Hearings.**

- (a) *Conduct.* Hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. They shall, however, be conducted in accordance with accepted parliamentary procedures relative to motions, votes and decisions. Fundamental due process shall be observed and shall govern all hearings.
- (b) *Minutes; provision of clerical and administrative personnel.* Minutes shall be kept of all hearings, and all hearings shall be open to the public. The code enforcement clerk shall provide clerical and administrative personnel as may be reasonably required by the special magistrate for the proper performance of its duties.
- (c) *Presentation of case; recovery of costs.* Each case before the special magistrate shall be presented by the village attorney, or by a member of the village staff. If the village prevails in prosecuting a case before the special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the special magistrate, and such costs may be included in a lien authorized by this article and applicable laws.
- (d) *Testimony.* The special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The special magistrate shall take testimony from the code inspector and the alleged violator.
- (e) *Rights of parties to hearing.* Each party to the hearing shall have the right to:
- (1) Call and examine witnesses.
  - (2) Introduce exhibits.
  - (3) Cross-examine opposing witnesses.
  - (4) Impeach witnesses.
  - (5) Rebut evidence.
- (f) *Representation of alleged violator.* The alleged violator has the right to be represented by an attorney at all hearings before the special magistrate.
- (g) *Evidence.* All relevant evidence shall be admitted if, in the opinion of the special magistrate, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make such evidence inadmissible over objections in civil actions. The special magistrate may exclude irrelevant or unduly repetitious evidence. Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not in and of itself be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.
- (h) *Findings of fact; issuance of orders.* At the conclusion of the hearing, special magistrate shall issue findings of fact based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted in this article. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in F.S. § 162.09(1), the cost of repairs may be included along with the fine if the order is not complied with by such date.

(Ord. No. 96-19, § 14, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06)

**State law reference—** Similar provisions, F.S. § 162.07(4).

**Sec. 2-199. Fines; imposition of liens.**

(a) The special magistrate, upon notification by the code inspector that a previous order of the enforcement board or special magistrate has not been complied with by the set time, may order the violator to pay a fine not to exceed \$250.00 for each day that the violation continues past the date set for compliance for a first violation, or in the case of a repeat violation may order the violator to pay a fine not to exceed \$500.00 for each day the violation continues beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare, or if the violation is irreparable or irreversible in nature, the special magistrate shall notify the village council, which may make all repairs which are required to bring the property into compliance and charge the violator with the cost of the repairs as part of the fine imposed pursuant to this article. If, after due notice and hearing, the special magistrate finds a violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.

(b) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. It may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property. A fine imposed pursuant to this article shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to F.S. § 162.09, whichever occurs first. Once a violator comes into compliance, the violator may request a reduction of the fine from the special magistrate. In making the determination on whether to reduce a fine, following compliance, the special magistrate may take into consideration the gravity of the violation, any actions taken by the violator to correct the violation, any previous or subsequent violations committed by the violator, whether there was intervening matters that prevented or obstructed the violator from timely complying with the order to correct the violation, and/or the financial ability of the violator to pay the full amount of the fine. A lien arising from a fine imposed pursuant to this article runs in favor of the village council, and the village council may execute a satisfaction or release of lien entered pursuant to this article. After three months from the filing of any such lien which remains unpaid, the special magistrate may authorize the village attorney to foreclose on the lien, or to sue to recover a money judgment for the amount of the lien, plus accrued interest. No lien created pursuant to the provisions of this article may be foreclosed on real property which is a homestead under section 4, article X of the state constitution.

(Ord. No. 96-19, § 15, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06)

**State law reference—** Similar provisions, F.S. § 162.09.

**Sec. 2-200. Duration of lien; action to foreclose; costs collection; continuance of lien.**

No lien provided in this article shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced in a court of competent jurisdiction pursuant to F.S. 162.09(3). In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs,

1 including a reasonable attorney's fee, that it incurs in the action. The village council shall be  
2 entitled to collect all costs incurred in recording and satisfying a valid lien.

3 (Ord. No. 96-19, § 16, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-  
4 06)

5 **State law reference—** Similar provisions, F.S. § 162.10.

6  
7 **Sec. 2-201. Service of notice; methods.**  
8

9 (a) All notices required by this part must be provided to the alleged violator by:

10 (1) Certified mail, return receipt requested, to the address listed in the tax collector's  
11 office for tax notices or to the address listed in the county property appraiser's  
12 database. The local government may also provide an additional notice to any other  
13 address it may find for the property owner. For property owned by a corporation,  
14 notices may be provided by certified mail to the registered agent of the corporation. If  
15 any notice sent by certified mail is not signed as received within 30 days after the  
16 postmarked date of mailing, notice may be provided by posting as described in  
17 subsection (b).;

18  
19 (2) Hand delivery by the sheriff or other law enforcement officer, code inspector, or  
20 other person designated by the local governing body;

21 (3) Leaving the notice at the violator's usual place of residence with any person  
22 residing therein who is above 15 years of age and informing such person of the  
23 contents of the notice; or

24  
25 (4) In the case of commercial premises, leaving the notice with the manager or other  
26 person in charge.

27  
28 (b) In addition to providing notice as set forth in subsection (a), at the option of the special  
29 magistrate, notice may also be served by publication or posting, as follows:

30  
31 (1) Such notice shall be published once during each week for 4 consecutive weeks  
32 (four publications being sufficient) in a newspaper of general circulation in the county  
33 where the code enforcement board is located. The newspaper shall meet such  
34 requirements as are prescribed under chapter 50 for legal and official advertisements.

35  
36 (2) Proof of publication shall be made as provided in ss. 50.041 and 50.051.

37  
38 (3) In lieu of publication as described in paragraph (a), such notice may be posted at  
39 least 10 days prior to the hearing, or prior to the expiration of any deadline contained in  
40 the notice, in at least two locations, one of which shall be the property upon which the  
41 violation is alleged to exist and the other of which shall be in a conspicuous place at  
42 the village municipal complex.

43  
44 (4) Proof of posting shall be by affidavit of the person posting the notice, which affidavit  
45 shall include a copy of the notice posted and the date and places of its posting.

46  
47 (5) Notice by publication or posting may run concurrently with, or may follow, an  
48 attempt or attempts to provide notice by hand delivery or by mail as required under  
49 subsection (1).  
50

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

**Sec. 2-202. Appeals of administrative orders.**

An aggrieved party, including the village, may appeal a final administrative order of the special magistrate to the circuit court. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the enforcement board or special magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

(Ord. No. 96-19, § 18, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06)

**State law reference**— Similar provisions, F.S. § 162.11.

**Sec. 2-203. Special magistrate.**

One or more persons may be appointed as special magistrate by Wellington's Council. An appointee shall serve a two-year term and may be reappointed, provided that for the period beginning in June of 2010, half of the special magistrates shall serve an initial one-year term ending on May 31, 2011, so that the appointments would be staggered in future years. Special magistrates appointed in June of 2012 and beyond may serve a maximum of four consecutive two-year terms after which such special magistrates may not be eligible for reappointment until one two-year term has expired. The compensation for special magistrate services may be authorized as specified in the appointing resolution. A special magistrate may be suspended or removed with or without cause by Wellington's Council.

(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2010-12, § 1, 5-11-10; Ord. No. 2012-18, § 2, 8-14-12)

**Sec. 2-226. Authority.**

This division is authorized and adopted pursuant to [F.S.] pt. II of ch. 162. The provisions of the section are additional and supplemental means of enforcing municipal codes and ordinances and may be used for the enforcement of any code or ordinance or for the enforcement of all codes and ordinances except as set forth herein above. Nothing contained in this section shall prohibit the village from enforcing its codes or ordinances by any other means.

(Ord. No. 2001-03, § 1, 2-13-01)

**Sec. 2-227. Authority of code enforcement officers.**

A code enforcement officer is authorized to issue a citation to a person when, based on personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and this citation will be heard by the county court.

(Ord. No. 2001-03, § 1, 2-13-01)

**Sec. 2-228. Notice.**

Prior to issuing a citation, a code enforcement officer shall provide notice to the person that has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30

days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period allowed, the code enforcement officer may issue a citation to the person who has committed the violation. If the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, the code enforcement officer is not obligated to provide the person with a reasonable time period within which to correct the violation prior to the issuance of the citation.

(Ord. No. 2001-03, § 1, 2-13-01)

#### **Sec. 2-229. Form of citation.**

The citation issued by the code enforcement officer shall be in a form prescribed by the village and shall contain the following:

- (1) The name and address of the person to whom this citation is issued.
- (2) The date and time the civil infraction was committed for the facts constituting reasonable cause.
- (3) The number or section of the code or ordinance violated.
- (4) The name and authority of the code enforcement officer.
- (5) The procedure for the person to follow in order to pay the civil penalty or contest the citation.
- (6) The applicable civil penalty if the person elects to contest the citation.
- (7) The applicable civil penalty if the person elects not to contest the citation.
- (8) A conspicuous statement if the person fails to pay the civil penalty within the time allowed or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(Ord. No. 2001-03, § 1, 2-13-01)

#### **Sec. 2-230. Violations and penalties.**

All violations of the Code of Ordinances shall be considered as civil infractions with a maximum civil penalty not to exceed \$500.00. Certain ordinances lend themselves to be enforced by means of a citation method and as such, the village has deemed the following sections of the Code those that may be enforced through the citation method and has provided a schedule of violations and penalties to be assessed as follows:

| Class I<br>\$50.00<br>Penalty        | Class II<br>\$75.00<br>Penalty                          | Class III<br>\$125.00<br>Penalty                                        | Class IV<br>\$250.00<br>Penalty         | Class V<br>\$500.00<br>Penalty                                  |
|--------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------------|-----------------------------------------|-----------------------------------------------------------------|
| Prohibited Signs<br>LDR Section 7.14 | Water Restrictions<br>Codes & Ordinances<br>Section 30- | Failure to obtain Building Permit prior to commencement of construction | Livestock Waste BMP's<br>Section 30-153 | Repeat Violations of items listed under Class I, II, III and IV |

|                                                         |                                                                                                  |                                                                                |                                               |  |
|---------------------------------------------------------|--------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|-----------------------------------------------|--|
|                                                         | 144 (a) – (e) unless due to drought conditions more stringent penalties are applicable           | Building Codes Enforcement Administrative Code Section 104.1.1                 |                                               |  |
| Noise Codes & Ordinances Sections 36-33 and 36-34       | Solid Waste All violations of Codes & Ordinances Section 36-22(d), 36-23(b), 46-40, 46-41, 46-42 | Failure to obtain Local Business Tax Receipt Codes of Ordinances Section 58-61 | Vegetation Removal w/o permit LDR Section 7.5 |  |
| Property Maintenance Codes and Ordinances Section 36-22 |                                                                                                  | Failure to Obtain Special Use Permit LDR Article 5 Chapter 5                   | Transient (Mobile) Sales LDR Section 6.4.4.96 |  |
|                                                         |                                                                                                  | Failure to Comply with Article 6 of the LDR(Zoning Districts)                  |                                               |  |
| <u>LDR= Land Development Regulations</u>                |                                                                                                  |                                                                                |                                               |  |

(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2003-25, § 1, 11-18-03; Ord. No. 2006-26, § 1, 12-12-06)

**Sec. 2-231. Citations not applicable to certain portions of building codes.**

The provisions of this section shall not apply to the enforcement pursuant to sections 553.79 and 553.80 of the building codes adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the municipality. For the purpose of this subsection, building codes means only those codes adopted pursuant to section 553.73.

(Ord. No. 2001-03, § 1, 2-13-01)

**Sec. 2-232. Processing citations; county court.**

- (a) *Disposition by county court.* After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one copy of the citation with the county court for further disposition.
- (b) Upon receipt of a citation, the person alleged to have violated the village code may request a court appearance. The county court judge may assess a maximum civil penalty not to

1 exceed \$500.00 if contested. If the citation is not contested, the amount of fine is the face  
2 value of the citation plus costs.  
3

4 (c) Should any person receiving a citation desire to contest same, such person shall have the  
5 right to appear in county court in order to present his case and have the determined  
6 position made by the court.  
7

8 (d) *Failure to accept citation; misdemeanor.* Any person who willfully refuses to sign and accept  
9 a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the  
10 second degree, punishable as provided in F.S. §§ 755.082 or 775.083.  
11

12 **SECTION 3.** Should any section, paragraph, sentence clause, or phrase of this  
13 Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington  
14 Ordinance, Resolution, or municipal Code provision, then in that event the provisions of this  
15 Ordinance shall prevail to the extent of such conflict.  
16

17 **SECTION 4.** Should any section, paragraph, sentence, clause, or phrase of this  
18 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not  
19 affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part  
20 so declared to be invalid.  
21

22 **SECTION 5.** Specific authority is hereby granted to codify this Ordinance.  
23

24 **SECTION 6.** This Ordinance shall become effective immediately upon adoption by the  
25 Wellington Council following second reading.  
26  
27  
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29  
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31

32 (Remainder of page intentionally left blank.)  
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**PASSED** this 8 day of April 2014, upon first reading.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2014, on second and final reading.

VILLAGE OF WELLINGTON

FOR

AGAINST

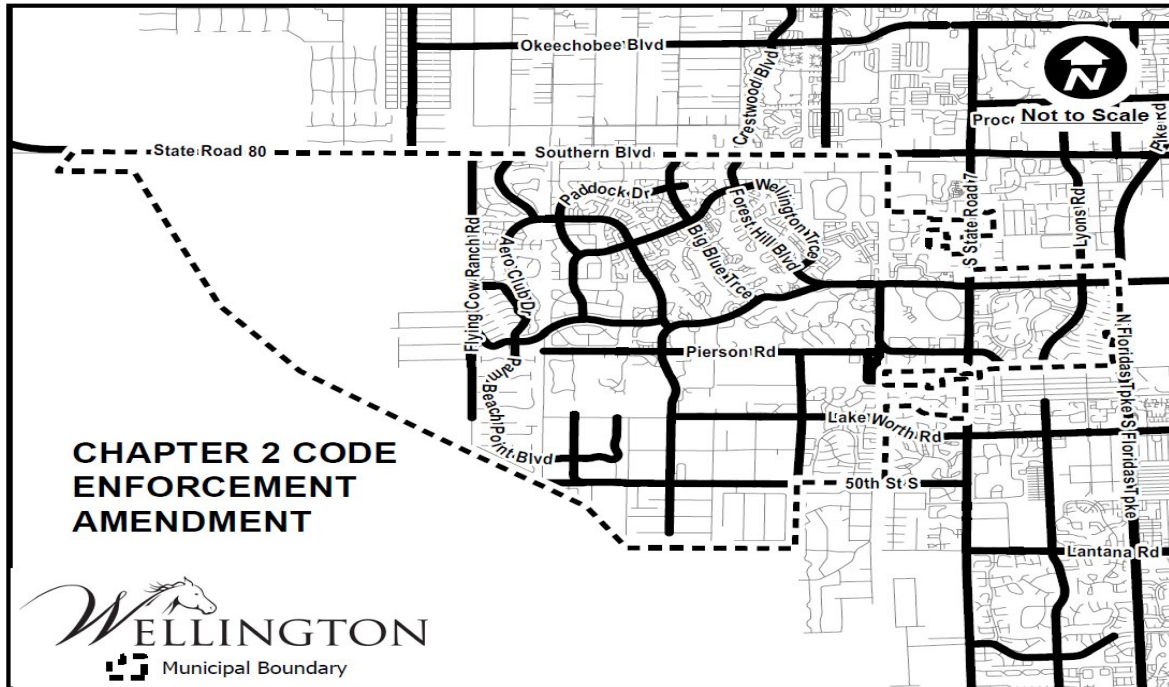
|                                    |       |       |
|------------------------------------|-------|-------|
| BY: _____                          | _____ | _____ |
| Bob Margolis, Mayor                |       |       |
| _____                              | _____ | _____ |
| John Greene, Vice Mayor            |       |       |
| _____                              | _____ | _____ |
| Matt Willhite, Councilman          |       |       |
| _____                              | _____ | _____ |
| Howard K. Coates Jr., Councilwoman |       |       |
| _____                              | _____ | _____ |
| Anne Gerwig, Councilman            |       |       |

ATTEST:

BY: \_\_\_\_\_  
Awilda Rodriguez, Village Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

BY: \_\_\_\_\_  
Laurie Cohen, Village Attorney



## WELLINGTON COUNCIL NOTICE OF CODE OF ORDINANCE CHANGE

Wellington Council will hold public hearing on the adoption of the following Ordinance:

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL; AMENDING WELLINGTON CODE OF ORDINANCE CHAPTER 2, "ADMINISTRATION", ARTICLE IV, "CODE ENFORCEMENT", DIVISION 1 "GENERALLY" AND DIVISION 2, "SUPPLEMENTAL CODE THROUGH CITATIONS", TO REFLECT REVISIONS OF VIOLATIONS; TO REINSTATE OMITTED CODE SECTIONS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

Said public hearing will be held as follows:

### **WELLINGTON COUNCIL**

Location: Village Hall  
12300 Forest Hill Boulevard, Wellington, Florida.

Date: May 13, 2014 at 7:00 P.M. or as soon thereafter as may be heard in the orderly course of business. The hearing of the request may be continued from time to time as may be found necessary

All interested parties are invited to attend and be heard with respect to the proposed Ordinance. Copies of all documents pertaining to the proposed Ordinance is available in the Code Division at the address listed below and can be reviewed by the public Monday through Thursday between the hours of 7:00 a.m. and 6:00 p.m.

Code Division  
12300 Forest Hill Boulevard,  
Wellington, Florida, 33414  
(561) 791-4000

Be advised that anyone choosing to appeal any action with respect to any matter discussed by the Wellington Council will need a record of the proceedings; and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

Pursuant to the provision of the Americans With Disabilities Act (ADA) any person requiring special accommodations to participate in these meetings, because of a disability or physical impairment, should contact the Village Manager's Office (561) 791-4000 at least five calendar days prior to the Hearing.

Dated: April 22, 2014

Publish: The Post  
April 28, 2014

**Note to Publisher:** Pursuant to Florida Statutes, the required advertisement shall be no less than 2 columns wide by ten inches long, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement **shall not** be placed in that portion of the newspaper where legal notices and classified advertisements appear.



# Village of Wellington

## Legislation Text

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**File #: 14-319, Version: 1**

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**ITEM: ORDINANCE NO. 2014-01 (UPDATED TRAVEL AND TRAINING REIMBURSEMENT)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF WELLINGTON, FLORIDA AMENDING CHAPTER 2 "ADMINISTRATION" DIVISION 3 "REIMBURSEMENT FOR TRAVEL AND TRAINING" OF THE CODE OF ORDINANCES OF THE VILLAGE OF WELLINGTON; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**REQUEST:** Approval on second reading of Ordinance No. 2014-01 amending Chapter 2 "Administration" Division 3 "Reimbursement for Travel and Training" of Wellington's Code of Ordinances.

**EXPLANATION:** This policy was originally presented to Council for review during the November 5, 2013 Policy and Procedure Update Workshop. The first reading was approved on January 14, 2014 and second reading was approved on January 28, 2014. Upon review, it was found that the language contained in the first revision was not consistent with the language contained in the Code of Ordinances; therefore, it was necessary to bring this back before Council with the appropriate corrections and revisions for approval. The first reading of this ordinance was again heard by Council at the April 8, 2014 Council Meeting and was unanimously passed (5-0).

**BUDGET AMENDMENT REQUIRED:** NO

**PUBLIC HEARING:** YES **QUASI-JUDICIAL:** NO

**FIRST READING:** **SECOND READING:** YES

**LEGAL SUFFICIENCY:** YES

**FISCAL IMPACT:** Any and all funding must be approved through the annual budget process; funding will be subject to availability.

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Approval on second reading of Ordinance No. 2014-01 amending Chapter 2 "Administration" Division 3 "Reimbursement for Travel and Training" of Wellington's Code of Ordinances.

**ORDINANCE NO. 2014-01**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING CHAPTER 2 "ADMINISTRATION" DIVISION 3 "REIMBURSEMENT FOR TRAVEL AND TRAINING" OF THE CODE OF ORDINANCES OF THE VILLAGE OF WELLINGTON; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Municipal Home Rule Powers Act, Chapter 166, Florida State Statutes provides that the governing body of each municipality has the power to enact legislation concerning any subject matter upon which the Legislature may act, and

**WHEREAS**, the Village of Wellington's ordinances concerning travel and training reimbursement have not been amended since 2006;

**WHEREAS**, the Village's policies have been reviewed by the Palm Beach County Inspector General's office, Village Auditor, staff and the Village Council; and

**WHEREAS**, the Village staff recommends the Council update the Travel and Training Reimbursement Policies for Council and staff travel and training to reflect current operations and practices.

**NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF WELLINGTON, FLORIDA**, that:

**SECTION 1:** Division 3 "Reimbursement for Travel and Training" of Chapter 2 "Administration" of Wellington's Code of Ordinances is hereby amended as follows:

**Sec. 2-126. - Purpose of division.**

The purpose of this division is to set forth the policy ~~and procedures~~ for travel advances and expense reconciliation for the village council and all village staff.

**Sec. 2-127. - Scope of division.**

This division establishes guidelines for allowable expenses and the procedure for accurate and timely reconciliation of travel expenses.

**Sec. 2-128. – Expense guidelines.**

General guidelines for travel and training expenses are as follows:

- (1) Travel and training expenses shall reflect correct and complete expenditures (registration fees, lodging, transportation, etc.) that were incurred by the requesting party and shall be reported to the

~~finance department~~ Financial Services within a reasonable amount of time in order using the "Travel & Training Reimbursement Request Form," as adopted by the council by resolution, with receipts attached. This form shall be submitted to the finance department within a reasonable time of return, generally within seven working days of return, to avoid taxation per the Department of Treasury Internal Revenue Service (IRS) regulations.

(2) No reimbursement shall be allowed where those costs are incurred and accounted by another person (i.e., two persons traveling in one vehicle cannot claim duplicate mileage/travel costs).

(3) Subsistence may be reduced for any meals or lodging included in the conference, seminar or meeting registration.

(4) No reimbursement shall be allowed for the spouse (or any other traveling companion) of the village council or village staff.

(5) No reimbursement shall be allowed for costs not actually incurred.

#### **Sec. 2-129. - Travel advances.**

~~(a) If a travel advance is required, a check request must be submitted to the finance department at least two weeks prior to the date required. Department directors may consider using petty cash to facilitate the advance if it is under the \$250.00 limit as established for petty cash. Support for estimated expenses must be provided to substantiate the request advance. The Village does provide travel advances for travelers who provide the appropriate documentation to Financial Services within a reasonable amount of time as outlined by IRS guidelines.~~

~~(b) A separate request must be used for each traveler, even if the traveler may be joined by one or more village personnel from the same or another village department.~~

~~(c) The finance department shall issue a check to the traveler and retain a copy of the check request and supporting documentation in order to compare to actual expenditures reported as outlined in this division.~~

~~(a) All columns of the travel advance/expense reconciliation form must be completed. If an advance was received, a copy of the check request and backup must be attached and agreed to the amounts reflected as prepaid.~~

1 ~~Vendor name must be included on the travel advance/expense reconciliation~~  
2 ~~form for registration fees, lodging and commercial fare transportation.~~

3 ~~(b) Original receipts must be attached to the travel advance/reconciliation form.~~

4 ~~(c) A photocopy of the program or agenda of the conference, seminar or~~  
5 ~~meeting itemizing meals, lodging or fees must be attached to the~~  
6 ~~travel/expense reconciliation form, when available.~~

7 ~~(d) The traveler must submit a completed expense reconciliation form within a~~  
8 ~~reasonable time of return, generally seven working days. If a refund is due~~  
9 ~~to the village, a check shall be attached to the travel advance/expense~~  
10 ~~reconciliation form.~~

11 ~~(e) The finance department will verify receipts and expenses to village~~  
12 ~~guidelines and will file the form with original travel request in accounts~~  
13 ~~payable.~~

14 **Sec. 2-131130. - Sales tax exemption; reasonable expenses for lodging,**  
15 **meals, transportation and services.**  
16

17 ~~(a) When possible, the village shall be billed directly for travel expenses (i.e.,~~  
18 ~~airfare, lodging and registration). A copy of the certificate of tax exemption~~  
19 ~~shall be submitted with the reservation, thus entitling the village to sales~~  
20 ~~tax exemption. Actual hotel invoices must be submitted (not credit card~~  
21 ~~slips). Payments made directly by an employee disallow the sales tax~~  
22 ~~exemption. Departments should process requests for payment early~~  
23 ~~enough to obtain available discounts. The village's certificate of tax~~  
24 ~~exemption is only applicable in the state.~~

25 ~~(b) Per diem reimbursement for meals shall be in accordance with the~~  
26 ~~Department of Treasury Internal Revenue Service (IRS) Publication 1542~~  
27 ~~"Per Diem Rates For Travel Within the Continental United States" (if the~~  
28 ~~traveler left before 8:00 a.m. and returned after 8:00 p.m. or spent the~~  
29 ~~night) as currently applicable and as these rates are periodically amended,~~  
30 ~~meaning when the rates Department of Treasury Internal Revenue Service~~  
31 ~~( ) Publication 1542 "Per Diem Rates For Travel Within the Continental~~  
32 ~~United States" change, the village rate will automatically change~~  
33 ~~accordingly.~~

34 (c)1. No receipts are required for per diem rates. Meals which  
35 exceed these limits by reason of location or type of function will  
36 be reimbursed if receipts are provided, and the exception shall

1 be approved by the village manager or designee. Conference or  
2 seminar banquets and lunches in excess of the per meal  
3 allowance are allowable exceptions; however, these must be  
4 noted on the program or agenda.

5  
6 2. Traveler may opt out of meals that are included in the  
7 conference, seminar, or meeting registration, only if documented  
8 to serve a business/public purpose. Opting out of an already paid  
9 for (included in registration) meal will not be reimbursed. Receipts  
10 and proper documentation must be submitted and approved by  
11 Village Manager or designee.  
12  
13

14 3. Payments for group meals while traveling require a written  
15 explanation attached to the receipt. The Village reserves the right  
16 to withhold any meal reimbursement not having sufficient proof of  
17 actual expenditures and a valid reason of public purpose.  
18

19 (d)4. Tips will be reimbursed on a reasonable and customary  
20 basis, and include but are not limited to meals, baggage handling,  
21 transportation, valet and porter.  
22

23  
24  
25  
26 **Sec. 2-131- Non allowable travel expenditures**  
27  
28

- 29 (a) No entertainment or alcoholic beverage expenses shall be reimbursed  
30 (b) Airline clubs  
31 (c) Airline upgrades  
32 (d) Business or first-class airfares  
33 (e) Books, Magazines, Newspapers  
34 (f) Child-care, babysitting, house-sitting, pet-sitting/kennel charges  
35 (g) Commuting between home and work  
36 (h) Charge Card delinquency assessments  
37 (i) Costs incurred by traveler's failure to cancel transportation or hotel  
38 reservations in a timely fashion  
39 (j) Evening-wear rentals (k) Formal wear expenses  
40 (l) Flowers

1       (m) Gifts

2       (n) Haircuts and personal grooming

3  
4       **Sec. 2-132. - Transportation.**  
5

6       All travel must be by a usually traveled route. In case a person travels by an  
7       indirect route for his or her own convenience, any extra costs shall be borne by  
8       the traveler and reimbursement for expenses shall be based only on such  
9       charges as would have been incurred by a usually traveled route. The  
10      department head or his or her designee shall designate the most economical  
11      method of travel for each trip, keeping in mind the following conditions:

- 12      1.    The nature of the business.
- 13      2.    The most efficient and economical means of travel (considering time of  
14           the traveler, impact on the productivity of the traveler, cost of  
15           transportation and per diem or subsistence required). When it is more  
16           efficient and economical to either the traveler or village, jet service offered  
17           by any airline may be used when the cost is within an approved threshold  
18           determined by the department head or his designee.
- 19      3.    The number of persons making the trip and the amount of equipment or  
20           material to be transported.

21      (a) Airfare. Take advantage of special rates, when available.

22      (b) *Mileage*. The rate of reimbursement for the use of a personal car will be in  
23      accordance with the most current standard mileage rate of Department of  
24      Treasury IRS Publication 463 "Travel, Entertainment, Gifts and Car Expense".  
25      Reimbursement shall generally not exceed the reasonable cost of commercial  
26      airfare, including transportation to and from the airport.

27      (c) Village vehicle. Receipts for gasoline purchases for village vehicles must be  
28      provided.  
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30      (d) *Rental car*. A copy of the lease agreement for a rental car must be provided.  
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32  
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34      (e) *Taxi/limousine service*. Receipts must be provided for a taxi/limousine  
35      service.  
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37      (f) *Tolls, parking facilities*. Receipts must be provided for all tolls and parking  
38      charges.  
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40      **Secs. 2-133-2-155. Reserved**  
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1        **SECTION 2:** Should any section, paragraph, sentence, clause, or phrase of this  
2 Ordinance conflict with any section, paragraph, clause or phrase of any prior Village  
3 Ordinance, Resolution, or municipal Code provision, then in that event the provisions of  
4 this Ordinance shall prevail to the extent of such conflict.

5        **SECTION 3:** Should any section, paragraph, sentence, clause, or phase of this  
6 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision  
7 shall not affect the validity of this Ordinance as a whole or any portion or part thereof,  
8 other than the part so declared to be invalid.

9        **SECTION 4:** The provisions of this Ordinance shall become effective  
10 immediately upon passage on second and final reading.

11

**PASSED** this 8<sup>th</sup> day of April, 2014, upon first reading.

**PASSED AND ADOPTED** this 22<sup>nd</sup> day of April, 2014, on second and final reading.

**WELLINGTON**

**FOR**

**AGAINST**

BY: \_\_\_\_\_

Bob Margolis, Mayor

\_\_\_\_\_  
John Greene, Vice Mayor

\_\_\_\_\_  
Matt Willhite, Councilman

\_\_\_\_\_  
Howard K. Coates, Jr., Councilman

\_\_\_\_\_  
Anne Gerwig, Councilwoman

**ATTEST:**

BY: \_\_\_\_\_

Awilda Rodriguez, Village Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY: \_\_\_\_\_

Laurie Cohen, Village Attorney

**ORDINANCE NO. 2014-01**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING CHAPTER 2 "ADMINISTRATION", DIVISION 3 "REIMBURSEMENT FOR TRAVEL AND TRAINING" OF THE CODE OF ORDINANCES OF THE VILLAGE OF WELLINGTON; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Municipal Home Rule Powers Act, Chapter 166, Florida State Statutes provides that the governing body of each municipality has the power to enact legislation concerning any subject matter upon which the Legislature may act, and

**WHEREAS**, the Village of Wellington's ordinances concerning travel and training reimbursement have not been amended since 2006;

**WHEREAS**, the Village's policies have been reviewed by the Palm Beach County Inspector General's office, Village Auditor, staff and the Village Council; and

**WHEREAS**, the Village staff recommends the Council update the Travel and Training Reimbursement Policies for Council and staff travel and training to reflect current operations and practices.

**NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF WELLINGTON, FLORIDA, that:**

**SECTION 1:** Division 3 "Reimbursement for Travel and Training" of Chapter 2 "Administration" of Wellington's Code of Ordinances is hereby amended as follows:

**Sec. 2-126. - Purpose of division.**

The purpose of this division is to set forth the policy for travel advances and expense reconciliation for the Village Council and all Village staff.

**Sec. 2-127. - Scope of division.**

This division establishes guidelines for allowable expenses and the procedure for accurate and timely reconciliation of travel expenses.

**Sec. 2-128. – Expense guidelines.**

General guidelines for travel and training expenses are as follows:

- (1) Travel and training expenses shall reflect correct and complete expenditures (registration fees, lodging, transportation, etc.) that were incurred by the requesting party and shall be reported to Financial Services within a reasonable amount of time in order to avoid taxation per the Department of Treasury Internal Revenue Service (IRS) regulations.

- (2) No reimbursement shall be allowed where those costs are incurred and accounted by another person (i.e., two persons traveling in one vehicle cannot claim duplicate mileage/travel costs).
- (3) Subsistence may be reduced for any meals or lodging included in the conference, seminar or meeting registration.
- (4) No reimbursement shall be allowed for the spouse (or any other traveling companion) of the Village Council or Village staff.
- (5) No reimbursement shall be allowed for costs not actually incurred.

**Sec. 2-129. - Travel advances.**

The Village does provide travel advances for travelers who provide the appropriate documentation to Financial Services within a reasonable amount of time as outlined by IRS guidelines.

**Sec. 2-130. - Sales tax exemption; reasonable expenses for lodging, meals, transportation and services.**

Per diem reimbursement for meals shall be in accordance with the Department of Treasury Internal Revenue Service (IRS) as currently applicable and as these rates are periodically amended, meaning when the rates change, the Village rate will automatically change accordingly.

1. No receipts are required for per diem rates. Meals which exceed these limits by reason of location or type of function will be reimbursed if receipts are provided, and the exception shall be approved by the Village Manager or designee. Conference or seminar banquets and lunches in excess of the per meal allowance are allowable exceptions; however, these must be noted on the program or agenda.

2. Traveler may opt out of meals that are included in the conference, seminar or meeting registration, only if documented to serve a business/public purpose. Opting out of an already paid for (included in registration) meal will not be reimbursed. Receipts and proper documentation must be submitted and approved by Village Manager or designee.

3. Payments for group meals while traveling require a written explanation attached to the receipt. The Village reserves the right to withhold any meal reimbursement not having sufficient proof of actual expenditures and a valid reason of public purpose.

4. Tips will be reimbursed on a reasonable and customary basis, and include but are not limited to meals, baggage handling, transportation, valet and porter.

**Sec. 2-131. - Non allowable travel expenditures**

- (a) No entertainment or alcoholic beverage expenses shall be reimbursed
- (b) Airline clubs
- (c) Airline upgrades
- (d) Business or first-class airfares
- (e) Books, magazines, newspapers
- (f) Child-care, babysitting, house-sitting, pet-sitting/kennel charges
- (g) Commuting between home and work
- (h) Charge Card delinquency assessments
- (i) Costs incurred by traveler's failure to cancel transportation or hotel reservations in a timely fashion
- (j) Evening wear rentals
- (k) Formal wear expenses
- (l) Flowers
- (m) Gifts
- (n) Haircuts and personal grooming

**Sec. 2-132. - Transportation.**

All travel must be by a usually traveled route. In case a person travels by an indirect route for his or her own convenience, any extra costs shall be borne by the traveler and reimbursement for expenses shall be based only on such charges as would have been incurred by a usually traveled route. The department head or his or her designee shall designate the most economical method of travel for each trip, keeping in mind the following conditions:

1. The nature of the business.
  2. The most efficient and economical means of travel (considering time of the traveler, impact on the productivity of the traveler, cost of transportation and per diem or subsistence required). When it is more efficient and economical to either the traveler or Village, jet service offered by any airline may be used when the cost is within an approved threshold determined by the department head or designee.
  3. The number of persons making the trip and the amount of equipment or material to be transported.
- (a) *Airfare*. Take advantage of special rates, when available.
  - (b) *Mileage*. The rate of reimbursement for the use of a personal car will be in accordance with the most current standard mileage rate of Department of Treasury IRS Publication 463 "Travel, Entertainment, Gifts and Car Expense". Reimbursement shall generally not exceed the reasonable cost of commercial airfare, including transportation to and from the airport.
  - (c) *Village vehicle*. Receipts for gasoline purchases for village vehicles must be provided.
  - (d) *Rental car*. A copy of the lease agreement for a rental car must be provided.

(e) *Taxi/limousine service*. Receipts must be provided for a taxi/limousine service.

(f) *Tolls, parking facilities*. Receipts must be provided for all tolls and parking charges.

**Secs. 2-133-2-155. – Reserved.**

**SECTION 2:** Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior Village Ordinance, Resolution, or municipal Code provision, then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

**SECTION 3:** Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

**SECTION 4:** The provisions of this Ordinance shall become effective immediately upon passage on second and final reading.

**PASSED** this 8<sup>th</sup> day of April, 2014, upon first reading.

**PASSED AND ADOPTED** this 22nd day of April, 2014, on second and final reading.

**WELLINGTON**

|                                   | <b>FOR</b> | <b>AGAINST</b> |
|-----------------------------------|------------|----------------|
| BY: _____                         | _____      | _____          |
| Bob Margolis, Mayor               |            |                |
| _____                             | _____      | _____          |
| John Greene, Vice Mayor           |            |                |
| _____                             | _____      | _____          |
| Matt Willhite, Councilman         |            |                |
| _____                             | _____      | _____          |
| Howard K. Coates, Jr., Councilman |            |                |
| _____                             | _____      | _____          |
| Anne Gerwig, Councilwoman         |            |                |

**ATTEST:**

BY: \_\_\_\_\_  
Awilda Rodriguez, Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY: \_\_\_\_\_  
Laurie Cohen, Village Attorney



## Legislation Text

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**File #:** 14-249, **Version:** 2

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**ITEM: ORDINANCE NO. 2014-19 (FIREARMS AND DANGEROUS INSTRUMENTS)**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING SECTION 38-82 OF CHAPTER 38, ARTICLE III OF WELLINGTON'S CODE OF ORDINANCES RELATING TO FIREARMS AND DANGEROUS INSTRUMENTS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

**REQUEST:** Approval on first reading of Ordinance No. 2014-19.

**EXPLANATION:** This Ordinance seeks to amend Chapter 38, Article III, Section 38-82 of Wellington's Code of Ordinances to make it compliant with current Florida law.

Ordinance No. 99-03 regulates the possession and use of firearms and dangerous instruments in the Village's public parks. In 2011, the Florida Legislature adopted Chapter 2011-109 (F.S. 790.33) in which it pre-empted to the State the entire field of regulation of firearms and ammunition, provided for uniform firearms laws and provided penalties and sanctions for the enactment or enforcement of any local ordinances or rules in violation of the statute. Although the statute further declared that all previously enacted local ordinances and regulations relating to firearms are null and void, including Ordinance No. 99-03, the portions of that ordinance relating to firearm regulation remain a part of the Village's Code. To avoid any unintentional enforcement of the Code provision, staff is recommending amending Section 38-82 to remove the references to firearms.

**BUDGET AMENDMENT REQUIRED:** NO

**PUBLIC HEARING:** YES      **QUASI-JUDICIAL:** NO

**FIRST READING:** YES      **SECOND READING:**

**LEGAL SUFFICIENCY:** YES

**FISCAL IMPACT:** N/A

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Approval on first reading of Ordinance No. 2014-19.

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING CHAPTER 38, ARTICLE III, SECTION 38-82 OF WELLINGTON'S CODE OF ORDINANCES RELATING TO FIREARMS AND DANGEROUS INSTRUMENTS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

(a) No person, except an authorized village of Wellington employee, security guard, or law enforcement officer shall bring onto park property or have in his/her possession on park property any explosive, dynamite cap, fireworks, , slingshot, cross bow, bow and arrow, any device by means of which a projectile can be propelled, any trapping device, any incendiary bomb or material, any smoke or stink bomb, any tear gas or other disabling chemical or agent, any acid or caustic substance, or any inflammable liquid except fuel contained in the fuel tank of a motor vehicle, vessel, lantern, camp stove or camp heater and not more than one gallon of liquid fuel in a closed metal container.

(b) No person shall discharge any of the instruments listed above into any park from outside a park.

(c) The director may designate areas within a park where bows and arrows can be used. In such cases, the director shall promulgate regulations for the safe use of such devices, and no person shall fail to abide by such regulations.

(d) The director shall designate times and places where fireworks can be used within a park. The director shall promulgate regulations to assure that in such cases the fireworks are used in a safe manner.

**SECTION 2.** Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington Ordinance, Resolution, or Municipal Code provision; then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

**SECTION 3:** Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

**SECTION 4:** This Ordinance shall become effective immediately upon adoption of the Wellington Council following second reading.

**PASSED** this \_\_\_\_ day of May, 2014 upon first reading.

**PASSED AND ADOPTED** this \_\_\_\_ day of May, 2014, on second and final reading.

**WELLINGTON**

|                                            | <b>FOR</b> | <b>AGAINST</b> |
|--------------------------------------------|------------|----------------|
| BY: _____<br>Bob Margolis, Mayor           | _____      | _____          |
| _____<br>John Greene, Vice Mayor           | _____      | _____          |
| _____<br>Matt Willhite, Councilman         | _____      | _____          |
| _____<br>Anne Gerwig, Councilwoman         | _____      | _____          |
| _____<br>Howard K. Coates, Jr., Councilman | _____      | _____          |

**ATTEST:**

BY: \_\_\_\_\_  
Awilda Rodriguez, Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY: \_\_\_\_\_  
Laurie S. Cohen, Village Attorney

Select Year: 2013 ▼ Go

## The 2013 Florida Statutes

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Title XLVI  
CRIMES

Chapter 790  
WEAPONS AND FIREARMS

[View Entire Chapter](#)

### **790.33 Field of regulation of firearms and ammunition preempted.—**

(1) **PREEMPTION.**—Except as expressly provided by the State Constitution or general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances, rules, or regulations are hereby declared null and void.

#### **(2) POLICY AND INTENT.—**

(a) It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof unless specifically authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.

(b) It is further the intent of this section to deter and prevent the violation of this section and the violation of rights protected under the constitution and laws of this state related to firearms, ammunition, or components thereof, by the abuse of official authority that occurs when enactments are passed in violation of state law or under color of local or state authority.

#### **(3) PROHIBITIONS; PENALTIES.—**

(a) Any person, county, agency, municipality, district, or other entity that violates the Legislature's occupation of the whole field of regulation of firearms and ammunition, as declared in subsection (1), by enacting or causing to be enforced any local ordinance or administrative rule or regulation impinging upon such exclusive occupation of the field shall be liable as set forth herein.

(b) If any county, city, town, or other local government violates this section, the court shall declare the improper ordinance, regulation, or rule invalid and issue a permanent injunction against the local government prohibiting it from enforcing such ordinance, regulation, or rule. It is no defense that in enacting the ordinance, regulation, or rule the local government was acting in good faith or upon advice of counsel.

(c) If the court determines that a violation was knowing and willful, the court shall assess a civil fine of up to \$5,000 against the elected or appointed local government official or officials or administrative agency head under whose jurisdiction the violation occurred.

(d) Except as required by applicable law, public funds may not be used to defend or reimburse the unlawful conduct of any person found to have knowingly and willfully violated this section.

(e) A knowing and willful violation of any provision of this section by a person acting in an official capacity for any entity enacting or causing to be enforced a local ordinance or administrative rule or

regulation prohibited under paragraph (a) or otherwise under color of law shall be cause for termination of employment or contract or removal from office by the Governor.

(f) A person or an organization whose membership is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated or caused to be enforced in violation of this section may file suit against any county, agency, municipality, district, or other entity in any court of this state having jurisdiction over any defendant to the suit for declaratory and injunctive relief and for actual damages, as limited herein, caused by the violation. A court shall award the prevailing plaintiff in any such suit:

1. Reasonable attorney's fees and costs in accordance with the laws of this state, including a contingency fee multiplier, as authorized by law; and
2. The actual damages incurred, but not more than \$100,000.

Interest on the sums awarded pursuant to this subsection shall accrue at the legal rate from the date on which suit was filed.

(4) EXCEPTIONS.—This section does not prohibit:

(a) Zoning ordinances that encompass firearms businesses along with other businesses, except that zoning ordinances that are designed for the purpose of restricting or prohibiting the sale, purchase, transfer, or manufacture of firearms or ammunition as a method of regulating firearms or ammunition are in conflict with this subsection and are prohibited;

(b) A duly organized law enforcement agency from enacting and enforcing regulations pertaining to firearms, ammunition, or firearm accessories issued to or used by peace officers in the course of their official duties;

(c) Except as provided in s. 790.251, any entity subject to the prohibitions of this section from regulating or prohibiting the carrying of firearms and ammunition by an employee of the entity during and in the course of the employee's official duties;

(d) A court or administrative law judge from hearing and resolving any case or controversy or issuing any opinion or order on a matter within the jurisdiction of that court or judge; or

(e) The Florida Fish and Wildlife Conservation Commission from regulating the use of firearms or ammunition as a method of taking wildlife and regulating the shooting ranges managed by the commission.

(5) SHORT TITLE.—As created by chapter 87-23, Laws of Florida, this section may be cited as the "Joe Carlucci Uniform Firearms Act."

History.—ss. 1, 2, 3, 4, ch. 87-23; s. 5, ch. 88-183; s. 1, ch. 2011-109.

**ORDINANCE NO. 99-03**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF WELLINGTON, FLORIDA RELATING TO PARKS AND RECREATION FACILITIES; PROVIDING AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF WELLINGTON, FLORIDA that:**

**Section 1.** Article I of Chapter 38, Code of Ordinances, is hereby repealed.

**Section 2.** Article II of Chapter 38, Code of Ordinances is renumbered as Article IV.

**Section 3.** New Articles I , II and III of Chapter 38 Code of Ordinances are created to read:

**ARTICLE I. IN GENERAL**

**Sec. 38-1. Definitions.**

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Department:** the Village of Wellington Parks and Recreation Department.

**Director:** the Parks & Recreation Director.

**Law enforcement officer:** any member of the Palm Beach County Sheriff's Office.

**Neighborhood park:** the smallest class park that is less than ten (10) acres in size and usually less than five (5) acres. Recreational facilities are generally few in number due to size restraints and developed according to the demands and character of the neighborhood that they serve.

**Park:** any public park, recreation or playground area, or building or facility thereon, within the Village of Wellington owned and maintained as a public park, whether or not such areas have been formally dedicated to such purpose.

**Permit:** the written permission that must be obtained from the director or his/her designated agent to carry out a given activity in a park.

**Person:** any person, firm, partnership, association, club, corporation, company, or organization of any kind.

**Vehicle:** any wheeled device of conveyance, whether propelled by motor, animal, or human power. The term shall include any trailer in tow of any kind, size, or description.

Exception is made for baby carriages, wheelchairs, and vehicles in the service of the Village of Wellington.

**Sec. 38-2. Purpose.**

The purpose of this chapter is to establish rules and regulations governing the operation and use of municipal park and recreation facilities, and the parking areas provided in connection therewith, for the purpose that the public may obtain the maximum enjoyment and utilization thereof in accordance with the purposes intended and that the facilities may be conserved and protected for the public good.

**Sec. 38-3. Enforcement authority.**

A. It shall be the duty and responsibility of the department employees to enforce this chapter.

B. It shall be unlawful for any person to do any act forbidden or fail to perform any act required by this chapter or for any person to fail to comply with any lawful or any reasonable order given by village employees.

C. The council may adopt reasonable rules and regulations as are necessary to manage, use, preserve, and govern park property and activities.

**Sec. 38-4 Penalties.**

A. Any person convicted of violating the provisions of this section shall be punished by a fine not less than twenty-five dollars (\$25.00) but not to exceed five hundred dollars (\$500.00), or by imprisonment not exceeding ninety (90) days, or both.

B. Any person found violating any provision of this section shall either be ejected and/or arrested by a law enforcement officer.

**Sec. 38-5. Hours.**

Parks with sports lighting shall be open to the public every day of the year between the hours of 8:00 a.m. and 10:30 p.m. All other parks shall be open from dawn to dusk. However, the director may extend or contract these hours for any park or portion of any park. No person shall enter, be, or remain in any park after park closing hours unless a permit has been obtained.

**Sec. 38-6. Closed areas.**

Any section or part of any park may be declared closed to the public by the director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the director shall find reasonably necessary.

**Sec. 38-7. Fees**

The Village Council shall by resolution adopt a schedule of fees for the use of parks and recreation facilities.

**Secs. 38-7--38-30. Reserved.****ARTICLE II. PERMITS****Sec. 38-31. Permits required.**

A. Any person or group of persons, association, or corporation wishing to sponsor, organize, promote, conduct or advertise any concert, performance, or public exhibition or entertainment of any kind in any of the Village's parks shall first obtain a permit and permission as set forth below.

B. The sale or distribution of printed material is permitted within the Village's parks provided a permit to do so has been issued by the Director as set forth in subsection (C) below.

C. Permits and applicable fees are required. In addition to any other provision of this section that requires the obtaining of a permit prior to engaging in a given activity, no person in a park shall conduct, operate, present, manage, or take part in any of the following activities unless a permit is obtained prior to the start of the activity:

1. Any picnic, outing, or gathering sponsored by any person or composed of ten (10) or more persons.
2. Any contest, exhibit, dramatic performance, play, motion picture, radio or television broadcast, fair, circus, musical event, or any similar event.
3. Any public meeting, assembly, or parade, including, but not limited to, drills, maneuvers, ceremonies, addresses, speeches, sports contests, practices, or political meetings.
4. Any use of any park facility by a certain person or group of persons to the exclusion of others.

**Sec. 38-32. Application.**

A. A person seeking the issuance of a permit to carry on an activity in a park shall file an application on the appropriate form supplied by the department with the designated representative of the director and provide such information as shall be required by the director.

B. Applications for those activities described in subsections (a) and (b) above shall be submitted to the director no later than five (5) thirty (30) days before the planned event. The application shall set forth the name of the organization, if any, the date, time,

duration, and location of the proposed event, and the number of participants. The director shall, without unreasonable delay, issue a permit on proper application pursuant to the following conditions.

C. All requests for permits required hereunder shall be made in writing upon an application form, to be furnished by the director, which shall require the following information:

1. The name and address of the applicant proposing or sponsoring the activity involved;
2. The type of permit requested and the purposes or activity proposed thereunder;
3. The date and hours for which the permit is desired;
4. The specific park area or recreational facility for which the permit is requested;
5. The proposed number of persons who will attend or participate in the activity involved;
6. A statement of any special circumstances which are material to the permit requested;
7. Such other relevant information as the director may reasonably require in regard to the application.

#### **Sec. 38-33. Standards for issuance.**

The director shall issue a permit unless it is determined:

- A. The proposed activity or use of the park will unreasonably interfere with or detract from the general public use and enjoyment of the park; or,
- B. The proposed activity or use of the park will unreasonably interfere with or detract from the public health, safety, or welfare; or,
- C. The conduct of the proposed activity or use is reasonably likely to result in violence to persons or property resulting in serious harm to the public; or,
- D. The proposed activity or use will entail an extraordinary expense or operation by the village; or,
- E. The facilities desired have been reserved for another activity or use at the day and hour requested in the application.

**Sec. 38-34. Decision on application; appeals from denial.**

The director shall issue the permit within five (5) working days of receiving the application. Applications for permits shall be considered in the order in which they are received by the director. In the event that a request for a permit is denied, the applicant may appeal the decision to the village manager. The applicant must notify the village manager, in writing, of the director's decision, and the reason why the applicant disputes the decision, within ten (10) days of receiving notice of the director's decision. The village manager may uphold the director's decision, may grant the permit or may grant the permit with modifications. The decision of the village manager shall be final.

**Sec. 38-35. Conditions of permit.**

The director may impose reasonable conditions or restrictions on the granting of a permit, including, but not limited to, any of the following:

A. Restrictions on fires, fireworks, amplified sound, use of alcoholic beverages, dancing, sports, use of animals, equipment, or vehicles, the number of persons to be present, the location of any bandstand or stage, or any other use which appears likely to create a risk of unreasonable harm to the use and enjoyment of the park by others, or of damage to park property.

B. A requirement that the applicant post a reasonable deposit of security for the repair of any damage to park property or the cost of cleanup, or both.

C. A requirement that the applicant pay in advance a reasonable fee to defray the cost of furnishing adequate security forces by the department at the proposed use or activity.

D. A requirement that the permittee furnish additional sanitary and refuse facilities that might be reasonably necessary based on the use or activity for which the permit is being sought.

E. A requirement that the applicant furnish a certificate of insurance in amounts prescribed to provide adequate coverage for the protection of the village and park property.

No person in a park shall refuse or fail to produce and exhibit any permit he claims to have upon the request of any law enforcement officer, park security guard, or other authorized park employee who wishes to inspect the permit for the purpose of determining that the provisions of this subsection have been complied with.

**Secs. 38-36--38-60. Reserved.**

## **ARTICLE III. REGULATIONS**

### **DIVISION 1. GENERALLY**

#### **Sec. 38-61. Alcoholic beverages.**

A. No alcoholic beverages whatsoever shall be permitted to be brought into any park area, except as specifically authorized herein.

B. No alcoholic beverages whatsoever shall be drunk or consumed in any park area of this village, except as specifically authorized herein.

C. Alcoholic beverages may be consumed at family or group picnics or functions provided a permit for such consumption is obtained. The village council shall by resolution adopt standards for issuance of such permits.

#### **Sec. 38-62. Drunkenness and disorderly conduct.**

A. No intoxicated person will be permitted entry to parks or recreational areas, and if discovered therein will be ejected forthwith.

B. No person shall use obscene language or engage in disorderly conduct in village park.

#### **Sec. 38-63. Proper use of dressing facilities, restrooms.**

A. No person will loiter in or around any restroom, dressing room, or bathhouse.

B. No person shall dress or undress, except in such bathing houses or structures as may be provided or maintained by the department for that purpose, and dressing and undressing in any vehicle, toilet, restroom or on the beach, or in any park area, except as provided above, is prohibited.

#### **Sec. 38-64. Defacing park property.**

A. No person shall pluck any flower or fruit, either wild or cultivated, or break, cut down, tramp upon, remove, or in any manner deface, mar, damage, injure, or mutilate any tree, shrub, flower bed, fallen timber, turf, fence, bridge, bench, table, statue, ornament, gate, building, structure, tool implement, vehicle, boat, car, light standard, sign, or any other property located within a village park.

B. No person shall climb any tree or walk, stand, or sit upon any property within a village park unless designated or customarily used for such purpose.

#### **Sec. 38-65. Vending or selling in park areas.**

No person, other than the department, ~~or its licensed concessionaires acting by and under the authority of the village,~~ or those holding a valid special event permit will expose or

offer for sale, rent, or trade any article or thing, or place any stand, cart, or vehicle for the transport, sale, or display of any food, drink, article, or merchandise, or engage in any commercial activity for compensation, or solicit any business within the limits of any park or recreational area.

**Sec. 38-66. Animals.**

A. No person shall molest, harm, frighten, kill, net, trap, snare, hunt, chase, shoot or throw or propel, by any means, missiles at any wildlife creature, be it animal, bird or reptile roaming free about a park or in captivity in a zoo cage, nor shall any person remove or possess the young of any wild animal, or the nest or eggs of any reptile or bird, or collect, remove, possess, give away, sell or offer to sell, buy or offer to buy, or accept as a gift any specimen, dead or alive, of any of the group of tree snails.

B. No person shall place, dump, abandon, or leave any animal, reptile or bird, either wild or domestic, on the grounds of any park.

C. No person shall bring or allow any animal or pet in any village park, except that leashed pets are permitted in the neighborhood parks provided the owner ensures proper disposal of pet waste.

D. The prohibitions of this subsection shall not apply to:

1. Horses or dogs used by a law enforcement officer or park security guard in the performance of his/her duties.
2. Seeing eye dogs used by a visually handicapped person, provided that the dog is at all times kept under control.
3. Animals or fowl kept by the department or under its direction.

**Secs. 38-67--38-80. Reserved.**

**DIVISION 2. RECREATION**

**Sec. 38-81. Bathing, swimming, fishing.**

A. Swimming.

No person in a park shall:

1. Swim, bathe, or wade in any waterway in or adjacent to any park, except in such water or waterway as the director may designate, and in accordance with the rules of this section and any other regulations that the director may promulgate.

2. Frequent any water or places where swimming, bathing, or wading is permitted, except during those hours that the director has established for such activities.
3. Change into bathing clothes from street clothes, or from bathing clothes into street clothes, except in a bath house or other structure designated for such use.
4. The director shall not designate any water or waterway for swimming, bathing, or wading where such use of the water would be dangerous to the public health, safety, or welfare.

**B. Fishing.**

1. No person shall engage in fishing for profit in park waters, or shall buy or sell fish caught in park waters or park property.
2. No person shall fish in any park waters where swimming, bathing, or wading is permitted.

**Sec. 38-84. Firearms and dangerous instruments.**

A. No person, except an authorized village of Wellington employee, security guard, or law enforcement officer shall bring onto park property or have in his/her possession on park property any firearm or ammunition, any explosive, dynamite cap, fireworks, airgun, pellet gun, spring gun, slingshot, cross bow, bow and arrow, any device by means of which a projectile can be propelled, any device which can be loaded with blank cartridges, any trapping device, any incendiary bomb or material, any smoke or stink bomb, any tear gas or other disabling chemical or agent, any acid or caustic substance, or any inflammable liquid except fuel contained in the fuel tank of a motor vehicle, vessel, lantern, camp stove or camp heater and not more than one (1) gallon of liquid fuel in a closed metal container.

B. No person shall discharge any of the weapons or instruments listed above into any park from outside a park.

C. The director may designate areas within a park where bows and arrows can be used. In such cases, the director shall promulgate regulations for the safe use of such devices, and no person shall fail to abide by such regulations.

D. The director shall designate times and places where fireworks can be used within a park. The director shall promulgate regulations to assure that in such cases the fireworks are used in a safe manner.

**Sec. 38-83. Game and sport activity.**

A. No person in a park shall take part in the playing of any games involving thrown or any otherwise propelled objects such as stones, arrows, golf balls, javelins,

rockets, or radio controlled airplanes, except in areas set apart for such forms of recreation. The playing or practicing by organized sponsored athletic teams of such games as football, baseball, and the like, is prohibited except on fields, courts, or areas designated for such use, or as directed by the director or his/her authorized representative.

B. Roller skating, roller blading, bicycling, skateboarding and any other similar activity is prohibited on turf, basketball courts, tennis courts, and parking lots and shall be confined to those areas specifically designated for such activity.

**Secs. 38-84--38-100. Reserved.**

### **DIVISION 3. PICNIC AREAS**

#### **Sec. 38-101. Picnics.**

A. The director shall designate those areas of a park where picnicking is permitted. No person shall picnic in any area other than in a designated area.

B. Individual grills and tables in picnic areas shall be available on a "first-come, first-served" basis, except that a group of ten (10) or more persons must obtain a permit in advance for the use of picnic pavilions.

C. It is prohibited to build or use open fires, except in areas specified by the director. Barbecue grills or like devices are exempt from this provision; however, the parks department may prohibit the use of such devices which is deemed to be unsafe or hazardous.

D. Picnickers shall not leave a picnic area before all trash, in the nature of boxes, paper, cans, bottles, garbage, and other refuse is placed in a disposal receptacle, where provided. If no trash receptacles are available, then refuse and trash must be carried away from the park area by the picnicker to be properly disposed of elsewhere.

**Secs. 38-102--38-120. Reserved.**

### **DIVISION 4. CONTROL OF VEHICLES**

#### **Sec. 38-121. Vehicles and traffic laws.**

All applicable state and local vehicle and traffic laws and ordinances shall continue in full force and effect in any park.

#### **Sec. 38-122. Obedience to traffic signs.**

All persons shall observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking and all other signs posted for proper control of traffic and for the safety of persons and property.

**Sec. 38-123. Enforcement of traffic regulations.**

All persons shall obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks, highways, streets, or roads immediately adjacent thereto.

**Sec. 38-124. Use of vehicles.**

A. No person shall operate a vehicle in a park except upon designated paved or improved park roads or driveways, or in and upon designated areas or trails set aside for use by such vehicles, unless directed by a law enforcement officer or parks employee to do so, or by official signs or markings.

B. No person, except in emergencies, shall change any parts, repair, wash, wax, or polish, grease, or perform other maintenance on a vehicle on any park roadway, driveway, parking lot, or other park property.

C. No person shall operate or park a motor vehicle, camper, bus, or trailer within a village park or parking lot except in those areas specifically designated by signs to be used for such driving or parking unless authorized by the director or the sheriff's department. Any agents or employees of federal, state, county, or municipal governmental bodies operating motor vehicles on official business shall be exempt from the provisions hereof.

D. No person shall bed down, sleep, or camp overnight in a village park, including any parking area, nor shall camper trucks, buses, trailers, or other vehicles be permitted to remain in a village park unless authorized by the director.

**Sec. 38-125. Speed of vehicles.**

No person shall operate or drive a vehicle in any park area at a rate of speed in excess of fifteen (15) miles per hour, except upon such road as the director may designate by posted signs.

**Sec. 38-126. Parking regulations.**

A. No person shall park a vehicle in any area of a village park in excess of eighteen (18) consecutive hours or continuously from 10:00 p.m. until 6:00 a.m. Any vehicle parked in violation of this section, unless authorized by the director or the sheriff's department, may be removed from the parking area to a garage designated or maintained by the village or the sheriff's department, or to another place of safety, at the owner's expense.

B. No person shall park a vehicle on park property other than in areas designated for parking that type of vehicle, unless there is an emergency or unless directed to do otherwise by a law enforcement officer or a park security guard. Parking shall conform to officially posted signs or markings unless other instructions are given by a law enforcement officer or a park employee.

**Secs. 38-127--38-145. Reserved.**

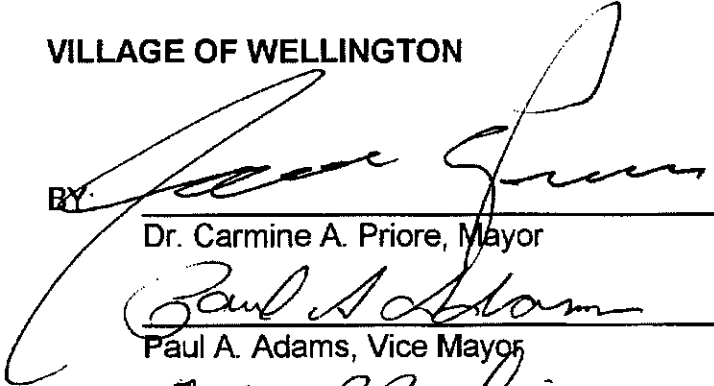


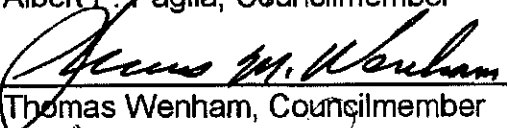
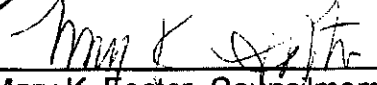
**Section 4.** The provisions of this Ordinance shall become effective immediately upon adoption.

**Section 5:** Codification of this Ordinance is hereby authorized and directed.

PASSED this 27<sup>th</sup> day of April, 1999, upon first reading.

PASSED AND ADOPTED this 11<sup>th</sup> day of May, 1999, on second and final reading.

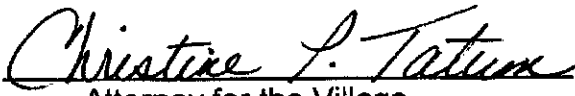
**VILLAGE OF WELLINGTON**

|                                                                                                                               | FOR      | AGAINST         |
|-------------------------------------------------------------------------------------------------------------------------------|----------|-----------------|
| BY: <u></u><br>Dr. Carmine A. Priore, Mayor | <u>✓</u> | <u>        </u> |
| <u></u><br>Paul A. Adams, Vice Mayor         | <u>✓</u> | <u>        </u> |
| <u></u><br>Albert P. Paglia, Councilmember | <u>✓</u> | <u>        </u> |
| <u></u><br>Thomas Wenham, Councilmember    | <u>✓</u> | <u>        </u> |
| <u></u><br>Mary K. Foster, Councilmember   | <u>✓</u> | <u>        </u> |

**ATTEST:**

BY:   
Awilda Rodriguez, Village Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY:   
Attorney for the Village



# Village of Wellington

## Legislation Text

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**File #:** 14-354, **Version:** 1

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**ITEM: ORDINANCE NO. 2014-24 (REMOVAL OF BOARD AND COMMITTEE MEMBERS)**

**AN ORDINANCE OF THE VILLAGE OF WELLINGTON, FLORIDA, AMENDING CHAPTER 2, ARTICLE VI, SECTION 2.292(b) ENTITLED REMOVAL OF BOARD AND COMMITTEE MEMBERS; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**REQUEST:** Approval on first reading of Ordinance No. 2014-24.

**EXPLANATION:** Proposed amendment to Section 2-292(b) of Chapter 2, Article VI of the Wellington Code of Ordinances.

This proposed amendment relates to the removal of board and committee members for reasons other than absenteeism and failure to maintain the requirements for being a board member. The Council previously adopted Ordinance No. 2011-10 which, in part, established the procedure for removal of board and committee members for reasons other than absenteeism by a majority vote of the Council. Council has requested that this section of the Code be amended to permit the council member who appointed the board or committee member to remove the member without cause and without a vote of the Council.

**BUDGET AMENDMENT REQUIRED:** NO

**PUBLIC HEARING:** YES                      **QUASI-JUDICIAL:** NO

**FIRST READING:** YES                      **SECOND READING:**

**LEGAL SUFFICIENCY:** YES

**FISCAL IMPACT:** NO

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Approval on first reading of Ordinance No. 2014-24.

**ORDINANCE NO. 2014-24**

**AN ORDINANCE OF THE VILLAGE OF WELLINGTON, FLORIDA, AMENDING CHAPTER 2, ARTICLE VI, SECTION 2.292(b) ENTITLED REMOVAL OF BOARD AND COMMITTEE MEMBERS; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VI of Chapter 2 of Wellington's code of ordinances provides for the creation of and procedures for Wellington's various boards and committees; and

**WHEREAS**, Wellington's Council passed Ordinance # 2011-10 providing for the procedure for removal of board and committee members; and

**WHEREAS**, all Wellington boards and committees, except as otherwise provided by law or ordinance, consist of seven regular members, five of whom are appointed by each individual Council member and two of whom are appointed at large by majority vote of the Council; and

**WHEREAS**, in order to ensure that Wellington's boards and committees operate efficiently, the Wellington Council has determined that members of Council should have the ability to remove individual board or committee members whom they have appointed.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF WELLINGTON, FLORIDA:**

**SECTION 1:** Section 2.292(b) shall be amended as follows:

(b) *Removal for reasons other than absenteeism and failure to maintain the requirements for being a board member.* All board and committee members shall serve at the pleasure of the Wellington Council. Board and committee members appointed by individual Council members may be removed without cause by the Council member who appointed the board or committee member, unless otherwise provided by the Charter or Florida Statutes. No vote by the Wellington Council shall be required for such removal. At large board and committee members may be removed by a majority vote of the Council, unless otherwise provided by the Charter or Florida Statutes. Any member so removed shall have the right to request a hearing before the Wellington Council.

**SECTION 2.** Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior

Wellington Ordinance, Resolution, or Municipal Code provision; then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

**SECTION 3:** Should any section, paragraph, sentence, clause, or phase of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

**SECTION 4:** This Ordinance shall become effective immediately upon adoption of the Wellington Council following second reading.

**PASSED** this \_\_\_\_\_ day of May, 2014 upon first reading.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of May, 2014, on second and final reading.

**WELLINGTON**

|                                            | <b>FOR</b> | <b>AGAINST</b> |
|--------------------------------------------|------------|----------------|
| BY: _____<br>Bob Margolis, Mayor           | _____      | _____          |
| _____<br>John Greene, Vice Mayor           | _____      | _____          |
| _____<br>Matt Willhite, Councilman         | _____      | _____          |
| _____<br>Anne Gerwig, Councilwoman         | _____      | _____          |
| _____<br>Howard K. Coates, Jr., Councilman | _____      | _____          |

**ATTEST:**

BY: \_\_\_\_\_  
Awilda Rodriguez, Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY: \_\_\_\_\_  
Laurie S. Cohen, Village Attorney

**ORDINANCE NO. 2011-10**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL RELATING TO THE REMOVAL OF BOARD AND COMMITTEE MEMBERS AMENDING CHAPTER II "ADMINISTRATION", ARTICLE VI "BOARDS AND COMMITTEES" TO PROVIDE FOR THE REMOVAL OF BOARD AND COMMITTEE MEMBERS UNDER CERTAIN CIRCUMSTANCES AND REVISING THE QUALIFICATIONS TO SERVE ON A BOARD AND COMMITTEE TO PROVIDE THAT NO ONE WHO HAS BEEN CONVICTED OF A FELONY WITHIN THE LAST TEN YEARS MAY SERVE ON A BOARD OR COMMITTEE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Wellington's Council passed Ordinance #2010-15 on June 22, 2010 providing that boards and committees shall consist of seven regular members with no alternatives; and

**WHEREAS**, in order to have Wellington's Boards and Committees operate efficiently participation from all appointed members is necessary; and

**WHEREAS**, the Council has determined there shall be a more efficient mechanism to remove Board and Committee members who are not able to meet the standard of participation necessary to allow the Boards and Committees to function efficiently.

**NOW THEREFORE BE IT ORDAINED BY WELLINGTON'S COUNCIL THAT:**

**SECTION 1.** Chapter II "Administration", Article VI "Boards and Committees" amended by amending Section 2-288 "General Provisions" to read as follows:

**2-288 General Provision: All members of boards and committees shall:**

(1) Serve at the pleasure of the Wellington Council.

(2) Be a resident of Wellington, maintain residency in Wellington during the term of appointment, and meet such other eligibility requirements as may be established by ordinance or resolution. Resident, for purposes of this chapter, shall include persons who are domiciled in Wellington for only a portion of the year.

(3) To be eligible to serve, a member or prospective member shall not have been convicted of a felony, by the State of Florida, the United States, or its other states and territories within ten (10) years prior to the date of their appointment or any time after their appointment.

~~(3)~~ (4) Any member who fails to meet the requirements for his/her appointment to a board or committee shall immediately cease to be a member of his/her board or committee, and that position shall be deemed vacant.

(4) (5) All boards and committees shall be part of the municipal government and shall utilize, insofar as practicable, the services of the regular departments in Wellington.

(5) (6) No board or committee member shall hold any elected office in the government or be a full-time employee of Wellington.

(6) (7) If any member of a board or committee shall find that his/her private or personal interests are involved in the matter coming before the board, he/she shall disqualify himself/herself from all participation in that matter. No member of a board or committee shall appear before that board or committee or the Wellington Council as agent or attorney for any person.

(7) (8) No board member shall have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

(8) (9) Board or committee members may not serve on more than one board or committee, provided, however, that board or committee members may serve on special task force committees formed by Wellington Council for a specific purpose and for a limited duration. Board or committee members may only serve on such special task force committees for six months or less, unless their term is specifically extended by the Wellington Council.

**SECTION 2.** Chapter II "Administration", Article VI "Boards and Committees" is amended by amending Section 2-291 "Meetings" to read as follows:

### **2-291 Meetings**

(a) Unless otherwise provided, meetings shall be held quarterly, or at such times as Wellington's Council may provide by resolution: or as otherwise provided by law. Special meetings shall not be held unless at least 24 hours' notice is given to each member and Wellington manager.

(b) Members shall notify the board liaison if they are unable to attend a meeting. ~~The Wellington Clerk shall notify the alternative that his/her attendance is required.~~ Upon receiving notice of the expected absence, prior to the time the meeting is due to begin, the Board liaison shall register the absence as being excused, regardless of the underlying reason for the member's absence. If a quorum will not be present, the Wellington Clerk shall notify the chairperson, who may cancel the scheduled meeting.

(c) A quorum for the transaction of business shall be established in the ordinance or resolution creating the board or committee.

(d) An audio tape recording shall be made of all meetings. Additionally, minutes shall be kept of the proceedings at each meeting and shall record the official acts taken by the board. Audio tapes and minutes shall be forwarded to the Wellington Clerk.

(e) All meetings and public hearings of board and committees shall be open to the public. All meetings shall be governed by Robert's Rules of Order, Newly Revised, and Government-in-the-Sunshine pursuant to F.S. § 286.011.

**SECTION 3.** Chapter II "Administration", Article VI "Boards and Committees" is hereby amended by amending Section 2-292 "Removal of Board and Committee Members" to read as follows:

### **2-292 Removal of Board and Committee Members**

(a) ~~Automatic~~ Removal based on absenteeism. Active participation by members of the boards and committees is essential to the effectiveness of the board or committee operations. It is therefore necessary for members to attend the meetings as frequently as possible. As important as participation and attendance is, Wellington's Council understands that a member's activities and other obligations of either a personal or professional nature will on occasion take precedence over their participation in board or committee activities. If a member recognizes they will not be able to fully and regularly participate in the board or committee meetings they should resign from the board or committee and allow the Council to fill the vacancy created by their resignation. In order to maintain a standard of commitment from the members they shall be subject to removal from their position as a member of a board or committee under the following circumstances. Any member of a board or committee, during the course of their two year term, who has three two consecutive unexcused absences or four absences out of the last six meetings whether excused or unexcused from regular meetings shall be automatically removed is subject to being removed as a member of the respective board or committee., unless otherwise specified herein. If the board or committee member was appointed by an individual Council member to the board or committee the decision on whether to remove the board or committee member for absenteeism shall be up to the Council member who appointed them or if the Council member who appointed them is no longer in office, the Council member who is sitting in the seat of the Council person who appointed the board or committee member. If the board or committee member was appointed as an at-large member chosen by the vote of the majority of the Council, the Manager shall within thirty (30) days of the Clerk giving notification to the board or committee member of their excessive absenteeism, place on the Council agenda, the question of whether the board or committee members shall be removed prior to the agenda being published the board or committee member will be able to submit an explanation of their absences and shall have an opportunity to appear and make a presentation to the council on why they should be able to remain a board or committee member. The Council need not take public comment on the issue of the board or committee members' removal. The Council shall by majority vote determine whether to remove the board or committee member. If the board or committee member is not removed they will be subject to removal under this same process if and when the board or committee member incurs another two (2) unexcused absences or three (3) additional absences whether they are excused or unexcused over the remainder of their term. Automatic- The removal of a member shall cause a vacancy to exist in the membership of the particular board or committee. However, The removal of a member shall not be deemed effective until when Wellington's Manager sends confirms that the member has received written notice by certified mail, return receipt requested from the Wellington Clerk of the reason for the action being taken to remove the member of their removal due to absences from meetings. The

~~notice of removal shall include the statement that~~ The member removed for absenteeism does not have the right to request a hearing before the Wellington Council.

(b) Removal for reasons other than absenteeism and failure to maintain the requirements for being a board member. All board and committee members shall serve at the pleasure of the Wellington Council and may be removed without cause by a majority vote of the Wellington Council, unless otherwise provided by the Charter or Florida Statutes. Any member so removed shall have the right to request a hearing before the Wellington Council.

~~(e)~~ 1. Hearing; decision of Council. Any request for hearing must be filed with the Wellington Clerk within five days of the date of the decision to remove. Upon the timely request of the member for a hearing before the Wellington Council, the Council shall set a date and time for a hearing and direct the Wellington Clerk to give the member notice of the hearing. Such hearing shall be held no later than 30 days from receipt of a request for a hearing. At the hearing, the member may present evidence and argument as to why he/she should not be removed. The decision of the Council may be to remove, to suspend, to reprimand, or to absolve the member.

~~(e)~~ 2. The effective date of removal of a member shall be immediately after the expiration of the time in which the member has the right to request a hearing before the Wellington Council, or any later date which the Wellington Council may provide, unless the member timely requests a hearing before the Wellington Council. If the member requests a hearing, the member shall continue to serve on the board or committee until conclusion of the hearing or withdrawal of the request. If the member timely requests a hearing, and the Wellington Council decides to remove the member upon the conclusion of the hearing, the removal shall take effect immediately unless the Wellington Council specifies a later date. If a member timely requests a hearing but withdraws the request prior to the hearing, the effective date shall be the date on which the request is withdrawn.

**SECTION 4.** Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington Ordinance, Resolution, or Municipal Code provision; then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.



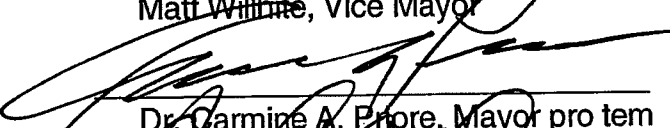
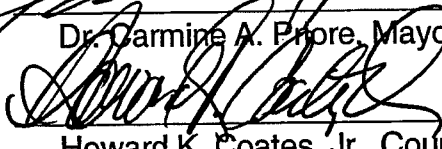
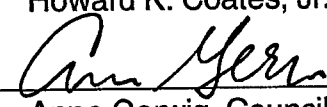
**SECTION 5:** Should any section, paragraph, sentence, clause, or phase of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

**SECTION 6.** This Ordinance shall become effective on April 1, 2012.


**PASSED** this 29th day of November, 2011 upon first reading.

**PASSED AND ADOPTED** this 13<sup>th</sup> day of December, 2011, on second and final reading.

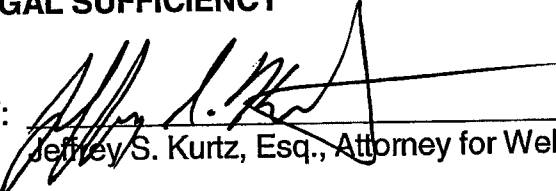
**WELLINGTON**

|                                                                                                                           | <b>FOR</b> | <b>AGAINST</b> |
|---------------------------------------------------------------------------------------------------------------------------|------------|----------------|
| BY: <br>Darell Bowen, Mayor              | ✓          |                |
| <br>Matt Willhite, Vice Mayor            | ✓          |                |
| <br>Dr. Carmine A. Priore, Mayor pro tem | ✓          |                |
| <br>Howard K. Coates, Jr., Councilman    | ✓          |                |
| <br>Anne Gerwig, Councilwoman            |            | ✓              |

**ATTEST:**

BY:   
Awilda Rodriguez, Wellington Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY:   
Jeffrey S. Kurtz, Esq., Attorney for Wellington



# Village of Wellington

## Legislation Text

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**File #: 14-357, Version: 1**

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### **ITEM: APPOINTMENT OF BOARD AND COMMITTEE MEMBERS**

**REQUEST:** Council selection of new appointments to the Architectural Review Board, Construction Board of Appeals and Adjustment, Education Committee, Equestrian Preserve Committee, Parks & Recreation Advisory Board, Planning, Zoning & Adjustment Board, Public Safety Committee, Senior Advisory Committee and Tree Board.

**EXPLANATION:** In accordance with Ordinance No. 2004-32, the terms for all present members of Wellington's boards and committees will expire on May 31, 2014. Furthermore, the Ordinance requires that appointments to the boards and committees shall be made at a Regular Council meeting within sixty (60) days of the certification of the results of a regular election of the Wellington Council. In compliance with those requirements, Council is being asked to appoint their new board and committee appointments at this time for the 2014-2016 term. Attached for Council's review is a listing including the present appointments that indicate whether they wish to be considered for reappointment as well as new applicants.

**BUDGET AMENDMENT REQUIRED:** N/A

**PUBLIC HEARING:** NO

**QUASI-JUDICIAL:**

**FIRST READING:**

**SECOND READING:**

**LEGAL SUFFICIENCY:** N/A

**FISCAL IMPACT:** N/A

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Council selection of new appointments to the Architectural Review Board, Construction Board of Appeals and Adjustment, Education Committee, Equestrian Preserve Committee, Parks & Recreation Advisory Board, Planning, Zoning & Adjustment Board, Public Safety Committee, Senior Advisory Committee and Tree Board.

# ARCHITECTURAL REVIEW BOARD - NEW APPOINTMENTS

Staff Liaison: Olga Prieto

## CURRENT BOARD AND COMMITTEE MEMBERS

| Name of Appointment  | Appointed By | Wishes<br>Reappointment |    | Notes                                                                |
|----------------------|--------------|-------------------------|----|----------------------------------------------------------------------|
|                      |              | Yes                     | No |                                                                      |
| Ken Jacobsen         | Margolis     |                         | X  |                                                                      |
| Carmen S. Paterniti  | Greene       |                         | X  |                                                                      |
| George P. Unger      | Willhite     |                         | X  | Wants to be considered for<br>Planning, Zoning &<br>Adjustment Board |
| Robert G. Camerlinck | Coates       | X                       |    |                                                                      |
| Kimberly Sundook     | Gerwig       | X                       |    |                                                                      |
| Ron Shamash          | At-Large     | X                       |    |                                                                      |
| Frank Pennea         | At-Large     | X                       |    |                                                                      |

## NEW APPLICANTS

1. Alan Mashraghi
2. Bruce Tumin: Mr. Tumin requested to be considered for appointment in the following order:  
#1 Construction Board; #2 Architectural Review Board.

**CONSTRUCTION BOARD- NEW APPOINTMENTS**

Staff Liaison: Jacek Tomasik

**CURRENT BOARD AND COMMITTEE MEMBERS**

| Name of Appointment | Appointed By | Wishes Reappointment |    | Notes                                                                                                                  |
|---------------------|--------------|----------------------|----|------------------------------------------------------------------------------------------------------------------------|
|                     |              | Yes                  | No |                                                                                                                        |
| Diane Patterson     | Margolis     | X                    |    |                                                                                                                        |
| William D. Gross    | Greene       | X                    |    | Wants to be considered for #1 Equestrian Preserve Committee; and #2 Construction Board<br><br>*waiting for application |
| Chris Yurick        | Willhite     | X                    |    |                                                                                                                        |
| Open                | Coates       |                      |    |                                                                                                                        |
| Damon A. Robling    | Gerwig       |                      | X  |                                                                                                                        |
| William Dunn        | At-Large     |                      | X  | Wants to be Considered for PZAB                                                                                        |
| Open                | At-Large     |                      |    |                                                                                                                        |

New Applicants

1. Bruce Tumin: Mr. Tumin requested to be considered for appointment in the following order:  
#1 Construction Board; Architectural Review Board

**EDUCATION COMMITTEE**  
Staff Liaison: Nicole Evangelista

**CURRENT BOARD AND COMMITTEE MEMBERS**

| Name of Appointment | Appointed By | Wishes<br>Reappointment |    | Notes |
|---------------------|--------------|-------------------------|----|-------|
|                     |              | Yes                     | No |       |
| Theresa Ventriglio  | Margolis     | X                       |    |       |
| Kim McPherson       | Greene       | X                       |    |       |
| Marcia Hayden       | Willhite     | X                       |    |       |
| Sherry Derrevere    | Coates       | X                       |    |       |
| Ana Martinez        | Gerwig       | X                       |    |       |
| Anne Greenspan      | At-Large     | X                       |    |       |
| Michelle McGovern   | At-Large     | X                       |    |       |

**NEW APPLICANTS**

1. Sarah Shullman
2. Julie Dimaiwat

## EQUESTRIAN PRESERVE COMMITTEE

Staff Liaison: Bob Basehart

## CURRENT BOARD AND COMMITTEE MEMBERS

| Name of Appointment | Appointed By | Wishes Reappointment |    | Notes               |
|---------------------|--------------|----------------------|----|---------------------|
|                     |              | Yes                  | No |                     |
| Cynthia Gardner     | Margolis     | X                    |    |                     |
| Linda Smith Favor   | Greene       | X                    |    |                     |
| Dr. Kristy Lund     | Willhite     | X                    |    |                     |
| Myles Tashman       | Coates       |                      |    | No response to date |
| Carlos Arellano     | Gerwig       | X                    |    |                     |
| Michael Whitlow     | At-Large     | X                    |    |                     |
| Linda Elie          | At-Large     | X                    |    |                     |

NEW APPLICANTS

1. Houston Meigs: Mr. Meigs requested to be considered for appointment in the following order:  
#1 Equestrian Preserve; #2 Planning, Zoning & Adjustment Board
2. William Gross: Mr. Gross presently serves on the Construction Board, and has requested to be considered for appointment in the following order: #1 Equestrian Preserve Committee; #2 Construction Board.
3. Maryjo Shockley: Ms. Shockley requested to be considered for the following: #1 Planning, Zoning and Adjustment Board; and #2 Equestrian Preserve Committee.

**PARKS & RECREATION ADVISORY BOARD**  
**Staff Liaison: Daryl Boyd**

**CURRENT BOARD AND COMMITTEE MEMBERS**

| Name of Appointment | Appointed By | Wishes Reappointment |    | Notes |
|---------------------|--------------|----------------------|----|-------|
|                     |              | Yes                  | No |       |
| Liz Stockton        | Margolis     | X                    |    |       |
| Dr. Jeffrey Zipp    | Greene       | X                    |    |       |
| Thomas Wenham       | Willhite     | X                    |    |       |
| Anthony Forgione    | Coates       | X                    |    |       |
| Dr. Samuel Falzone  | Gerwig       | X                    |    |       |
| Michael Pignato     | At-Large     | X                    |    |       |
| Nicholas Duffy      | At-Large     |                      | X  |       |

New Applicants

1. Herbert J. Tamres: Mr. Tamres requested to be considered for appointment in the following order: #1 Planning, Zoning and Adjustment Board; and #2 Parks and Recreation Advisory Board.

**PLANNING, ZONING & ADJUSTMENT BOARD**  
**Staff Liaison: David Flinchum**

**CURRENT BOAD AND COMMITTEE MEMBERS**

| Name of Appointment | Appointed By | Wishes Reappointment |    | Notes |
|---------------------|--------------|----------------------|----|-------|
|                     |              | Yes                  | No |       |
| Craig Bachove       | Margolis     |                      | X  |       |
| Carol Coleman       | Greene       | X                    |    |       |
| Andrew Carduner     | Willhite     | X                    |    |       |
| Elizabeth Mariaca   | Coates       | X                    |    |       |
| Dr. Timothy Shields | Gerwig       |                      | X  |       |
| Michael Drahos      | At-Large     | X                    |    |       |
| Paul Adams          | At-Large     | X                    |    |       |

**NEW APPLICANTS**

1. Matthew Kurit
2. George Unger: Mr. Unger presently serves on the Architectural Review Board and has requested to be considered for appointment to the Planning, Zoning & Adjustment Board.
3. Dr. Charles Sandell Dr. Sandell presently serves on the Tree Board and has requested to be considered for appointment in the following order: #1 Planning, Zoning & Adjustment Board; and #2 Tree Board.

**New Applicants for Planning, Zoning & Adjustment Board continue on next page**

NEW APPLICANTS FOR PLANNING, ZONING & ADJUSTMENT BOARD (continued)

4. Houston Meigs: Mr. Meigs requested to be considered for the following: #1 Equestrian Preserve Committee; and #2 Planning, Zoning & Adjustment Board.
5. Maryjo Shockley: Ms. Shockley requested to be considered for the following: #1 Planning, Zoning and Adjustment Board; and #2 Equestrian Preserve Committee.
6. Herbert J. Tamres: Mr. Tamres requested to be considered for the following: #1 Planning, Zoning and Adjustment Board; and #2: Parks & Recreation.
7. William Dunn: Mr. Dunn presently serves on the Construction Board; however, he does not want to be considered for an appointment to that Board. He has requested consideration to Planning, Zoning & Adjustment Board.

**PUBLIC SAFETY COMMITTEE**  
**Staff Liaison: Nicole Evangelista**

**CURRENT BOAD AND COMMITTEE MEMBERS**

| Name of Appointment | Appointed By | Wishes Reappointment |    | Notes               |
|---------------------|--------------|----------------------|----|---------------------|
|                     |              | Yes                  | No |                     |
| Jim Lewis           | Margolis     |                      | X  |                     |
| Dean Holley         | Greene       |                      | X  |                     |
| Kevin Shaw          | Willhite     | X                    |    |                     |
| Ernie Zimmerman     | Coates       | X                    |    |                     |
| Steve Cheatham      | Gerwig       |                      | X  |                     |
| Jacqueline Hutman   | At-Large     | X                    |    |                     |
| Oscar Alvarez       | At-Large     |                      |    | No response to date |

**NEW APPLICANTS**

1. Kenneth Kopp

**SENIOR ADVISORY COMMITTEE**  
**Staff Liaison: Bruce DeLaney/Daryl Boyd**

**CURRENT BOAD AND COMMITTEE MEMBERS**

| Name of Appointment | Appointed By | Wishes Reappointment |    | Notes |
|---------------------|--------------|----------------------|----|-------|
|                     |              | Yes                  | No |       |
| Sharon Zimmerman    | Margolis     | X                    |    |       |
| Nancy Tanner        | Greene       | X                    |    |       |
| Tony Fransetta      | Willhite     | X                    |    |       |
| Sampson Nebb        | Coates       | X                    |    |       |
| Howard Trager       | Gerwig       | X                    |    |       |
| Peter Granata       | At-Large     | X                    |    |       |
| David Schumacher    | At-Large     |                      | X  |       |

**NEW APPLICANTS**

1. Sharon Lascola

**TREE BOARD**  
**Staff Liaison: Brian Hopper**

**CURRENT BOARD AND COMMITTEE MEMBERS**

| Name of Appointment  | Appointed By | Wishes<br>Reappointment |    | Notes                  |
|----------------------|--------------|-------------------------|----|------------------------|
|                      |              | Yes                     | No |                        |
| Debbie Evans         | Margolis     | X                       |    |                        |
| Kay Brown            | Coates       | X                       |    |                        |
| Ken Roundtree        | Willhite     | X                       |    |                        |
| Christopher Gillette | Gerwig       | X                       |    |                        |
| Stormi Bivin         | Greene       | X                       |    |                        |
| Dr. Charles Sandell  | At-Large     | X                       |    | #1 PZAB; #2 Tree Board |
| Lisa Ferrano         | At-Large     | X                       |    |                        |

**NEW APPLICANTS**



# Village of Wellington

## Legislation Text

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**File #:** 14-358, **Version:** 1

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**ITEM: RESOLUTION NO. R2014-30 (ESTABLISHING A CHARTER REVIEW COMMITTEE)**

**A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL ESTABLISHING A CHARTER REVIEW COMMITTEE TO REVIEW AND PROVIDE RECOMMENDATIONS ON THE NEED FOR ANY VILLAGE CHARTER MODIFICATIONS, PROVIDING AN EFFECTIVE DATE.**

**REQUEST:** Approval of Resolution No. R2014-30 establishing the formation of a Charter Review Committee.

**EXPLANATION:** In response to Council's direction, staff has begun the process to establish a Charter Review Committee. An Administrative Transmittal was sent on April 10<sup>th</sup> which provided a draft resolution as well as the process for Charter Amendments. The draft resolution established that the mission of the Committee would be to review the existing Village of Wellington Charter, make recommendations to the Village Council, including proposing revised language, for any additions, deletions, or other modifications they would suggest for adoption through the referendum process. The resolution also outlines the composition of the Committee, the appointments by Council, and establishes the staff liaisons. There are still several sections which require Council input: (1) the date of the first meeting; (2) date the Committee needs to notify Council if a referendum is to be considered; (2) date for proposed language to be given to Council; and (4) sunset date of the Committee, if appropriate.

At this time, the following appointments have been made by Council

|                      |                     |
|----------------------|---------------------|
| Mayor Margolis:      | Victoria McCullough |
| Councilman Willhite: | Ken Adams           |
| Councilwoman Gerwig: | Jeff Kurtz          |

**BUDGET AMENDMENT REQUIRED:** N/A

**PUBLIC HEARING:** NO

**QUASI-JUDICIAL:**

**FIRST READING:**

**SECOND READING:**

**LEGAL SUFFICIENCY:** YES

**FISCAL IMPACT:** N/A

**WELLINGTON FUNDAMENTAL:** Responsive Government

**RECOMMENDATION:** Approval of Resolution No. R2014-30 establishing the formation of a Charter Review Committee.

**RESOLUTION NO. R2014-30****A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL  
ESTABLISHING A CHARTER REVIEW COMMITTEE TO  
REVIEW AND PROVIDE RECOMMENDATIONS ON THE NEED  
FOR ANY VILLAGE CHARTER MODIFICATIONS, PROVIDING  
AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Wellington was incorporated in 1996; and

**WHEREAS**, Florida Statutes 166.031 provides for the exclusive method for enacting amendments to municipal charters; and

**WHEREAS**, the citizens of the Village of Wellington have modified the Village Charter by referendum on two occasions since the Village's incorporation once to provide for an elected Village Mayor and then amending the term of office for the Mayor and amending the section for runoff elections; and

**WHEREAS**, the Village Council believes it is advisable to establish a process to review the Charter and decide whether any revisions should be proposed for adoption by the voters of Wellington through the referendum process;

**NOW, THEREFORE, BE IT RESOLVED BY WELLINGTON, FLORIDA'S COUNCIL** that:

**SECTION 1.** The above recitals are true and correct and are hereby adopted.

**SECTION 2.** There shall be established a Charter Review Committee whose task will be to review the existing Village of Wellington Charter, make recommendations to the Village Council, including proposing revised language, for any additions, deletions, or other modifications they would suggest for adoption through the referendum process. The Charter Review Committee will consist of seven (7) members being selected by the Village Council. The Mayor and Council members shall each select one individual to serve on the committee and two members to be appointed by a majority vote of council. The committee members will be appointed by the Village Council no later than \_\_\_\_\_, 2014.

**SECTION 3.** The Village Manager and Village Attorney or their designees shall serve as Village staff liaisons to the committee.

**SECTION 4.** The Charter Review Committee shall meet at least once by \_\_\_\_\_, 2014 and continue meeting at such frequency and length as the committee members determine appropriate.

**SECTION 5.** The Committee shall provide recommendations to the Village Council concerning whether a referendum election should be called to consider any proposed amendment(s) to the Charter and if so, the committee shall provide recommendations as to the exact language changes suggested on or before \_\_\_\_\_, 201\_\_.

**SECTION 6.** The Committee shall propose language to be added or deleted from the existing Charter for Council consideration on or before\_\_\_\_\_.

**SECTION 7.** Any proposed charter revisions must be supported by the affirmative votes of at least three (4) members of the Committee in order for it to be favorably recommended for approval to the Village Council.

**SECTION 8.** The Village Council shall be free to adopt, reject, or modify any of the Committees recommendations.

**SECTION 10** The Committee shall cease to exist as a Village committee on \_\_\_\_\_, 20\_\_, unless the Village Council, by affirmative vote of the majority of its members, has continued the existence of the committee.

**SECTION 9.** This Resolution shall become affective on the date it is passed and adopted by a majority vote of the Village Council.

**PASSED AND ADOPTED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**WELLINGTON**

BY: \_\_\_\_\_  
Awilda Rodriquez, Village Clerk

BY: \_\_\_\_\_  
Bob Margolis, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

By: \_\_\_\_\_  
Laurie Cohen, Village Attorney



## Legislation Text

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**File #:** AT2014-162, **Version:** 1


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### ADMINISTRATIVE TRANSMITTAL

**DATE:** April 10, 2014

**TO:** Mayor Margolis  
Vice Mayor Greene  
Councilman Willhite  
Councilman Coates  
Councilwoman Gerwig

**FROM:** Awilda Rodriguez

**THRU:**   
Paul Schofield

**CC:** Senior Staff  
Legal  
Awilda Rodriguez

**RE:** Charter Review Committee

Per Council's request, we have begun the process to establish the Charter Review Committee. At this time, the following appointments have been made by Council:

|                      |                     |
|----------------------|---------------------|
| Mayor Margolis:      | Victoria McCullough |
| Councilman Willhite: | Ken Adams           |
| Councilwoman Gerwig: | Jeff Kurtz          |

Vice Mayor Coates and Councilman Greene still need to name their appointments.

For your review, we have attached an outline of the process for Charter Amendments as well as a draft resolution authorizing the formation of the Committee as well as its mission.

If you have any questions, please do not hesitate to contact me.

4/10/2014

DISTRIBUTED TO ALL ATTENDABLE PERSONS ON:

COUNCIL ☒ MANAGER ☒

CLERK ☒ ATTORNEY ☒ STAFF ☒

APPROVED TO ALL COUNCIL

APPROVED TO

NOT FOR

## CHARTER AMENDMENT PROCESS

The amendment of a municipal charter is governed by Section 166.031 Florida Statutes, and the methods provided therein are the exclusive methods for amending charters.

With the exception of an amendment which changes the boundaries of the Village (as would happen after an annexation), all Charter amendments must be approved by the voters at a referendum election. There are two methods of initiating a charter amendment:

1. The Village Council may adopt an ordinance setting forth the proposed amendments and submitting the questions to the voters for approval.
2. The electors may, by petition signed by 10% of the registered electors as of the last preceding municipal general election, propose amendments to be submitted to the voters for approval.

Neither state law nor the Village Charter requires that the Council utilize a Charter Review Committee to develop proposed Charter amendments. However, there is nothing that would prohibit the Council from creating such a committee if it is so desired.

If the Council wishes to pursue amending the Charter with the assistance of a Charter Review Committee, the following steps would need to be taken to initiate the process:

1. Council will need to adopt a resolution establishing a Charter Review Committee and define its duties, responsibilities and deadlines.
2. If desired, the Council may wish to conduct a joint meeting with the Charter Review Committee to identify any particular matters being considered for amendment.
3. The recommendations of the Charter Review Committee are presented to Council for consideration.
4. A draft of a proposed ordinance containing the amendments would be prepared by the Village Attorney and presented to the Council for consideration.
5. The proposed ordinance containing the amendments would be presented to the Village Council in the same manner as other ordinances. This requires two readings of the ordinance.
6. The ordinance would contain the particular language to be changed in the Charter and would also contain the ballot question which would be submitted to the electors.
7. The ordinance also would specify the date upon which the issue would be submitted to the voters.

**RESOLUTION NO. 2014-****A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL ESTABLISHING A CHARTER REVIEW COMMITTEE TO REVIEW AND PROVIDE RECOMMENDATIONS ON THE NEED FOR ANY VILLAGE CHARTER MODIFICATIONS, PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Wellington was incorporated in 1996; and

**WHEREAS**, Florida Statutes 166.031 provides for the exclusive method for enacting amendments to municipal charters; and

**WHEREAS**, the citizens of the Village of Wellington have modified the Village Charter by referendum on two occasions since the Village's incorporation once to provide for an elected Village Mayor and then amending the term of office for the Mayor and amending the section for runoff elections; and

**WHEREAS**, the Village Council believes it is advisable to establish a process to review the Charter and decide whether any revisions should be proposed for adoption by the voters of Wellington through the referendum process;

**NOW, THEREFORE, BE IT RESOLVED BY WELLINGTON, FLORIDA'S COUNCIL** that:

**SECTION 1.** The above recitals are true and correct and are hereby adopted.

**SECTION 2.** There shall be established a Charter Review Committee whose task will be to review the existing Village of Wellington Charter, make recommendations to the Village Council, including proposing revised language, for any additions, deletions, or other modifications they would suggest for adoption through the referendum process. The Charter Review Committee will consist of seven (7) members being selected by the Village Council. The Mayor and Council members shall each select one individual to serve on the committee and two members to be appointed by a majority vote of Council. The committee members will be appointed by the Village Council no later than \_\_\_\_\_, 2014.

**SECTION 3.** The Village Manager and Village Attorney or their designees shall serve as Village staff liaisons to the committee.

**SECTION 4.** The Charter Review Committee shall meet at least once by \_\_\_\_\_, 2014 and continue meeting at such frequency and length as the committee members determine appropriate.

**SECTION 5.** The Committee shall provide recommendations to the Village Council concerning whether a referendum election should be called to consider any proposed amendment(s) to the Charter and if so, the committee shall provide recommendations as to the exact language changes suggested on or before \_\_\_\_\_, 201\_\_.

**SECTION 6.** The Committee shall propose language to be added or deleted from the existing Charter for Council consideration on or before \_\_\_\_\_.

**SECTION 7.** Any proposed Charter revisions must be supported by the affirmative votes of at least four (4) members of the Committee in order for it to be favorably recommended for approval to the Village Council.

**SECTION 8.** The Village Council shall be free to adopt, reject, or modify any of the Committees recommendations.

**SECTION 9.** The Committee shall cease to exist as a Village committee on \_\_\_\_\_, 20\_\_, unless the Village Council, by affirmative vote of the majority of its members, has continued the existence of the committee.

**SECTION 10.** This Resolution shall become affective on the date it is passed and adopted by a majority vote of the Village Council.

**PASSED AND ADOPTED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**WELLINGTON**

BY: \_\_\_\_\_  
Awilda Rodriquez, Village Clerk

BY: \_\_\_\_\_  
Bob Margolis, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

By: \_\_\_\_\_  
Laurie Cohen, Village Attorney