

MINUTES

REGULAR MEETING OF THE WELLINGTON VILLAGE COUNCIL

**Wellington Village Hall
12300 Forest Hill Blvd
Wellington, FL 33414**

**Tuesday, March 28, 2017
7:00 p.m.**

Pursuant to the foregoing notice, a Regular Meeting of the Wellington Council was held on Tuesday, March 28, 2017, commencing at 7:00 p.m. at Wellington Village Hall, 12300 Forest Hill Boulevard, Wellington, FL 33414.

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

Advisors to the Council: Paul Schofield, Manager; Laurie Cohen, Esq., Attorney; Jim Barnes, Assistant Manager; Tanya Quickel, Director of Administrative and Financial Services; and Chevelle D. Nubin, Clerk.

1. **CALL TO ORDER** - Mayor Gerwig called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE** – Girl Scout Troop #20143 led the Pledge of Allegiance.
3. **INVOCATION** - Village Clerk Chevelle Nubin delivered the invocation.
4. **APPROVAL OF AGENDA**

Mr. Schofield indicated staff recommended approval of the Agenda as presented.

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

5. PRESENTATIONS AND PROCLAMATIONS

- A. **17-1050** A PROCLAMATION OF THE VILLAGE COUNCIL OF WELLINGTON, FLORIDA, RECOGNIZING AND CONGRATULATING DR. EVANGELINE AGUIRRE ON RECEIVING PALM BEACH COUNTY'S 2017 TEACHER OF THE YEAR AWARD

Mr. Schofield introduced the item.

Ms. Paulette Edwards, Staff Liaison for the Education Committee, spoke about how the Education Committee and the Village Council has worked in partnership for over 20 years to support and ensure that Wellington schools are successful. She said many people move to

Wellington because of the great schools. She indicated 72 teachers from 11 of the Wellington area schools have been selected as high impact teachers. Ms. Edwards stated to acknowledge their accomplishment, the Education Committee will be presenting the teachers with awards at the committee meeting on Tuesday, May 2nd, at Village Hall.

Dr. Geoff McKee, Central Regional Instructional Superintendent of Palm Beach County, stated it was an honor to represent the teachers and other amazing educators of Wellington. On behalf of Dr. Robert Avossa, Superintendent; Dr. David Christiansen, Deputy Superintendent; and Dr. Frank Rodriguez, Regional Superintendent, he thanked Council for all they do in support of the schools. He said it was wonderful seeing them at so many events. He recognized and congratulated Dr. Aguirre on the great work she does.

Dr. Darren Edgecomb, Principal, thanked the Village of Wellington for its support and making education a priority. He stated Dr. Aguirre is a passionate educator who loves kids. He said their goal is to provide a world class education to all students. He agreed Dr. Aguirre was well deserving of this honor.

Dr. Evangeline Aguirre thanked the Council and the Village for the recognition.

Council congratulated Dr. Aguirre, a Wellington teacher, on receiving the Palm Beach County's 2017 Teacher of the Year Award and presented her with the proclamation.

Ms. Nubin read the proclamation.

6. CONSENT AGENDA

- A. 17-1062** MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETING OF FEBRUARY 28, 2017
- B. 17-0712** AUTHORIZATION TO UTILIZE A SOUTHEAST FLORIDA COOPERATIVE CONTRACT FOR THE PURCHASE AND DELIVERY OF SWIMMING POOL CHEMICALS
- C. 17-0835** AUTHORIZATION TO AWARD A CONTRACT FOR THE PURCHASE AND INSTALLATION OF VARIABLE FREQUENCY DRIVES FOR PUMP STATIONS 3, 6 AND 7

Mr. Schofield stated staff recommended adoption of the Consent Agenda as presented. He also stated no comment cards were received from the public on the Consent Agenda.

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

At this time, the public was given the opportunity to speak on non-agenda items. Mr. Schofield indicated no comment cards were received from the public.

7. PUBLIC HEARINGS

- A. 17-0870** ORDINANCE NO. 2017-01 (AMENDMENT TO CHAPTER 36, ARTICLE II, AMENDING SECTION 36-21 ENTITLED "DEFINITIONS" AND AMENDING SECTION 36-22 ENTITLED

"PROPERTY MAINTENANCE STANDARDS"): AN ORDINANCE OF THE VILLAGE OF WELLINGTON, FLORIDA, AMENDING CHAPTER 36, ARTICLE II, AMENDING SECTION 36-21 ENTITLED "DEFINITIONS"; AMENDING SECTION 36-22 ENTITLED "PROPERTY MAINTENANCE STANDARDS"; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

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

Ms. Cohen stated this ordinance was developed after speaking with the Code Compliance Department. She said it removes several definitions that were contained in the ordinance and clarifies that the property maintenance requirements set forth in that section are the responsibility of the property owner. She indicated it was recommended that the definition of "boat" also be removed. She suggested that Council add the removal of that particular definition to their motion, should they approve the ordinance on first reading. She noted the definitions are contained elsewhere in the ordinances and would be extraneous if included here.

Mr. Koch added that the removal of the definitions was a housekeeping measure, as they should have been removed when the parking code was passed in 2003. Mayor Gerwig understood Council agreed to strike the definition of boat, because it does not relate to this ordinance. Mr. Koch indicated boats, RV's and all-terrain vehicles are addressed in the parking code.

Public Hearing

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

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

A motion was made by Councilman Drahos, seconded by Councilman Napoleone, and unanimously passed (5-0), to approve Ordinance No. 2017-01 (Amendment to Chapter 36, Article II, Amending Section 36-21 Entitled "Definitions" and Amending Section 36-22 Entitled "Property Maintenance Standards") on First Reading with the amendment of striking the definition of boat.

B. 17-1000 RESOLUTION NO. 2017-10 (WELLINGTON GREEN MASTER PLAN AMENDMENT – MUPD B HOTEL): A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL, APPROVING A MASTER PLAN AMENDMENT (PETITION NUMBER 17-09 / 2017-05 MPA 6) FOR CERTAIN PROPERTY KNOWN AS WELLINGTON GREEN, LOCATED IN THE SOUTHWEST CORNER OF STATE ROAD 7 AND FOREST HILL BOULEVARD, AS MORE SPECIFICALLY DESCRIBED HEREIN; AMENDING THE WELLINGTON GREEN MASTER PLAN TO ALLOW A CONDITIONAL USE HOTEL IN MUPD B AND TO AMEND CERTAIN CONDITIONS OF

APPROVAL; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

Ms. Cohen indicated this was a quasi-judicial hearing. She swore in those individuals who intended to offer comment or evidence.

Ex Parte Communications

COUNCILMAN DRAHOS: Councilman Drahos disclosed he met with a representative for the applicant for about 30 minutes on the day of the League of Cities luncheon. He said they discussed the applicant's plans and looked at pictures of the Fairfield Inn. He stated there were various questions about the hotel itself. As a precaution, Councilman Drahos indicated that five or six students from Kings Academy were shadowing him that day and sat in on his meeting with Mr. Gary Koolik.

VICE MAYOR MCGOVERN: Vice Mayor McGovern disclosed he met with Mr. Koolik in late February. He stated they discussed the hotel and what the applicant wanted to construct. He said there were drawings and renderings of the outside appearance and layout of the property.

COUNCILWOMAN SISKIND: Councilwoman Siskind disclosed she met with Mr. Koolik as well, but she could not recall the exact day. She stated it was a meeting with drawings and renderings.

MAYOR GERWIG: Mayor Gerwig disclosed she met with the applicant and staff, and heard the same information. She stated she has spoken to a couple of residents, but she could only think of one, Terry Forsythe. She said they had a conversation about whether or not there would be another hotel.

COUNCILMAN NAPOLEONE: Councilman Napoleone disclosed he met with Mr. Koolik around the same time as the other Council members. He stated he and Mr. Koolik discussed the proposal, and he believed Mr. Basehart was in that meeting.

Ms. Cohen asked, notwithstanding the meetings, conversations and communications they have had, if Council felt they could still be fair and impartial in reviewing this application. Council indicated they could be fair and impartial.

Staff's Presentation

Mr. Basehart stated this is an application for an amendment to the Master Plan of the Wellington Green Mall to allow an additional hotel of up to 125 rooms. He said the site in question is known as MUPD B.

Mr. Basehart presented a map to Council that showed the Mall's Master Plan. He stated the Mall's Development of Regional Impact (DRI) was approved in 1996 and construction started in 2001. He indicated the Master Plan consists of about seven or eight MUPD's or Multiple Use Planned Developments, and the entire property is designated as large scale mixed use. He stated MUPD G in the center is the mall structure itself, and MUPD A

through F are around the Mall along Forest Hill Blvd and State Road 7. He said the parcel in question is part of MUPD B. Mr. Basehart indicated the balance of the Mall project consisted of a planned unit development, which included a couple of rental apartment complexes and the NuVista Congregate Living Facility and Nursing Home.

Mr. Basehart explained the DRI, which was the original approval for the project, was actually approved by the County. He stated the property was annexed into Wellington and has been developed consistent with the Master Plan. He said a few changes have been made along the way and were looked at by this Council. He indicated the big difference now is that the DRI for the Mall approval expired on December 31, 2016. Which means, as of the first of this year, all proposed amendments or changes to the Master Plan or any approvals on the overall property are able to be done at the local level.

Mr. Basehart showed Council MUPD B, which consists of a shopping center building, a couple of shopping center structures and a freestanding bank. He stated the rear part of MUPD B is actually a lake. He said located between the shopping center and the lake is the subject property, which is 1.78 acres, Village owned, and used as the Palm Tram Park-n-Ride facility.

Mr. Basehart indicated MUPD B was approved and is on the approved Master Plan to allow 163,000 square feet of floor area. He said right now 89,000 square feet are developed in the shopping center building and another 4,900 square feet are in the free standing bank. He stated that leaves 66,000 square feet yet to be built on Parcel B and the proposed hotel is less than that, so an approval would not require an increase in the total amount of square footage allowed on the property. He said the original conditions of approval for the Mall and the Master Plan for the Mall, limited the overall project to one hotel on the outparcels. He indicated there were a number of parcels. He said the existing Hampton Inn was built on MUPD A, which is next to this site.

Mr. Basehart showed Council the particular site, including the site plan for the hotel building and the Park-n-Ride facility. He explained staff has been working with Palm Tran to free up parking spaces from the Park-n-Ride facility for potential sale and use by this hotel site. He said the original parking lot was built at 140 parking spaces. He noted on a busy day four or five parking spaces might be used, as it has been underutilized. He indicated when the Village approached Palm Tran, they went to FDOT who provided the funding for the construction of the lot. He stated they have no problem with the reduction in the number of spaces, provided that the amortized portion of the ones given up are reimbursed to the State. He noted that will be the applicant's responsibility. He stated Palm Tran has agreed to excuse 90 spaces from 140, so the applicant's plan is based on that. He said the blue area is the hotel proposed parking and the orange area is the existing parking.

Mayor Gerwig asked who presently owned the Park-n-Ride lot. Mr. Basehart stated the Village owns it, as it was given to the Village of Wellington as a civic site. He said the underlying comprehensive plan designation is large scale mixed use and the underlying zoning is MUPD commercial. He noted it is shown on the Master Plan as a civic site. He indicated provisions in the existing conditions of approval, originally adopted by the County, allow for it to be sold if Wellington no longer wants to own the site.

Councilman Napoleone understood the Village has not yet negotiated a sale price for the property with the applicant. Mr. Basehart stated that was correct. He said they were waiting for the appraisals to be completed. He indicated they received one and the other two are

due by Friday.

Mr. Basehart showed Council a rendering similar to what is intended. He stated the photographs to the right are from an existing facility like the one being proposed. He said the applicant has advised staff that they have signed a contract with the Marriott Corporation for the construction of a Fairfield Inn on the property and Marriott will manage it.

Mr. Basehart reviewed some of the Conditions of Approval that needed to be discussed. He said Condition A-13 provides that hotels shall not exceed 72 feet. He believed the building being proposed was below that at 63 or 65 feet. He indicated conditions B-1 and B-6a are being changed currently. He stated these conditions of approval say there can be one hotel with a maximum of 125 rooms. He said the applicant has requested that be changed to two hotels and with a maximum of 250 rooms.

Mr. Basehart indicated staff has modified the proposed conditions of approval relative to parking. He stated concern was expressed at Agenda Review regarding access to the rooms and the desire that no motel type structure be built there. He said they have worked with the Village Attorney's office and prepared a modification to Condition 6a, which now reads: "Two hotels may be permitted in MUPD A, B, C or E. The operational functions of each hotel shall be combined within the hotel building and all hotel rooms shall be accessed from interior corridors only. There shall be no individual parking spaces assigned to individual hotel rooms." Mr. Basehart stated staff was proposing this change to resolve the issues discussed yesterday.

Mr. Basehart indicated staff also modified Condition 6c as follows: "An Interlocal Agreement shall be executed and recorded in the public records prior to the developer acquiring the Park-n-Ride lot. The developer of the hotel, permitting in MUPD, shall acquire the adjacent Park-n-Ride lot prior to the issuance of a land development permit or building permit for the hotel." Mr. Basehart noted a replat would be required prior to the issuance of any permits.

Councilman Napoleone asked about Condition A-13 and if the current height maximum is 72 feet. Mr. Basehart stated the current proposed height is 65 feet. Mr. Newell explained the condition currently reads that multifamily and the existing hotel can exceed the allowed 35 feet but are limited to 72 feet. He said this condition will include the additional hotel, as it will change from one hotel to two hotels.

Mayor Gerwig understood 72 feet was not the height of the building but the maximum allowed per Village Code. Mr. Basehart stated that was correct for the 441 corridor. Mr. Newell indicated the Wellington Green Master Plan had a condition of approval that limited the other MUPD's to 35 feet. He said there is a section within that condition that indicates the multifamily and existing hotel can exceed 35 feet and be limited to 72 feet.

Councilman Napoleone asked what the maximum number of stories this building could be, as it was being proposed as a five story building. He asked if the applicant could go higher than that if they decided to build a six story building. Mr. Basehart thought the applicant could potentially get a six story building within 72 feet with some design limitations. He stated this building is going to be about 65 feet and five stories.

Councilman Napoleone indicated the applicant is not locked into what was being proposed. He said if they can get six stories within 72 feet, they could go all the way to 72 feet. Mr. Basehart stated they would have more rooms and not enough parking. Councilman

Napoleone indicated the applicant could put meeting rooms on the first floor and guest rooms on the higher floors.

Mayor Gerwig asked if Councilman Napoleone was suggesting there was no reason for this particular condition to be 72 feet, as it could be less. Councilman Napoleone thought Council should put a limit on the maximum number of stories for the building, as opposed to the height requirement. Mr. Basehart stated Council could add a condition to this application limiting the height of the hotel to five stories.

Mr. Basehart stated the Planning Zoning and Adjustment Board (PZAB) in considering this application recommended a condition that the Development Review Committee (DRC) shall consider their pedestrian circulation comments when reviewing the site plan. He said they were basically looking for a safe crossing over to the Mall parking lot at the edge of Loop Road. He indicated the applicant has agreed to discuss that. However, as discussed at Agenda Review, they cannot bind a third party for offsite improvements and the applicant does not own the road or the other side of the road.

Mr. Basehart indicated staff looked at the hotels in the area. He said there is a: 1) Hampton Inn in the next MUPD from this site; 2) 104 room Hampton Inn on Lake Worth Road at the turnpike; 3) Royal Inn on Southern Blvd and Royal Palm Beach Blvd; 4) Hampton Inn at Vista Parkway on the north side of Okeechobee Blvd and west of the turnpike; and 5) La Quinta Inn on the east side of the turnpike in front of Century Village. Mr. Basehart stated those were the only hotels located in the central western communities.

Mr. Basehart indicated the PZAB recommended approval of this application by a 6-0 vote, with the ten conditions Council has before them. He stated staff is recommending approval with the maximum of 125 rooms, as the current Hampton Inn has an allowance of up to 125 rooms. He said staff believes the hotel will ultimately have 106 or 107 rooms.

Applicant's Presentation

Ms. Jennifer Vail with WGI, agent for the applicant, introduced herself. She stated the request before Council was a Master Plan Amendment to modify the Wellington Green Master Plan and conditions of approval to allow for a second hotel, which is a conditional use for a maximum of 125 rooms. She indicated the Wellington Green site is located at the southwest corner of State Road 7 and Forest Hill Blvd. She stated the subject parcels include a 1.7 acre parcel owned by the applicant as well as the 2.07 acre existing Park-n-Ride facility. She said, as staff has indicated, the zoning is currently MUPD for the parcels and they have a large scale multiple use with an underlying commercial high future land use designation. She stated the subject sites are all part of the existing MUPD property and one of the seven MUPD's that are included within the Wellington Green overall parcels. She said to the east is MUPD C as well as MUPD G, known as the egg, where the Mall itself exists; to the south is PUD C of the Planned Unit Development, also known as the AXIS Apartments; and to the west is the large lake, the water retention body part of the overall drainage system for Wellington Green, the existing Wellington Park, and MUPD A where the existing Hampton Inn hotel is located.

Ms. Vail showed Council the conceptual site plan. She stated there is an existing bus stop and shelter located on the northwest side where the existing Park-n-Ride facility is located. She said there is an ingress/egress for the Park-n-Ride off Wellington Green Drive as well as an existing curb-cut at the northeast portion of the site into the proposed hotel parcel that

aligns with the driveway to the north, and the remaining retail portions of MUPD B.

Ms. Vail stated the applicant is proposing to provide cross-access between the hotel and Park-n-Ride facility as well as an existing driveway connection to the north. She said the hotel itself is located on the eastern portion. She indicated 55 spaces are currently proposed within the hotel property and an additional 90 spaces on the west are designated by Palm Tran for the hotel, with the remaining spaces designated specifically for the Park-n-Ride facility.

Ms. Vail showed Council, as discussed at the PZAB hearing, the existing pedestrian sidewalk connections. She said an existing sidewalk located on the east side of Wellington Green Drive connects the AXIS Apartments and Bainbridge Apartments to the south, all the way to the north side of the existing MUPD B shops. She stated it runs along the storefronts to the north; south along the east side of MUPD B, crossing Olive Drive to MUPD C; and to the south along the east side of Olive Drive and then along the storefronts in MUPD C.

Ms. Vail said, as part of the proposed site plan, the applicant is also indicating pedestrian sidewalk connections within the hotel parcel, connecting to the west to the Park-n-Ride facility and again to the north where the driveway connection is proposed. She stated the applicant was also proposing to connect the sidewalk from Wellington Green Drive over to Olive Drive as part of the proposed site plan.

Ms. Vail showed Council a conceptual elevation of the proposed hotel facility. She stated the hotel itself is proposed to be approximately 65 feet in height and five stories maximum. She indicated the original DRI actually allowed for the properties to have an approval up to 72 feet in height, which is consistent with the Code, subject to approval by Council. She explained that condition was approved under the County's original DRI approval and carried forward up until the movie theater approval in 2015, when it was revised to indicate it was specific for the existing hotel and the multifamily. She stated as part of the request, the applicant has proposed to add the additional allowance for this hotel to increase it to the 72 foot height maximum as well.

Ms. Vail indicated staff is recommending approval subject to conditions. She stated the PZAB recommended unanimous approval. She said the applicant is in agreement with the conditions as proposed and presented to Council tonight.

Ms. Cohen asked Ms. Vail to confirm the capacity in which her firm is representing the applicant. Ms. Vail stated her firm was the agent for the site plan and planning portions of the project. Ms. Cohen understood her firm would not be handling any of the engineering work if the project is approved. Ms. Vail stated that was correct.

Mayor Gerwig asked if the applicant was anticipating 65 feet, but did not want that tolerance so it is 75 feet. Ms. Vail stated the Village Code allows up to the 72 foot height, which is consistent for the entire corridor, subject to Council approval. She said the applicant was not proposing to go to the 72 foot height maximum. She believed the CLF building, which came in for approval several years ago and has not yet been constructed, was the only parcel within the Mall facility to actually propose going to the 72 foot height, as everything else has been under that maximum. She stated that is the Village Code allowance, which is why the applicant was consistent with requesting to go to that maximum. She said typically with that there are increased setbacks and increased landscaping for mitigation of the additional height, so the applicant would have to be consistent with all of those as well as

receiving approval from the Architectural Review Board (ARB).

Mayor Gerwig asked about the other boards the applicant would have to go to. Mr. Basehart stated the applicant would have to go back to DRC for final site plan approval and the ARB.

Councilman Drahos asked about the crosswalk across Olive Drive and if the applicant would be agreeable if a deal could be worked out. Ms. Vail stated it is not owned by the applicant, as it is owned by the Mall. She said there are controlled access points for pedestrian crossings throughout the entire Wellington Green property. She thought that was why they do not see sidewalks on both sides, as they typically would throughout a community. She stated there are specific points of pedestrian connection from State Road 7 and Forest Hill to the Mall property, and then limited points of crossing on the ring road. She believed the applicant would be agreeable, if the Mall was willing to work something out.

Mayor Gerwig thought there would be some engineering considerations depending on the traffic. Ms. Vail stated that was correct. She explained not all of the points are coming into the ring road, as typically the inbound roads have the right-of-way. She said those on the ring road are supposed to stop to ensure traffic does not back up onto State Road 7 and Forest Hill, and to keep it moving internal into the properties and internal into the MUPD's around the Mall.

Mayor Gerwig stated, looking at the overall plan, one road was not as short as some of the other entrance roads, so engineering would probably have to weigh-in on that. Mr. Schofield agreed Engineering would have to address that. He stated it would have to go through all of the normal processes. He said, at this point, Council was just looking at just the Master Plan Amendment. He stated everything in the future will go through all of the LDR processes and the applicant will have to come back for specifics on every item.

Mayor Gerwig thought Councilman Drahos brought this up because it was raised by Planning and Zoning. Ms. Cohen believed Ms. Vail was stating the applicant would be willing to work with the Mall owner, but it may or may not be possible. Ms. Vail stated that was correct.

Mayor Gerwig asked about the cost of a flashing crosswalk. Mr. Schofield explained crosswalks could cost between \$40,000 and \$200,000.

Councilman Drahos indicated another discussion Council had at Agenda Review dealt with access and making sure the hotel was limited to an interior corridor, which the client is agreeable to. Ms. Vail stated that was correct.

Councilman Drahos stated the pool area in the back of the hotel shows some kind of barrier that will cut off visibility from Olive Drive. Ms. Vail indicated it will have landscape screening directly along Olive Drive and then additional screening and fencing around the pool area itself as required by Code.

Councilman Drahos asked if part of the rooms were going to be suites. Ms. Vail stated the applicant was proposing an approximate 50/50 split of suites and rooms. She indicated the rooms would not have a full kitchen, but they would have a microwave or a small refrigerator.

Vice Mayor McGovern thought it was said that an agreement had been reached with the Marriott Corporation to build and run the hotel. Ms. Vail stated that was correct. Vice Mayor McGovern then asked what would be included in the building itself. Ms. Vail indicated there is a meeting room on the ground floor as well as a fitness facility, mechanical rooms, laundry room facility, lobby and lounge/relaxing area (no bar area), and seven guest rooms which include handicap accessible rooms. Vice Mayor McGovern understood there would be a pool but no restaurant; however, breakfast would be offered in the lounge area.

Vice Mayor McGovern said the hotel will have a limitation of 125 rooms. Ms. Vail stated the maximum proposed rooms would be 125. She said the conceptual site plan that was submitted to DRC had 109 rooms, but she thought they were currently down to 107. She indicated the original site plan that was included with Council's packet identified the 125 rooms and then showed the required parking to accommodate the 125 rooms. She thought there were some questions at Agenda Review on how many spaces were remaining at the Park-n-Ride facility.

Councilwoman Siskind asked what the average rate of the rooms would be. Ms. Vail did not know the expected rate of the rooms.

Councilman Drahos asked if Council could at this point lock in the level or brand of hotel. He said Council has been told the applicant has a contract with Fairfield and Marriott is going to run it. He asked what would happen if they changed their mind and went with a different business. In response, Ms. Cohen stated she was not aware if they classify hotels in that manner, but she would discourage Council from doing that because they are approving a use. She said once Council approves a use, the property owner has the right to determine what type of building might fulfill that use. She thought by including the language that has been proposed with respect to Condition B6, they will effectively be ensuring it will not be some kind of drive-up motel. She stated she did not think it would be proper to condition the class of hotel.

Mayor Gerwig asked if a market analysis was done. Mr. Basehart stated the applicant advised him they did one, but they have not submitted a market analysis nor is it required. He said the comprehensive plan requires market information or a market study if they are changing the comprehensive plan designation, but it is not required for zoning.

Interested Party's Presentation

Mr. Phillip Hutchinson introduced himself as representing Wellington Hospitality, the owner of the Hampton Inn adjacent to this particular proposed development. He stated his client was opposed to the development for several reasons. He said in order for the development to occur, the applicant would have to make use of the Park-n-Ride facility. He stated, as a taxpayer, his client's objection is that public property will be used to benefit a private owner, as the facility is owned by Wellington and rented to Palm Tran. He said the County has not signed an agreement permitting use of this property. He indicated the application itself is not complete, because there is no sign off from the County and no sign off from the City of Wellington.

Mr. Hutchinson stated his client is adjacent to the site and a soccer field is located next to his client's property. He said the parking lot fills up when there are sporting events at that field and the people coming to those events then park in his client's parking lot.

Mr. Hutchinson indicated his client first heard this property was for sale at a Planning and Zoning meeting and inquired as to whether they could purchase it for overflow parking. He stated his client was told this property was considered surplus and there would be no bidding or open sale of it and no notice to the public that this was occurring. He said his client as a taxpayer objects to that because they could make use of this property, and there is no real justification for the Village of Wellington not to get the highest price possible for this property. Mr. Hutchinson noted nothing in the application says what is going to be paid to obtain this property; therefore, the taxpayers are not getting the best price.

Mr. Hutchinson stated his client bought with the anticipation that they would be the only hotel, because in this particular area the occupancy rate off season is less than 40%. He said nothing in the application deals with that issue. He stated this disadvantages his client because their tax dollars will then subsidize those who are competing with them for the same customers. He said there was nothing in this that would increase the number of people coming to a particular event.

Mr. Hutchinson stated it was asserted that the Park-n-Ride lot is used around 1%, but they have not been able to obtain a copy of the study where this number comes from. He indicated they have photographs of the Park-n-Ride lot, taken in March and February, showing it is full. He said this lot is also used by school buses to pick up and drop off kids. He stated he did not know where the 1% number came from.

Vice Mayor McGovern asked when the photographs were taken. Mr. Hutchinson stated the photograph of the school bus was taken on March 3rd and the other photographs were taken on February 12th. Mr. Schofield indicated February 12th was a Sunday.

Mr. Hutchinson stated when the soccer fields are being used, everything gets filled up. He said his client's problem is his property is going to be used for parking by folks coming to those events. He indicated his client would like to bid on that property to use it for their overflow. He said the taxpayers of Wellington should get the best price for that property.

Mr. Hutchinson stated it has been asserted that an agreement has been or will be made with the County. However, there is no agreement today. He indicated that is an issue, because under the Village Municipal Code, Section 5.1.4, the property owner has to sign off on the application. He explained in this particular instance the property owner of the parking lot is the city and the lessee is the County. He stated neither have signed off on this application and it is not on the agenda for the upcoming County Commission Meeting. He said he did not know where it was in the negotiation process, but the applicant should have had all of that done before coming to Council and not say it will get done afterward. Mr. Hutchinson added it was the same thing with respect to FDOT. He said there is no signed agreement or memorandum of understanding. He stated his client's position is that the application itself is incomplete.

Mr. Hutchinson stated the use of the facility itself presumably is part of the County's overall transit development plan. He said as far as he has been able to ascertain, the County has not amended or changed it in any way. He knew the Brightline train service was coming on line, but he did not know if that was part of the applicant's consideration, as none of this was in the application. He stated the applicant was asking Council to approve something while assuming or hoping that at some point in the future all of these conditions would be met. He said there is no indication that will happen. He stated no one from the County or FDOT was there to say they have an agreement.

Mr. Hutchinson stated the height restriction is at a maximum of 72 foot, which is seven stories. He said, as it stands now, there is nothing stopping the applicant from going to seven stories. He believed that would make the proposed hotel the highest building in the Village.

Mr. Hutchinson stated, for all of these reasons, his client opposes this application. He said they believe at this point all of this is premature and it is not in compliance with the Village Municipal Code.

Councilman Drahos questioned Mr. Hutchinson's point regarding FDOT and the County not signing off on this yet. He asked if there was a legal requirement for that to be done before Council could consider this and what would stop FDOT or the County from doing the reverse. He said what if they would have gone to them first and asked if Wellington had signed off on this yet. He stated at some point someone has to approve something. He asked why Mr. Hutchinson thought his order was correct.

Mr. Hutchinson stated he was relying on the Village Municipal Code and referring to Section 5.1.4, and a sign off from the owner is required. He indicated the County is the lessee and the Village of Wellington is the owner, but right now neither one has signed off. He believed the applicant was putting the cart before the horse. He understood what Councilman Drahos was saying, but when he reads the Code, the applicant is to get approval from the Village and the County before coming forward with an application.

Councilman Drahos asked what damage would be done, if that interpretation of the Code is correct, Council were to approve this tonight, and then later FDOT or the County were to reject it. Mr. Hutchinson stated the damage is his client would like to purchase the property, but they have been told it is surplus property and they cannot bid on it. He thought, in terms of approving something that cannot be approved, it would be a waste of their time and effort for the taxpayers of the city.

Councilman Drahos recalled Council discussed yesterday the point Mr. Hutchinson made about public property benefiting a private owner, and there is a particular requirement. Ms. Cohen explained the Village Code permits the Council to sell property in any way it believes it is appropriate, as long as a public purpose is served. She said in this case the sale of the property, which would be at market value, would result in a tax benefit for the Village, because the new owner would be paying taxes on the property and it would dispose of property not currently being used to its full capacity. She indicated a public purpose would be served. In addition to that, she believed Mr. Basehart wanted to point out a particular condition that was imposed by the County when the County approved the Mall.

Mr. Basehart stated page 76 in Council's packet indicated civic site conditions of approval. He said originally Condition #2 read "county," but the property was transferred to Wellington when it was annexed and the wording was changed to "Wellington." He indicated Condition D2 says, "Should Wellington decide to sell or transfer the proposed civic site for a non-public use, it will first offer the property to the developer at current market price before placing it on the general market."

Mr. Basehart explained the site was given to Wellington by the developer as a civic site requirement. He said the language in the condition reads that "Should Wellington receive an acceptable bona fide offer for the purchase of the property for a non-public use, the

developer (and in this case the principals of the applicant are the same as the developer of the Mall) shall have the Right of First Refusal to match the offer.” Mr. Basehart believed this condition said if Wellington decided to sell the property, they would have to make it available to the developer at the current market value. He stated if the developer declined to buy it and it was put on the market, and then somebody else wanted to buy it, the developer would have first right of refusal even then. Therefore, the developer would have two opportunities to purchase it. He noted this condition was adopted as part of the original approval of the Mall and it is still in the conditions of approval.

Mayor Gerwig stated the origination of D2 was before the Mall came into the Village. She said staff only changed “county” to “Wellington.” Mr. Basehart stated that was correct.

Mr. Basehart stated that FDOT has not weighed in on this. He indicated the Village has a letter that was written to Assistant County Administrator, Shannon LaRocque, dated July 14, 2016. He read the letter in part: “We are in receipt of the correspondence dated June 6, 2016 from Ms. Claudia Salazar of Palm Tran requesting Florida Department of Transportation concurrence regarding the proposed modification of the existing use agreement adjusting the number of parking spaces used by Palm Tran at the subject site in the Village of Wellington. We concur with the request based on the following: 1) 2016 Department Utilization Report documents a utilization rate of 1% for this location, which was further sustained during a recent site visit.”

Councilman Napoleone stated this was the source of the 1% Mr. Basehart mentioned earlier.

Mr. Basehart said the letter goes on to say they had no issue. He indicated the original request was for 60 spaces, which would be taken from the Park-n-Ride lot. He stated the Village has since modified that and Palm Tran has agreed to 90 spaces. He said that would still leave the Palm Tran with 48 spaces.

Ms. Cohen pointed out with respect to the completion of the application, it is not uncommon to have a condition that occurs subsequent to the approval of a development order. She said Council only needed to look to their next agenda item to see that is the case, as a development order was approved recently and one of the conditions was that a Tri-Party Agreement be executed.

Mayor Gerwig asked if there was a time limit in the Village Code. Ms. Cohen stated the time limit would be the same as the development order.

Cross Examination

Mr. Hutchinson asked Mr. Basehart if he saw the study referring to the 1% utilization rate. Mr. Basehart stated staff received the letter from FDOT, as they did the study. He said he has not seen the study. Mr. Hutchinson then asked Mr. Basehart if he knew the date the study was done. Mr. Basehart stated it was done within the last year, but he did not know the date.

Mr. Hutchinson asked if FDOT was referring to parking or utilization of Palm Tran buses. Mr. Basehart stated he understood they were referring to the number of spaces used on any given average day. Mr. Hutchinson asked how he got that understanding. Mr. Basehart stated that was his understanding from talking to individuals at FDOT and Palm Tran. Mr.

Hutchinson stated he was referring to the 1% in this letter and asked Mr. Basehart if he spoke to the person who wrote it to understand it. Mr. Basehart stated he did not speak to the person. Mr. Hutchinson asked Mr. Basehart if ever saw the utilization report. Mr. Basehart stated he had not seen it personally.

Mr. Hutchinson indicated Mr. Basehart made a statement earlier that Birch Development is the same as the developer of the Wellington Mall. Mr. Basehart stated he believed most of their principals were the same as BreFrank Corporation. Mr. Hutchinson stated it was not the same corporation. He said Mr. Basehart was saying the interested parties who developed the Mall and are also interested parties in Birch, but they are not the same legal entity. Mr. Hutchinson clarified that Birch Development is not the developer. Mr. Basehart stated that was correct.

Mr. Hutchinson asked Mr. Basehart if he was aware of any other building in the Village of Wellington that is 72 feet in height. Mr. Basehart stated he personally was not aware of any building that has been built to that height. Mr. Hutchinson said if this is approved as written, the applicant could go up to 72 feet. Mr. Basehart agreed. Mr. Hutchinson asked if that would be approximately seven stories. Mr. Basehart stated it could be six to seven stories, unless Council imposed a lesser requirement.

Mr. Hutchinson recalled it was said that someone had discussions with the County. Mr. Basehart indicated he had many. Mr. Hutchinson asked if he had a Memorandum of Understanding from the County. Mr. Basehart stated a proposed amended Interlocal Agreement was submitted to the County and they are reviewing it. Mr. Hutchinson stated the Village does not have anything signed by the County agreeing to this. Mr. Basehart indicated he has some e-mails from people who work at Palm Tran, but he has not had any discussions with the County Commission. Mr. Hutchinson noted it was not on the agenda for the County Commission. Mr. Basehart stated that was correct. Mr. Hutchinson asked if anyone had briefed any member of the County Commission concerning this. Mr. Basehart stated he has not. Mr. Hutchinson asked if anyone had briefed the County Commission on this property being sold without an open bid and taking the bid from Birch Development. Mr. Basehart believed it was not any of the County's business. Mr. Hutchinson thought they would not know unless they asked. Mr. Basehart agreed.

Mr. Hutchinson asked if Mr. Basehart knew where the soccer fields were located. Mr. Basehart stated he did. Mr. Hutchinson asked if he knew where the people were supposed to park when the lot fills up for the soccer fields. Mr. Basehart said if he believed what he heard this evening, some of them park in the Park-n-Ride lot. Mr. Hutchinson stated he was asking for his personal knowledge, as he did not want Mr. Basehart to speculate. Mr. Basehart stated he knew the Village had installed a parking lot on that site in the last couple of years, which was not there earlier than that, but that he had not personally observed where the overflow parking goes.

Mr. Hutchinson understood that Birch is not looking for 90 parking spaces. Mr. Basehart stated that was correct. Mr. Hutchinson stated in the FDOT letter the conversation was concerning 60 spaces. Mr. Basehart indicated originally the request was 80 spaces. He said he did know how the 60 spaces got in that letter. Mr. Hutchinson stated Mr. Basehart's conversations with FDOT were for 80 spaces, but this letter came back stating 60. Mr. Basehart stated he has not had any discussions with FDOT. He said he has talked to some individuals there about the process, because they need to amortize the spaces that would be given up by Park-n-Ride in order to reimburse the grant. Mr. Hutchinson asked for the

amount of that grant. Mr. Basehart stated it was \$700,000 plus dollars.

Mr. Hutchison asked what the impact would be if the applicant was to use 140 parking spaces. He asked if the applicant would have to pay more to FDOT or to the Village. Mr. Basehart stated the amended Interlocal Agreement will provide the number of spaces to be given up by Palm Tran. He indicated that number currently sits at 90 and the Palm Tran staff is working on that. He stated when those spaces are given up, a monetary number will be calculated by FDOT that the applicant will have to pay for the unamortized cost of those spaces. He said two more years are left in the agreement, so 2/9 or 2/10 of the cost of each space given up would have to be reimbursed to the FDOT.

Mr. Hutchinson asked if the applicant would have to pay any more to the Village, FDOT or Palm Tran if they used more than the 90 parking spaces. Mr. Basehart explained the proposed amended Interlocal Agreement suggested a provision by Palm Tran where, in addition to the swap of the spaces, there would be a cross parking and cross access agreement. So in the event Palm Tran on any given day needed more spaces, they could use the Fairfield Inn spaces and vice versa.

Mr. Hutchinson understood the applicant would not be charged anymore if they were to use on average 120 parking spaces and only paid for 90. Mr. Basehart stated that was correct. Mr. Hutchinson said it was to the applicant's advantage to make that number as low as possible, because once they pay for them they essentially get to use all of the spaces. Mr. Basehart stated that was not true. He explained the applicant has to provide the number of parking spaces required by the Village Code, which is $\frac{1}{4}$ space per room, plus employee count. He said the Interlocal Agreement will reserve or take enough Palm Tran spaces, so the applicant can meet that parking requirement.

Mr. Hutchinson understood if the applicant consistently uses more than those spaces, they will not have to pay anything extra because of the cross parking agreement. Mr. Basehart stated that was correct. He said if Palm Tran needs to use more than what they are left with, they do not have to pay either. Mr. Hutchinson asked what Palm Tran paid now. Mr. Basehart stated Palm Tran pays nothing. Mr. Hutchinson stated Palm Tran would not pay any more than nothing.

Mr. Hutchinson asked Ms. Vail if the Fairfield Inn in the picture was four stories. Ms. Vail said it was, which is why it is labeled conceptual. Mr. Hutchinson stated whatever gets built will be taller than that. Ms. Vail indicated it was proposed at 65 feet, five stories. She said she did not have the height of the building labeled in the picture, so she could not confirm if it would be taller than what was in the picture.

Mr. Hutchinson asked if Ms. Vail had been involved in any discussions with the County or FDOT concerning obtaining an agreement for the parking lot. Ms. Vail stated she was not. Mr. Hutchinson asked if she knew of an agreement and where it stood. Ms. Vail stated she did not.

Mr. Hutchinson asked Ms. Vail if she had any understanding of the cross parking agreement. Ms. Vail stated she had limited knowledge, but if the applicant did not have to obtain additional parking or cross parking, then the use would only be permitted for the number of rooms they could park for on site.

Regarding the 140 parking spaces Mr. Hutchinson asked Ms. Vail, if they apply for 90 and

on average use 120, if they do not have to pay any more for that. Ms. Vail stated she did not know.

Public Hearing

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

1. Robert Guarini, 263 Princess Palm Road, Boca Raton. Mr. Guarini stated he was with Wellington Hospitality, an owner of the hotel. He thought the applicant was discussing a franchise application with the Marriott, which would be refundable to the developer if they decided not to do the project.

Mr. Guarini explained his people bought their hotel site from the developer about 13 years ago. He stated they paid over \$2 million at that time, when no one wanted to build a hotel or take a chance on putting a hotel in Wellington. He believed the current land value would be about \$4 million. He stated their developer put in a restrictive covenant for them, so when they developed they were assured they would not have another hotel on top of them. He said, in essence, the person who wrote the covenant is the same person who is wanting to change it and develop the hotel.

Mr. Guarini stated the Park-n-Ride is another issue, as the Village would be taking away a public parking lot used for a bus stop as well as the soccer and lacrosse fields behind his hotel. He thought the Village was putting themselves into the private sector in that aspect.

Mr. Guarini indicated his hotel is the only hotel in Wellington and in 2016 it had an annual occupancy of 58%. He said they have a 30% to 40% occupancy rate in the summer time. He stated the hotel is at capacity for twelve weekends during the Winter Equestrian Festival, which was about 40 room nights last year. He said when people say there is a need for a hotel, there might be a need on 40 nights. Otherwise, he could rent someone two floors in the summer time.

Mr. Guarini also indicated a number of businesses in the outparcels at the Mall have gone bankrupt or foreclosed, including the restaurant in front of his hotel which is still out of business. He said putting in another hotel would double the supply of hotel rooms in Wellington. He explained it was not a market like West Palm Beach, where if someone puts up a hotel it would be 5% of the market. He said the market in West Palm runs about 75%. He stated if the supply of hotel rooms is doubled in a market that runs 58% year around, each hotel will have an occupancy of 30%.

Mr. Guarini respectfully asked Council to think about what he said and to do more research. He asked who wrote the report indicating there is a dire need for a hotel in Wellington. He said the Park-n-Ride lot gets filled, based on the photos presented.

Councilwoman Siskind asked Mr. Guarini for their seasonal rate. Mr. Guarini stated during the season their rate could range from \$200 to the high \$300's, because of the Winter Equestrian Festival. He indicated their annual occupancy rate is 58% over eight months and through the summer the occupancy rate is 40% and room rates could be \$100. He said without the 40 nights of full capacity, the business would not be survivable.

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

Regarding the conceptual elevation of the hotel, Councilman Napoleone asked if the architectural feature was limited to the 72 foot height requirement. Mr. Basehart stated it was.

Councilman Napoleone asked what the current tallest structure is in MUPD's A through F. Mr. Basehart stated the theater is the highest structure (around 60 feet) in the Mall itself. He said outparcels A through F mostly have one and two story buildings. Mr. Schofield indicated the apartment buildings and the Hampton Inn are four stories. Mr. Basehart stated the Hampton Inn is 56 or 58 feet high. He said the AXIS Apartments are actually in the PUD, and not the MUPD's, and are about 52 feet high.

Councilman Napoleone asked if Wellington would still be able to use the Park-n-Ride spaces for overflow parking for events taking place at the fields if the civic parcel was sold. Mr. Basehart stated they would be able to use it. He explained the provision in the current Interlocal Agreement with the County states that Wellington or participants at Wellington events can use it on the weekends. He said that provision is not going to change.

Councilman Napoleone asked, if Wellington were to sell that property, if the newly revised Interlocal Agreement would still allow for that parcel to be used for overflow parking on the weekends for sporting events on those fields. Mr. Basehart stated that was his understanding.

Vice Mayor McGovern asked, if the Park-n-Ride agreements are worked out and part of it is sold, if the remaining spaces will be marked exclusively for Palm Tran, as referenced in the FDOT letter. Mr. Basehart indicated Palm Tran requested that the Village include a cross parking agreement, but the spaces could be marked if FDOT insisted.

Councilman Napoleone understood the exclusive request has gone away because of the cross access agreement. Therefore, FDOT and the hotel can use as many spaces as they need. Mr. Basehart explained Wellington owns it and maintains it, and Palm Tran gets to use it. He stated the FDOT provided money through a grant to construct it and has requested partial reimbursement of that grant money should this agreement move forward.

Councilman Napoleone stated earlier they discussed the different colored parking areas reserved for Palm Tran riders and the new hotel. He asked if the spots were going to be marked to differentiate between them or if it was just going to be a parking lot. Mr. Basehart stated the spaces were not marked now, but they could be if Council or Palm Tran wanted them to be. Councilman Napoleone then asked what the significance was of the different colors, if all of the parking spaces are usable by Palm Tran or the hotel. Mr. Newell stated it was to illustrate that the proposed hotel would meet the minimum parking requirements.

Mayor Gerwig asked if the parking lot was used for motorcycle training or anything else that would displace the parking there. Mr. Schofield stated the Safety Council of Palm Beach uses it for motorcycle training one or two weekends a month, but it is mostly used for parking for the events at the soccer field.

Mayor Gerwig asked if the people who are attending the motorcycle training park in the

Park-n-Ride lot. Mr. Schofield indicated enough spaces are left, so they do not have to utilize the Park-n-Ride lot.

Vice Mayor McGovern asked Mr. Basehart to explain what will happen in regards to FDOT, Palm Tran, the County Commission, etc., if Council were to approve this resolution. Mr. Basehart stated the Interlocal Agreement would need to be put on a County Commission agenda and voted on as well as put on a Village Council agenda and voted on. He indicated the agreement would include the cross parking agreement as well as the spaces designated for Palm Tran and for the applicant. He thought it would also provide that the maintenance, which is now a Village responsibility, be taken over by the applicant. He stated FDOT would provide the Village with a final number in order for the agreement to be executed and that payment would be made to FDOT.

Vice Mayor McGovern asked if the sale of the Park-n-Ride would come back to Council for approval. Mr. Basehart explained staff has contracted for three appraisals, one has been received and two are due on Friday. At that point, staff will determine the average and begin discussions with the applicant on a purchase contract, which will ultimately come to Council for a decision.

Mr. Schofield stated the agreements between the County, the Village and FDOT will come to Council, because they cannot be executed at a staff level. In addition, the purchase and sale agreement will come to Council, because they cannot be executed at a staff level. Therefore, Council will see this at least two more times. He noted failing the completion of either one, the development order could expire. Thus, if the transaction is not done, the hotel cannot be built. Vice Mayor McGovern asked if that was true for the Village, County Commission or anyone else. Mr. Schofield stated that was correct, as all parties would have to agree to it.

Councilwoman Siskind recalled hearing the Hampton Inn had been approached about the sale of the parking and the land, but they turned it down. She asked if that was true. Mr. Guarini stated they were never offered the Park-n-Ride lot. He explained a small piece was offered to his team at an okay price, but after running the numbers, it did not make sense economically. He said his team has done 12 hotels in Palm Beach County, including the one in Lake Worth and the only hotel in Wellington. He stated, knowing what the hotel would be fiscally capable of producing, the numbers did not support it and his team refused the offer.

Vice Mayor McGovern asked what it was they turned down. Mr. Guarini stated the developers offered his team the parcel adjacent to the Park-n-Ride facility. He said they would have loved to have built another hotel, but it was not economically feasible, so they turned it down.

Mayor Gerwig asked how much overflow goes from the Wellington hotel to the Lake Worth hotel. Mr. Guarini said there is some overflow on those 40 or so nights. He indicated if someone does not want to stay or pay the price for the Hampton Inn & Suites in Wellington, there is a Hampton Inn down the road in Lake Worth.

Vice Mayor McGovern asked about the 40 seasonal nights that Mr. Guarini continued to reference. He asked what their percentage of occupancy was at the Lake Worth Road Hampton Inn. Mr. Guarini stated he did not know those numbers right now, but he did not think they were much better for annual occupancy.

Vice Mayor McGovern asked about the peak days. Mr. Guarini stated they may sell out on a few peak days. He explained if the 3,000 rooms in the West Palm Beach market get completely booked, they will get overflow business.

Mayor Gerwig asked how the Village was going to value the Park-n-Ride property. Mr. Basehart stated it would be based on the average of the three appraisals being done. Mr. Schofield added the Code requires the Village to get three appraisals. He said the Village could sell at less than market value, but staff would not recommend it. Mayor Gerwig understood the benefit to the Village is getting market price. Mr. Schofield stated that was correct.

Vice Mayor McGovern asked if the Village Code required averaging the three appraisals and then selling at that number. Mr. Schofield stated the Code requires they get the appraisals, but they could sell it for more or less. He said staff's recommendation would be to sell it at market value, if they are going to sell it.

Councilman Napoleone asked if the process the Village was contemplating complied with Condition D2, regarding the sale offer to the developer. Ms. Cohen stated one reason the language was changed in proposed Condition B6c was to address that particular County-imposed condition that they have the Right of First Refusal. She said BreFrank would be first offered that lot pursuant to the County's requirement and the applicant would have to acquire the property from BreFrank.

Mayor Gerwig asked if Ms. Cohen had looked into whether BreFrank and Birch are the same entity and if that meets the requirement of that portion of the discussion. Ms. Cohen stated it would not matter, because if BreFrank is offered the Right of First Refusal or offered the sale of the property, then Birch would simply have to acquire the property from BreFrank. She said, although she has not compared the principals of the corporations, she understood they share principals.

Mayor Gerwig recalled a discussion about mounting security cameras at the Park-n-Ride site when it was first implemented. Mr. Schofield stated that discussion was based on the anticipation the lot would be used significantly, but they have never seen enough use to warrant security cameras.

Councilman Drahos asked where the 72 foot elevation limit came from, if the applicant is not planning to build that high. Mr. Schofield explained when the State Road 7 Corridor Study was done a distance was imposed on either side of State Road 7, because it was envisioned as a significant commercial and retail hub for all of Palm Beach County. He said it is limited within a half mile of State Road 7, so that requirement is independent of the Mall at Wellington Green.

Mayor Gerwig thought Councilman Napoleone suggested a five story height limitation. Council agreed to change the language in Condition A13 to “. . . , limited to five stories.”

Mayor Gerwig asked if the Village Code prevented the hotel from having a lounge/bar area on site. Mr. Basehart stated it would not prevent it. Councilman Drahos indicated Condition 6a states the applicant can have a cocktail lounge.

Vice Mayor McGovern asked if there was anything in their Code that prevents full kitchens

from being put in the suites. Mr. Basehart stated there was not. Ms. Cohen thought, as a practical matter, no one would put a full kitchen unit in the suite, because of the potential fire hazard. Mayor Gerwig stated Council could condition it, so that could not be a consideration. Ms. Cohen agreed.

Mr. Gary Koolik stated he was speaking for the applicant. He said they were not putting in full kitchens, as it would be microwaves, coffee machines, etc., probably similar to what is in the Hampton Inn. He did not know what language Council was planning to use, but he wanted them to be aware of the items going in the rooms. He thought they would want to eliminate ranges and those types of cooking appliances.

Mr. Schofield suggested they say that full kitchens are not allowed that would eliminate stoves, garbage disposals, dishwashers, etc., but would not preclude a mini refrigerator or microwave.

Closing Statements

Mr. Koolik stated his people made the application and believe it is going to be a beautiful hotel. He said they will do their best to make another great product in Wellington. He stated he has not heard from anyone as to why they should not provide another good quality hotel in town. He said he was there for any questions they might have. He stated his people were fine with the five story limitation, as that was always their intention.

Councilman Drahos asked if Mr. Koolik had a signed contract with Marriott. Mr. Koolik stated it was not a franchise agreement, but a management agreement with Marriott. He said his people will build the hotel, and Marriott will manage it.

Councilman Napoleone asked if Mr. Koolik did a study on the need for additional hotel space in Wellington. He said his people did a study with Marriott, but Marriott does not release the studies. He stated his people are very comfortable with the market study provided by Marriott and very comfortable this project will be successful or they would not be building another hotel.

Mayor Gerwig asked if the Village required a market analysis. Mr. Basehart stated the provisions in the state statutes require a market study for a comprehensive plan amendment, but there is no provision in the Code nor have they ever required a market study just for zoning.

Mr. Koolik thanked Council for considering the application.

Mr. Hutchinson thought the issue came down to fairness. He said his client is a taxpayer. He stated when his client inquired of the use of the Park-n-Ride facility, they were not told Birch and BreFrank were the same. He said that is a legal matter, because they cannot be the same. He stated they were told this was surplus property and they were going to handle it the way they were going to handle it. He believed there was no reason for a taxpayer of this community not to get the highest price for this property. He said the Village had the authority to do it. He stated his client certainly could make use of it.

Mr. Hutchinson stated Section 5.1.4 of the Village Municipal Code requires the owner to sign off on this. He said the argument that BreFrank and Birch are the same, just because they have principals that are the same, as a legal matter is in correct. He indicated they are two

separate legal entities. He agreed the principals do tend to wear more than one hat. But that was not for them to decide today, as it will be decided at some later point in a courtroom. Mr. Hutchinson stated the issue is that the owner has not signed off on this and that is not in compliance with the Municipal Code.

Mr. Hutchinson said this application is putting the cart before the horse, as there is no agreement with FDOT and no one in the room has seen the parking study. He indicated the only evidence presented concerning parking utilization are the pictures taken by his client, which show more than a 1% utilization. He thought the study should be produced to the Village, so they could make an informed decision. He said right now they have hearsay within hearsay. He stated a letter was presented to the Village where someone claims a study says there is a 1% utilization. He said no one has come forward to explain how that was determined, when it was done, and under what conditions.

Mr. Hutchinson asked what harm would be done to the Village if it allowed this property to be bid on, as they would get more money for the property. He stated if Council allows this property to be purchased without an open bidding process, they are picking winners and losers between these two business enterprises. He said when his client asked specifically about bidding on the property, he was told no and that it was surplus property. However, the explanation really is that BreFrank has the Right of First Refusal. He stated, as far as he knew, no one presented any evidence that the County or FDOT were told this was surplus property. He said how that determination was made remains a mystery from his client's perspective.

Mr. Hutchinson asked, if an appraisal is done and the Village can get a higher payment for that piece of property, what would be the reason not to take it. He said if the applicant has to come back and pay more money, the taxpayers of the Village of Wellington would benefit from that exchange. However, there has been no explanation regarding this.

Mr. Hutchinson stated a number of things have not been done that in the ordinary course should have been done. He said the Village is now being asked to rush through the process in order to approve something that may never get built, because if the County says no they will be right back where they started from. He asked why not require the applicant to get the approval of the County, the approval of the FDOT, and come back to Council with an actual amendment to the Interlocal Agreement and an actual agreement with FDOT with actual numbers in it. He said with the cross parking agreement, the applicant could pay for 90 spaces and use 140. He asked how that was advantageous to the taxpayers of the Village.

Mayor Gerwig asked if it was proper for Council to consider the 5.1.4 reference and if the Village was violating that Code. Ms. Cohen did not believe the Village was violating that Code. She said the same situation occurred with respect to Winding Trails as far as the order of the process. She stated the applicant has signed the application and, as part of the condition for any approval, the various things they have discussed tonight would have to occur, i.e., the Interlocal Agreement, the sale of the property. She said those things are conditions of the approval; therefore, she did not believe there was a violation. She agreed Mr. Schofield's letter identified it as surplus property, primarily based upon the utilization received from FDOT. She indicated their code says the Village can sell property in any manner they choose, as long as there is a public purpose.

Ms. Cohen explained it was not until today or yesterday when Mr. Basehart pointed to the County imposed condition that requires the Village to offer the property to BreFrank. She

stated it is true that Brefrank is not the same entity as the applicant; therefore, the Village would have to offer the property for sale if they decided it was appropriate to sell it to Brefrank. She said the applicant would then have an obligation to acquire the property from Brefrank as a condition of the approval. However, if the applicant is unable to do so, they would not meet the condition and the project would not go forward.

Mayor Gerwig stated when this became the Village of Wellington's property from the County, the Village absorbed the agreement and changed the word "county" to "Wellington." She asked if that was the intent of the agreement and if the Village was obliged to keep that part of the agreement. Ms. Cohen stated the Village stepped into the shoes of the County, so the Village has to follow the conditions imposed.

Mayor Gerwig asked if it was proper for the Council to consider the benefit to the taxpayer of an additional hotel as far as tax base. Ms. Cohen stated that would be proper, absolutely.

With regards to offering the property to Brefrank, Vice Mayor McGovern asked who would be setting the price in that negotiation. Mr. Schofield indicated staff will set the price based on the appraisals and Council will either approve it or not approve it.

Councilman Napoleone asked if that will happen at their next Council Meeting. Mr. Schofield stated he would like to have the agreement done with Palm Tran before staff comes back to Council, so those items will probably come back together.

Ms. Cohen stated Mr. Basehart has told Council there has been multiple discussions. She said she reviewed the proposed amended Interlocal Agreement and she believes there has been an agreement that it will be recommended for approval.

Mayor Gerwig understood the project is still contingent on that. Ms. Cohen agreed, as it is a condition that has to be met.

Vice Mayor McGovern stated this went to the Development Review Committee (DRC) on January 25th and to the Planning, Zoning and Adjustment Board (PZAB) in March. He asked why it was not on the February agenda for the PZAB. Mr. Basehart stated that was due to the advertising deadlines. He said there was not sufficient time between the DRC Meeting and PZAB's February meeting to get the staff report done and the legal ads into the paper.

A motion was made by Councilman Drahos and seconded by Councilman Napoleone to approve Resolution No. R2017-10 (Wellington Green Master Plan Amendment – MUPD B Hotel) with the additional conditions raised by Council: the five story maximum, the prohibition of full kitchens, the interior corridors, and both conditions that were in the handout tonight.

Mr. Basehart indicated staff would like to enter the entire staff file into record.

Vice Mayor McGovern asked Mr. Hutchinson for copies of the photos as the photos would be made a part of the official record as well.

At this point, Mayor Gerwig indicated Council would be taking a five minute break.

Council voted on the motion and it unanimously passed (5-0) as amended.

8. REGULAR AGENDA

- A. 17-1057** RESOLUTION NO. AC2017-03 (TRI-PARTY AGREEMENT FOR WINDING TRAILS PROJECT): A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE ACME IMPROVEMENT DISTRICT ADOPTING THE TRI-PARTY AGREEMENT FOR LAKE MODIFICATIONS AND CONVEYANCE OF REAL PROPERTY BETWEEN WANDERERS CLUB PARTNERS, LLC, ACME IMPROVEMENT DISTRICT AND W&W EQUESTRIAN CLUB, LLC; PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the item. Ms. Nubin read the resolution by title.

Ms. Cohen stated this Tri-Party Agreement was related to the Winding Trails project. She indicated she would be reviewing a PowerPoint presentation with Council to explain exactly what is happening here.

Ms. Cohen indicated the Winding Trails' applications and proposed project contemplated the filling in of lakes, the reconfiguration of existing lakes, and the creation of new lakes surrounding the project and the adjacent neighborhood. She stated currently certain parcels of property included in the project are owned by three entities: The Wanderer's Club, Acme, and W&W Equestrian. She said a number of land swamps have to occur in order for the project to be feasible. She indicated the terms of the exchanges are set forth in the Tri-Party Agreement, which is before Council to approve.

She explained first Acme would convey to W&W the property identified in the agreement as the Acme Lake. Then W&W would acquire the Acme Lake and then convey it to the Wanderer's. The Wanderer's will then convey to W&W the property identified in the Tri-Party Agreement as the sliver properties. She indicated those are the little pieces that surround the lake and did not get conveyed to W&W when they bought the property. Next, Acme will convey to W&W the remaining lake parcels and the land, which is referred to in the agreement as the existing Acme property. She said this existing Acme property excludes a 1.09 acre parcel, which will still be retained by Acme for canal conveyance purposes.

Mayor Gerwig asked if the Village was keeping a portion of the water. Ms. Cohen stated the Village was keeping a portion of the water, because it has pipes that go through that area and the Village needs to retain ownership and control of that.

Ms. Cohen said that finally, W&W will convey back to Acme the property identified in the agreement as the new Acme property. She said the new Acme property is the property that will comprise the reconfigured lakes after all of the development occurs.

Ms. Cohen stated the conveyances have to occur in that order, so no cloud is created on the title, and they will be recorded in that order. She said although the total acreage owned by Acme is being reduced, the storage capacity they have for the water is equivalent. She indicated currently Acme owns the lakes and is responsible for maintaining them. She stated staff has discussed with the developer that they take over at least the maintenance once the property is platted, and they are clarifying the ownership issue.

Mr. Schofield stated the lakes are located wholly within private property and the Village has

a difficult time maintaining them now. He said the access will be more limited once the property is developed. He indicated it is staff's intention to convey the maintenance of that waterway to the Winding Trails HOA, which they have agreed to, and that will come at the land development permit stage.

Mayor Gerwig asked if Acme will still own the lake. Mr. Schofield explained the Village will retain a flowage and storage easement, but he suggested the Village convey all of it so there is no question about who is responsible. Mayor Gerwig then asked if this resolution was doing that particular portion of it. Ms. Cohen stated it was not. Mr. Schofield indicated that will happen at the land development and platting stage. Ms. Cohen indicated currently the Village owns the reconfigured lakes, so at platting the maintenance responsibility at a minimum would be transferred over to the Winding Trails HOA.

Mayor Gerwig asked if the HOA has agreed to that condition already. Ms. Cohen stated they did.

Ms. Cohen indicated this was a savings to Acme of about \$2,000 to \$5,000 per year for the maintenance of the lakes. She stated that figure was provided by Engineering. Mr. Schofield said that figure would just be for weed control and he would get a better number.

Ms. Cohen stated this was always contemplated as part of the development. She stated but for some revisions to the legal descriptions, this agenda item would have followed the approval of the Winding Trails development. She said staff needed to go back to the surveyors and make sure everybody agreed the legal descriptions were completely accurate, which has now occurred.

Ms. Cohen stated Council will notice all of the pages of the agreement have been initialed by Mr. Bellissimo and Mr. Ward, except for a few pages that were corrected after they initialed the original version. She said they will be coming in sometime this week to initial those pages.

Mayor Gerwig asked who traced out the legals. Ms. Cohen stated three surveyors worked on this: the developer's surveyors, the Wanderer's surveyors, and the Village's surveyors. She said all of the surveyors ultimately agreed the legal descriptions accurately represent the conveyances.

Ms. Cohen noted the legal descriptions as well as the Warranty Deeds are exhibits to the agreement. She said those will all need to be executed and recorded. She stated staff will get an estimate from the Clerk's Office and then ask the developer to pay the cost to record these documents, because it can be expensive.

Councilman Napoleone asked if the developer has agreed to do that. Ms. Cohen stated the developer will agree to it or the documents will not get recorded. Mr. Schofield indicated the Village Code and Land Development Regulations both prohibit the Village from paying any costs associated with the development.

Vice Mayor McGovern asked if that was for doing this agreement and recording it is a condition of the original approval. Ms. Cohen stated that was correct. She said those expenses do not come out of the Village's pocket for any developer.

Mayor Gerwig asked if there was an issue with the Council acting as the Board of Supervisors of Acme. Ms. Cohen stated there was no issue. She noted the resolution

number was changed to Resolution No. AC2017-03, as the resolution in the packet had the wrong number on it, and staff was asking Council to approve this resolution. Mr. Schofield indicated Council was not required to take a separate action, as Acme is a dependent district and the Council sits as its board.

A motion was made by Councilwoman Siskind, seconded by Councilman Napoleone, and unanimously passed (5-0) to approve Resolution No. AC2017-03 (Tri-Party Agreement for Winding Trails Project) as presented.

9. PUBLIC FORUM

Mr. Schofield indicated no public comment cards were received.

At this point, Mayor Gerwig stated Council needed to continue their discussion regarding the Village Attorney's contract.

Councilman Drahos explained he was tasked with the responsibility of negotiating a contract with Ms. Cohen on behalf of the Council. He stated Ms. Cohen provided him with a copy of her existing contract with some suggestions.

Councilman Drahos stated they first discussed the terms of employment, as Ms. Cohen had requested five years. He said he was comfortable with a three or four year timeframe, but in three years they could potentially have three new members of the Council renegotiating Ms. Cohen's contract. He stated four years was not workable either, because that would coincide with the Village Manager's contract and he did not think it was a good idea to have both contracts expire at the same time. He said that left a one year, two year or five year option. He indicated he did not think a one year contract was fair, as Ms. Cohen had agreed to a one year contract last year. Therefore, he believed the options were two or five years. Councilman Drahos thought since Ms. Cohen had been with the Village for four years now and was doing a good job, she had earned a five year term.

Councilman Drahos stated they discussed reducing the severance pay from the existing 20 weeks, which is a statutory maximum, to 12 weeks. He said the thought process there was that the Village will give her the security of the five year term, but maintain some flexibility by reducing the amount of severance in the event they decided to part ways. He indicated at that point they were both in agreement.

Councilman Drahos stated Ms. Cohen did not ask for an increase in salary, but she was asking for the Village to: 1) Pay for her family medical, which would be \$196 per month in value; and 2) Contribute the maximum amount of deferred compensation to a 457 plan. He said they differed on the issue of deferred compensation. Councilman Drahos indicated Ms. Quickel told him the total value of the deferred compensation would be \$23,500 a year.

Councilman Drahos stated, although Ms. Cohen was not asking for an increase in salary, she was asking for an increase of \$23,500 per year in compensation, in addition to the \$600 month car allowance she had been getting. He noted the only other employee who receives the deferred compensation benefit is the Village Manager. He indicated his initial reaction was to tell Ms. Cohen he did not think conceptually it was a good idea to add that benefit to the Village Attorney, as it was exclusive to the Village Manager. He said the Village Manager has been with the Village for a while and has earned those benefits.

Councilman Drahos stated Ms. Cohen gave him some exemplar contracts of Village Attorneys at comparable municipalities to show that deferred compensation is a benefit other Village Attorneys have received. He said he reviewed the contracts, but the total compensation was unclear. He stated for the charts provided to him, he had to look at the contracts themselves. He said very experienced Village Attorneys were making a salary comparable to Ms. Cohen's with this type of benefit. He stated for him it ultimately came down to what he felt was fair to Wellington, which was the offer he made to Ms. Cohen originally. He said that offer included the Village providing her with a five year contract at the salary she was requesting and the 12 weeks' severance pay, but he was not agreeable to the deferred compensation or the Village paying for family medical.

Councilman Drahos stated, at that point, he and Ms. Cohen were not able to reach an agreement. He said he suggested to Ms. Cohen, and she agreed, that he notify Council they are at a cross point and to seek their guidance. He stated from his point-of-view, he has drawn his line in the sand. He did not think that deferred compensation was appropriate here, and he thought the offer he made was fair. He said he was now seeking Council's guidance on how they would like these discussions to move forward.

Vice Mayor McGovern asked if Councilman Drahos said yes or no to the family medical insurance. Councilman Drahos indicated he said no. Ms. Cohen stated she agreed to that.

Ms. Cohen pointed out that when she saw the number for Boca Raton, it did not seem right. She stated she spoke with the Chief Legal Officer today and apparently there was a misunderstanding by the Clerk when they e-mailed back the salary for one of the assistant attorneys. She said the actual salary is reflected on the chart she handed out to Council, which is currently at \$235,000. She indicated in the original contract the deferred compensation was at 18%, but they switched to an executive benefit situation and it is now 5%.

Mayor Gerwig asked if it would be acceptable to identify another member of Council to continue with the negotiations. She stated she was not discounting Councilman Drahos' work, as he has done a huge amount of work.

Councilman Napoleone asked if they had time to do that. Ms. Cohen stated her contract expired April 27th, so there would be one more Council Meeting. She said she would be happy to continue negotiating with Councilman Drahos; however, she thought he was looking for some input from Council with respect to this issue.

Councilman Drahos clarified this was not a personal issue between him and Ms. Cohen. He stated it was not that he was uncomfortable and did not want to negotiate anymore.

Mayor Gerwig asked about the description that was given yesterday regarding the 457 deferred compensation. She said it was represented that the Village has two employees who serve at will. She stated these contracts, while they are a contract for the benefit of the Village, the term is pretty much any time the Village calls for the end of the contract. She said that is the concern, which is why the Village Manager has that benefit and why Ms. Cohen is asking for it now. She indicated it was described as if the Village employees had something different, like if they worked here, there was an expectation they would have a job. She asked what that expectation was, because if the Village decided to outsource utilities and shutdown the Utility Department, for example, what would happen to all of those employees.

Mr. Schofield stated all employees in the State of Florida work at will. He said if the Village decided to outsource some things, which they have in the past, the employees would be given appropriate notice and the Village would try to find them other jobs. However, there is no continuing guarantee of employment in the Village of Wellington.

Mayor Gerwig stated Ms. Cohen's contract is for the benefit of the Village, as they know they will have Ms. Cohen for that long. She asked what benefits she would lose if she were to leave. Ms. Cohen indicated she would lose any of the severance benefits provided for in the agreement. She said her earned benefits, such as vacation time, would be paid.

Mayor Gerwig asked about Major Illness Leave (MIL). Ms. Cohen stated MIL is an earned benefit that can be rolled over into a healthcare spending account. She indicated a provision in the Employee Manual says it can be paid out when an employee reaches a certain number of years of service.

Mayor Gerwig also asked about the Florida Retirement System (FRS). Ms. Cohen stated an employee, upon leaving, would have the contributions that have been made, plus their years of service. She said if they are vested at that moment, they would carry that with them. She noted the employee would not be paid out in cash for that benefit. She indicated the employee would be eligible for that retirement benefit upon reaching the appropriate point where they could retire.

Vice Mayor McGovern stated \$39,314.62 was already being paid into FRS for Ms. Cohen, as a senior level employee of the Village. Ms. Cohen said the same is paid to other senior employees.

Vice Mayor McGovern stated other senior employees have the expectation of staying and the expectation of getting that paid into the FRS. He said that would happen whether it was Mr. Barnes, Ms. Quickel, Mr. Lundeen or Ms. LaRocque. Ms. Cohen stated that was correct.

Councilman Napoleone thought Ms. Cohen was talking more in terms of longevity. He said her employment terminates by contract at the end of her contract period with no expectation that it will be renewed as opposed to Ms. Quickel being here until she decides to leave or the Village decides there is a reason to eliminate her.

Mr. Schofield stated the expectation for a standard employee, other than Council's two contract employees, is that as long as their performance is satisfactory, and the Village has a need for that position, the employee will continue to be here.

Councilman Drahos stated he saw this almost in the opposite. He said if Ms. Cohen has a contract, she knows she is going to be here for five years. He stated someone without a contract does not have the security of severance pay or things of that nature. He believed the offer he made Ms. Cohen was fair and reasonable, based upon her years of experience and performance with the Village.

Councilman Drahos stated he also considered the standpoint of a taxpayer. He said before he was on Council, he understood the Village was moving legal in-house to get control of the legal expenses. He stated that has not been done, as their legal fees and costs continue to increase every year to where they are now projecting fees and costs in excess

of \$800,000. He said at some point they have to tighten up. He felt at this point Council needed to negotiate the best possible deal for the residents, which is what he thinks he has done.

Councilman Napoleone stated that Council appreciated all of the work he has put into it. He said he appreciated the need to be fiscally responsible with all of their spending, but he thought that also comes with being fair to Ms. Cohen's years of service and what her contract requires.

Councilman Napoleone stated the deferred compensation Ms. Cohen is requesting has two components. He said she has asked for the maximum contribution, which is \$18,000 per year, plus the over 50 catch up, which is \$5,500. He indicated \$18,000 would equate to almost 10% of her salary contribution and he was not in favor of that. However, he stated he would be in favor of something more equivalent to 5% or 6% of her salary as a compromise between the two, because she is one of only two contract employees and she has not sought any sort of substantial raise. He believed that would keep Council fiscally responsible as well as reward Ms. Cohen for her past and continued service.

Councilman Napoleone indicated the Village legal expenses were not self-generated, as the Village gets sued a lot. He said they cannot control who decides to file a lawsuit against the Village. He stated they have a lot of outside counsel costs that hopefully will be ending this year, so the Legal Department can focus more on the day-to-day issues.

Councilman Napoleone stated this did not need to be decided today. He thought he was hearing a consensus to move this to their next meeting and send Councilman Drahos with additional instructions. Councilman Napoleone stated he would be in favor of some component of the deferred compensation, not the max, but something in the 5% or 6% range.

Mayor Gerwig thought the annual compensation provided by Ms. Quickel was a significant number, which led her back to why Councilman Drahos did not recommend it in the first place. She said they were talking about \$274,000 here.

Vice Mayor McGovern stated that was the current value of Ms. Cohen's contract, which also calls for the all employee raise, so that number will continue to increase. He noted the car allowance was added last year, which was \$7,200.

Ms. Quickel stated \$273,966 was the current value of Ms. Cohen's contract. Ms. Cohen said that number includes everything.

Vice Mayor McGovern asked who of the Village employees, other than the Village Manager, had a total number higher than the \$273,966 annual compensation for 2016/2017 that Mayor Gerwig just referenced. Ms. Quickel stated the only other employee that would be higher than the \$273,966 is Mr. Schofield.

Councilman Drahos asked for the salary in the contract Ms. Cohen first signed in 2011. Ms. Cohen stated her base salary was \$150,000 in 2013, plus she had preloaded vacation and MIL, the other benefits that everyone gets, and she was treated as a five year employee based upon the five years she had served on Council. She indicated, when that contract was negotiated, she had very little negotiating ability given the circumstances. She said had she counteroffered, it would have been rejected and it would have opened up negotiations

with another candidate.

Mayor Gerwig stated it was anticipated that might happen, but it was not known. Ms. Cohen agreed. She said after a year, she requested and received an additional \$15,000, so that raised her salary to \$165,000. She stated there have been no other increases since that time, other than the standard increases that every employee gets and to which she is entitled to under her contract.

Councilman Drahos asked Ms. Quickel to explain how Paid Time Off (PTO) is valued. Ms. Quickel stated employees earn PTO on a scale depending on length of service. She said Ms. Cohen was credited time for her previous service as a Council member, so she started with five years of employment and is now at her 8th year going on the 9th year mark. She indicated her PTO is accrued and capped at a maximum of 400 hours based on the five years. She stated all employees are offered leave buy back and can purchase 120 hours if they have used 80 hours that year. She explained this was important for controlling Village liabilities, because they report the accrued liability for all employees and PTO as a compensated absence is a liability for the Village.

Vice Mayor McGovern thanked Ms. Cohen for her service. He also thanked Councilman Drahos and Ms. Cohen for going through this process. He said it was not easy, as it was a difficult discussion to have in this public context. Vice Mayor McGovern believed they were making great strides in the Legal Department. He thought they had decreased litigation and good things were happening.

Vice Mayor McGovern stated, for him, the bottom line of the salary number in comparison to everyone else in the Village puts him in line with Councilman Drahos. He thought the FRS was paid in at the amount of \$39,000. He stated he would be happy to put back the family insurance. He noted the \$600 per month car allowance was added last year. He said his inclination at this point would be to follow the recommendation of Councilman Drahos with that caveat. He would then leave it to Ms. Cohen as to whether she wanted a two or five year term. He stated he agreed with the election scheduling. He thought, depending on the financial position of the Village, the Legal Department, and outside legal costs, he might feel differently in two years.

Councilman Napoleone asked if the Village currently paid all of the \$39,000 FRS contribution. Ms. Quickel stated they did.

Mayor Gerwig stated the chart lists all of the Village's costs. Council discussed the cost of the family insurance per year, which would be \$2,352, and increase the number to \$276,000.

Councilwoman Siskind thought the five year term would be good if that was Ms. Cohen's preference. She said Ms. Cohen was not asking for a raise, but she was negotiating the family insurance. She thought Ms. Cohen had done a really good job of getting the outstanding litigation resolved. Councilwoman Siskind suggested Council negotiate the percentage for the deferred compensation, so it is not the maximum allowable. She believed with Ms. Cohen being the only other employee under contract some components should be similar, especially at that level of responsibility. She asked why one contract would have deferred compensation and the other not at all.

Mayor Gerwig indicated Ms. Cohen supervises two employees and outside legal, and the

Village Manager has everyone else. Councilwoman Siskind stated that also meant the Village Manager has more people to delegate to and Ms. Cohen has to do more of the work herself.

Councilwoman Siskind thought Ms. Cohen was doing a good job at getting the outside legal costs under control. She said a lot of the outstanding legal issues are being resolved, so hopefully that number will go down. She stated the Village has lawsuits they have to defend, so that variable is hard to relate to Ms. Cohen's compensation.

Mayor Gerwig thanked Councilman Drahos for his time. She suggested he let someone else get the numbers for the percentage of the deferred compensation.

Councilman Drahos clarified that asking for deferred compensation is asking for a raise. He noted it is tax free, so it would be worth more than a salary increase. He suggested that Council direct him to make his offer formally to Ms. Cohen and let her reject it or counter it, and then he will come back to them. He stated it was awkward negotiating in the open like this, as he was revealing his thought process. He explained in mediation when an offer is given to the other side, one does not change their offer before giving the other side an opportunity to counter. He urged Council not to ask him to pick a random percentage for the deferred compensation without first getting a counter offer.

Vice Mayor McGovern thought that was a fair point. He said Council asked Councilman Drahos to negotiate the contract, so they should let him continue if he wants to.

Ms. Cohen stated she had no problem with continuing negotiations with Councilman Drahos. She said he has been a gentleman and nothing has been adversarial.

Mayor Gerwig stated Councilman Drahos was given the direction he wanted from Council. Councilman Drahos thanked Council. He also thanked Ms. Cohen for being so professional, as she has made the process easier for him.

10. ATTORNEY'S REPORT

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

- She indicated the hearing on the Motion for Contempt and Motion for Injunction has been concluded in the enforcement case. She stated closing arguments and proposed orders will be submitted to the judge, and Council will be informed as soon as an order is received.
- She stated a memo was sent to Council with respect to the per curiam affirmance of the appeal on the repeat soccer violation, as the Village prevailed in that appeal.
- She indicated decisions were expected any day from both the Appellate Division of the Circuit Court and from the Fourth District Court of Appeals on a number of appeals that are pending.

Vice Mayor McGovern asked when they expected an order on the contempt hearing that was just completed. Ms. Cohen believed the Village had 15 days to submit their proposed order and closing arguments, and the other side would be submitting theirs at the same time. She thought they should have a ruling from the judge in 20 or 30 days.

Vice Mayor McGovern asked if any progress had been made with the matters set for trial or

upcoming trial dockets. Ms. Cohen believed the Village was scheduled sometime in the summer for the trial on the enforcement action, which is the only thing set right now. She stated this was regarding that same case. So if the judge rules in their favor, it would be helpful with respect to a final hearing on that issue.

Ms. Cohen indicated the other pending matter was the “bond case,” where the Village pulled the bond and built the road in front of the Chukker Holdings property. She stated she was still waiting on those final numbers, but she might be bringing an agreement to Council in a shade session.

11. MANAGER'S REPORT

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

- Due to the start of the Passover Holiday, he indicated the next regular Council Meeting will be held on Wednesday, April 12th, at 7:00 PM in the Council Chambers. He said the associated Agenda Review will be held on Friday, April 7th.
- He introduced the new Village Clerk, Chevelle Nubin.

12. COUNCIL REPORTS

COUNCILMAN NAPOLEONE: Councilman Napoleone presented the following report:

- He stated the Palm Beach Post recognized two Wellington High School athletes, LeeAnn Hewitt as the All-Area Weightlifter of the Year and Trent Frazier as the All Area Basketball Player of the Year. He read a list of their accomplishments.

COUNCILMAN DRAHOS: Councilman Drahos indicated he had no report.

VICE MAYOR MCGOVERN: Vice Mayor McGovern indicated he had no report.

COUNCILWOMAN SISKIND: Councilwoman Siskind presented the following report:

- She stated the University of Florida held their dance marathon for the Shands Children's Hospital this past weekend. She said a lot of Wellington students participated and the overall event raised \$2.7 million.
- She stated she was looking forward to Council's Directions Meeting on Friday and the Mayors' Ball on Saturday.

MAYOR GERWIG: Mayor Gerwig presented the following report:

- She stated she had a good week at the League of Cities in Tallahassee, but it was a difficult year up there for city government. She explained many of the state officials come from city government, but they are now very anti-home rule.
- She said she had a letter hand delivered to the Governor from her regarding the opioid issue from her perspective. She indicated Council would be receiving it in an AT.
- She stated Dave Aronberg would be speaking at the Wellington Chamber tomorrow, but she will not be able to attend as she will be at the League of Cities meeting.
- She talked about an interesting presentation by Alan Johnson at the Treasure Coast Regional Planning Council's last meeting. She stated he provided some statistics and indicated that four doses of NARCAN was the most given to one person in a 24 hour period in Palm Beach County. She said they believe 75% of the opioid overdoses are from outside the County, as they came here for treatment and got

wrapped up in the treatment issues, because it is funded and paid for, whether publicly or privately. She explained the treatment centers need the patients to fail when they get out, so they can continue to receive funding for more treatment. She stated this was a difficult, mind boggling thought, but it seems to be part of the problem. She indicated the League of Cities is taking up the issue tomorrow at their meeting as well. She stated the issue is painful and personally painful. She said it will continue to be discussed and dealt with. She thanked the people in the community who have reached out to her and who want to get involved. She noted, for the people who want to get involved and help solve the problem, they can reach out to the Palm Beach County Sheriff's Office (PBSO) and different agencies to get engaged in that process, because they all have to work together on this issue.

Mr. Schofield stated at Mayor Gerwig's request he talked to PBSO. He indicated the next meeting of the Heroin Task Force is Friday, March 31st, at the Palm Beach County Fire Rescue Headquarters. He said it is open to the public and there are opportunities to participate. He stated he will send Council that information.

- Mayor Gerwig thanked the Girls Scouts from Jupiter for being there and leading the Pledge of Allegiance.

13. ADJOURNMENT

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

Approved:

Anne Gerwig, Mayor

Chevelle D. Nubin, Village Clerk