

Village of Wellington

*12300 Forest Hill Blvd
Wellington, FL 33414*



Action Summary

Monday, May 13, 2019

4:00 PM

Village Hall - Conference Rooms 1E & 1F

Village Council Workshop

*Anne Gerwig, Mayor
Michael J. Napoleone, Vice Mayor
John T. McGovern, Councilman
Michael Drahos, Councilman
Tanya Siskind, Councilwoman*

1. CALL TO ORDER

Mayor Gerwig called the meeting to order at 4:00 p.m.

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

2. PLEDGE OF ALLEGIANCE

Mayor Gerwig led the Pledge of Allegiance.

3. REVIEW OF COUNCIL AGENDA

Mr. Schofield presented the agenda for the May 14, 2019 Regular Wellington Council Meeting.

A. [19-2906](#) RECOGNITION OF WELLINGTON'S COP'S FOR VOLUNTEER AWARDS

Mr. Schofield introduced the agenda item. Volunteer Sergeant Kenneth (Ken) Finkleman and Volunteer Captain Chet McCarthy for the Palm Beach County Sheriff's Office Citizen Patrol Program (COP) will be recognized..

B. [19-2984](#) MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETINGS OF MARCH 12, 2019 AND APRIL 9, 2019

Mr. Schofield introduced the agenda item. This was Council approval of the Minutes of the Regular Wellington Council Meetings of March 12, 2019 and April 9, 2019. He advised Council that if they had any corrections to the Minutes, they should contact Ms. Callovi who would make the changes.

C. [19-2644](#) AUTHORIZATION TO AWARD A CONTRACT FOR THE ESSEX PARK OBSERVATION PLATFORM PROJECT

Mr. Schofield introduced the agenda item. This was authorization to award a contract to Ferreira Construction Company, Inc. for the Essex Park Observation Platform in the amount of \$463,138.70.

Mr. Schofield said that there is a Water Conservation Fund Grant in the amount of \$200,00. He noted that this involves refurbishing the playground, replacing their surfaces, doing some additional pathways, some additional cross work and then constructing the observation platform on the canal which is what entitles the Village to the grant.

Mayor Gerwig asked if this was similar to the previously ones that had

been done. Mr. Lundeen said that this was similar to what was done at Dorchester.

Mr. Lundeen went through the plans showing the playground area that they would be resurfacing, where the new sidewalk would be, and the fencing along the observation deck. Mayor Gerwig asked if this sidewalk needed to be ADA compliant. Mr. Lundeen responded affirmatively. Mr. Lundeen also directed Council to the plans that showed the three dimensional drawing of the observation deck.

Mayor Gerwig asked if the Village had any previous problems with the metal docks. Mr. Lundeen said they had not. Mr. Barnes added that they would try these at the two locations before installing any more to see how they hold up to wear and tear. He said they were hopeful they won't have the flammability issue. He noted that this is the second similar project.

Councilman McGovern said that the \$200,000 of the funding was coming from the grant. Mr. Barnes said that was correct. He noted that they try to tie it to when they have other improvements they are looking to make.

Mayor Gerwig asked if the playground surface would be that rubberized surface. Mr. Lundeen responded affirmatively.

D. [19-2645](#)

AUTHORIZATION TO RENEW AN EXISTING CONTRACT FOR THE SUPPLY AND DELIVERY OF ROAD BASE

Mr. Schofield introduced the agenda item. This was authorization to renew an existing contract with Palm Beach Aggregates, LLC for the supply and delivery of road base, in the amount of approximately \$126,000.00 annually. He noted that this is a budgeted item. Mr. Schofield said the original bid award was done in 20017 and this is the first of the renewal options. He said that they did not look for another type because they use very specialized shellrock in the Equestrian Preserve Area which is something that is horse friendly and this is the only supplier. He pointed out that their prices are compatible with everyone else for fill material, and reiterated it was the only place to get that particular type of shellrock. He noted there is no price increase and staff recommended approval.

Mayor Gerwig said that they hear from all sides on this, but this is the one that the Village feels is the best compromise in terms of surface. Mr. Schofield noted that an adjacent community is having problems with the size of the aggregate in their shellrock pointing out that horses don't take well to big rock. He added that this shellrock is very fine and it doesn't hurt the horses.

Councilman McGovern asked how long has the Village been using this

material. Mr. Barnes said that they did not have the number, but it was awhile. Mr. Schofield added that it had been at least 8 or 9 years.

E. [19-2920](#)

AUTHORIZATION TO AWARD A CONTRACT FOR THE REPAIRS AND INSPECTION OF PUMP STATION NO. 9

Mr. Schofield introduced the agenda item. This was authorization to award a contract to FPI Pumps, Inc., for the repairs and inspection of Pump Station No. 9, at a cost of \$44,308.00.

Mr. Lundeen said that the scope of this project includes bringing the crane out there, pulling the pumps up and out and installing and reinstalling them after they have been serviced. He noted that once they are out, the seals are replaced, bearings, if needed as well as other things that may be needed.

Mayor Gerwig asked if this significantly extended the useful life of the pump. Mr. Lundeen responded affirmatively.

Mr. Schofield added that this was budgeted maintenance.

F. [19-2921](#)

AUTHORIZATION TO AWARD A TASK ORDER TO PROVIDE ENGINEERING CONSULTING SERVICES FOR THE WATER TREATMENT PLANT

Mr. Schofield introduced the agenda item. This was authorization to award a task order to Kimley-Horn and Associates, Inc. for the design of the Membrane Plant No. 2 Train 7 Build Out Project, in the amount of \$99,645. He said that there had been some work on the line plant that had been originally budgeted for \$144,300; however, in evaluating that, it has additional life to it so Ms. LaRocque had another item that she would explain.

Ms. LaRocque explained that they were currently involved in the expansion of the Water Plant and significant renewal and replacement which includes the installation of Train 7 and the membrane plant. She explained that the design originally called for half of the train's capacity to be put in place now which is .9 mgb. Ms. LaRocque said that the three plants, the two membrane plants and the line plant are currently rated at 11 million gallons per day by the Florida Department of Health. She noted that the Village was not allowed to go beyond that or have treatment capacity beyond that without their approval. She noted that once someone pays capacity fees, the Village has to guarantee them capacity in the plant. Ms. LaRocque said that as they continue to evaluate that they now have about 2.84 million gallons per day in capacity remaining. However, she said that when they add projects that are currently in the place which include Village Royale project which has

significant growth as well as other projects such as the Fina property, the Village is left with about .5 mgb of capacity remaining which does not include equipment out of service. She noted that some of their trains are at 1 million gallons a day, and the Village does not have that capacity when they temporarily come out of service available. Ms. LaRocque explained that the Department of Health requires that when the Village gets to 80% of their capacity, they have to be under design with an expansion. She said that the Village was currently at 75%. She added that given the unprecedented level of projects currently in the planning phase, they believe it makes a lot of sense to move forward with this at this time. Ms. LaRocque said that the design was not budgeted this year, and construction will be in the Capital Plan next year for Council's consideration. She pointed out that construction was valued at \$1.9 million. She said that over the last two years, they had the line plant and evaluation of replacement of that plant projected out a few years. However, over the past two years, they have been evaluating enhancements in membrane technology that would allow them to expand the membrane plant beyond what was originally envisioned them to be. She said that allows the Village to increase the membrane capacity, reduce the line plant capacity and allow them to defer a big investment in the line plant. Ms. LaRocque said that Council had previously approved a master plan for the line plant in the amount of \$144,000. She recommended that they no longer need to do that because it focuses on the membrane plant and expanding that. Ms. LaRocque said that her recommendation was to use the money they had previously been set aside to do the line plant and use it to pay for the design to expand the capacity. She thought it was also important to note that half a million gallon capacity a day does not even include the Mall. Ms. LaRocque said that they were now at a point where they really needed to move forward with the capacity expansion.

Councilman McGovern asked how far this would allow it to expand. Ms. LaRocque said that it would allow another .9 million gallons per day. She indicated that she felt very comfortable that would provide enough flexibility relative to upcoming projects and projects that haven't started construction but that purchased capacity. Ms. LaRocque explained that they continue to monitor the capacity as each project comes in. She said that they had not intended that they needed this project expansion this soon, but she believed they need to do so in order to ensure they have the capacity when the development occurs.

Councilman Drahos asked how this would be impacted if Homeland was annexed into Wellington. Ms. LaRocque said that would be additional capacity. Mayor Gerwig pointed out that Homeland is on wells and asked if that would still impact it. Ms. LaRocque said that it would have

an impact if they connected to the Village's water system. She said that they have completed an analysis of the ultimate water system demand through 2038 and at this time the number is around 15 million gallons a day. She said that there are certain areas that they assume will connect that may not do so, but she felt confident that they need to do so with the expansion with the projects that have bought capacity and other projects coming on line, She said that they have the funds to do so and it fits within the capital planning

Councilwoman Siskind asked if the funds were basically being swapped from one project to another. Ms. LaRocque said that was correct. She explained that they still need to do a master plan but it will be more focused on what can be done to maximize the capacity out of the two membrane plants. She said that there was alot of things they could do to squeeze as much as possible out of the membrane plants because they say they have to demo the line plant and build another.

Councilwoman Siskind asked how long Ms. LaRocque thought she could defer on the line plant. Ms. LaRocque thought it would be about 12-13 or more years. if the Village moves forward with incrementally expanding the membrane plant and taking it to its maximum, She said that they would ultimately not do that until it was absolutely needed from a capacity standpoint.

Mayor Gerwig asked if the line plant was older technology. Ms. LaRocque responded affirmatively. She said that every three years the EPA requires the Village to test the list of unregulated contaminants, which is done by utilities across the country. She explained that they take the results of these and develop new regulations. Ms. LaRocque said that there are significant changes in the pipeline that would require most utilities to implement membrane treatment and phase out line softening because it does not provide a barrier to viruses or bacteria; however, the Village was not at that point now, but they are constantly evaluating water quality requirements current and upcoming.

Mayor Gerwig thought this was partly upgrading new technology. Ms. LaRocque said that this was an expansion for capacity, but the replacement for the line plant in the future would be twofold: (1) to meet capacity needs and (2) to meet any upcoming water quality improvement requirements.

Mayor Gerwig asked if the new users who were coming on line were expected to pay for these upgrades. Ms. LaRocque said that every project pays capacity fees and those capacity fees are used for expansion of the system. She noted that the Village Royale apartment

complex in Royal Palm Beach paid about \$1.6 million in capacity fees. She said that those monies will be used to offset this expansion cost among other things. She said that they have to segregate capacity, water and wastewater so the water capacity fees pays for water improvement and the wastewater capacity fees pays for wastewater improvements.

Mr. Schofield said that he wanted Council to be clear about what Ms. LaRocque just said. He said that they were about 75% of capacity while the regulatory requirement is that once we get to 80%, they are required to be in design. He said that as new projects come on line, some of the things on SR7 and things the Mall is asking for were things that were not anticipated in the current capacity. He said when they come on line, they will have to expand. He said that Council will see them in budgets in the outlying years. Mr. Schofield said that the good thing about this is that the Village's comp plan says that new projects pay for their capacity. He said that they do not pass that capacity back to current ratepayers. He said that as those projects come on line, they will see them.

Ms. LaRocque said that the Village is always looking three, four or five years out because it takes a while from design to permitting to construction for a plant expansion for at least three years.

Councilman McGovern said that is why when they get to 80% they are required in design. Mr. Schofield said that was correct. He said that the 10 and 20 year plan certainly considered these things. He said that they did not want there to be any misunderstanding on the part of the public because the current ratepayers will not be paying for the expansion of capacity as new projects come in. Ms. LaRocque said that the good thing about this is that it is a relatively minor design because they already have most of the framework at the plant in place, so they will be ready to go out to bid in 6 months.

Mayor Gerwig asked if they expected the apartments at Village Royale to be users since the bridge is open. Ms. LaRocque said that they are renting them. She said that staff is meeting with different developers on every pod. She said that there is a significant amount of capacity on Village Royale.

G. [19-2922](#)

AUTHORIZATION TO UTILIZE A PALM BEACH COUNTY CONTRACT WITH HINTERLAND GROUP, INC. FOR MANHOLE REPAIRS AND REHABILITATION

Mr. Schofield introduced the agenda item. This was authorization to utilize Palm Beach County contract #R2019-0216 with Hinterland Group, Inc., as a basis for pricing, for manhole repairs and rehabilitation in an amount not to exceed \$200,000 annually. He explained that the Village

does about \$200,000 worth of these types of repairs per year. He noted that this was budgeted. Mr. Schofield said that they only know that there are a certain number of repairs that happen, and they won't be able to say specifically where they are. He said that this was the best price that they could find, and recommended approval.

Mayor Gerwig asked how long the contract had been in place. Ms. LaRocque said that this was a piggyback contract with the County, and thought they just renewed it within the last two years. She said that this company was very familiar to Wellington because this is their bread and butter business and they do an excellent job.

Vice Mayor Napoleone said that these funds come out of the utility budget. Ms. LaRocque responded affirmatively. Mr. Schofield added that the funds were available.

H. [19-2927](#)

AUTHORIZATION TO AWARD A CONTRACT TO PROVIDE ENGINEERING CONSULTING SERVICES FOR THE TOWN CENTER BOARDWALK PROJECT

Mr. Schofield introduced the agenda item. This was authorization to award a contract to Simmons and White, Inc. to provide engineering consulting services for the Town Center Boardwalk Project, in the amount of \$74,000. He explained that this was only for the Boardwalk. He further explained that these projects are divided into two phases: the design phase and the contract administration phase noting that this was both of them. Mr. Schofield said that this was a very good price for the project as it gets the design done. Mr. Lundeen added that it included structural, electrical, civil site work, environmental for the lake's littoral planting and construction administration. He noted that the survey for the project was completed under a separate work order with one of the Village's continuing consultants in order to save time. Mr. Lundeen said that the permitting that will have to be done is through the South Florida Water Management District. He said that the company will also be doing a cost estimate for the entire project.

Mayor Gerwig noted that there was no plan, and said that they were developing the plan as they build it. Mr. Lundeen said that they were currently working on a conceptual plan. Mayor Gerwig asked if they have a conceptual plan, and if so, she hasn't seen it. Mr. Schofield said that he would provide it. He explained that the boardwalk pretty much following the existing line, it is 20 feet wide, and there are a couple of places where you could have access. Mr. Schofield said that they were not looking to make it any wider. He said that if this is the only part of the project that they ever do, it needs to stand on its own and if they do something else, it needs to be expandable. Mr. Schofield pointed out that the unique element of this was that when you are touring the

boardwalk, you don't want people going straight into the water noting that they have elected to go with a 18 or 24 inch seat.

Mr. Barnes explained that what was being approved was the actual contract to get the detailed design done. He said that what they have now is just the footprint that will vary between 20 and 30 feet. He said this was to give them the maximum flexibility as they eventually get to more planning on the Town Center site so that they won't be in conflict when the two projects come together.

Mr. Schofield said that the company will submit plans at different intervals, and advised Council that as they get to the 30 and 50% plans, they will get those plans to Council so that they have a chance to review them to ensure they are consistent with what Council had in mind.

Mayor Gerwig said that they are looking at just being able to utilize the lake for walking. Mr. Barnes said that it will also allow for waterside access noting that they have had access from the different boating communities that utilize Lake Wellington while at the same time accommodating the pedestrian traffic. He said that right now it is not conducive to boaters coming up as they are having to do makeshift docks.

Mayor Gerwig said that this did not include any floating docks noting that her understanding was that it was difficult to dock pantoon boats at any height unless it changes with the water level. She asked if this would allow for that. Mr. Lundeen responded affirmatively. He explained that the docks will be floating docks that will have an adjustable ramp. Mr. Barnes said that this will provide the design and concept, but what normally happens was that the floating docks themselves will be part of the design of the actual project when you go to construction because it will vary with what the final product is. He said that the chances were that the design engineer isn't going to design the floating docks that will be done by a manufacturer. Mr. Barnes believed they will have concepts, but this will not include the design of those floating platforms, but will include the concept and then they can determine how to incorporate that into the actual structure. He said that what they will see coming up soon is the Construction Manager process to construct this which will allow the flexibility as this as being designed.

I. [19-2928](#)

AUTHORIZATION TO EXTEND A LEASE AGREEMENT BETWEEN ACME IMPROVEMENT DISTRICT AND J. ALDERMAN FARMS, INC. FOR THE K-PARK SITE

Mr. Schofield introduced the agenda item. This was authorization to extend a lease agreement between Acme Improvement District and J. Alderman Farms, Inc. for the K-Park site in the amount of \$40,000

annually. He said that this stops the Village from doing maintenance on this property. He noted that there are taxes due on this property, but J. Alderman Farms is responsible for paying the taxes. Mr. Schofield said this included a termination notice of 120 days; however, if they have a crop planted, they would allow let them to harvest that before terminating the lease. He believed that this was the 8th year of the lease.

Mayor Gerwig asked what would be the expenses for the Village to maintain this property. Mr. Schofield said that it would be about \$50,000 to \$55,000 just to get a mow a month. Mayor Gerwig said that there was no negative impact because it is an organic farm. She said that this was a good use of vacant property.

Councilman McGovern said that this was a win-win for Wellington. Mr. Schofield responded affirmatively noting that Wellington gets a little income, money is not being spent to maintain it and they are doing a good job keeping it in good condition. He said that they have not had any problems since the inception of the lease.

Mayor Gerwig said that people are constantly asking what is growing there, but they don't know what it is. Mr. Barnes said that he believed it was winter vegetables.

Mayor Gerwig noted that she receives alot of compliments on the buffer there.

J. [19-2947](#)

RESOLUTION NO. R2019-21 (AUTHORIZATION AND APPROVAL OF QUIT CLAIM DEED BETWEEN THE VILLAGE OF WELLINGTON AND PALM BEACH POLO AND COUNTRY CLUB PROPERTY OWNERS' ASSOCIATION, INC.)

A RESOLUTION OF THE VILLAGE COUNCIL OF WELLINGTON, FLORIDA APPROVING A QUIT CLAIM DEED BETWEEN THE VILLAGE OF WELLINGTON AND PALM BEACH POLO AND COUNTRY CLUB PROPERTY OWNERS' ASSOCIATION, INC. FOR CONVEYANCE OF THE STORMWATER MANAGEMENT TRACTS; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the agenda item. This was approval of Resolution No. R2019-21 authorizing the execution of a Quit Claim Deed between the Village of Wellington and Palm Beach Polo and Country Club Property Owners' Association, Inc. for the conveyance of stormwater management tracts from the Village to the Property Owners' Association.

Mr. Schofield explained that there were two lakes that were predominantly under the ownership of the POA and these are the very

end pieces that are next to a private road. He said that the Village proposes to take those little pieces of lake that the Village is responsible for and turn them over to the POA who should be maintaining them because the culvert that goes under it belongs to them as well as the rest of the lakes. He said that there was no reason why the Village should be maintaining them.

Councilman McGovern asked why the little part belongs to the Village. Ms. Cohen explained that it had been dedicated to the Village on the plat.

Mayor Gerwig said that they don't want to maintain these things that the Village doesn't even have access to. She requested to see something prior to the meeting to show the location. The aerial of the site was then shown to the Council. Mr. Schofield pointed out the areas in question.

K. [19-2954](#)

RESOLUTION NO. R2019-22 (TOWN CENTER PROJECT FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION FLORIDA BOATING IMPROVEMENT GRANT)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AUTHORIZING THE FILING OF A GRANT APPLICATION TO THE FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION FLORIDA BOATING IMPROVEMENT PROGRAM FOR THE TOWN CENTER PROJECT AND PROVIDING FOR ACCEPTANCE OF THE TERMS AND CONDITIONS THEREOF, PROVIDING THE REQUIRED CERTIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Schofield introduced the agenda item. This was approval of Resolution No. R2019-22 authorizing the Village of Wellington to file a grant application with the Florida Fish and Wildlife Conservation Commission Florida Boating Improvement Program for the Town Center Project. He said that the Fish and Wildlife Commission now wants resolutions submitted for grants. He said the Village will apply for a grant in the amount of \$200,000 to be applied towards the Town Center Boardwalk.

Mr. Schofield pointed out that in Section 2 of the resolution the amount was incorrectly listed as \$250,000 as it should be \$200,000. He stated that the Village has been pretty successful with the grants noting that it is the same grant as the Essex Project for the observation platform.

L. [19-2956](#)

RESOLUTION NO. R2019-24 (SPECIAL MAGISTRATES APPOINTMENTS)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING THE APPOINTMENT OF SPECIAL MAGISTRATES TO

HEAR AND DECIDE CODE ENFORCEMENT CASES PURSUANT TO SECTION 2-203 OF THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the agenda item. This was the approval of Resolution No. R2019-24 appointing Special Magistrates, Michael Posner Esq. and Alan Zangen Esq. to serve their final two year term ending June 1, 2020 and Special Magistrate Rafael Suarez-Rivas Esq. to serve his final two year term effective June 1, 2019 through June 1, 2021.

Ms. Cohen advised Council that Palm Beach Polo challenged the authority of the Village's special magistrates because they were not appointed by resolution even though the resolution delegated that authority to staff. She said that staff believes that it was a proper delegation of authority. Ms. Cohen said that even if it was an improper delegation of authority the de facto officer doctrine would validate all of their rulings. He said that, just in case the Court finds some validity to their argument, this will be a resolution by Council appointing them for the remainder of their terms.

Mayor Gerwig said that Council has the option of not renewing these appointments. Ms. Cohen explained that the resolution that was adopted in 2015 says that the Special Magistrate have four, two-year terms. She said that during that period of time, staff can contact them to see if they want to serve, and if they do, they are automatically reappointed unless there are problems. Ms. Cohen said that Council always has the authority not to renew them. She said if there is some issue with them, Council would be notified by staff and then they could vote not to renew them.

Mayor Gerwig said that all three of the Magistrates are in their final terms so that would have to be advertised. Ms. Cohen said that was correct and they have a process for that. Mr. Barnes pointed out that they have staggered terms and one will come due in 2021.

Mayor Gerwig asked if they could capture this all at one time. Mr. De La Vega said that they could do that

Mayor Gerwig asked if they used to have four Special Magistrates. Ms. Cohen said that Mr. Doney was originally one of Wellington's Magistrates; however, he withdrew from that position because he felt it was a conflict for him when his firm began doing work with the Village on the Saddle Trail project.

Mayor Gerwig asked if they could advertise for four magistrates when

that time comes. Mr. Barnes noted that the Village has been staying with three for a while. Ms. Cohen said that number has been working pretty well, but they could go back to having four Magistrates.

Mayor Gerwig recalled when Mr. Doney resigned there, Council decided that one Magistrate should be from outside the area. Mr. Koch said that was correct noting that Mr. Suarez-Rivas is from Miami. Mayor Gerwig said she wasn't sure if she agreed with that requirement.

Ms. Cohen said that Mr. Suarez-Rivas is the Chief City Attorney for Miami.

Mayor Gerwig said that the original concept was to have one from the outside if there was some type of conflict. She said that they are sitting as Magistrates and are charged with making a decision without regard to that. She asked her fellow Councilmembers who were attorneys for their input on that. Ms. Cohen noted that had been a change by the prior Council. Mr. Schofield added that most municipalities have one magistrate.

Ms. Cohen said that there have been occasions where something had to go back to a particular magistrate it had to be delayed.

Councilman McGovern thought Council should think about possibly trying to go with two magistrates. He did not agree that one had to be outside of Wellington. Vice Mayor Napoleone voiced his agreement with that as well. Vice Mayor Napoleone thought if you had two magistrates, they always had the option to recuse themselves due to a conflict. Mayor Gerwig said that the problem with four was that a case might have to wait several months to go back before the same magistrate. Ms. Cohen noted that one of the original magistrates was from Fort Lauderdale. She said that the prior Council also placed term limits on the magistrates which didn't previously exist; however, other communities do not place term limits. Mayor Gerwig recalled that they were placed because Council was term limited.

Councilman Drahos supported eliminating the requirement for one of the magistrates being from outside of Wellington. Vice Mayor Napoleone also thought going to two could be functional. Since they don't have to make those decisions for a while, Councilman McGovern said staff could provide them with options if they come up with any.

M. [19-2974](#)

APPROVAL OF CHANGE ORDER FOR WELLFIELD 24 REHABILITATION

Mr. Schofield introduced the agenda item. This was approval of a change order to Florida Design Drilling, Inc., for Wellfield 24

rehabilitation, in the amount of \$91,000; and approval of corresponding budget amendment Resolution No. R2019-27. This will transfer that amount from the utility construction reserves to the account to do this. He said that there has been a relatively significant drop in the productivity of that wellfield.

Ms. LaRocque said that Council recently approved Phase II of a comprehensive wellfield rehabilitation program. She said that they do this routinely on their 18 wells to improve performance, ensure adequate water supply and extend the life of the wells. She said that recently their operators noted a significant decline in the performance of Wellfield 24, so significant that it had to be taken off line. She said that her recommendation was to do a change order to the current Wellfield Rehabilitation contract that the Village has so that they can immediately try to rehabilitate this well. She said that the rehabilitation procedure would include pumping acid into the aquifer to open it up. Ms. LaRocque said that the wellfield is about 30 years, and after significant pumping, the aquifer becomes plugged which requires the pumping of acid. She said that this is a very standard practice.

Councilman McGovern asked what was the likelihood of this being successful. Ms. LaRocque said that it is usually very successful probably more than 85%. She said that they will pull the pump and video the well, but if they find out that the casing has been damaged and it needs to be removed and replaced with stainless steel it becomes more expensive rehabilitation and they would come back for additional funding. She said that right now they feel confident that this will work.

Mayor Gerwig asked what the timeframe was and how quickly could it come back on line. Ms. LaRocque said that this type of work typically takes several months. She noted that the contractor who will do this work is one of the best in the business so she felt comfortable bringing this to Council.

N. [19-2987](#)

RESOLUTION NO. R2019-29 (DECLARING AN IMMEDIATE THREAT TO THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC DUE TO THE CONDITION OF CERTAIN ROADWAYS WITHIN THE JURISDICTIONAL BOUNDARIES OF PINE TREE WATER CONTROL DISTRICT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF WELLINGTON DECLARING THAT THE PRESENT CONDITION OF CERTAIN ROADWAYS WITHIN THE SERVICE BOUNDARIES OF THE PINE TREE WATER CONTROL DISTRICT REQUIRES IMMEDIATE COURT ACTION TO COMMAND PINE TREE TO COMPLY WITH ITS MINISTERIAL DUTY TO IMPLEMENT THE WORKS OF ITS WATER

CONTROL PLAN, INCLUDING THE MAINTENANCE OF CERTAIN ROADWAYS, IN ORDER TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the agenda item. This was the approval of Resolution No. R2019-29 declaring an immediate threat to the health, safety and welfare of the public due to the condition of certain roadways within the jurisdictional boundaries of Pine Tree Water Control District. He said that Council may or may not want to leave it on the Consent Agenda.

Ms. Cohen explained that Chapter 164 of the Florida Statutes has a requirement that when one governmental entity has a dispute with another governmental entity there is a pretty extensive presuit negotiation process that is required. She said that unless there is a threat to the health, safety and welfare of the community, they are required to go through that presuit negotiation.

Mayor Geriwig asked if that presuit negotiation had previously started. Ms. Cohen explained that initially Rustic Ranches filed a lawsuit against the Village without complying with that provision. She said that they had a temporary injunction hearing which was denied by the court. She said that she had also moved to stay or abate the matter until they complied with that requirement. She said that at the hearing, Rustic Ranches represented to the court that they did not feel it would necessarily be productive. Ms. Cohen said that the judge recommended that they go back and get a resolution from their governing body dispensing from the presuit negotiation requirement. She said that the Village was going to stipulate to certain facts which were not in dispute. Ms. Cohen said that she drafted a stipulation, attempted to communicate with their counsel, and expected them to put it on Pine Tree's agenda which did not occur. She said that they then dropped their lawsuit without even communicating with Wellington. She said that at that point it became moot. Ms. Cohen pointed out that at that time the roadways were not in the same condition as their current condition. She noted that currently the roadways have deteriorated, and as they enter in rainy season, they will continue to deteriorate. Ms. Cohen said that she believed there is no dispute that Pine Tree has the obligation to maintain the roadways, and the Village was asking the court to require them to comply with their ministerial duty to do so. She said that they were also seeking an injunction because the Writ of Mandamus deals with the immediate issue but it is not a suitable issue for the court to exercise its jurisdiction on an ongoing basis. Ms. Cohen said that an injunction would provide the court with the ability to monitor it on an ongoing basis if they need to go back to the court to get further relief.

Vice Mayor Napoleone said that this would allow them to get past the presuit process and move quickly to court to have this resolved. Ms. Cohen said that was correct.

Councilman Drahos asked if it was the Village's burden to show the condition of the roads. Ms. Cohen said that Wellington is the party who is going to be filing a lawsuit, so it was their obligation to either say yes we may be able to resolve this as a governing body or no they think there is a danger to the health, safety and welfare of the residents. She said that the Statute also provides that the court can review that and can conduct its own inquiry to determine there is that type of threat, but the pictures of the roadways reveal that there are issues. Ms. Cohen said that Council has received emails from residents regarding the roads.

Councilman McGovern said that the Village has been ready to have an interlocal agreement where Pine Tree paid the Village to do the work which they refuse to do. Ms. Cohen she did not know if they actually refused to do that. She said that what happened was that they were negotiating some sort of interim agreement and their attorney suddenly stopped communicating with Wellington because she believed that Pine Tree terminated that relationship and retained new counsel.

Mayor Gerwig said that they were told that Pine Tree was going to be offered to pay the Village for the maintenance and get these roads done. Mr. Barnes said that, at this point, he did not believe they were inclined to issue a contract as they believe the Village of Wellington needs to handle the maintenance at its own cost.

Regarding the letter that had been provided to Council, Mayor Gerwig asked who that was sent to. Ms. Cohen said that the letter was provided to their attorney. Mayor Gerwig said that the residents didn't necessarily have that information. Ms. Cohen said that, as an attorney knowing that they are represented by counsel, she could only communicate with their counsel.

Mayor Gerwig said that the residents don't understand that the Village is willing to do the maintenance and charge them for it because Wellington believes the roads belong to the residents. Ms. Cohen said that if their attorney would contact her, the discussion could take place, but there has been no response to the Village's letter.

Councilman Drahos thought that was why the Village needed to proceed with litigation because both sides need a resolution as quickly as possible. He said that the residents are stuck in the middle.

Councilman McGovern said that Wellington tried with the very quickest resolution which was to send them the letter advising them to call the Village to discuss. He said that instead there has been a media campaign, meetings, unnoticed citizen meetings with their board members and all other things going on. He said that there seems to be a lot of misinformation. Ms. Cohen said that there was a lot of incorrect information being disseminated.

Regarding the question of who owns the roadways, Councilman McGovern said that their residents own the roadways. Ms. Cohen said that was correct and was acknowledged in the injunction hearing.

Mayor Gerwig said that it was not that Wellington was leaving them without options as they have tried to help them.

Mr. Schofield explained that Wellington is willing to sit down with Pine Tree about doing the road maintenance as long as those costs are covered. He said that they have made that offer to them and it continues to be there.

Mr. Schofield said that Pine Tree Water Control District and the Rustic Ranches homeowners are different entities. Pine Tree is a government that was constituted under Florida Statutes and has all of the responsibilities that any other government has. He said that they are not required to go back to their residents to get approval to enter into a contract as that is something they have the statutory ability to do. Mr. Schofield said that he wanted to be very clear that their roads are deteriorating and they are not, as of this moment, unsafe; however, he could see that happen as they enter rainy season. He said that was why he believed it was absolutely critical that they move forward and get resolved who is responsible for maintaining those roads. Ms. Cohen believed that was not the issue as Pine Tree is responsible for maintaining the roads, but they just don't believe it.

Ms. Cohen said that she laid everything out in the complaint she drafted and she believed it was very clear from the enabling legislation, their water control plan and other documents that they have both the ability and the duty to maintain the roadways. She said that they were maintaining them prior to 2004 when they entered into the interlocal agreement. She said that they entered into that agreement in order to be able to place them on the Village's gas tax map and collect those funds, but there was no question at the time that those roads were Pine Tree's maintenance responsibility. She said that it was only through the interlocal agreement that they had any obligation to maintain. Ms. Cohen stressed that Pine Tree is a separate, independent government entity with their own powers to assess their residents to maintain the roadways. She said that they

have more than \$300,000 in funds currently available from which they could maintain those roadways.

Mayor Gerwig asked how the Village knew how much funds they had and if they had access to their bank accounts. Ms. Cohen said that it was known because at a public meeting they stated they have a certain amount of money over \$300,000; however, that discussion was not in conjunction with the maintenance of the roadways. Mr. Schofield added that the Village does not have access to their banking records.

Mayor Gerwig said that the Village does not own the roads and without a maintenance agreement, Wellington can't go in and maintain them.

Councilman McGovern said that this Council has been in its form for five years, and it has been a long standing criticism of this Village over time that they have policies that can't be applied universally across the Village. He said that what they were saying here was there can't be some special arrangement made over this one set of roads that could not be done in other places. He said that the Village has updated their codes for this reason, and it has been a long standing position that this type of thing be consistent, uniform and understandable which is why this dispute seems to have arise.

Mayor Gerwig said that the confusion exists because people are saying they are in Wellington why aren't you doing this. She said that in fact there are alot of private roads in Wellington that they don't maintain. She said that people don't necessarily understand that so she wanted to make sure that people understand the Village does not own the roadways, and if you look at the maintenance agreement from 2006, it clearly states that they were going to become a dependent district. She said that she didn't know why at that time, there wasn't a mechanism for saying they didn't follow through doing that.

Mr. Schofield explained that the resolution that was voted on absolutely contemplated them becoming a dependent district. He said that when the residents voted in 2006 not to become a dependent district, the agreement should have terminated at that point, but that was not done. He said when he became the City Manager in 2008, he never looked at the agreement after that. He said that it became an issue a little over two years ago. Mr. Schofield said that the agreement included a termination clause that said either side coul get out of the agreement with 270 days notice.

Ms. Cohen said that it was important to remember that the Rustic Ranches community which is within Pine Tree has an elected board that

is responsible to make sure they are properly informed about the facts although she did not know if that was occurring.

Councilman McGovern said that what the Village could do for them was to bring this action forward to clear this up. Ms. Cohen said that was correct because the Pine Tree Board is essentially doing a disservice to its residents right now by not maintaining the roadways or at least entering into some agreement whereby either the Village maintains them or they contract with someone else to do them.

Mayor Gerwig said that many of these 298 Districts employ a management company. Ms. Cohen said that they chose not to do that.

Councilman McGovern believed that after the Village filed this it should be put on the website so people could easily see this.

Ms. Cohen clarified that she believed they had some form of management but thought it was home-grown. Mr. Schofield said that they do have a company named Flying Cow Management and one of its members sits on the board.

Mayor Gerwig asked if that company was incorporated. Ms. Cohen said they have filed as a company.

Mayor Gerwig raised concerns about the level of compliance with state laws. Ms. Cohen said that there was a lot of non-compliance including non-compliance with public records requests, requirements of items that need to be posted on their website, public meetings, and things of that sort.

Mayor Gerwig asked if it was a violation of the Sunshine Law if there was a board meeting that was not noticed. Ms. Cohen said that they are governed by the Sunshine and Public Meetings law. She said if the board holds a public meeting, it has to be open to the public, and noticed. Mr. Schofield said that they were governed by the same Sunshine Regulations as that of Council. Mr. Schofield said what this Council or any group of public officials cannot do is have a public meeting, close it and then adjourn to have a special meeting to talk about the subjects that were on the agenda.

Councilman Drahos asked if this matter was being handled in-house. Ms. Cohen responded affirmatively noting that she drafted the complaint in-house. Councilman Drahos asked how quickly could she file the complaint. Ms. Cohen said that her intention was to file it on Wednesday morning. She said there was the possibility that she may do a little

tweaking based on some other documents, but she did not know at this point whether or not she would be doing that.

Council agreed to leave this on Consent.

Councilman Drahos announced that he would not be in attendance at the Council meeting as he will be a chaperone for his daughter's Washington, DC trip.

O. [19-2891](#)

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 agenda. This was approval of proposed Ordinance No. 2019-03 (Nightclub) on Second Reading.

Mr. Basehart said that this Ordinance passed unanimously on First Reading. He noted that there were two changes: (1) page, 222, Section 3, added: open after 10 p.m.; and (2) page 223, under "e" "equestrian facilities may open be open for business during days the equestrian competitions events are being conducted." Mr. Basehart explained that when Council approves equestrian events, they always put in hours of operations so it was covered by that.

Councilman McGovern asked if there were any comments from any of the businesses or entities that staff had reached out to. Mr. Basehart sent that they sent it out to 16 different businesses and received several responses. He said that one would not tell him who they were and the other was from Bonefish Mac.

Mr. Schofield stressed that the Village has no businesses in Wellington who operate strictly as a nightclub; however, the Trophy Room does operate as a nightclub at least on a weekly basis during season. Mr. Basehart said that there was no response from the Trophy Room despite his sending them a letter.

Mr. Basehart said that the ordinance was reviewed by the Public Safety Committee, the Equestrian Preserve Committee and the Planning, Zoning and Adjustment Board who all unanimously recommended approval.

P. [19-2884](#)

OUTSIDE LEGAL FEES AND COSTS

Mr. Schofield introduced the agenda item. This was approval of outside legal fees.

Ms. Cohen explained that this was being presented because they are going over \$25,000, so it has to be authorized by Council. She said that these were budgeted funds. She said that she had originally budgeted \$300,000 and was asked to reduce that to \$200,000. Ms. Cohen said that they have presently spent \$133,921.00, and she expected them to be right about that \$200,000 by the end of the fiscal year. She said that it was possible they could go over, but she was trying to control the expenses as best as she can. She noted that one of the providers, Mr. Riedi was exceeding \$25,000.

Vice Mayor Napoleone asked if Council could receive a report showing what outside counsel was working on which case and how much was spent. Ms. Cohen said that she could provide that.

Mayor Gerwig asked if she believed the outside counsel that they were approving these additional funds for was doing the best job for the Village. Ms. Cohen responded affirmatively. She said that the cases that Mr. Riedi is working on involved either Big Blue or a special issue like that with the exception of the Special Magistrate cases. She said that he has been judicious with his billing, and prepared a Motion for Summary Judgement. She thought that they should win those motions because they are two companion cases. She was talking about the two magistrate cases where Palm Beach Polo challenged the authority of the special magistrate. Ms. Cohen believed they have been filed. Councilman McGovern thought that his last memo did not indicate that had been done. Ms. Cohen believed they had been filed noting he was out of the country, but was certain they had been filed. She said that she would confirm that for Counsel. She noted that she had reviewed them, made her changes and they should have been filed.

4. WORKSHOP

NONE

5. ATTORNEY'S COMMENTS

Ms. Cohen reminded Council that they had a Shade Session scheduled at 5:30 p.m.

6. MANAGER COMMENTS

NONE

7. COUNCIL COMMENTS

NONE

8. ADJOURN

There being no further business to be discussed by the Village Council, the meeting was adjourned at 5:18 p.m.