

MINUTES

REGULAR MEETING OF THE WELLINGTON VILLAGE COUNCIL

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

**Tuesday, April 9, 2019
7:00 p.m.**

Pursuant to the foregoing notice, a Regular Meeting of the Wellington Council was held on Tuesday, April 9, 2019, commencing at 7:00 p.m. at Wellington Village Hall, 12300 Forest Hill Boulevard, Wellington, FL 33414.

Council Members present: Anne Gerwig, Mayor; Michael Drahos, Vice Mayor; John T. McGovern, Councilman; Michael J. 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** – Mayor Gerwig led the Pledge of Allegiance.
3. **INVOCATION** – Dr. Dave Smith, New Sound Church, Wellington, delivered the invocation.
4. **APPROVAL OF AGENDA**

Mr. Schofield indicated staff recommended approval of the Agenda as amended:

1) Postpone item 6A, Presentation of the American Public Works Association (APWA) Re-Accreditation Award to the Village of Wellington Public Works Department, until the April 23, 2019, agenda. He said the APWA was not able to attend this evening.

2) Move consent item 7A, National Donate Life Month Proclamation, to Presentations and Proclamations as item 6B.

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

5. **APPOINTMENT OF VICE MAYOR**
 - A. **19-2781 APPOINTMENT OF VICE MAYOR**

Mr. Schofield introduced the item. He indicated that Council, in addition to appointing the Vice Mayor for the Village of Wellington, also needed to appoint the Vice President for the Acme Improvement District. He said normally the person who is appointed holds both posts.

Mr. Schofield suggested, if Council is willing, they adopt a policy that states the Mayor and Vice Mayor serve as the President and Vice President of Acme. Ms. Cohen believed that the President and Vice President of Acme were appointed at the Annual Acme Landowners Meeting. She stated that policy would have to be changed to make the appointments coincide.

Vice Mayor Drahos stated he would be proud to appoint his colleague and friend, Councilman Napoleone, as the Vice Mayor of the Village of Wellington and Vice President of the Acme Improvement District. Ms. Cohen asked if there were any other nominations from the Board. Hearing no other nominations, Mayor Gerwig asked if there was a second. Councilwoman Siskind seconded the nomination and it unanimously passed (5-0).

6. PRESENTATIONS AND PROCLAMATIONS

A. 19-2672 PRESENTATION OF THE AMERICAN PUBLIC WORKS ASSOCIATION (APWA) RE-ACCREDITATION AWARD TO THE VILLAGE OF WELLINGTON PUBLIC WORKS DEPARTMENT

This item was postponed to the April 23, 2019, agenda.

B. 19-2818 NATIONAL DONATE LIFE MONTH PROCLAMATION

This item was formally Consent item 7A.

Ms. Maureen Budjinski, Life Alliance UM Ambassador for Donate Life, stated she is a long time Wellington resident and has been an organ, eye and tissue donor advocate for 45 years. She said does this with love and passion.

Ms. Budjinski indicated there are currently well over 113,600 people waiting for a lifesaving transplant. On each day, an average of 79 people receive a transplant. However, 22 die every day waiting for that give of life. She stated someone is added to the transplant list every ten minutes. She said most everyone is in favor of organ donation, but only 58% are actually registered. She stated her job is to go around and speak about the myths and facts of organ donation.

Ms. Budjinski explained when she started advocating, she did not know that her unborn son at the time would be in need of a liver transplant from a rare disease called Primary Sclerosing Cholangitis (PSC). She stated her son was born and raised in Wellington, went to college, and came back and became the community editor for the Town Crier. She said he subsequently passed away almost four years ago. She stated she still advocates for him, her sister and for everyone.

Ms. Budjinski thanked Council for letting her speak about organ donation.

Mayor Gerwig asked how someone would know they are an organ donor. Ms. Budjinski stated it is in the records, but most importantly everyone should tell their next of kin. She said if someone gets into a car accident and their family does not realize they are a donor, the family

could say no and override was on their driver's license.

Ms. Budjinski indicated about seven countries have presumed consent, where their people are automatically organ donors unless they opt out. She stated she was not advocating for this, as she was just letting them know what is being done in other countries.

Ms. Budjinski stated that people can go to donatelife.org or unos.gov, United Network of Organ Sharing, to sign up or they can Google "donate life." She said her foundation trains the people who work at the DMV, but they are so busy and cannot answer all of the questions.

Mayor Gerwig stated people can be on a list for live donations. Ms. Budjinski indicated that they started to perfect, after her son was too sick to get a transplant, partial liver transplants.

Mayor Gerwig stated there was also a worldwide registry for bone marrow. Ms. Budjinski said that was separate from this foundation.

Ms. Budjinski stated that eight lives can be saved from an organ donor. She said they are doing more and more with the donations of tissue, bone, and skin. She stated she does not hear much about the hand and face transplants, but people can read about it.

Mayor Gerwig thanked Ms. Budjinski for bringing awareness to this cause. She said everyone needs to make their loved ones aware and make sure their driver's license has the right notation.

Vice Mayor Napoleone stated he signed up to be an organ donor without getting a new driver's license, so their driver's license may not always indicate it. Ms. Budjinski stated he is in the system. She said, in the early days, she had it printed and signed on a piece of paper that she carried with her.

7. CONSENT AGENDA

A. 19-2818 NATIONAL DONATE LIFE MONTH PROCLAMATION

This item was moved to Presentations and Proclamations as item 6B.

B. 18-2320 AUTHORIZATION TO CONTINUE UTILIZING A SOUTHEAST FLORIDA COOPERATIVE CONTRACT FOR THE PURCHASE AND DELIVERY OF SWIMMING POOL CHEMICALS

C. 18-2356 AUTHORIZATION TO AWARD A CONTRACT FOR NEW NANOFILTRATION MEMBRANES FOR REVERSE OSMOSIS PLANTS 1 AND 2

D. 19-2641 AUTHORIZATION TO RENEW EXISTING CONTRACTS FOR THE PURCHASE OF SOD

E. 19-2642 AUTHORIZATION TO RENEW EXISTING CONTRACTS FOR DISASTER DEBRIS RECOVERY SERVICES

F. 19-2753 AUTHORIZATION TO AWARD TASK ORDERS FOR THE WATER TREATMENT PLANT RENEWAL AND REPLACEMENT PROJECT

- G. 19-2764** AUTHORIZATION TO AWARD A CONTRACT FOR THE VILLAGE PARK BASEBALL AND SOFTBALL FIELD DUGOUT REPLACEMENT PROJECT
- H. 19-2749** RESOLUTION NO. R2019-14 (INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY TO LEASE FUEL DISPENSING EQUIPMENT)
- A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE A FUEL CONTROL EQUIPMENT AGREEMENT WITH PALM BEACH COUNTY; AND PROVIDING AN EFFECTIVE DATE.
- I. 19-2838** RESOLUTION NO. R2019-16 FOR THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION GRANT FUNDS AND RESOLUTION NO. R2019-17 FOR A BUDGET AMENDMENT TO ALLOCATE THE GRANT
- RESOLUTION NO. R2019-16: A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL TO ENTER INTO AN AGREEMENT WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE PURPOSE OF RECEIVING A GRANT UNDER PROVISIONS OF THE RECREATIONAL TRAILS PROGRAM FOR THE PEACEFUL WATERS PHASE II TRAIL IMPROVEMENT PROJECT NUMBER T1828; AND PROVIDING AN EFFECTIVE DATE.
- RESOLUTION NO. R2019-17: A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE FISCAL YEAR 2018-2019 CAPITAL FUND BUDGET FOR THE RECREATIONAL TRAILS PROGRAM FOR THE PEACEFUL WATERS PHASE II TRAIL IMPROVEMENT PROJECT NUMBER T1828; AND PROVIDING AN EFFECTIVE DATE.
- J. 19-2846** RESOLUTION NO. R2019-18 (BUILDING DEPARTMENT BUDGET AMENDMENT)
- A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE BUILDING FUND BUDGET FOR FISCAL YEAR 2018-2019 BY ALLOCATING MONIES FROM BUILDING RESERVES TO THE OPERATING BUDGET FOR INSPECTION SERVICES AND ERP PROJECT SUPPORT THROUGH SEPTEMBER 30, 2019; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield indicated one comment card was received regarding item 7D.

1. Bruce Tumin, 752 Lake Wellington Drive, Wellington. Mr. Tumin commented on item 7D. He questioned the amount of sod that is being purchased by the Village and what it is being used for.

Mr. Schofield indicated that most of the sod will go into the sports fields that are worn out. He said there is appropriate maintenance and irrigation of the sod.

A motion was made by Vice Mayor Napoleone, seconded by Councilwoman Siskind, and unanimously passed (5-0), to approve the Consent Agenda as amended.

Mr. Schofield indicated one public comment card was received.

1. Bruce Tumin, 752 Lake Wellington Drive, Wellington.

a) Mr. Tumin commented on the extension of the amphitheater sound cable tunnel, so that people do not trip over the cable. He questioned the location of the opening for the cable tunnel and why it was not dug in a straight line.

b) Mr. Tumin stated the State of Florida only requires Action Summary written minutes, but the Village could go further with their minutes, especially if they wanted public input. He said he realizes when he sends the Village emails it is public information, but when he sends it to one member of Council, he expects them to get it first and not the staff. He asked, when staff is controlling his speech with the minutes and intercepting emails, who is running the Village.

8. PUBLIC HEARINGS

A. 19-2795 ORDINANCE NO. 2019-03 (NIGHTCLUB)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING ARTICLE 3 (DEFINITIONS); AMENDING ARTICLE 6, TABLE 6.4-1 (USE REGULATION SCHEDULE), TABLE 6.8-2 (PLANNED DEVELOPMENT DISTRICT USE REGULATION SCHEDULE), AND TABLE C (EOZD PERMITTED, CONDITIONAL AND PROHIBITED USES); AMENDING SECTION 6.4.4 (SUPPLEMENTARY USE STANDARDS) OF THE LAND DEVELOPMENT REGULATIONS OF THE VILLAGE OF WELLINGTON, FLORIDA, RELATING TO USES; TO REGULATE THE LOCATION OF NIGHTCLUB BUSINESSES AND CREATE OPERATION STANDARDS AND REQUIREMENTS; PROVIDING A CONFLICTS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

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

Mr. Basehart stated this Ordinance is intended to further the efforts the Council has made over the last couple of years to minimize or eliminate the negative effects that businesses that operate as nightclubs have on the surrounding public. He said some issues associated with nightclub activity are underage drinking and patrons overindulging in alcohol and then leaving the establishment and causing or partly causing accidents, some of which have been fatal over the last few years. He stated there also have been instances of vandalism in parking lots and surrounding neighborhoods, and even fights and incidents of that nature.

Mr. Basehart stated the initiation of this effort was made by the Sheriff's Department. He said they provided the Village with a copy of the ordinance the County recently adopted and suggested that the Village adopt it as well or something similar. He indicated all of the municipalities in the County have been approached by the Sheriff's Department and some have

already adopted similar ordinances to the one staff is proposing tonight. He stated staff did not suggest adopting the County ordinance, because they believe any law that is enacted locally should fit local needs and objectives. He noted that a lot of what is in the County ordinance is already in the Village's code.

Mr. Basehart explained staff wrote this Ordinance to keep it simple and not duplicate the language that is in the code. He said this Ordinance basically has three components. He indicated staff amended the definitions in the code to create a definition for nightclub and made minor modifications to the definitions of cocktail lounge and restaurant. He stated staff created the standards that will be implemented by this Ordinance and they will go into Section 6.4.4, Supplementary Use Standards, of the Land Development Regulations. He said staff has also established criteria for determining if a particular business is a nightclub. He noted that it is possible that some businesses may not be nightclubs most of the day or week, but in parts of the day or week they may function that way. He said that instance is accommodated by this ordinance.

Mr. Basehart stated included is a set of criteria in the particular requirements that would determine whether a particular business was functioning as a nightclub or not. Mayor Gerwig said it could be what the Village would normally qualify as a restaurant during the day and still be a nightclub at night if it met certain criteria.

Mr. Basehart stated if an admission charge or one-time membership fee is paid that would automatically make it a nightclub. He said when those conditions do not apply, it would be a night club if the business meets four of the six criteria that were added to the code.

Mayor Gerwig asked about a country club that has an initiation fee. Mr. Basehart indicated it would not be a nightclub, because they have annual membership fees. He stated he has been told that certain businesses sometimes charge a patron, to get around code requirements, a one-time membership fee to get in the first time, and then they receive a card and never have to do that again. He said that is the kind of action this code addresses.

Mayor Gerwig asked if the establishment had to be serving alcohol to be a nightclub. Mr. Basehart stated that alcohol sales is one of the six criteria.

Vice Mayor Napoleone indicated the definition of a nightclub is any commercial establishment at which alcohol is sold. He said that was the first step. He stated the second step is if they are charging the one-time fee. He said if the establishment does not fit those two steps, they then have to check four of the six criteria that will turn them into a nightclub to fall within this Ordinance.

Mr. Basehart indicated this Ordinance also addresses the primary regulatory issues of admission requirements. He stated any business functioning as a nightclub is prohibited from allowing anyone under legal drinking age to enter with some exceptions. He said employees do not necessarily have to meet minimum drinking age and members of the military do not need to meet the minimum drinking age. He stated there is also a requirement for providing security. He said the requirement is one security personnel, either a Class D licensed security officer or an off duty law enforcement officer, for every 150 persons the facility can accommodate.

Mr. Basehart stated the last component is that staff had to amend the use tables. He said staff is proposing an exemption for any existing businesses in town, but any new businesses that meet the criteria to be a nightclub would require conditional use approval granted by the Village

Council. He indicated the exemption for existing businesses is that they do not have to get Village Council approval, but they do have to comply with the operational requirements in the code. Mayor Gerwig stated that included security on site, operational hours and the like.

Vice Mayor Napoleone stated this Ordinance does not change operational hours. He said it just says if a business is operating as a nightclub, whether it is a restaurant during the day or a nightclub now, they have to have one security officer for every 150 people and they cannot admit anyone under the age of 21. He stated that is the only change this Ordinance creates. Ms. Cohen said this was true for the time the business is functioning as a nightclub.

Mayor Gerwig asked about the reference to advertised house parties in the Ordinance, as the Village has had issues with that. She asked if this Ordinance would stop that from happening. Mr. Basehart stated if the proposed event or activity either required an admission charge or met four of the six criteria, it would be controlled by this Ordinance.

Mr. Basehart stated that this Ordinance has been thoroughly vetted. He said staff went through a list of seventy (70) businesses in Wellington that have a liquor license and whittled it down to sixteen (16) businesses that could potentially meet the criteria. He said he sent a letter explaining the Ordinance to each of those businesses and included a copy of the Ordinance and Staff Report. He stated he was contacted by three people and two of them would not necessarily be nightclubs under the provisions of this Ordinance. He noted this Ordinance was taken before the PZAB, Equestrian Committee, and Public Safety Committee, and all three unanimously recommended approval.

Mr. Basehart stated he discussed an issue in this Ordinance with one person who contacted him. He said, on page 460 under (e), it states nightclub establishments located at equestrian facilities within the EOZD may only be open for business during the days and hours when equestrian competition events are being conducted on the property where they are located. He indicated staff was proposing they take out "and hours" and just make it "days." He stated hours of operation limitations for the showgrounds are in their permit approval and the conditions allow them to operate as a nightclub for a couple of hours after the competition starts on two days of the week. He said the hours of the facility are controlled and regulated by the approval conditions for the equestrian arena approval that they have. He stated somebody could argue that this provision, without taking out "and hours," would eliminate the approval that was granted by the Council.

Mayor Gerwig stated they already have hour limitations on there, but staff is just suggesting that it does not match. Mr. Basehart stated he was saying that the words "and hours" is unnecessary and conflicts with any approved hours.

Vice Mayor Napoleone asked if the Village has received any objections from anyone to the proposed Ordinance. Mr. Basehart stated no objections have been received.

Mr. Schofield clarified that out of the three responses Mr. Basehart received, the two businesses they determined were not nightclubs identified themselves. He stated the one where no determination was made was anonymous, so they do not know who it is.

Councilman McGovern asked about page 459, section 76(A), lines 4-7, where it states a nightclub means any commercial establishment at which a cover charge, door charge, contribution requirement or one-time membership fee is paid at the door. He said it then goes on to talk about drink requirements. He asked if the terms cover charge, door charge, etc., were

defined somewhere else in the code. Mr. Basehart stated he did not think those terms were defined in the code.

Councilman McGovern stated his concern is that if this does not have some kind of hours or something placed with it, if they have to pay a cover charge to go into anywhere, then it automatically becomes a nightclub.

Vice Mayor Napoleone indicated line 40 on the prior page says nightclub means any commercial establishment in which alcohol is sold and consumed and which, at any one time, is determined to be a nightclub by application of the factors set forth in Article 6. He stated he did not think that would apply.

Ms. Cohen stated they were looking at two different sections. She said they were looking at the general definitions that apply throughout the code on page 458, and page 459 was the Supplemental Use Standards definitions. She said the definition on page 459 is a more specific definition for the purposes of the nightclub operation.

Councilman McGovern indicated factor #4 states alcohol is sold. He said it could be a nightclub, even if alcohol is not sold, if it meets four of the criteria.

Councilman McGovern thought the change that 76(A) requires is some kind of timeframe, meaning after 9:00 PM or something. Mr. Schofield asked if there was a midnight to 8:00 AM timeframe. Councilman McGovern stated it was in the criteria below.

Councilman Drahos asked Mr. Basehart how the County ordinance compared in this regard. Mr. Basehart stated 76(A) at the top of page 459 is directly out of the County ordinance.

Mr. Basehart said, as Mr. Schofield pointed out, one of the criteria would potentially make an establishment a nightclub if it is open to the public anytime between midnight and 8:00 AM. He suggested adding a word or two to the provision above.

Councilman McGovern thought if the establishment is charging a cover fee or the like, and it gets to be 10:00 PM or 11:00 PM, they were moving into being a nightclub. He said he understood the midnight to 8:00 AM when looking at the multiplicity of other factors. He stated he believed the Village could protect itself by putting in a timeframe there.

Mr. Schofield stated it could be changed to 10:00 PM to 8:00 AM. Councilman McGovern said he thinks it needs to go into 76(A) - Nightclub means any commercial establishment open after 10:00 PM at which . . . Mr. Basehart stated staff could add that language.

Mayor Gerwig indicated this was first reading, so they expect to hear back from establishments with any concerns.

Mayor Gerwig stated there are two places where it says platform, musical staging or dance floor. She said she could see that being pretty standard at Village Music or places like that. She wanted to make sure they were not capturing something completely unrelated to a nightclub. Councilman McGovern stated they would not meet the rest of the criteria, as they would not meet #2, #3, #4 or #5.

Mayor Gerwig stated when it is advertised as, e.g., House Party Saturday Night, Saturday Night DJ Night, Live Music Tonight, or other words can be inserted there, they are trying to capture

those house parties that have happened. Ms. Cohen said it is hard to make an exhaustive list. Mr. Basehart stated that is why staff said for instance or e.g., House Party Saturday Night, etc., as it is not exclusive.

Mayor Gerwig thanked staff for the work that has gone into this Ordinance. She said it is not easy trying to capture what they are trying to do. She stated they have heard from people saying they do not want their young people to have to travel all the way downtown and be under another kind of risk if they could just Uber someplace locally. She said the Village was not suggesting not having entertainment here, but she thinks they are trying very hard to keep it under control with security. She thought that was the main focus of this Ordinance.

Councilman McGovern believed job one for this Council was to protect the public safety and doing it in a way that allows businesses to be successful and patrons to be safe. He stated staff has done a good job. He said this Ordinance is tailored and understandable, and staff has gone out of their way to make sure it is not duplicative to other sections of the code.

Vice Mayor Napoleone stated depending on the criteria, a business with a big event and alcohol should have security as it could invite problems. Councilman McGovern said if they want to be a successful business, they should want to have security.

Mr. Schofield stated Mr. Basehart did a good job crafting the language and tailoring it to Wellington. He said it does not discourage nightclubs or say the Village does not want nightclubs here. He stated it says the Village wants the nightclubs to have security and not admit anyone one under the age of 21. He said that is what this Ordinance does.

Councilwoman Siskind thought it was important to note that this is in conjunction with the Palm Beach Sheriff's Office, because together they are all trying to work to keep their residents safe.

Mayor Gerwig stated these establishments are required to be responsible. She said if they see someone intoxicated, they are expected to prevent them from leaving the establishment. She stated there are obligations behind serving alcohol. Mr. Basehart said that is part of what the security is for.

Public Hearing

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

1. Bruce Tumin, 752 Lake Wellington Drive, Wellington. Mr. Tumin asked if there was a need for this Ordinance and if there was data to support it. He stated the Village already has laws and ordinances to deal with underage drinking, public intoxication, DUI's and fake identification. He thought the country clubs and the Village's events would be included, as there were 3,000 people at the amphitheater a couple of months ago. He stated that would require twenty officers instead of the one they use, thus increasing Village costs to hold events. He asked if the "shall" in item 76(A), item (b), is the same as the "shall" in other ordinances and where the mandate for one officer per 150 occupants comes from. He said if the Village wants to dictate security and operating requirements for these specific businesses, they should be good stewards of the residents' taxes by reducing the police force. He stated they will not need as many public officers, because the private sectors will be taking care of the security.

2. Catherine Green, 1104 Summerwood Circle, Wellington. Ms. Green stated she moved to

Wellington in 1987 and is raising six kids in the Village. She said she has a business that services this area, but she is also a bartender at one of the businesses the Village is considering to be a nightclub. She stated her boss could not be there, so she told him she would stop by. She said she looked over the six requirements that make a business a nightclub and she feels it is unclear. She stated the Council is debating if the nightclub kicks in at midnight or 10:00 PM, and that is yet to be defined. She questioned the 150 capacity, as it is seldom that these businesses have 150 people in them at midnight. She asked at what point do the numbers matter for capacity for requiring security to be on premise. She stated she saw that the security has to have a Class D license or be an off duty officer, which she understands. She thought the Village would be better served by implementing the Serve Safe requirement that teaches bartenders what to look for in fake ID's. She stated during equestrian season they get a lot of people from different countries and the officers are not familiar with these ID's. She thought a little education there would help. She said she was unclear as to what the security officers are going to do. She stated she works at JoJo's and they have a stage, but they use it for trivia and bingo, which end by 9:00 PM. She said they do not have live music, so technically they fall into #4, but they don't. She stated she is having trouble figuring out if they are a nightclub. She said they are a family friendly establishment and do not want to be considered a nightclub.

Mr. Schofield stated they normally do not respond to public comments. He said he thought staff specifically looked at JoJo's, and the Village has never seen them operate as a nightclub. He stated JoJo's operates as a restaurant. He said there is no intention for restaurants who serve alcohol to be treated as nightclubs. He suggested that Ms. Green spend some time with Mr. Basehart, so that he could clarify this for her.

Mayor Gerwig stated that was the conversation that they were all trying to have. She asked about the 150 capacity.

Mr. Schofield stated most of the establishments that serve alcohol are restaurants and not nightclubs. He said if they are open after midnight, they are still restaurants.

Councilman McGovern stated, looking at page 458, JoJo's would not be included, because the sale and service of food is available at all times when the business is open. Mr. Schofield stated that was one of the major distinctions, as nightclubs do not typically serve a full menu.

Mayor Gerwig stated there will be a second reading of this Ordinance. She said they encourage this kind of interaction with the community businesses, so that they are not inadvertently doing something.

Regarding Mr. Tumin's question about the amphitheater, Mayor Gerwig stated they never go past midnight at the amphitheater. She said the Food Trucks sometimes serve alcohol and PBSO is on site, as it is a Village requirement. She stated there is what ends up being a dance floor and a stage that is elevated.

Mr. Schofield stated they do not generally have 3,000 people at the events at one time. Mayor Gerwig said she has seen 3,000 people there several times. She stated it does not meet the requirements, because it does not have four of the six criteria.

Mr. Basehart thought what the Village does for security at the amphitheater and Village Hall property, basically would comply with the code anyway. Mayor Gerwig stated there would not be one officer for every 150 people.

Mr. Schofield stated the Village has not run an event that would basically put them in the definition of a nightclub. Councilman McGovern indicated the nightclub definition calls for an establishment or structure. Mr. Schofield stated the Village does not run events for a crowd of people who are there just to drink and have some type of entertainment.

Ms. Cohen indicated, regarding the events at the amphitheater, the Village is a governmental entity and not a commercial establishment that puts on events for the public. She said in her view it does not fall within the provisions of this Ordinance; but, nevertheless, the Village has security at all of their amphitheater events.

Mr. Schofield stated if someone were to lease the Grand Ballroom in the Community Center, it could theoretically operate as a nightclub. He said, in that case, they would be required to have security. Mayor Gerwig stated security is already required on site when renters are serving alcohol and leasing Village facilities. Ms. Cohen stated that was correct under the Village Alcohol Policy. Mayor Gerwig said it was for good reason, because the Village has learned from experience.

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

A motion was made by Councilman McGovern, seconded by Vice Mayor Napoleone, and unanimously passed (5-0), to approve Ordinance No. 2019-03 (Nightclub) as amended on First Reading.

B. 19-2839 ORDINANCE NO. 2018-10 (SMALL CELL WIRELESS ORDINANCE):

AN ORDINANCE OF THE VILLAGE OF WELLINGTON AMENDING THE VILLAGE CODE BY REPEALING AND REPLACING CHAPTER 23, "COMMUNICATIONS FACILITIES RIGHTS-OF-WAY ORDINANCE", TO PROVIDE FOR CERTAIN STANDARDS AND REGULATIONS RELATING TO THE LOCATION OF COMMUNICATION FACILITIES AND OTHER STRUCTURES WITHIN THE VILLAGE'S PUBLIC RIGHTS-OF-WAY, CONSISTENT WITH FEDERAL AND STATE LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the item and indicated that staff recommends postponing this item time certain until April 23, 2019.

Mayor Gerwig stated Council discussed this item at Agenda Review yesterday.

Ms. Cohen indicated the reason for the postponement. She explained that she, the consultant and the Village Engineering Department have been in communication with the small cell providers. She stated a number of revisions have been made to satisfy some of the providers' concerns. She said those revisions are not reflected in the ordinance as part of Council's package. She stated they had a group meeting on Thursday, so the final ordinance will be

presented to Council on April 23, 2019. She said she anticipated, although the group has done a lot to satisfy some of the providers' concerns, they are not going to be happy with everything in the ordinance. She stated the group feels the ordinance meets all requirements of the law. She thought it would be beneficial to the Council and to the public for the consultant to be here when this ordinance is presented on second reading, in order to answer any questions that may come up or any objections that may be raised by the providers.

A motion was made by Councilwoman Siskind, seconded by Councilman Drahos, and unanimously passed (5-0), to postpone Ordinance No. 2018-10 (Small Cell Wireless Ordinance) time certain to the April 23, 2019 Council Meeting.

9. REGULAR AGENDA

10. PUBLIC FORUM

Mr. Schofield indicated no public comment cards were received.

11. ATTORNEY'S REPORT

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

- Ms. Cohen stated she had no report.

12. MANAGER'S REPORT

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

- The next Regular Council Meeting will be held on Tuesday, April 23, 2019 at 7:00 p.m. in the Council Chambers.
- The next Lakeside Family Fun Event is this Thursday, April 11, 2019, starting at 4:30 PM with a carnival theme.
- Village offices will be closed on Friday, April 19, 2019, in observance of Good Friday.
- Wellington's Annual Egg Hunt is Saturday, April 20, 2019, at the Village Park softball fields and begins promptly at 10:00 AM.

13. COUNCIL REPORTS

COUNCILWOMAN SISKIND: Councilwoman Siskind presented the following report:

- She wished a Happy Passover and Happy Easter to those who celebrate these holidays.

COUNCILMAN MCGOVERN: Councilman McGovern presented the following report:

- He thanked the Parks & Recreation crew for operating the Fraternal Order of Police John Scollo Memorial Softball Tournament this past weekend. He said it was another successful event.
- He congratulated three local teachers for being finalists for the 2019 Dwyer Awards: Karen Epstein of Wellington Landings Middle School, Kathy Zangen from Binks Forest Elementary, and Tracy Sheppard of Elbridge Gale Elementary. He said the Dwyer Award is a wonderful commendation for teachers who really go above and beyond.

- He wished everyone a Happy Passover and Happy Easter.

COUNCILMAN DRAHOS: Councilman Drahos presented the following report:

- He stated he had no report.

VICE MAYOR NAPOLEONE: Vice Mayor Napoleone presented the following report:

- He thanked the Council for appointing him Vice Mayor of the Village of Wellington and Vice President of the Acme Improvement District. He said he appreciated the vote and that he looks forward to it.

MAYOR GERWIG: Mayor Gerwig presented the following report:

- She stated it was great having the students for Civics 101. She said only one school is doing it this year, but it is nice to hear the engagement with Council. She stated the students had some really good questions. She acknowledged Ms. Edwards and staff for coordinating it, as it is an outstanding program. She said it has gone from a one night overview of government and meet the Council to a real exercise in city government.
- She announced that Kona Ice will be giving free cups of shaved ice on Monday, April 15, 2019, from 5:00 PM to 6:30 PM to the children at Scott's Place playground. She said it will be provided by the owner of Kona Ice of Southwest Palm Beach in honor of National Chill Out Day.
- She thanked everyone for participating in the Relay for Life. She said it was nice to see the community come out for a great cause.
- She asked Ms. Cohen about the new state law that is being implemented. She asked if their Small Cell ordinance will need to be changed based on what they end up doing in Tallahassee.

Ms. Cohen stated it could potentially change, but the Village needs to get the standards in place. She said the Village has an agreement with the small cell providers that they not submit any applications until the Village gets this ordinance adopted. She stated it is in the Village's best interest to adopt it. She said if they need to amend it based on what the legislature does, they will do that at a later date.

Mayor Gerwig stated it has been a difficult battle because of the money invested in communications. She said with all of the lobbyists in Tallahassee, it does not give them a good feeling. She stated it again feels like a little disregard for local government and that they are not viewing them in the right light. She said none of them want their residents to have less cell surface. She stated the Village wants to encourage that in every way possible, but to give up all of the community standards and the types of things they are again asking for is difficult. She thanked staff for bringing it forward and for the work they have done.

Mayor Gerwig indicated Mr. Schofield has talked to the Village lobbyists about this. Mr. Schofield stated the lobbyists will be appearing to express the Village's opposition as it moves forward. He said it appears the legislation will clear the legislature and the Governor's desk. Mayor Gerwig stated it would help the Village if they could get the revised language in there.

Mayor Gerwig stated the tree trimming ordinance is another problematic one. She said the language they were asking for is basically that tree trimming would be allowed in circumstances where there is a storm and an arborist is saying that the tree is diseased and has to be removed, so certifications like that would still happen. She stated the part that was problematic for her was that they could one-by-one lose all of their trees and their canopy would be gone. She said it was clearly stated that they would not have to mitigate for those trees.

Mr. Schofield stated the language was provided. He said it was brief, but it said mitigation would be required where there was a minimum tree standard.

Mayor Gerwig hoped that the legislature could understand that the Village would not want to deforest the entire community over someone. She stated she spoke with Senator Albritton. She said her example was that they were are trying to fix a problem statewide that really only happened in one place. She hoped they could get that revision in there to make sure the Village could still meet its minimum standards for trees. She said it is important because the Village is a tree city and it is important for cooling the area, and it is something they feel strongly about.

- She stated the Village did very well in the Let's Move competition. She said tomorrow night she will be at the South Florida Science Museum at 6:00 PM to celebrate the Let's Move campaign. She stated she was really proud of how everyone stepped it up for this competition.

14. ADJOURNMENT

There being no further business to come before the Village Council, the meeting was adjourned at approximately 8:05 PM.

Approved:

Anne Gerwig, Mayor

Chevelle D. Nubin, Village Clerk