

MINUTES

REGULAR MEETING OF THE WELLINGTON VILLAGE COUNCIL

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

**Monday, January 8, 2018
7:00 p.m.**

Pursuant to the foregoing notice, a Regular Meeting of the Wellington Council was held on Monday, January 8, 2018, 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, Attorney; Jim Barnes, Assistant Manager; Tanya Quickel, Director of Administrative and Financial Services; and Chevelle D. Nubin, Village Clerk.

1. **CALL TO ORDER** - Mayor Gerwig called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE** – Council led the Pledge of Allegiance.
3. **INVOCATION** - Rabbi/Hazzan David B. Sislen of Temple B'Nai Jacob of Wellington, delivered the invocation.
4. **APPROVAL OF AGENDA**

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

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

5. PRESENTATIONS AND PROCLAMATIONS

Mr. Schofield indicated there were no presentations or proclamations.

6. CONSENT AGENDA

- A. **17-1513** AUTHORIZATION TO RENEW EXISTING CONTRACTS FOR THE PURCHASE AND DELIVERY OF MOSQUITO CHEMICALS
- B. **17-1516** AUTHORIZATION TO AWARD A CONTRACT FOR LOBBYING SERVICES

- C. 17-1604** AUTHORIZATION TO UTILIZE FLORIDA SHERIFFS ASSOCIATION, STATE OF FLORIDA AND NATIONAL JOINT POWERS ALLIANCE CONTRACTS FOR THE PURCHASE AND DELIVERY OF VEHICLES AND EQUIPMENT; AND AUTHORIZATION TO DISPOSE OF EXISTING VEHICLES AND EQUIPMENT
- D. 17-1610** AUTHORIZATION TO AWARD A TASK ORDER TO PROVIDE ELECTRICAL ENGINEERING CONSULTING SERVICES FOR A WATER RECLAMATION FACILITY SHORT CIRCUIT, DEVICE COORDINATION AND ARC FLASH STUDY
- E. 17-1686** AUTHORIZATION TO AWARD A TASK ORDER TO PROVIDE ELECTRICAL CONSULTING SERVICES FOR A WATER RECLAMATION FACILITY PROGRAMMABLE LOGIC CONTROLLERS REPLACEMENT STUDY
- F. 17-1687** AUTHORIZATION TO ENTER INTO A TWO (2) YEAR AGREEMENT WITH HOOVER PUMPING SYSTEMS FOR MAINTENANCE OF EXISTING IRRIGATION PUMPS VILLAGE-WIDE
- G. 17-1750** AUTHORIZATION TO AWARD A CONTRACT TO BLOSSMAN GAS OF LOUISIANA, INC. FOR PROPANE AUTOGAS BI-FUEL CONVERSION SYSTEMS
- H. 18-1764** AUTHORIZATION TO UTILIZE A PALM BEACH COUNTY CONTRACT WITH WYNN & SONS ENVIRONMENTAL CONSTRUCTION CO., INC., FOR VARIOUS PROJECTS
- I. 18-1769** RESOLUTION NO. R2018-02 (15333 OCEAN BREEZE LANE VACATION/ABANDONMENT): A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL, VACATING A 12 FOOT PORTION OF A UTILITY EASEMENT APPROXIMATELY 0.18 ACRES, LOCATED IN BETWEEN LOTS 5 AND 6, BLOCK 5, OF PALM BEACH POINT (15333 OCEAN BREEZE LANE), MORE SPECIFICALLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield stated staff recommended adoption of the Consent Agenda as presented.

Mayor Gerwig announced that the Council takes public comment on any of the Consent items. Mr. Schofield indicated no public comment cards were received.

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

Mr. Schofield stated at this point Council normally takes public comment on any non-agenda items as well, but no public comment cards were received.

7. PUBLIC HEARINGS

- A. 17-1708** ORDINANCE NO. 2017-21 (MEDICAL MARIJUANA DISPENSING ORGANIZATION/FACILITY AND PHARMACY FACILITIES):

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING ARTICLE 3, CHAPTER 4 (DEFINITIONS), AND ARTICLE 6, SECTION 6.4.4 (SUPPLEMENTARY USE STANDARDS) OF THE LAND DEVELOPMENT REGULATIONS OF THE VILLAGE OF WELLINGTON, FLORIDA, RELATING TO RETAIL USES, TO DEFINE MEDICAL MARIJUANA DISPENSING ORGANIZATION/FACILITY AND MEDICAL MARIJUANA TREATMENT CENTER, AND TO REGULATE THE SIZE AND LOCATION OF PHARMACY FACILITIES AND MEDICAL MARIJUANA DISPENSING ORGANIZATIONS/FACILITIES; PROVIDING A CONFLICTS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the item. He indicated Mr. Basehart and Ms. Cramer will present the item. Ms. Nubin read the ordinance by title.

Mr. Basehart indicated this was the adoption hearing for the proposed pharmacy ordinance, which also includes the regulation of medical marijuana dispensaries. He stated staff's approach was based on the state statutes that require the Village to either not allow medical marijuana dispensaries or treat them the same as pharmacies. He said staff changed some of the proposed changes to the code that regulate pharmacies.

Mr. Basehart indicated the provisions in the Ordinance are fairly straight forward and simple. He said, under this amendment, the pharmacies will be required to be a minimum of 10,000 square feet; only one pharmacy per commercial development will be allowed; there will be an exception for pharmacies located within supermarkets or food stores; and pharmacies will not be allowed to be any closer than 1,000 feet from a primary or secondary school.

Mr. Basehart stated staff also provided some exemptions. He said properties fronting State Road 7, either within a larger development or freestanding properties, will be exempted from the size and one per development limitation. He indicated compounding pharmacies and wholesale distributors also will be exempted, as these facilities in the industrial parks do not deal with walk-in trade or the public.

Mr. Basehart said, in short, that was the proposed amendment. He noted there were no changes from first reading. He stated staff would like to make their file part of the record. He pointed out that the Ordinance was reviewed by the Planning, Zoning and Adjustment Board (PZAB), which recommended approval by unanimous vote.

Mayor Gerwig asked about the minimum separation and if the Village currently had any pharmacies within 1,000 feet of a school. Mr. Basehart indicated Wellington High School is 1,700 feet from the nearest shopping center or commercial development. He said if a freestanding pharmacy wanted to go in that development, it would probably be an excess of 1,700 feet.

Mayor Gerwig stated this Ordinance would create only one nonconforming use and asked if any other drug stores fall under 10,000 square feet. Mr. Basehart indicated the only pharmacy under 10,000 square feet is located at Forest Hill Blvd and Wellington Trace.

Mayor Gerwig asked for the square footage of the CVS as it exists, as they are adding to it. Mr. Basehart thought the CVS that is inline was a little under 10,000 square feet. He said the

proposed relocation of a freestanding building that is approximately 13,000 square feet has been approved.

Public Hearing

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

Vice Mayor McGovern called on those individuals who wished to speak.

	Name	For	Against
1.	Paul Lowry, 14458 Autumn Avenue, Wellington.	X	
2.	Glenn Jergensen, 2327 Newbury Drive, Wellington.		X
3.	Adam Kornberg, 1437 Rudder Cove, Wellington.	X	
4.	Dr. Vincent Apicella, 15350 Earhart Place, Wellington.	X	
5.	Michelle Lowery, 14458 Autumn Avenue, Wellington.	X	
6.	Maria Clara Bago, 15350 Earhart Place, Wellington.	X	

Vice Mayor McGovern read into the record the comment cards of those who did not wish to speak.

	Name	For	Against
1.	Elizabeth Mariaca, 12901 Buckland Street, Wellington.	X	

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

Mayor Gerwig asked what the basis was for the separation between pharmacies and schools, as children cannot use medical marijuana. Mr. Basehart stated that change was made to the Ordinance as suggested by one of the Council members. Mayor Gerwig asked if the Village has ever required a separation between schools and pharmacies in general. Mr. Basehart stated it has not.

Mayor Gerwig explained why she was not supporting this change. She stated if their intention is for the 441 corridor to be the best place to provide this service to their residents, then saying no to dispensaries throughout the Village is not preventing the 441 corridor from becoming a location for a dispensary. She said the east side of 441 and parts of the west side of 441 are not in Wellington. She indicated the MarketPlace at Lake Worth Road and 441 is not in Wellington, so a dispensary could go there now and provide pretty good access for their residents.

Mayor Gerwig stated she wants people to get the medication, especially if it is helping them. She said the problem is that medical marijuana is a Schedule-1 drug, which means the federal government has determined that it has no therapeutic value. She noted it is federally illegal. She stated the Village is trying to balance two things, a state that is saying the Village can either ban dispensaries or say they can go anywhere and a federal government that is saying that medical marijuana has no therapeutic value. She said this has really cornered the Village.

Mayor Gerwig stated the residents can access medical marijuana without her saying yes to dispensaries in their neighborhoods. She said people have approached her in the grocery store saying they voted for it because they wanted people to get relief, but they do not want a dispensary in Wellington.

Councilman Drahos thought that dovetailed into what he talked about as the not in my backyard mentality. He admitted that he voted in favor of medical marijuana, but he did not vote in favor of it being in Wellington. He stated his rejection of this Ordinance tonight should not be construed as a rejection to medicinal marijuana. He said it is a rejection to the bad hand that was dealt to the Village by the state and the federal government, because right now it is a federally illegal cash only business. He stated, although he agrees medical marijuana provides therapeutic benefit, he cannot risk that type of business coming into Wellington.

Councilman Drahos stated he believes his number one responsibility is to protect the residents within their borders. He said he feels he has to reject this Ordinance tonight and err on the side of caution. He stated he has gone out of his way to project to the residents that he is open-minded on these things. He indicated he invited the public to contact him to let him know if he was wrong and why, as he would change his vote. He said he heard from two people, Dr. Apicella and his partners, who did a fantastic job in expressing their support for medical marijuana. Councilman Drahos indicated he has spent fifteen years of his professional career defending doctors, so his rejection to this Ordinance tonight is not a lack of confidence in Dr. Apicella or his industry. Councilman Drahos said he has every faith that the medical community will handle this responsibly.

Councilman Drahos indicated he was going to vote against the Ordinance tonight. He said that did not mean the residents could not access medical marijuana, as they could get it elsewhere. He stated his heart goes out to people who need it. He said he feels, in this circumstance, the safer way to approach this is by saying not in Wellington.

Vice Mayor McGovern asked if there were state banks in Wellington. Mr. Schofield indicated there are state banks in Wellington.

Mayor Gerwig thought the green money bank was created for medical marijuana, but there was some ruling and they decided not to take the cash. Mr. Schofield stated Florida Green Bank had intended to take it. He said an article in the Post a couple of days ago indicated they had changed their position and were not going to take those cash deposits.

Mayor Gerwig stated the federally insured banks are not taking the cash deposits. She asked if the state banks have the discretion to do so. Mr. Schofield said the state banks do have the discretion.

Councilman Napoleone stated in their last hearing on this issue, he voted in favor of it and he was going to vote in favor of it again now. He indicated Council received very limited information from the residents. He said he received two e-mails from residents who opposed it, and one very lengthy e-mail from a resident who spoke in favor of it and had significant experience with it. He stated most of the opposition he heard tonight, and anecdotally from other people, was based on speculation and fear on what could happen and what these places could be. He wanted people to understand they were not talking about the recreational pot shops in Colorado or what is coming up in California. He said this is medicinal marijuana prescribed by doctors to people with very specific ailments. Mayor Gerwig indicated it is an order, as the doctors are not allowed to write a prescription for it.

Councilman Napoleone stated the people have to get it from a doctor, as they cannot just show up and ask for it. He indicated, as stated in the statute, they need to have a specific delineated condition and a doctor authorize them access to this medicine. He thought, based upon that, Council had a duty to make this accessible to the residents.

Councilman Napoleone stated staff crafted the Ordinance the way they did, not because of any actual concern, but because people are afraid and do not want this in their residential community or near schools. He said staff did the best they could to make sure the medical marijuana dispensaries only go in the commercial parts of Wellington on 441. He thought that was the most responsible thing Council could for the residents who voted overwhelmingly to have access to it. He stated they did not vote for a dispensary in their neighborhood, but based on what he knows they want access to medical marijuana.

Councilman Napoleone indicated medical marijuana is not covered by insurance. He said that already makes it expensive and, if they add a delivery charge to it, it makes it more expensive than if people could access it locally.

Councilman Napoleone stated he would continue to vote yes on this tonight. He understood they were not going to be unanimous on this, but this is a way for people to treat chronic pain and illnesses without going over to an opioid. He said they all know what is happening with the opioids, which seem to be sold in every pharmacy on every corner in Wellington. He stated he supports this Ordinance and giving people access to that medicine.

Councilwoman Siskind stated she also voted yes the first time and she is not going to change her position, as she will vote yes this evening. She said the Village was left with either banning dispensaries or regulating them like pharmacies. She believed what they were doing was the best course of action for Wellington and its residents. She indicated there are strict guidelines, as to how medical marijuana is dispensed, handled, and who can get it, and that doctors need to take training. She said they were not talking about pot shops where anyone can just walk in and get it.

Councilwoman Siskind stated California and Colorado, places that have marijuana recreationally, are obviously operating without traditional banking services. She said she would be curious as to what they are doing and how they are handling it. She thought this was a frontier, but the village was not the first. She believed reregulating how they handle pharmacies and putting them on the 441 corridor is probably the best place for them. She said they could go from there and that she could absolutely support this Ordinance.

Vice Mayor McGovern stated he voted to allow medical marijuana in Florida and to zone for the allowance of medical marijuana dispensaries in Wellington on first reading of this Ordinance. He said the fact is that government has very specific roles and there has been a lot of discussion about the federal, state, and local governments. He stated every member of this Council has talked about the fact that there should not be an infringement upon home rule. He said he did not think this was one of those instances. He thought there were very clear delineated roles here, as the federal government has made their statement. He indicated the state government and many state governments across the country have made different statements and have enacted laws to support those statements.

Vice Mayor McGovern stated their voters went a step further. He explained a constitutional amendment was proposed, signatures were gathered, and the item was placed on the ballot

and passed by far more than a majority vote. He said the voters in Wellington voted overwhelmingly in favor, approximately 70%, to allow medical marijuana. He indicated the state has the authority to do the regulating and create the process, which it did extensively. He said it may do so additionally this session or in future legislative sessions. But currently, the state law requires a very arduous process, a limited set of conditions, an established doctor/patient relationship, and mailing back to get a patient license before this can even be dispensed to them. He stated all of that regulating has been done by the state government, whether or not the Village agrees or disagrees with it.

Vice Mayor McGovern stated, as a local municipal government and as part of the state enacted ordinance, the Village has been left with only one decision to make: ban dispensaries or zone them exactly like pharmacies. He indicated they would be the first municipality choosing to zone them like pharmacies going forward. He said that is because Wellington is in a very unique position, as they are essentially at commercial and residential buildout. He stated, as such, the Village can rezone pharmacies in a way that confines future pharmacies and medical marijuana dispensaries to 441 where they are best suited, as that area is being built to be or coming to be the health services corridor. He said that would fulfill the wishes of their residents as well as fulfill the safety concern of not having the dispensaries in and throughout the interior portion of Wellington.

Vice Mayor McGovern stated he was going to vote yes tonight, as he thought that is what the residents voted for. He believed the majority of the comments tonight were in favor, they received very little e-mail response after first reading, and listening to the people who suffer with depression, ADHD, Parkinson's, epilepsy, ALS, Lupus, Crohn's, traumatic brain injuries, chronic pain, PTSD, that Council had to do so. He stated he understands the federal law concern, the very extensive state law and that there may be more state law regulation going forward, but tonight this Council has been left with only one decision, rezone pharmacies or ban medical marijuana dispensaries outright. He said because that is the only decision they have been left to make, he will vote yes to rezone the pharmacies the way this carefully crafted Ordinance allows them to be rezoned in Wellington.

Councilman Drahos stated he wanted to respond to the argument in general. He said they have effectively zoned dispensaries out of the inside of Wellington and put them out onto 441. He stated the big problem is not medical marijuana, but the cash only aspect of it. He said it is not safe to have a business of that nature inside or outside their borders. He explained if someone came to him saying they wanted to open a cash only business that is federally illegal and anticipated having large volumes of cash and a lot of attention on their business, he would not support it. He stated if they take the medical marijuana aspect out of it, it is a very clear and easy decision. He said this was a tough circumstance for all of them, because the knee jerk reaction is to say he does not support medical marijuana. He stated this was not the case, as he does not support cash only, federally illegal businesses in Wellington.

Mayor Gerwig stated, in response to Vice Mayor McGovern's comments, that many of the communities around the Village are equally at buildout and that Wellington was not unique in that regard. She said some cities that have said no, like Palm Springs, are probably further towards buildout than the Village. She stated she did not think that buildout had anything to do with it.

Mayor Gerwig asked if Walgreen's had an underperforming location at Greenview Shores and Wellington Trace, if they could sell that pharmacy location to a dispensary. Mr. Basehart stated they could.

Mayor Gerwig stated the state said to say yes or no, but the Village is trying for a creative solution. She said she appreciated staff's time and effort on this.

Mayor Gerwig stated she understands she is losing the vote, as she has heard all of the responses. She said she would be convinced to vote differently if she thought any of the residents would have difficulty getting this product, but she did not think that was the case. She indicated she went through a five hour presentation at the League of Cities that was presented by the:

- growers;
- seven dispensary owners that were approved at the time. She thought four or five more owners had been approved since then;
- vendors; and
- doctors who are writing the medical orders for this product. She said it is not prescription.

She stated they all presented that it is okay if the municipalities do not want to have a dispensary, as no one will have an access issue. She indicated they said there is a robust delivery system for this product and they will make sure they meet the needs of the residents. She said if that were not the case, she could be convinced to create some zoning that she thought would protect their residents better. She stated she did not believe that this Ordinance does that.

Mayor Gerwig thought the Village was trying to do something they were not directed to do. She also believes the reason home rule gets attacked so much is because they do not understand the tenets of it. She stated she will stand with everyone who has medical disability and needs this treatment to ask the federal government to change the Schedule-1 ranking of medical marijuana. She said that is where this can really be solved. She stated insurance could cover it and it could be a prescription. She said there are lots of ways to deal with this, but she did not think this was the right way to do it. She stated she did not know if medical marijuana or marijuana in general is a gateway drug or if it is helping people not use opioids.

Mayor Gerwig stated if this Council approves this now, and it is presented in Wellington and approved, it will be a nonconforming use. She said they will not be able to turn around and tell the dispensaries to leave, because the Village has changed their mind and it is not working out. She mentioned that she is already hearing about the two vape shops, as the businesses around them are complaining about the people hanging out. She indicated it is being rumored that drugs are being sold in the parking lot around the vape shops. She said she is not fearful, but she is being cautious. She stated she does not think this Ordinance is good for her community, so she is not going to support it.

A motion was made by Councilman Drahos, to reject Ordinance No. 2017-21 (Medical Marijuana Dispensing Organization/Facility and Pharmacy Facilities). Motion failed due to lack of a second.

A motion was made by Councilman Napoleone, seconded by Councilwoman Siskind, and passed (3-2), with Councilman Drahos and Mayor Gerwig dissenting, to approve Ordinance No. 2017-21 (Medical Marijuana Dispensing Organization/Facility and Pharmacy Facilities).

- B. 18-1766** ORDINANCE NO. 2018-01 (REPEAL ARTICLE 1, GENERAL PROVISIONS, AND ARTICLE 14, ENFORCEMENT PROCEEDING AND PENALTIES, AND REPLACE WITH ARTICLE 1, GENERAL PROVISIONS): AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE WELLINGTON LAND DEVELOPMENT REGULATIONS, MORE SPECIFICALLY, A ZONING TEXT AMENDMENT TO REPEAL AND REPLACE ARTICLE 1, GENERAL PROVISIONS, AND ARTICLE 14, ENFORCEMENT PROCEEDINGS AND PENALTIES, IN THEIR ENTIRETY; REPLACING THEM WITH ARTICLE 1 GENERAL PROVISIONS AS CONTAINED HEREIN; TO ESTABLISH SPECIFIC STANDARDS RELATED TO GENERAL PROVISIONS AND ENFORCEMENT PROCEEDINGS AND PENALTIES; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield recommended that Council hear one presentation on items 7B, 7C and 7D and then vote on them separately. He stated the items all deal with amendments to the Land Development Regulations (LDR), a task staff started on several months ago. He said the Ordinances are all designed to simplify the LDR and make them readily understandable.

Mr. Schofield introduced each item. He stated Mr. Basehart and Ms. Cramer will make the presentation. He indicated Ms. Nubin will read each item by title at the appropriate time.

Mr. Schofield stated Council should vote on each item separately. Ms. Cohen suggested they hold separate Public Hearings as well.

Mr. Basehart stated the first item is Article 1, which is general and administrative provisions. He indicated it sets up the rules and regulations for the interpretation of the code, states the purpose and intent of the code, and provides regulations for dealing with previous approvals prior to the adoption of the code, nonconformities, appeals and code enforcement.

Mr. Basehart stated the approach was to streamline it, get rid of duplicity, and make the language clear, so that someone who does not deal with zoning and zoning codes everyday can read it and understand it. He said as staff has been rewriting the entire code, they have found that every article of the code references county agencies and positions that no longer exist or that are not being used in the Village, as the original code was adopted from the county code. He stated these were the objectives for all three items.

Mr. Basehart stated staff streamlined the second item, which is concurrency. He explained there has been some changes in the concurrency laws over the years and staff has updated the code to reflect same. He indicated staff has reduced the provisions in the code for the concurrency regulations from 32 pages to 2 pages without losing any pertinent information. He said Article 1 was 22 pages and it is now 7 pages.

Mr. Basehart stated the third item is traffic. He said staff did a lot of streamlining and clarification, but the traffic standards ordinance was just updated in 2015, so substantively there were very few changes. He indicated, because of changes in the county traffic performance standards and state statutes with respect to proportionate sharing, staff put in a provision copied from the county code stating that traffic performance standard requirements for signalizations are not eligible for prop share. He explained if a signal is needed, and the development impacts

the intersection, then the applicant has to put in the signal rather than just pay a proportionate share.

Mayor Gerwig stated the Village has been through the signalization issue several times. She said if a signal is required, the applicant cannot just pay a portion of it. She asked if they could recover the cost from future users. Mr. Basehart stated the applicant would just have to put in the signal.

Ms. Cramer indicated if road improvements are warranted for that same intersection, they could be part of the prop share program. Mayor Gerwig stated the change only affected the signals. Ms. Cramer said that was correct.

Mayor Gerwig asked what the basis was of that, as the signals are quite expensive. She thought the signal at Palomino Park and 441 cost \$500,000. Mr. Basehart stated that was correct.

Ms. Cramer stated the entire signal may not be required, as it could be a modification to the timing or the addition of just one type of light. She indicated Greenview Shores Blvd at the high school and Polo West, had that proposed intersection been approved, the only modification would have been to add lighting to one side of that signal. She said it is not always a full intersection or full signalization, as it could be just modifications to an existing intersection.

Mr. Basehart stated, traditionally, if an applicant wanted to do a development that was going to impact roads that are either over capacity or will be over capacity as a result of the project, they cannot be approved unless they fix it, which means they pay to do the widening of the roads or the intersection, etc. He indicated, a number of years ago, the state introduced and mandated the practice of proportionate share. He stated the proportionate share regulations say nobody has to fix a road, widen a road or an intersection that is already over capacity. He said if a project would bring a road or an intersection over capacity, the Village could not make the developer or applicant fix it.

Mr. Basehart explained a complicated set of calculations is done to determine the proportionate impact on that roadway, link or intersection, compared to all of the other approvals that have occurred and all of the other development that exists. He stated a developer can then only be required to pay their proportionate share. He mentioned the problem with the south approach left turn lane onto Stribling off State Road 7. He said traffic stacks up there and it operates at greater than its designed capacity, so it needs to be fixed. He stated the estimated cost to put in a second left turn lane is around \$4 to \$5 million, as that intersection needs to be realigned.

Mayor Gerwig asked if the turn lane could be lengthened or if another turn lane had to be added. Mr. Basehart stated that was correct. He said, under the proportionate share regulations, the Village cannot make any single developer fix that. He stated several projects have come in that impact that turn lane. He said Mr. Bellissimo's applications in the Equestrian Preserve Area impact it as well as the Ward's latest project to build a medical office building. He indicated these impacts, when calculated according to the formula, only come to 2%-5% of the impact on the intersection, so that is all that the applicants can be required to pay.

Mr. Basehart thought it was unfortunate that the Village had to have proportionate share, as it is a state requirement, but the state does not require the Village to allow a proportionate share calculation for signalization. He said signalizations are more of a life and safety concern than a turn lane that might cause delays or road widening that is needed that might cause traffic or

trips to be longer in time. He stated traffic signals are much more important than that because of the tremendous safety aspect or greater safety impact, so they are allowed to be ineligible for proportionate share.

Mayor Gerwig stated the Village is allowed to make that choice, as the state is allowing the municipalities to have that discretion. Mr. Basehart said that was correct. He stated that was the biggest change staff has made.

Mayor Gerwig stated staff believes this change will bring a signal to fruition quicker, instead of waiting for more development to happen. Mr. Basehart said that was correct.

Mayor Gerwig said she understands this has been a very long process with the code rewrites and the consolidation. She asked if there were any other substantive changes. Mr. Basehart stated there were none.

Mayor Gerwig asked who wrote the original code. Mr. Basehart stated the code was written after he left the county, so he was not taking any responsibility for it.

Councilman Napoleone stated staff has reduced the number of pages of the LDR to a more simplified version, but it basically has the same affect. He said it was very well done.

Mr. Schofield indicated when the Village adopted the code from the county, environmental control rule 1 and 2 were in it. He stated staff has removed them from this version of the code, because they are countywide ordinances and they apply regardless. He said that is the only material difference in the code now.

Mayor Gerwig stated they saved a lot of trees. Ms. Cramer indicated all of the articles in front of Council tonight totaled 81 pages and staff has reduced them by 58 pages to a total of 23 pages. Mr. Schofield stated all of the same regulations are there, but they are written in a way to understand them.

Vice Mayor McGovern commended Mr. Basehart and Ms. Cramer, as well as their team, for doing this. He thought every member of this Council has said that they want their ordinances to be enforceable, to be strong, to promote safety, but to also be clear and understandable to those residents who want to do things in accordance with them. He said they should be able to read it, follow it, do it, and be done. He stated the fact these articles have gone from approximately 80 pages to 23 pages, without substantively changing the actual teeth of these ordinances, is a great credit to staff.

Councilwoman Siskind thanked staff as well. She said it was a huge undertaking, but they no longer have repetitiveness, it is streamlined and much more user friendly. She thought that was a huge benefit to the Village.

Public Hearing

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

Mr. Schofield indicated no public comment cards were received.

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.

Ms. Nubin read the Ordinance by title.

A motion was made by Councilman Napoleone, seconded by Vice Mayor McGovern, and unanimously passed (5-0), to approve Ordinance No. 2018-01 (Repeal Article 1, General Provisions, and Article 14, Enforcement Proceedings and Penalties, and Replace with Article 1, General Provisions).

C. 18-1767 ORDINANCE NO. 2018-02 (REPEAL ARTICLE 11, ADEQUATE PUBLIC FACILITIES STANDARDS, AND REPLACE WITH ARTICLE 2, CONCURRENCY MANAGEMENT): AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE WELLINGTON LAND DEVELOPMENT REGULATIONS, MORE SPECIFICALLY, A ZONING TEXT AMENDMENT TO REPEAL AND REPLACE ARTICLE 11, ADEQUATE PUBLIC FACILITY STANDARDS, IN ITS ENTIRETY; REPLACING IT WITH ARTICLE 2, CONCURRENCY MANAGEMENT, AS CONTAINED HEREIN; TO ESTABLISH SPECIFIC STANDARDS RELATED TO CONCURRENCY MANAGEMENT; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Ms. Nubin read the Ordinance by title.

Public Hearing

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

Mr. Schofield indicated no public comment cards were received.

Mayor Gerwig asked if there were any substantive changes. Mr. Basehart state there were none.

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

A motion was made by Councilwoman Siskind, seconded by Councilman Napoleone, and unanimously passed (5-0), to approve Ordinance No. 2018-02 (Repeal Article 11, Adequate Public Facilities Standards, and Replace with Article 2, Concurrency Management).

D. 18-1768 ORDINANCE NO. 2018-03 (REPEAL ARTICLE 9, ENVIRONMENTAL STANDARDS, AND ARTICLE 15, VEHICULAR TRAFFIC PERFORMANCE, AND REPLACE WITH ARTICLE 9, VEHICULAR TRAFFIC PERFORMANCE STANDARDS): AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE WELLINGTON LAND DEVELOPMENT REGULATIONS, MORE SPECIFICALLY, A ZONING TEXT AMENDMENT TO REPEAL ARTICLE 9, ENVIRONMENTAL STANDARDS, AND ARTICLE 15, VEHICULAR

TRAFFIC PERFORMANCE STANDARDS, IN THEIR ENTIRETY;
REPLACING ARTICLE 15 WITH ARTICLE 9, VEHICULAR TRAFFIC
PERFORMANCE STANDARDS, AS CONTAINED HEREIN; TO
ESTABLISH SPECIFIC STANDARDS RELATED TO VEHICULAR
TRAFFIC PERFORMANCE STANDARDS; PROVIDING A CONFLICTS
CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING
AN EFFECTIVE DATE.

Ms. Nubin read the Ordinance by title.

Public Hearing

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

Mr. Schofield indicated no public comment cards were received.

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.

Mayor Gerwig asked if there were any substantive changes. Mr. Basehart stated the changes included the traffic signal issue, as they discussed earlier.

Vice Mayor McGovern asked if each of the three items were heard by the Planning, Zoning and Adjustment Board (PZAB) and approved unanimously. Mr. Basehart indicated that PZAB has reviewed all three items and approved all of them unanimously. He said for the record, staff would like to make their entire file for the rewrite part of the record.

A motion was made by Vice Mayor McGovern, seconded by Councilwoman Siskind, and unanimously passed (5-0), to approve Ordinance No. 2018-03 (Repeal Article 9, Environmental Standards, and Article 15, Vehicular Traffic Performance, and Replace with Article 9, Vehicular Traffic Performance Standards).

Mr. Basehart promised that when the entire code is done, the average adult person will be able to pick it up with one hand. Mr. Schofield stated the average adult person will also be able to read it and understand it.

E. 18-1760 ORDINANCE NO. 2018-04 (CHANGES TO CHAPTER 18 OF WELLINGTON CODE OF ORDINANCES): AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL RELATING TO BUILDING CODES AND THE ADOPTION OF THE FLORIDA BUILDING CODE 6th EDITION (2017) AS REQUIRED BY STATE STATUTE; ADOPTING A LOCAL ADMINISTRATION SECTION AS PROVIDED FOR IN THE STATE BUILDING CODE BASED UPON THE BUILDING CODE ADVISORY BOARD OF PALM BEACH COUNTY MODEL AND BUILDING OFFICIALS ASSOCIATION OF FLORIDA MODEL; AMENDING SEC. 18.31 (1), (2) AND (3) REGARDING THE ADOPTION OF THE GROUP OF CODES KNOWN AS FLORIDA BUILDING CODE 6th EDITION (2017), INCLUDING THE: BUILDING, RESIDENTIAL, EXISTING BUILDING, ACCESSIBILITY, MECHANICAL, PLUMBING, FUEL GAS, ENERGY, NATIONAL ELECTRICAL CODE, THE FLORIDA

FIRE PREVENTION CODE AS AMENDED BY PALM BEACH COUNTY, INTERNATIONAL PROPERTY MAINTENANCE CODE; REPEALING AND READOPTING SEC. 18.32, WELLINGTON BUILDING CODE ADMINISTRATIVE CODE, IN ITS ENTIRETY; AMENDING SEC. 18.33 AMENDMENTS TO THE FLORIDA BUILDING CODE TO REFERENCE THE CHANGED SECTION REFERENCES OF THE STATE BUILDING CODE AND ADOPTING WINDSPEED MAPS; PROVIDING FOR CODIFICATION; PROVIDING AN ADOPTION DATE; AND, PROVIDING A CONFLICTS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the item and stated Mr. Jacek Tomasik will make the presentation. Ms. Nubin read the ordinance by title.

Mr. Schofield stated Council was looking at the state required adoption of the Florida Building Code, of which staff has proposed some amendments to the administration section. He indicated the Florida Building Code is based off the National Building Code. He explained the Village does not need earthquake protection, so staff has amended that section as well as some others.

Mr. Schofield stated Mr. Tomasik will review some of the amendments to the administration section. However, as a municipality, the Village does not have the ability to change any substantive parts of the code that are enforced across the state. He said most of the administration changes are on how the Village processes or deals with something like the Flood Plane Map.

Mr. Tomasik indicated the Florida Building Code was first published in 2001. He said since then, as the changes have been done by the legislature, the Village has followed the changes. He stated they have to adopt the changes as the legislature adopts each code. He said the Village has done this several times since 2001 and the last one was done last year. He stated as the new building code, 6th Edition, was adopted by the legislature, the Village also adopted it and it became effective December 31, 2017. He indicated, every time the code gets adopted, it gives the Village a chance to update Chapter 1 with the changes staff has made and to exactly reflect the changes the legislature has made to the national codes.

Mr. Tomasik stated the Village code reflects their flood ordinance, as the new ordinance Council adopted a few months ago is reflected in the building code.

Mr. Tomasik stated the required changes as of October 1, 2017, obligate the municipality to be able to accept electronic permitting, accept electronic applications, and process permits electronically. He indicated this is reflected in this code and is on page 275 of Council's booklet. He noted all of the changes done here are reflecting the state code. He said it also talks about how the permits are being issued, expiration of the permits and timelines for the permits. He stated it gives the building official authorization to extend the permits and things of that nature, as it is basically the bible of permitting. He stated most of everything changed here reflects the National Building Code.

Mayor Gerwig stated Council has asked several times about some things, like the expiration of permits – is the Village notifying residents. She said the Village has had a lot of open permits that have gone on for years, particularly with fences. She asked if this was addressed any of this.

Mr. Tomasik said it addresses the expiration of permits and it gives the Village the opportunity to extend the permits. He stated the permit pullers are notified now, thanks to their new technology. He said the permit pullers are automatically notified thirty (30) days prior to the expiration of each permit. He stated staff also follows up with phone calls. He indicated they have dramatically reduced the number of expired permits by more than 50%.

Mr. Tomasik stated the new amendments to the code allow the building official to close the permits administratively. He said that means if there is a 15 year old permit for a fence or something that might not become a life safety item, the building official can administratively close the permit without renewing it and charging for a renewal. He stated these options are reflected in this new amendment and it make it easier to close permits and focus on the reduction of expired permits.

Mayor Gerwig thought that was a huge benefit, as many residents have said that their contractors were coming after them to reopen permits, when the contractors did not do their job in the first place. She gave Mr. Tomasik props for handling this in a way that brings the responsibility back to the person who pulled the permit, which is not the homeowner.

Mayor Gerwig stated she wanted to make sure that was going to be clearly addressed. Mr. Tomasik indicated the exact code was in section 105.5.2 on page 279 of Council's booklet. He stated it reads, "The building official is authorized to administratively close expired or inactive trade permits more than ten years after expiration when no safety hazard exists and no code violations have been previously identified." He said this new code section will allow him to close the permit if they find that permit will not cause any life safety concerns.

Mayor Gerwig stated her concern is that if it is a life safety concern, and the Village has not done anything about it for ten years, it is still a problem. Mr. Tomasik stated their new technology allows them to report those permits. He said back in 2001-2003, they did not have the technology to identify those permits. He stated right now, thanks to automation and the new reporting, the notifications are sent automatically. He said they are able to identify those permits, contact homeowner, contact the contractor, or applicant and let them know the Village can assist them in closing the permit. He stated they are doing this before it becomes an issue, because when the property has to be sold or changes hands, it is kind of too late then. He said they had to postpone closings. He stated doing all of this prior makes it easier.

Councilman Napoleone asked if they had previously talked about whether the Village had the authority to not issue new permits to contractors who have expired permits and do not close them out. He asked if that was addressed here. Mr. Tomasik stated, looking at section 105.5.1 on page 279, it reads "The building official is authorized to reject new permit applications from a contractor who holds more than two inactive permits."

Councilman Napoleone stated that incentivizes the contractors to close out their permits before they leave a job. Vice Mayor McGovern asked if it was Mr. Tomasik's intention to enforce that provision. Mr. Tomasik said absolutely, as he was actually looking forward to having this provision. He stated he sits on the Building Code Advisory Board. He said they discussed this with building officials and it gets adopted throughout the county. He stated it is a great tool to keep the contractors more disciplined in closing their permits and keep the homeowners out of trouble. He said, effectively, if the contractor does not do their job, it becomes the homeowner's responsibility or burden.

Mayor Gerwig stated if it is a life safety issue, they have left them at risk for that entire time. She said they are not going to continue doing that. Mr. Tomasik indicate this was his favorite section and they are going to enforce it.

Mayor Gerwig stated Mr. Tomasik does a great job and that Council is very proud of his department. She believed Mr. Tomasik understood his work very well and has done an admirable job in this regard.

Vice Mayor McGovern stated Mr. Tomasik is a leader in his profession and among his peers. He said it is a credit to him.

Mayor Gerwig stated this is required, because the state is requiring these changes. Mr. Tomasik said that was correct. He indicated this adopts all of the codes of the 2017 Building Code, besides Chapter 1 and the amendments.

Public Hearing

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

Mr. Schofield indicated no public comment cards were received.

There being no public comments, a motion was made by Councilman Napoleone, seconded by Vice Mayor McGovern, 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. 2018-04 (Changes to Chapter 18 of Wellington Code of Ordinances).

F. 18-1775 RESOLUTION NO. R2018-01 (POLO WEST GOLF CLUB SEASONAL PERMIT): A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING A SEASONAL PERMIT FOR POLO WEST GOLF CLUB LOCATED AT 2470 GREENVIEW COVE DRIVE FROM JANUARY 9, 2018 TO JULY 9, 2018; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the item. He stated Mr. Basehart and Ms. Cramer would be giving the staff presentation.

Ms. Cohen indicated this was a quasi-judicial hearing. She administered the oath to those who would be giving testimony or commenting on this item.

Ex-parte Communications

Mayor Gerwig: Mayor Gerwig disclosed that she had spoken to a couple of residents. She stated Mark Eli asked about this item and Kim Seow asked about the use. Mayor Gerwig said she feels she can be fair. She stated she had also spoken to the applicant about this.

Councilman Napoleone: Councilman Napoleone disclosed that he had spoken to the applicant and his team about this item. He said he can be fair.

Councilman Drahos: Councilman Drahos disclosed he had spoken with Mr. Fellers and his attorney concerning the application.

Vice Mayor Greene: Vice Mayor Greene disclosed that he had spoken to Mr. Fellers, Mr. Metzger and their team. He said he can be fair.

Councilwoman Siskind: Councilwoman Siskind disclosed that she had spoken to the applicant and the team. She said she also spoke to Rachel Eidelman, Equestrian Preserve Committee, and a friend who lives in Polo West, Shawna Foyer.

Ms. Cohen asked Council, notwithstanding these communications, if they feel they can be fair and impartial. Council indicated they could.

Ms. Nubin read the resolution by title.

Ms. Cramer stated she would like to enter petition 17-162 2017-36 SPU into the record. She said this is a seasonal permit for Polo West.

Ms. Cramer indicated that staff prepared a quick PowerPoint presentation, but she believed everyone was somewhat familiar with this item. She stated she would be happy to summarize it, as the applicant had also prepared a presentation. Council decided to hear the applicant's presentation with staff providing any missing information.

Ms. Cramer stated she will summarize the applicant's request and update Council on what was mailed to them, as it was not part of their original package. She said the applicant is asking for 105 events, as their original application indicated 104 events. She stated based on their meetings last week, it was determined that one additional date, February 14, 2018, has extended hours of operation.

Ms. Cramer indicated the proposed events are to take place on approximately 75 acres of the 150 acre golf club, which includes the clubhouse and polo fields #1, #2, and #3. She said they are not to exceed more than two weekday nights and two weekend nights. She stated the proposed time is no later than 9:00 p.m. during the week and no later than 10:00 p.m. on the weekends, with the exception of February 14, 2018, for which the applicant will provide more information.

Ms. Cramer stated the Village has not received any letters of opposition, but they have received several e-mails in support of this application. She indicated Mr. Valdespino, with the HOA of Polo West, provided a written consent to Mr. Fellers for the additional date.

Ms. Cramer stated there are several conditions of approval. She indicated staff provided Council with a packet and e-mail Friday afternoon that included the current Special Use Permit highlighting the changes or additions from last year's conditions of approval.

Mayor Gerwig asked about SPU versus SUP. Ms. Cramer explained the applications have to be unique to prefill the Village's Naviline system. She stated a site plan is SP and a site plan amendment is ASA. She said Special Use Permits are SPU and SUP, plus there are seasonal permits. She indicated an SPR is a renewal, but SPU and SUP are the same thing.

Ms. Jennifer Vail with WGI, agent for the applicant, PGPW Holding Companies, LLC, introduced herself. She said Mr. Gary Fellers and Mr. John Metzger are with her, and they would be happy to answer any questions at the end of the presentation.

Ms. Vail stated the request before Council tonight is a seasonal Special Use Permit that would be effective January 9th through July 9th of 2018. She said the site is comprised of approximately 75 acres and located on the east side of Greenview Cove Drive, north of South Shore Blvd. She stated the existing use on the property includes the golf course, clubhouse, restaurant, polo fields and arena. She indicated the Future Land Use designation is Commercial Recreation and the existing zoning is PUD. She said there is no change to the land use designation or zoning.

Ms. Vail showed Council the proposed site plan for the property located at the northeast corner of South Shore Blvd and Greenview Cove Drive. She indicated access to the 75 acres is from Greenview Cove Drive off South Shore Blvd via a private roadway owned by the Polo West POA. She stated ingress/egress from Greenview Cove is on the east side in three locations within the existing parking lot. She showed Council the existing clubhouse, buildings, and maintenance. She indicated the existing and proposed outdoor covered patios and tents would be included in the Special Use Permit. She showed Council the existing arena and polo field #1. She indicated the rotational trailer parking located on the southeast side of polo field #1 as well as the circulation and access to that trailer parking.

Looking at the northern portion of the property, Ms. Vail stated the proposed trailer access for polo field #2 is located along the eastern side of the property, with temporary trailer parking located at the southeast corner of polo field #2. She said for polo field #2 and the bottom of polo field #3, the access would remain on the east side of those properties. She stated they have proposed vehicular access across the existing bridge over the canal, but this vehicular access is limited per condition #13. She said an engineer must verify the bridge is structurally sound for vehicular traffic, otherwise it will be limited to golf carts and pedestrian traffic. However, they have further identified that vehicular use would continue north, if it is granted, along the east side of polo field #3, with temporary trailer parking along the east of polo field #3 as well.

Ms. Vail stated, as staff indicated, the one requested modification is for the Wednesday, February 14, 2018 event. She said it is the Big Dogs Night Out charity gala, specific to this one event only. She stated the specific event hours would be 6:00 p.m. to 11:00 p.m. and it is a weekday event. She said lights out are proposed at 11:00 p.m. in the arena and at midnight in the pavilion tent. She indicated this totals three weekday events for that specific week of Sunday, February 11th through Thursday, February 15th, which totals 105 events for the seasonal permit. She said she pointed this out because it impacts conditions #1, #2, #8, #9 and #11, due to the specific hours and number of events.

Ms. Vail summarized the 2018 seasonal permit events that would run from January 9th to July 9th. She stated events such as Western in Wellington, Friday Night Lights, Big Dogs Night Out, and Polo on the Patio are being proposed for the clubhouse, arena and courtyard area, which are located at the southern end of the 75 acres. She said events such as Polo on the Grass and the Ridge Turf Tour will be located and rotated on polo fields #1, #2 and #3.

Ms. Vail indicated the applicant is subject to 25 conditions. She pointed out that there are 26 conditions in the Staff Report; however, condition #15 is a duplicate of condition #12, so there

are actually only 25 separate conditions. Ms. Vail stated the applicant is in agreement with the conditions of approval, with the exemption for the proposed modification for the February 14, 2018 event.

To clarify, Ms. Cramer stated Ms. Vail was referring to the condition numbers based on what was in Council's original packet. She said what they received on Friday afternoon and what was finalized and updated this afternoon has different numbering. She indicated condition #2 includes the additional specific event date and the duplication was taken out. She stated what Council received on Friday as Exhibit A was revised.

Mayor Gerwig asked about lights out at 11:00 p.m. for Big Dogs Night Out and if they were requesting the pavilion tent to stay open until midnight. She asked if there was any input from the community about that. She stated she the location of the tent will a bit more removed from the residents and the event will not interfere with traffic, but she is not comfortable with midnight for a weeknight event because of the impact to the neighborhood.

Mr. Fellers stated the tent has walls and air conditioning. He said the plan is to have the events out of the tent by 11:00 p.m. and keep the lights on for cleanup afterwards. Mayor Gerwig asked if the homeowners had agreed to that.

Councilman Napoleone stated that was later than the normal weekend hours. Ms. Cramer stated she drafted condition #2 to address this one event, which reads "The Big Dogs Night Out Gala shall be held on February 14, 2018, with extended hours of operation until 11:00 p.m. The outdoor lighting shall be turned off no later than 11:00 p.m. The event may continue indoors only until 12:00 a.m. No other exceptions to the hours shall be permitted. All other events shall comply with condition #1 above." She said condition #1 limits the 9:00 p.m. and 10:00 p.m. weekday and weekend events, respectively.

Councilman Drahos asked if staff was opposing that request. Ms. Cramer stated staff was not opposed to it. She said they received the consent from the HOA in an e-mail stating they would prefer the earlier timeframe; however, if it was for the one event and Council was okay with it, they would support it as well. She stated she thought the HOA was concerned about it being habitual during the week, but they did not seem to be opposed to the one event.

Councilman Napoleone asked if the neighbors will be able to hear the noise once the event moves indoors, or if it will be self-contained to where the people will not spill out and bother the neighbors. Mr. Fellers stated he doubted very much that this event would continue much past 11:00 pm., but, if so, it would be in the restaurant and contained, and not outside.

Ms. Cramer thought the condition, and maybe it could be clarified, was really specific to the lighting and the time of the event, but indicated there are other conditions throughout for outdoor entertainment that require it be concluded at 9:00 pm and noise standards through Ordinance 36-33 that must be followed.

Mr. Fellers stated their concept from the beginning has been family friendly and it is continuing with the new restaurant. He indicated they had a pre-event party on New Year's Eve and the restaurant was closed by 10:30 pm. He said the kids are invited to participate in the Big Dogs Night Out event as well. He stated he did not think the late night aspect was going to be a problem for anyone.

Councilman Drahos asked if the trailer access and parking that Ms. Vail went through was the same as last year. Ms. Cramer stated last year the applicant was only using polo field #1 and the area surrounding the clubhouse. She indicated polo fields #2 and #3 are new to the application, and staff has conditioned the permit for the bridge. She said the applicant will not be able to use the bridge for vehicles, until there is evidence that it can support the weight of a vehicle, because it was not constructed for that use. She stated the parking for the trailers on polo field #3 is not considered part of this permit, unless that report is supplied to the Village. She said the area around polo field #1 is the same last year.

Councilman Drahos stated polo field #2 is new. Ms. Cramer said that was correct. Ms. Vail showed Council the approach to polo field #2 from the southern end and the trailer parking in the southeast corner. She also showed the access and parking on the north side.

Councilman Drahos asked how a trailer would exit out of polo field #2. Ms. Vail stated they would circulate in the northeast corner of the field.

Mayor Gerwig indicated no turnaround is shown and asked if the trailers could turnaround to get back out of there. Ms. Vail stated they could, as it is all open field there. Mayor Gerwig thought they would have to drive onto the corner of the field. Ms. Vail stated that was correct.

Mayor Gerwig asked if the horses will be able to walk over the bridge. Ms. Vail stated they could. Mayor Gerwig asked if they had been doing that in the past, because they have played polo on the north field. Mr. Fellers stated they have been driving over the bridge. Mayor Gerwig said that lets them know it is possible, although not suggested. Mr. Fellers stated the bridge was originally constructed for whatever maintenance equipment had to go over it, so the horse trailers have been going over it for the past ten years. Mayor Gerwig said staff will make sure that analysis is done.

Councilman Drahos stated he was trying to determine what the impact would be to the nearby homes when the trailers park on polo field #2. He asked if they were parking along the canal. Ms. Vail stated they would be parking on the north end.

Vice Mayor McGovern asked where the parking would be for polo field #3. Ms. Vail stated if they come over the bridge, the parking would be on the east side.

Vice Mayor McGovern asked if the applicant at any time was contemplating having regular vehicular parking at polo field #3 as well, where every car would be crossing that area. Mr. Fellers stated only practice games have been held on polo field #3 with very little viewership, other than the people traveling in the horse trailers. He said if family is following, they park with the horse trailers. He stated it has not been an issue and they do not anticipate it being an issue. He indicated he does not even have an agreement with Mr. Straub to conduct these matches there. He stated he had an agreement prior to the last Council Meeting, but it has gone awry. He said it may resurrect itself and it may not.

Vice Mayor McGovern stated that it says it applies to polo fields #2 and #3. Mr. Fellers said that was correct.

Vice Mayor McGovern asked if cars were driving across the bridge that the Staff Report states has guardrails that do not meet minimum safety requirements for vehicular traffic and may need upgrading. He said Mr. Fellers is saying that cars are now driving across that bridge. Mr.

Fellers indicated that prior to this year polo had been operating there in accordance with Mr. Schofield's letter to Mr. Straub. Mr. Fellers thought practice polo had been going on there since 2008. He said, as far as he knows, horse trailers and family members have both been going over that bridge since that time.

Councilman Napoleone asked how they anticipated spectators getting to an event on polo field #2 or #3. He asked if they were going to have car and trailer parking at the fields or if they were going to have the cars park at the clubhouse and then have the people walk or take golf carts back to the fields. He asked how much spectator traffic will be going back to the fields besides just the horses. Mr. Fellers stated to date it has been minimal, which is what was anticipated and proposed.

Vice Mayor McGovern stated he did not understand what minimal means. Mr. Fellers stated if they have a polo match with eight players, four or eight of them might have a car. He said the player may send the horses with a groom and drive a car with family members. He stated there might be eight trailers and eight cars for a typical match.

Councilman Drahos stated he appreciated Mr. Feller's comments, but three months down the road there could be a polo tournament with a hundred cars crossing that bridge. He thought they needed to add some language to this.

Mayor Gerwig asked if the Turf Tour was happening on polo field #1. Mr. Fellers stated the original plan was to rotate the Turf Tour on all three fields. But because of the change with Mr. Straub, the plan now is to hold them all on polo field #1. He explained they can get six pods on polo field #1, so they will just rotate the Turf Tour there.

Mayor Gerwig stated the use on polo fields #2 and #3 is questionable. She said, if there is an event, Mr. Fellers could guarantee there will be no more than eight cars and eight trailers.

Councilman Drahos stated he did not want a guarantee, as he wanted it in writing. Mayor Gerwig said that was one reason they were looking at a Special Use Permit. She stated Mr. Fellers is trying to use the property as best he can. She said it will let them do a dry run and see how the event plays out. She asked how many trailers were brought in by each team.

Mr. Fellers stated every player usually brings his own team and may have between six and eight horses in a trailer. He said if two teams are playing, there would be least eight trailers. He indicated sometimes with practice games local players might come with one or two horses, so there could be more trailers. He said there are fewer trailers with tournament games.

Councilman Napoleone did not think the concern was the number of trailers bringing horses to the event. He thought the concern was spectator parking and the people living adjacent to these fields looking at a sea of cars behind their homes.

Ms. Cramer indicated, according to the Site Plan, the required parking and proposed parking for this event is actually at the clubhouse. She said the Site Plan only shows trailer parking, as spectator parking should not be going past the clubhouse.

Mayor Gerwig stated the Village requires the spectators to park at the clubhouse. Mr. Fellers said that was not a problem.

Councilman Napoleone stated if that is already a condition of the permit, he was okay with it. If not, he wants to make sure it is. Ms. Cramer stated it is laid out on the applicant's Site Plan. She said the permit is conditioned to meet the requirements of the Site Plan.

Council pointed out that there is no spectator parking on the Site Plan, as it only shows trailer parking. Vice Mayor McGovern said staff is telling them that this only allows for trailer parking in those areas and not cars.

Ms. Cramer stated she interprets the Site Plan as trailer parking being trailer parking and all other cars being spectator parking, unless there is a designated employee parking or vendor parking area. Mr. Fellers explained that it was not contemplated. He said it is really to conduct the polo practices that have been going on there, as they involve a minimum number of cars and players.

Councilman Drahos stated he sees a greater problem. He said this was pitched to him as a renewal of a simple Special Use Permit with a couple of slight changes. He stated they get to this meeting and the presentation shows polo fields #2 and #3 with trailer access in and out, which is different from last year. In addition, the map indicates polo field #2 as "polo and equestrian sports." He stated Council just went through this one month ago, and they did not want an ambiguous use like "equestrian sports" on this property.

Councilman Drahos stated there were two specific events. Vice Mayor McGovern indicated it they were ridge jumping and polo practices, but there might be numerous polo practices. Mr. Fellers stated right now there are no polo practices scheduled for polo fields #2 or #3.

Vice Mayor McGovern stated as he understands it, even though it is discussed in the permit, there is no agreement presently between the landowner and Mr. Fellers as it applies to polo fields #2 and #3. Mr. Fellers said that was correct.

Mr. Schofield stated, in that case, Council could not approve anything on polo fields #2 or #3. He said they would have to limit it to polo field #1. He stated the Village cannot issue a permit without permission from the owner. He said the permit would have to be conditioned to say that this cannot happen unless the owner provides that permission to the Village.

Mr. Fellers indicated he did have permission from the owner for polo fields #2 and #3, but it was taken away. He stated the owner gave him permission to apply for the Special Use Permit, but he does not have an arrangement with the owner to lease the fields. Mr. Schofield stated as long as Mr. Fellers gets permission and gives it to the Village, it will be fine. Mr. Fellers said that was not a problem.

Ms. Cramer stated, until that time, staff can limit the Special Use Permit to polo field #1. Mr. Schofield said it just needs another condition that says the permit is approved subject to the applicant providing the separate lease agreement. He stated Mr. Fellers has the permission for the application. He said once Mr. Fellers gets the other one, he can give it to staff and that will solve the issue.

Councilman Drahos asked what that meant in practicality, as Mr. Fellers wanted to have his specifically identified event on polo field #2. Councilman Napoleone stated Mr. Fellers cannot have the event until the Village receives proof of permission for him to use polo field #2. Mr. Schofield said that was correct.

Councilman Napoleone stated, if staff is telling him that this permit conditions all spectator parking at the clubhouse area and not back on the fields, he is okay with that interpretation as long as it is clear to the applicant. He said polo practice is not generally the problem, because it involves a limited number of people. He stated if there is an event that involves spectators, they cannot be driving back there to park. He said they will have to walk or be shuttled in golf carts. He stated only the people bringing horses should be going back to those fields.

Councilman Drahos asked if that was addressed in the permit. Ms. Cramer stated it was addressed on the Site Plan, but for clarification she is willing to put a condition on the permit that states spectator parking is limited to the parking area provided at the clubhouse.

Vice Mayor McGovern stated that would make him feel better as well. He said as he understands condition #13 at present, is that the vehicular use of the current bridge to access polo field #3, is strictly prohibited until all of those other things happen, and they have not happened as of yet. Ms. Vail stated that was correct.

Vice Mayor McGovern stated right now with the passage of this, even if polo practice is happening there and all of those vehicles are going over there, it is going to be prohibited from here forward until all of these other conditions - the meeting with the engineer, the report being signed off, the guardrails - are dealt with. He asked if that was how they all understood it.

Mr. Fellers thought it might be better to just strike polo fields #2 and #3 from this Special Use Permit, because he has no control over what Mr. Straub may or may not do with that property. Mayor Gerwig stated that was going to be her question. She said Mr. Straub may just come in and play on it, because he owns the property.

Councilman Drahos stated he did not want to make a mistake in this Special Use Permit and undo what this Council just did a month ago.

Mr. Basehart stated staff would feel more comfortable eliminating polo fields #2 and #3 from the application. Mr. Fellers stated he had no problem with that. Councilman Drahos thanked Mr. Fellers.

Mayor Gerwig stated she did not want to give the impression that this had anything to do with the application that was denied a month ago. She said this is a Special Use Permit and that was a permanent use, so it is completely different.

Councilman Drahos indicated it states "equestrian sports" and that is not defined. He said he does see it as being a bit similar, even though it is a Special Use Permit. He stated the ambiguity of it is the same problem.

Mr. Schofield stated what Council was looking at in the land use change was a permanent thing that would have applied to a broader area and there was no detail to accompany it. He said the Special Use Permit has that level of detail: it shows where the fields are, it shows where the parking lots are, and it ends at a very specific time, as opposed to be something very general in nature. Councilman Napoleone indicated it has a specific number of events during a limited time window. Ms. Cohen noted it does not include field sports, which was objectionable to the residents of those communities.

Mr. Basehart stated the schedule that was received provides a detailed description of what types of activities are going to take place there. Ms. Cramer indicated staff has added a condition for the applicant to notify staff should the schedule change, so they can make sure the 105 days, if approved in their entirety, are not exceeded during the duration of the permit.

Councilman Napoleone stated the March 18th calendar that Council was given with the additional packet, shows the week of March 11th as having events on the 11th, 13th, 14th, 15th, 16th and 17th. He said six of seven days that week would have events, but some do not count as night time events.

Ms. Cramer stated that was a good question. She said this is what was proposed, and the permit states the applicant can have a maximum of two weekday and two weekend events.

Mr. Fellers stated they did it that way last year because it is hard to anticipate the exact dates, as they change or it rains. He said their agreement with the Village is that they would not exceed the two weekend and two weekday events, but they would have the flexibility to manage it. He stated he was not looking at the calendar, but it was certainly his understanding that they cannot exceed those limits.

Ms. Cramer indicated staff was expecting to get a modified calendar with the exact events in one of their meetings on Friday, but they did not receive it. She said they only received the notification for the February 14th date.

Mayor Gerwig stated either way that does not give the applicant permission to use all of those nights. Councilman Napoleone indicated he was fine with the applicant having two weekday events and two weekend events. Mr. Fellers stated the only exception he is asking for is the event on Valentine's Day, otherwise they clearly understand not to exceed the two weekday and two weekend events.

Councilman Napoleone stated without the HOA approval he would be inclined to not allow that event. But because it is a one-time event and the HOA seems to approve of it, he would be willing to take a chance that it goes off well. He said, if not, they will probably not allow it next time. He stated he is inclined to allow it as a trial to see how it goes, especially because the residents are in agreement with it.

Councilman Drahos asked if anyone from the HOA was going to speak. Mayor Gerwig indicated some comment cards were received from the public.

Ms. Cohen noted that Council was given an amendment that included an e-mail from Mr. Valdespino on January 5, 2018.

Councilman Drahos stated he agreed with Councilman Napoleone, as that is a key issue and the HOA's approval is a key point.

Vice Mayor McGovern indicated that Mr. Valdespino initially gave the HOA's agreement on Friday, November 10, 2017. He said he wanted to make sure everyone in this room was clear with the conditions. He stated the prohibition against off site signage means that there will be no signage on South Shore Blvd. Mr. Fellers agreed.

Vice Mayor McGovern stated the HOA is concerned about the parking lot and Greenview Cove Drive being cleaned up the morning after or soon after arena events and events where spectators are parking in those areas and bringing their own beverages. He said there is a condition about debris and manure within the fields, and the arena shall be cleaned up by 9:00 a.m. every morning following an event. He asked if that applied to the parking lot and along Greenview Cove Drive. Ms. Cramer stated that would include everything within the permit.

Mr. Fellers stated that has been done since they have been there. He thought that revolved back to the soccer matches three years ago. Vice Mayor McGovern asked if the cleanup after these events, particularly the ones that go into the night, includes the parking lot, Greenview Cove Drive, the entrance, the whole parking area, all of that. Mr. Fellers stated that was correct. He said it also included the fields if there is manure involved.

Vice Mayor McGovern stated in his meeting with Mr. Fellers, they talked about how the lighting is on every day. Mr. Fellers said there are parking lot lights and arena lights. Vice Mayor McGovern indicated the arena lights are on every night, even if there are no events. Mr. Fellers stated that was correct. Vice Mayor McGovern asked when the arena lights are shut off. Mr. Fellers stated the restaurant closes at 9:00 pm, Monday through Thursday, and the Village rules say 10:00 pm. He said they close between 10:00 pm and 11:00 pm on the weekends, but they are out by 11:00 pm in all circumstances.

Vice Mayor McGovern stated he and Mr. Fellers discussed that on nights when the lights could be shut off earlier, when no events are happening, that might go along way with the residents particularly as they address this in future years. Mr. Fellers stated he agreed. He said they have been doing that, and they think it is a good idea.

Mayor Gerwig asked what the purpose was of the putting lights on in the arena when nothing is going on. Mr. Feller stated it adds a nice ambiance and it kind of gives the indication that they are open. He said they have had a lot of neighbors participating in the restaurant with no complaints whatsoever, so he did not think it was bothering anyone.

Vice Mayor McGovern stated what Mr. Fellers just said is exactly what he said in their meeting. But the fact is every time Mr. Valdespino e-mails, as little lighting as possible seems to be the primary subject. Vice Mayor McGovern thought anything that could be done in that regard would keep this relationship amicable and be successful for both the residents and Mr. Fellers. Mr. Fellers agreed.

Public Hearing

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

Vice Mayor McGovern called on those individuals who wished to speak.

	Name	For	Against
1.	Randall Frink, 1499 Farmington Court, Wellington.		X
2.	Lauree Simmons, Big Dog Ranch, 1444 Okeechobee Blvd, Loxahatchee.	X	
3.	Jeanette Sassoon, 3500 Fairlane Farms Road, Wellington.	X	

4.	Nona Garson, 2144 Henley Place, Wellington.	X	
5.	George D'Ambrosio, 2144 Henley Place, Wellington.	X	

Vice Mayor McGovern read into the record the comment cards of those who did not wish to speak.

	Name	For	Against
1.	Kendall Bierer, 11866 Donlin Drive, Wellington.	X	
2.	Tom Blake, 13745 Norwick Street, Wellington.	X	
3.	Julianne Sandoval, 13745 Norwick Street, Wellington.	X	
4.	Arianna Delin, 11866 Donlin Drive, Wellington.	X	

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

Mr. Basehart stated, for the record, Council received some e-mails from residents. He said staff received one e-mail late this afternoon, which was another letter of support. Mayor Gerwig asked if it echoed what they heard earlier about liking the events and the restaurant. Ms. Cohen stated it would be part of the record.

Mayor Gerwig stated polo fields #2 and #3 have been stricken from this SUP application. She asked, if Mr. Fellers gets an agreement from the owner, if can he amend this application, if it has to come back to Council or if it is an entirely new process. Mr. Cramer thought that was up to how Council wanted to condition it. She said if Council wants to see this portion again, staff can bring it back to them. She stated if Council wants to condition it, so that it can be approved as provided once the consent is granted, then it would not need to come back through Council.

Mayor Gerwig stated the owner of the property can play polo every day, as it is a use by right. She said he cannot bring in spectators, lights, or anything like that, but he could play on these fields.

Vice Mayor McGovern asked if polo there was a use by right or if there some kind of letter between Mr. Schofield and Mr. Straub. Mr. Schofield stated he wrote a letter several years ago indicating that Mr. Straub could practice on those fields, but it did not approve polo matches. He said a Land Development Permit was pulled to modify the lakes and build polo fields there. He explained the letter was for the same type of polo practices or matches that were happening at Palm Beach Polo and the Wanderers Club in the past.

Vice Mayor McGovern clarified that polo is not a use by right on those fields, as an agreement is allowing it to go on. Mr. Schofield stated that is correct.

Mayor Gerwig stated it is a practice field and not an event. Mr. Schofield said it is basically practice. Vice Mayor McGovern stated it is a golf course, as Councilman Drahos just said. Mayor Gerwig indicated it is a vacant golf course. Mr. Schofield said that is correct.

Councilman Napoleone stated the property still has a land use designation of Commercial Recreation/Golf. He said that is why Council went through that whole ordeal last time, as the applicant wanted to change the entire property to something more. He stated the owner is able

to play polo on the golf course, because he has a letter from the Village Manager giving him the right to do so, but it is not a land use right.

Vice Mayor McGovern stated the letter could be revoked at any time. Mr. Schofield said it could. He stated the letter did not provide for tournaments, lights or anything like that. He said it was basically for Mr. Straub to get out there and play some stick & ball or practice. He thought games were allowed, but he would have to pull the letter and look at it. Mayor Gerwig stated that kind of play has never been lit, has never been attended, and has never impacted the community.

Councilman Drahos stated Mr. Straub just has an informal agreement right now to be able to play polo on a golf course. Mr. Schofield stated at the time the letter was written, polo was being played on golf courses. He said it was fairly common at the Wanderers of today and at Palm Beach Polo. He stated it was not something that was uncommon then or now.

Mr. Basehart stated it was just for activities and not events. Ms. Cohen indicated Mr. Straub was issued a cut and fill permit for the polo fields.

Mayor Gerwig stated Mr. Straub was issued a land development permit for polo fields. Mr. Schofield indicated that was correct. He said a land development permit is actually for the clearing and making them flat. He stated Mr. Straub was supposed to come back in with a plan to show what they were doing, but he never did.

Mr. Schofield stated if he were to write a similar letter today, it would include the things that needed to be done prior to coming in for an application, which never came in. He said to say they authorized something in perpetuity based on an expectation that something was going to happen but did not happen, changes where they are at. Mr. Schofield stated he has not read that letter in several years, but he would pull it and read it.

Councilman Napoleone asked Mr. Schofield to circulate that letter to Council. Mr. Schofield stated he would.

Mayor Gerwig thought they needed to separate that letter from this application, considering polo fields #2 and #3 have already been struck from this discussion. She said Council is looking at polo field #1 and the events in front of them right now. She stated the rest of it, as far as rescinding permissions and the like, have nothing to do with this SUP.

Councilman Napoleone stated that is true, but a question was raised: if the applicant wants to come back and get permission to use polo fields #2 and #3, how is that process going to work. Ms. Cohen suggested that since those fields have already been withdrawn from this application, and if the applicant is going to come back and make that request, that Council make it come back to them. She indicated they have already had some public comment tonight with respect to polo field #3 and the proximity of a homeowner to that field.

Vice Mayor McGovern did not think the applicant should have to reapply or restart the process. Ms. Cohen stated it should come directly back to Council. She said, since it was withdrawn, she did not think it was appropriate for it to be administratively approved thereafter.

Mayor Gerwig thought Council agreed to that condition. Councilman Drahos stated it was acceptable to him, as any discussion on the uses on polo fields #2 and #3 will come before Council.

Ms. Cramer thought the Village could waive its application fee since it would be an amendment, but they would probably still need to advertise and do the mailing. Mayor Gerwig stated the mailing does not have to be certified, as it could just be a standard mailing. Mr. Cramer said that was correct. She stated they would have to collect those fees, because it would be a cost to the Village.

Mayor Gerwig asked what the cost is for the mailing. Mr. Basehart stated it is \$700 for the Post advertising fee.

Councilman Napoleone stated he is inclined to vote for this, but compliance with the conditions is key as they had some compliance issues last time. He thought Mr. Fellers advised that he was going to be on top of his people and make sure they understand what this permit does and does not allow. He said he is also going to make sure the terms of the permit are complied with.

Councilman Napoleone stated he was confident Mr. Fellers was going to do that, because he feels Mr. Fellers wants this to succeed and continue. Councilman Napoleone indicated the last condition of the permit gives staff the right to revoke the permit if the conditions are not complied with. He said the Village is going to take that seriously, especially if they see the same problems as last time. He stated he wanted to make sure that everyone is aware that these conditions are here for a reason and they need to be complied with. He told Mr. Fellers to have a great six month season, but to make sure he complies with the terms that ensure the events are compatible with the community.

Councilman Drahos stated he had the overwhelmingly temptation to declare publicly that he sees this as a golf course, and that polo field #1 is allowed these specific uses for which Mr. Feller has applied for today and that is it. He said he never ratified a letter that allows Mr. Straub to use polo fields #2 and #3 for other uses. He told Mr. Fellers this is a delicate situation, because Mr. Fellers is looking for equestrian uses in a neighborhood that is not zoned for such uses. He said Council wants to make sure the residents are protected, and he thinks they have done that tonight. He stated he will vote in favor of the SUP as well.

Vice Mayor McGovern stated he too is going to vote in favor of the SUP, with the caveats that his colleagues have made. He pointed out that this will be coming back to Council again in the near number of years. He said it appears Mr. Fellers wants to be successful and run his operation year on year, so another letter, such as the one Ms. Cramer had to write to him back on November 21, 2017, would not bode well looking at this a year from now. He stated that was caution #1.

Vice Mayor McGovern stated caution #2 is that there has been a lot of vagary tonight, but the conditions are clear. He said the Village expects them to be lived up to, as it intends to enforce the conditions exactly and precisely as they are written. He indicated the final section states "By my signature below I hereby acknowledge receipt of the seasonal permit, have carefully read the foregoing, and know and understand its content. Further, I agree to be bound by all terms and conditions as contained in this document. I understand failure to abide by these conditions and site plan may result in code enforcement action with possible fines or immediate revocation of this seasonal permit." He stated that is highlighted in yellow and Mr. Fellers is going to sign it upon passage.

Ms. Cohen pointed out that under the amendment Council made to Article 5, if Mr. Fellers comes back next year and all of the conditions are the same as this year, it would be administratively approved. She said if there is a change, it will come back to Council.

Mayor Gerwig stated the applicant would not be eligible to reapply if there are complaints. Ms. Cramer indicated they would be eligible to reapply, but staff would probably make a recommendation for denial if there are complaints this season. Mr. Basehart said staff would not approve it administratively, but that the applicant could appeal to this board.

Mayor Gerwig stated the Village has a process in place. She said the statement will be signed by the applicant or he will not be given the permit. She thought the drama was not necessary.

Vice Mayor McGovern stated he took offense to that comment, as he was not being dramatic. He thought he was being clear that Council wants this to succeed and wants these conditions to be clearly understood, as they vote on this. He said the Council has had discussion, has heard presentation tonight, and has had meetings before today. He stated in support of his yes vote, he was taking assurances from Mr. Fellers that he, his staff and the management there are going to understand these conditions and not deviate from them as they have potentially had in the prior year.

Mayor Gerwig stated Mr. Fellers has to sign it in order to receive the Special Use Permit. She reminded Council that Mr. Fellers is working to make this event happen to bring something to the community. She said Mr. Fellers is kind of running interference right now with Mr. Straub, and she did not want to make matters worse for any one at the table. She stated she wants to have a great season and have it to be fun for the community, without it being a negative.

Mayor Gerwig stated she understood the concern of it being used as an equestrian property when it is not in the Equestrian Overlay Zoning District (EOZD). She said it was not previously approved as that, but Mr. Straub has owned it, has played polo on it and put in fields. She stated there was only so much the Village could do. She said she did not want to put Mr. Fellers in a more precarious position to where people just walk away from this process and do not even try, because the Village is trying to work with Mr. Fellers. She indicated there were a lot of complaints about the signage. She said she knows Mr. Fellers understands what the Village signage does and does not allow, and he has agreed to do that.

Councilwoman Siskind stated with the removal of polo fields #2 and #3, she can definitely support this seasonal permit. She said she respects and likes that Mr. Fellers is doing community minded charity events. She wished Mr. Fellers the best. She stated she hopes that he complies with all of the conditions and it all goes well, so that it can continue.

Ms. Cramer clarified that for the special permit, staff is going to remove polo fields #2 and #3 as well as add a condition about the spectator parking area being confined to the clubhouse parking. She asked if Council wanted to put a condition on the arena lighting for nonevent days.

Mayor Gerwig stated Mr. Fellers is not allowed to put signs out. She thought seeing the glow of the field let's everyone know something is going on.

Vice Mayor McGovern did not think a condition was needed, as the Village already has a lighting ordinance that handles this kind of thing. He thought this was more about Mr. Fellers and the community. He said Mayor Gerwig seems to think Council does not want to support these events. He stated they absolutely do, but they also want to support this community. He said Mr. Fellers and the community getting along and working together to support one another will be necessary for overall success, whether it be of the events or the financial success of Mr. Fellers' enterprise. He thought Mr. Fellers would figure that out as they go. Vice Mayor

McGovern believed there was a clear emphasis by the residents that lighting is one of their concerns. He thought if the lights could be shut off earlier on some days, it would behoove Mr. Fellers' business. Councilman Drahos agreed.

A motion was made by Councilman Napoleone, seconded by Vice Mayor McGovern, and unanimously passed (5-0) to approve Resolution No. R2018-01 (Polo West Golf Club Seasonal Permit) with the revisions and conditions as stated, and knowing that if there is a revision/amendment that the mailings would go out, the public would be heard, and they would have a public hearing on it.

8. REGULAR AGENDA

A. 17-1756 AUTHORIZATION TO AWARD A CONTRACT TO CONDUCT A HOUSING AND ECONOMIC IMPACT STUDY

Mr. Schofield introduced the item. He indicated Mr. O'Dell and Mr. De La Vega would be providing a brief presentation.

Mr. Schofield stated Council would recall that some months ago they awarded a contract to Strategic Planning Group (SPG). He said they prepared and collected data for a number of months for which there is progress billing. He stated it was at about \$42,000 when the Village terminated the contract. He indicated, at Council's request, staff has provided both reports along with the comments on them. He said it was clear the Village was not going to get the work product they needed.

Following up on Council's discussions from last night, Mr. Schofield stated staff wants a quick turnaround on the housing component, because they need it to complete the amendments to the Land Development Regulations (LDR). He said the Village is in no immediate need for the economic impact numbers that equate to the Equestrian Committee. He indicated staff spoke with Dr. Murray of Florida International University (FIU), and he is comfortable with delivering this data in the three to four month timeframe. Mr. Schofield stated, with that, staff is recommending approval of this contract.

Mr. Schofield indicated it has been a number of years, since the Village has had a contractor that did not perform. He said when these situations happen, staff likes to be open with Council and publicly disclose where they have had an issue.

Vice Mayor McGovern stated they need the housing component pretty quickly. He asked if FIU agreed to get that turned around in the three to four month timeframe. Mr. O'Dell indicated the Village would have a draft by the end of this month on the housing component.

Mr. Schofield stated FIU was comfortable with three to four months to complete the economic portion, because they wanted to get into the season. He said staff needs the housing element in order to present Articles 6 & 7 of the LDR to Council. He stated they will give the contractor adequate time for the economic portion, so there is nothing rushed about it, as that is the more important element of the study.

Vice Mayor McGovern stated that was his concern and what he was trying to understand. He asked when FIU started their work. Mr. O'Dell stated the contract was executed on June 13th, so they started working sometime thereafter.

Vice Mayor McGovern stated in six months SPG could not give the Village anything they found to be satisfactory. Mr. De La Vega stated the first draft was submitted on October 27, 2017, so it was four months before the Village received its first draft. Vice Mayor McGovern said, after several more months, it was still not any better.

Vice Mayor McGovern stated his concern was, in the interest of getting this project back up and running, if FIU was being rushed to the point where the Village will not get the report they want. Mr. O'Dell stated Dr. Murray has looked at the housing component and will try to have draft to the Village by the end of this month. He thought it was important for staff to take a good look at what Dr. Murray provides for the housing component by the end of the month, to make sure they hit the targets and scope of services that have been outlined.

Mr. O'Dell indicated the economic portion will take Dr. Murray a bit longer. He said that was one component Council talked about the other night as being very important. He thought that was something they really want to get right.

Mayor Gerwig stated FIU was going to engage the economic portion during the season, so they cannot do that part now. Mr. O'Dell stated that was correct.

Mayor Gerwig indicated Dr. Murray has already started on this process in good faith, because the Village needs it so quickly. Mr. O'Dell stated, in early December, staff met with FIU to see if the Village could get them on board and to make sure things would work out. He said FIU answered yes to all of the things the Village was lining up for them. Mr. O'Dell indicated he has given FIU as much data as he can for the housing component, and he is working with them right now as they speak.

Vice Mayor McGovern asked if they were working on a component or the whole thing. Mr. O'Dell stated FIU has been focusing on the housing component. He said they have been looking at the data staff has given them for the economic study as well, but he and Dr. Murray have been focusing on the housing component right now to get that up and running as quickly as possible.

Councilman Drahos asked if FIU was just using the data that was given to them or if they were creating their own as well. Mr. O'Dell stated he was giving FIU all of the data he generated for SPG as well as additional data that Dr. Murray has requested from the information they have in-house. He said Dr. Murray will generate his own data.

Councilman Napoleone asked if FIU was relying on any of the data that was collected from SPG. Mr. O'Dell stated they talked about that the other night, and FIU will be relying on some of the stakeholder interviews conducted by SPG. He said they can utilize some of that information. But to Mayor Gerwig's point, he thought whatever SPG data is given to FIU, they will spend time looking it over.

Councilman Napoleone stated he wanted to make sure the people who came in and took the time to interview with SPG do not feel their time was wasted. He said there is some benefit to those interviews and the information that was provided. He stated those people came in and it was a productive meeting, so it should be used in the new study.

Mr. O'Dell stated they are going to do their best to use that information, as he did not want to throw any of it away. He agreed the stakeholders spent the time and effort to meet with SPG, so they should try to use that information.

Mr. Schofield stated the questions that were asked by SPG were done in conjunction with staff, so the surveys are all still good. He indicated, in speaking with Dr. Murray, FIU wants to sit with each Council member individually to understand what Council wants. He said FIU wants to make sure, in addition to what is in the RFP, they know where Council wants them to go.

Vice Mayor McGovern asked if FIU was going to look at the stakeholder interviews to determine if they are useful. He thought they may need to follow-up with these people, call them back in, etc., as it is an overall look at the economic impact they can all rely upon. He said it is not important to him for FIU to use something SPG did just for the sake of using it. Vice Mayor McGovern stated if FIU wants to throw it all away and start again that is fine, if that is what needs to happen.

Mayor Gerwig stated she agreed, as it should add value to the overall study. She thought Councilman Napoleone's point was that people outside of their field have already invested. She said if their information is usable, FIU should try to use it. Vice Mayor McGovern agreed.

Mr. Schofield stated FIU might want to do some follow-up, but the questions were done in conjunction with staff. He said they all agreed on those questions. He stated he has not heard anything from Dr. Murray to indicate that he is not comfortable with at least part of the data. Mr. Schofield guessed that FIU will do some additional interviewing on the economic part, as they do want to talk to the Council members.

Vice Mayor McGovern asked why FIU was not selected the first time. Mr. De La Vega explained the RFP was a two-step process, where a five member selection committee evaluated all of the proposals and short listed three firms to move on to the interviews and presentation stage. He said SPG ranked #1 in the initial stage and after the interviews and presentations, although FIU was very close.

Mr. De La Vega stated he has been with the Village for ten years and this was the first time they have had to terminate a contract based on a recommendation made by a selection committee. He said the contract Mr. Schofield was talking about was a straight seal bid, low bid and not an RFP.

Councilman Drahos thought it was the right call, as the Village was not getting what it paid for. He stated it is better to cut their losses now and start anew with the number two contractor.

Mr. Schofield indicated no comment cards were received from the public.

A motion was made by Councilman Napoleone, seconded by Councilwoman Siskind, and unanimously passed (5-0) to approve the Authorization to Award a Contract to FIU to Conduct a Housing and Economic Impact Study.

9. PUBLIC FORUM

Mr. Schofield indicated no comment cards were received from the public.

10. ATTORNEY'S REPORT

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

- She announced there will be a community informational meeting for the Wellington Historical Society on January 11, 2018, from 5:30 p.m. to 7:30 p.m. at The Grill. She stated they were inviting the public to come out and get involved. She said refreshments are being sponsored by Schaefer Drugs and drinks will be available for purchase at the bar.

Mayor Gerwig stated Ms. Cohen was appealing to members of the community who have been in the Village for a long time and want to get involved in putting together and launching this organization. Ms. Cohen indicated this meeting is also for anyone interested in updating everyone on what has occurred in the Village so far, and where they think it is going. She hoped to sign up people for various committees and generate some public interest in the organization.

- She indicated she handed Council a brief summary of various attorney fee possibilities for the FMIT claims.

At this point, Mayor Gerwig recused herself from this discussion. She stated she serves on the Board of Trustees for the FMIT, so it would be a conflict for her to engage in it. She left the Chambers.

Ms. Cohen explained the Village made ten claims against their FMIT insurance policy for a lot of litigation that occurred prior to 2013 when she began working at the Village. She said the claims were denied. She stated, in responding to the FMIT lawsuit that was filed against the Village, she had their outside insurance attorney look at the claims and the policies to determine whether he believed there was coverage under the policy. She indicated it is Mr. Friedman's opinion that the claims should have been paid pursuant to the policy. She said staff has had some discussions with Mr. Friedman with respect to taking on this matter.

Ms. Cohen indicated there are several possibilities for his fee arrangement:

1. A straight hourly fee with a high discounted government rate at \$475 an hour. She said his regular rate is higher.
2. A mixed fee arrangement where the Village would pay 50% of this hourly rate, plus a 20% contingency and 22.5% contingency for any appeal.
3. A phased contingency where pre-suit would be 15%, pre-discovery would be 20%, up through summary judgement would be 25%, post summary judgement through trial and appeal would be 40%.

Ms. Cohen stated there is no way to know how many hours would need to be expended on the ten different claims, but for comparison she gave Council a breakdown of what each fee arrangement would come out to if 100 hours were expended.

1. On an hourly basis, if the attorney billed 100 hours, it would be \$47,500.
2. A mixed fee arrangement, where the Village would pay 50% of the fee plus the contingency, it would be \$23,750 for the hourly portion and then 20% contingency assuming the entire \$608,858.20 outstanding was awarded, the total would be \$145,520.64.

3. Under the phased contingency, pre-suit would be \$91,328.73, pre-discovery would be \$121,771.64, up through summary judgement would be \$152,214.55, post summary judgement through trial and appeal would be \$243,543.28.

Ms. Cohen stated she had no way to know if 100 hours is high or low. She said she could tell Council that the Village has ten different claims.

Councilman Napoleone thought 100 hours was going to be low. Ms. Cohen said it is likely to be low.

Ms. Cohen stated she initially thought the phased contingency made a lot of sense, because the Village will know what the expenses are all the way up through trial and appeal. She reminded Council that this is found money and essentially nothing will come out of the Village's pockets. She stated if they resolve these claims, it will be money the Village would not otherwise have been able to collect. She said, at this point, her recommendation is the phased contingency.

Vice Mayor McGovern asked if the Village would be paying the costs under every scenario. Ms. Cohen believed the Village would be paying the costs under the hourly and under the hourly plus the contingency. She stated the costs would be for filing a lawsuit on the various claims.

Councilman Napoleone stated there are going to be deposition costs, transcript costs, etc., and they add up quickly. Ms. Cohen said did not recall whether that was exactly the case, but she believed the Village would be paying the costs.

Councilman Drahos asked if there was a prevailing party provision. Ms. Cohen explained if the Village files suit and they resolve, win, or settle, there is an entitlement to attorneys' fees under the statute. She said it is not a prevailing party fee, as it is for the insured. She thought that was intended to encourage pre-suit negotiation and settlement. She indicated Mr. Friedman has a reputation that is well known to FMIT and thought that would be helpful in spurring some pre-litigation discussion.

Councilman Napoleone stated if the Village wins on summary judgement or at trial, FMIT is going to pay damages plus the Village's attorney fees. Ms. Cohen said that was correct.

Councilman Drahos asked if the attorney's contingency would get paid on top of his fees. Ms. Cohen stated that was correct. She said it was full damages to the Village, plus full fees to the attorney.

Councilman Napoleone stated that is why he thinks phased contingencies are best. Vice Mayor McGovern said if the matter resolves, the phased contingency may not be the best way to go. Ms. Cohen stated it may not. However, she reminded Council that there are ten separate claims and each of them involve different facts, as giving rise to the lawsuit and interpretations of different portions of the policy. She said it is impossible to know or project how much time will be expended in the analysis and in negotiating the case. She stated the Village may come out better with an hourly rate, if the case settles early prior to filing a lawsuit. On the other hand, if the case goes on for a long period of time, the phased contingency could be better. She said it is an unknown.

Councilwoman Siskind stated it is a known versus an unknown. She said to her the phased contingency seems a bit more logical. She asked if there was any room to negotiate, like offer 10% for the pre-suit, or if the percentages were set in stone. Ms. Cohen said she did not think anything was set in stone. She stated this is what the attorney offered as to what he would be willing to take to handle these matters on a contingency basis. She said she could go back with a proposal for 10%, but she had no way to know if it was something he would consider. She stated she would have to come back to Council at their next meeting.

Vice Mayor McGovern asked which option everyone was inclined to. Councilman Napoleone stated he was inclined to the pure contingency, as he did not think it would settle that quickly. He said the phased contingency is a pure contingency, as there is no hourly fee, and it is all contingent on recovery.

Councilman Drahos thought Councilwoman Siskind made a good point, as 15% pre-suit is a lot. He believed they could get him to take 10%, especially since the Village is a repeat client.

Ms. Cohen stated she could not speak for Mr. Friedman. She said she could only go back and request it. She stated she had no idea whether he would be amenable, but she could report back at the next meeting.

Councilman Napoleone thought they should have that discussion, because he did not realize this was just the attorney's offer. He thought this was the result of some negotiations between Ms. Cohen and Mr. Friedman.

Ms. Cohen stated it was discussed between them and she felt okay with it, as she does not know how many hours will be put into the pre-suit negotiations. She said she thinks there is time for and an appetite for some pre-suit negotiations and perhaps a resolution, but again she has no way to project how much time will be necessary.

Councilman Drahos asked if there has been any discussion with FMIT on this subject. Ms. Cohen stated some preliminary discussions have taken place. She indicated FMIT has requested a summary from Mr. Friedman as to each claim and where he believes the coverage exits under the policy. She stated Mr. Friedman is working on that, as she authorized it under the hourly rate and it can be switched to whatever fee structure Council ultimately agrees on.

Councilman Napoleone stated if the potential recovery of \$608,000 was their best case scenario, the Village is not going to get \$608,000. He said the contingencies under each phase would be much less than the numbers shown, because they reflect a complete victory and the Village is not going to get that in a settlement. Ms. Cohen said those were the only numbers she had to go with. Councilman Napoleone stated he understood that. He just wanted it to be clear for the people who were discussing this or who might be watching this.

Vice Mayor McGovern asked Councilman Napoleone to give him his best professional estimation on number of hours. Councilman Napoleone stated the hours are not driven by the work their attorney does. He said the hours are driven by the other side, how hard they fight and if they want a lot of discovery or depositions.

Vice Mayor McGovern asked if it would be 200, 300 or 500 hours. Councilman Napoleone thought if the case goes to trial it could be 300 hours. He said if it gets resolved at summary judgement that usually takes a long time to put together and prepare, especially if there are ten separate claims. He stated the hourly numbers will always be higher than what is estimated or anticipated, because they have no control over them. He said the attorney can control what he does, but he cannot control what the other side does that requires the attorney to respond. He stated it will be less hours if it settles quickly, but there is no way to know that going in.

Councilman Drahos stated, statistically speaking, it is going to settle. He said more cases settle than go to trial. Councilman Napoleone stated at what stage they settle is the key.

Vice Mayor McGovern stated he personally thought the phased contingency percentages were significantly high. He indicated, looking at the mixed fee, if they get to 500 hours and the 20%, they are at a number that is less than or just about equivalent to the 40% post-summary judgement and appeal. He said he understood the phased contingency and he likes the idea, but he could not support it at these percentages.

Councilman Drahos asked if they could do a contingency that was not based on the status of the litigation, but based on the amount of hours that have been put in during each phase. He said that might be getting too complicated.

Ms. Cohen stated the problem is the phases are designed to account for the increasing amount of work as the case moves closer to trial. She said she is willing to go back and offer lower percentages on the phased contingency. Or, if Council decides the hourly or mixed fee is ultimately cost efficient for the Village that is fine too, because it will save the Village money if it settles early.

Vice Mayor McGovern thought it should be noted for anyone watching that this is for the recovery of money the Village had expended long before 2013. Ms. Cohen stated the Village was told this money was not owed or due under the policy. She said it would be a benefit to the community to recover these funds.

Vice Mayor McGovern stated that is why he thought the phased contingency, where they are not spending money essentially, becomes an appealing option. However, the percentages are too high. He said they should be like 10%, 15%, 20%, and 30%. Councilman Napoleone agreed something in that ballpark would be better. He said he liked the idea of going on a pure contingency, as opposed to the hourly rate. Vice Mayor McGovern agreed as well, because they would not be spending any taxpayer money. Ms. Cohen stated they would not be at risk.

Vice Mayor McGovern indicated they would be going down 5% at each phase and then down 10% at the end. He thought that was fair and very significant. Ms. Cohen stated should would go back and discuss it with Mr. Friedman, and report back to Council at their next meeting.

Vice Mayor McGovern asked Ms. Cohen to tell Mr. Friedman that this is Council's high end, and that she could have negotiated something lower, but she needed some direction. He said Council could have said 10%, 15%, 18% and 25%.

Councilman Drahos stated Mr. Freedman has already reviewed this and said the Village has a case. Ms. Cohen said he has reviewed it and his opinion is that there is coverage.

Councilman Napoleone asked if there was a statute of limitations coming up soon. Ms. Cohen indicated there was, but they have some time. Vice Mayor McGovern asked if they have enough time to have this discussion and address it at another meeting. Ms. Cohen said they were not in jeopardy of the statute.

Councilman Drahos stated Ms. Cohen was going back with 10%, 15%, 20% and 30%. Ms. Cohen stated that was correct, as the maximums.

At this point, Mayor Gerwig returned to the Chambers.

11. MANAGER'S REPORT

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

- The next Regular Council Meeting will be held on Tuesday, January 23, 2018, at 7:00 p.m. in the Council Chambers, followed by the annual Acme Improvement District Landowners Meeting.
- He stated Council and management staff will be in Tallahassee this Tuesday, Wednesday and Thursday meeting with the Legislature as part of Palm Beach County's legislative effort.
- He announced that Village offices will be closed on Monday, January 15th, in observance of the Martin Luther King holiday.

12. COUNCIL REPORTS

COUNCILMAN NAPOLEONE: Councilman Napoleone presented the following report:

- He wished everyone a Happy New Year.
- He stated he looked forward to a couple of productive days in Tallahassee.
- He mentioned that on Sunday, January 21, 2018, from 11:00 am to 1:00 pm, the Village of Wellington, PBSO, and the Florida Atlantic University Centers for Autism and Related Disabilities is having a Day for Autism event at the Wellington Community Center and amphitheater. He said it will be a great day for the community to interact with PBSO and create more awareness about people with special abilities. He hoped everyone would come out and join them at the event.

COUNCILMAN DRAHOS: Councilman Drahos presented the following report:

- He stated he looked forward to spending time with his fellow Council members in Tallahassee.

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

- He thanked staff and PBSO for bringing together Village establishment, restaurant and bar owners for the follow-up meeting to Operation Wild Stallion that they had right before the Christmas holiday. He asked if they could get an update on that report and set a

date for a follow-up meeting with those establishment owners, as they had requested. He said they could discuss this at the next meeting. Mr. Schofield indicated the follow-up dates are set for the last Thursday of each month. Vice Mayor McGovern indicated the next meeting will be at the end of January.

Vice Mayor McGovern he asked if they will get an update from Captain Silva or Lt. Shaivitz at the next Council Meeting. Mr. Schofield stated he will also have them prepare a brief update on where they are now. He stated he is receiving end of week reports on it. He said they will put that together and get it distributed to Council.

- He wished everyone a Happy New Year and welcomed everyone back to school. He cautioned Village drivers to be safe in the morning, now that all of the kids have returned to school.
- He stated he looked forward to being with all of the Council members in Tallahassee.

COUNCILWOMAN SISKIND: Councilwoman Siskind presented the following report:

- She hoped everyone had a great holiday and a Happy New Year.
- She congratulated the Boys & Girls Club for a great event on Saturday. She said they raised a lot of money and it was a fun event.
- She welcomed NewSound Church to the community, as they had their launch on Sunday. She said she went to the service and it was amazing. She stated she knows they are going to do a lot of great things.
- She said she would see all of them in Tallahassee.

MAYOR GERWIG: Mayor Gerwig presented the following report:

- She explained she will not be at the Wellington Historical event. She said this Council is the now and she wanted the history to show up. She stated she thought Ms. Cohen was doing a great job at getting them started. Mayor Gerwig said she will have some ideas for them once they get organized. She thought they could ask them to take on some responsibilities. She stated she likes what she has heard so far, so she appreciates that.
- She indicated someone talked about the marijuana ordinance earlier and said the Village would get the tax benefit if it had medical marijuana here. She said medical marijuana is not taxed, so there is no tax benefit to the Village. She stated she just wanted to get that on the record.

13. ADJOURNMENT

There being no further business to come before the Village Council, the meeting was adjourned at approximately 10:14 PM.

Approved:

Anne Gerwig, Mayor

Chevelle D. Nubin, Village Clerk