

Village of Wellington

*12300 Forest Hill Blvd
Wellington, FL 33414*



Action Summary

Thursday, November 7, 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 in Attendance: Anne Gerwig, Mayor; Michael Napoleone, Vice Mayor; John McGovern, Councilman; and Tanya Siskind, Councilwoman.

Council Members Not in Attendance: Michael Drahos, Councilman.

2. PLEDGE OF ALLEGIANCE

Mayor Gerwig led the Pledge of Allegiance.

3. REVIEW OF COUNCIL AGENDA

In the Village Manager's absence, Mr. Jim Barnes, Assistance Village Manager, presented the agenda for the November 12, 2019 Regular Wellington Council Meeting for review.

A. [18-2301](#)

AUTHORIZATION TO: 1) AWARD A CONTRACT FOR THE NEIGHBORHOOD UTILITY REINVESTMENT (PROJECT 1); AND 2) AWARD A TASK ORDER TO PROVIDE CONSTRUCTION PHASE ENGINEERING SERVICES

Mr. Barnes introduced the agenda item. This was authorization to: 1) Award a contract to Lanzo Trenchless Technologies, Inc. South, for the Neighborhood Utility Reinvestment (Project 1), in the amount of \$1,823,105; and 2) Award a task order to Keshavarz & Associates to provide construction phase engineering services for the project, in the amount of \$61,000.

Ms. Shannon LaRocque, Director, Utilities Department, explained that, over the last two years, the Village has been conducting neighborhood assessment projects. She said that assessments were completed in the Sugar Pond Manor area; southeast Lake Wellington neighborhood area; and the Eastwood area. She said that those three assessments culminated in a list of about ten projects worth \$40 million in infrastructure investments including replacement of water main and repairs to sanitary sewer lines. Ms. LaRocque stated that this was the first of ten projects, which is only sanitary sewer repair. She pointed out that the areas included were shown on the graphic: Sugar Pond 1, 2 and 3 and neighborhoods in the southeast Lake Wellington area. She explained that the project consisted mainly of the lining of the underground sewer lines; lining lateral lines; replacement pipe and that it was primarily all

underground, which would not affect the service. She said that there was very limited pavement restoration. Ms. LaRocque noted that the project's value is about \$1, 823,105. She said that they went out to bid and received five bids noting that it was very competitive and was within the budget. She indicated that Lanzo Trenchless Technologies was the low bidder who are very qualified to do the work. She said that staff was also requesting that Council approve a task order to Keshavarz & Association, who is the engineer of record, for \$61,000 who will be performing a limited amount of work. She said that for the utility projects, the Utility Department administers the construction contract and relies on them for shop drawing review. Staff recommended that Council approve both items.

Vice Mayor Napoleone asked when the project was scheduled to start and how long would it take to complete. In response, Ms. LaRocque said that they will see a Notice to Proceed in January, and she expected it would be completed in six to eight months.

Mayor Gerwig questioned what would occur if they went in and found something different. Ms. LaRocque did not believe they would find any surprises since the Village spent the money to do the underground camera investigations of all the sanitary sewer systems at the beginning.

Ms. LaRocque explained that they were finishing their fourth condition assessment, which is in Polo. She said that when that condition assessment is done, the recommendations from that assessment would be rolled into the ten projects. She thought they would have about 15 projects totaling about \$60 million in neighborhood reinvestments.

Councilman McGovern questioned the increase from \$40 million to \$60 million. Ms. LaRocque explained that Polo is one of the Village's oldest neighborhoods; she anticipated the amount to be around \$20 million. She noted that they had a meeting the previous day, and the sanitary sewer system looks pretty good; so it will primarily be water main replacement and some spot repairs similar to this project.

Vice Mayor Napoleone asked what was the project's useful life. Ms. LaRocque indicated that it would be 30 years.

Mayor Gerwig asked if any State funds were available for these types of projects. In response, Ms. LaRocque said that they have not found any noting that the State's focus was more on eliminating septic tanks and nutrient situations.

Mayor Gerwig said that she would check to ensure she does not have any conflicts with Keshavarz & Associates.

B. [19-3260](#) AUTHORIZATION TO AWARD A TASK ORDER TO PROVIDE ENGINEERING CONSULTING SERVICES FOR THE LIFT STATION PHASE II DESIGN

Mr. Barnes introduced the agenda item. This was authorization to approve a task order to Mock, Roos & Associates, Inc. to provide engineering consulting services for the Lift Station Phase II Design at a cost of \$118,912.00.

Ms. LaRocque said that the Village has an ongoing comprehensive Lift Station Renewal and Replacement program. She noted that the goal of that program is to extend the useful life of the stations and increase their reliability. She said that sanitary sewer management is very important. She said Phase I is currently under construction and they are seeing very good results, and anticipate completing it within six month. Ms. LaRocque said that the approved Capital Plan includes the design and construction of Phase 2 for this year. She said that this would allow the Village to kick off the design for Phase 2. She said that Mock Roos did not only did the Village's original lift station condition assessment, but did the design for Phase 1 as well and are very familiar with Wellington's system. Ms. LaRocque said that Mock Roos is doing a very good job and recommended approving the work order for Mock Roos.

Ms. LaRocque indicated that they anticipate the cost to be \$1.8 million for Phase 2, which comes back after the design.

C. [19-3274](#) AUTHORIZATION TO DISPOSE OF SURPLUS TANGIBLE PERSONAL PROPERTY

Mr. Barnes introduced the agenda item. This was the authorization to dispose of FY 2019 surplus tangible personal property.

Mr. Ed De La Vega, General Services Director, explained that this was the annual disposition of personal property. He said that they evaluate it and bring it before Council when it is time to dispose of it for approval. He directed Council to page 214 of the agenda, which listed all of the items where approval was being requested. Mr. De La Vega noted that the top portion would be sold on Govdeals.com which is the auction website they have been using for about five years. He pointed out that Govdeals has been great. He said that they have a total of about \$494,000 in acquisition costs, which was the initial cost of the items, and the accumulated depreciation is \$489,000, which leaves a very small depreciated value of just under \$4,626. Mr. De La Vega said that staff was seeking authorizing to dispose of these items through Govdeals . He added that there are a few items, which will be, recycled which are IT items and there is one item that was previously sold as part of another

piece of equipment.

Councilman McGovern asked about the 2014 vehicle that was included in the surplus property. Mr. De La Vega said the vehicle had high mileage that was up to almost 115,000. Mr. Barnes added that this vehicle was being surplus due to its high mileage as opposed to others that were being surplus due to age.

Mayor Gerwig said that the purchase cost, depreciated value and the net value was shown, but said that the Village would get something for these items. Mr. De La Vega said that they would get a significant amount. Mr. Barnes added that although they show its depreciated value as 0 because it has passed its useful life, it is only passed its useful life for certain entities as there are people who will utilize them for other things.

Mayor Gerwig asked if staff would advise them what the Village gets for these items. Mr. De La Vega said that they would send a report.

Vice Mayor Napoleone asked if the Village was replacing all of the things that they were surplus. Mr. Barnes believed they would be replacing most; but noted that in some cases, they may be replaced with something different. Mr. De La Vega asked Council to keep in mind that this was in the budget, but they were bringing those purchases to Council because they are over \$25,000.

D. [19-3276](#)

AUTHORIZATION TO RENEW EXISTING CONTRACTS FOR PLANNING, ZONING AND BUILDING INSPECTION SERVICES

Mr. Barnes introduced the agenda item. This was authorization to renew existing contracts with C.A.P. Government, Inc., as the primary vendor, and G.F.A. International, Inc., as the secondary vendor, for planning, zoning and building inspection services in the amount of approximately \$170,000 annually. H

Mr. Barnes explained that these are the contract inspectors that the Village has utilized over the years to supplement Village staff while also providing specialty services, if necessary, depending on the type of inspection required.

Mr. Jacek Tomasik, Building Official, said these inspectors are used mostly for the overflow inspections that the Village has when staff cannot handle the amount of inspections because of their workload, and to help the Village provide continuous services.

Mayor Gerwig asked if the residents notice the difference if the inspection is done by a contract inspector versus a Village employee. Mr. Tomasik said that the contract inspectors are obviously not as

familiar with the local Wellington requirements, so they are trained as best as they can. He said that they also try to send them to jobs that are not as critical for specific Wellington requirements. Mr. Tomasik pointed out that these inspectors are helpful because help to keep the inspection load down noting that insurance offices recommend about 14 to 18 inspections per inspector per day. He said that when they get more than that, the contract inspectors come in handy. Mr. Tomasik said that they are licensed and have State credentials.

Ms. Quickel advised Council that Mr. Tomasik was a first-time grandfather. Council extended their congratulations.

Mayor Gerwig said that if they did not hire these contract inspectors, then they would have to hire more staff, which would be much more expensive. Mr. Tomasik said that sometimes they have these temporary waves of more inspections in one month than others do so they help with the workload. Mr. Barnes added that this allows the Village to keep up with the cyclical nature of inspection requirements. He said that the difference that residents may see is that the inspector may show up in a different vehicle and they will not be wearing a Wellington shirt. Mr. Tomasik noted that the contract inspectors do have a Wellington identification badge.

Councilman McGovern asked if the budgeted amount was \$170,000 annually, and how much did they spend last year. Mr. Tomasik said that last year, they spent about the same. Councilman McGovern asked if Mr. Tomasik thought this amount would be enough. Mr. Tomasik said that it was hard to tell at this time because they just issued permits for the new assisted living facility who are saying they are going to build all of the buildings at the same time. He said if that occurs, they will need all of the inspectors and contract help. He said that he also wants them to receive good customer service so they will dedicate one or two inspectors to that project. Mr. Tomasik said that their goal is not to hold up construction because they are waiting for inspections. He said that when projects proceed quickly, it is important that they have enough staff to provide plan review and inspections so they do not hold up inspections.

E. [19-3317](#)

AUTHORIZATION TO UTILIZE A TERM CONTRACT WITH SEMINOLE COUNTY, FLORIDA FOR HYDRANT MAINTENANCE SERVICES

Mr. Barnes introduced the agenda item. This was the authorization to utilize Seminole County term contract IFB-602347-15/GCM, with Hydromax USA, LLC, for hydrant maintenance services in the amount of \$118,100.

Ms. LaRocque explained that the utility, on an every other year basis, tries to exercise and maintain all of the Village's 2,300 hydrants to ensure public safety. She said that she continues to collect GIS data as they are

getting new projects coming on line so that number is anticipated to change. She said that Council approved this contract two years ago, and because of that contract, they exercised and maintained all of the hydrants. Ms. LaRocque said that they discovered that 95% of them were operable at that time whereas now they are 100% operable. She said that they would do this again this year noting that it takes about six months complete. Ms. LaRocque said this was a piggyback contract with Seminole County adding that Hydromax does a very good job. She said that the company collects all of the data though the GIS systems as well so the Village gets all of the information into their system as it relates to asset management.

Mayor Gerwig said the Village had previously tried doing this with staff. Ms. LaRocque said that they have a very small field services staff so it is impossible to do this. She said that this is a very good use of utility dollars.

F. [19-3344](#)

AUTHORIZATION TO AWARD GUARANTEED MAXIMUM PRICE (GMP) AMENDMENT ONE FOR THE CONSTRUCTION OF WATER TREATMENT PLANT WAREHOUSE, GENERATOR STORAGE, FIELD SERVICES BUILDING MODIFICATIONS, AND MISCELLANEOUS ARCHITECTURAL, SECURITY AND SITE IMPROVEMENTS

Mr. Barnes introduced the agenda item. This was authorization to award Guaranteed Maximum Price (GMP) Amendment One for the CMAR contract with Wharton Smith, Inc. for the construction of the Water Treatment Plant warehouse, generator storage, field services building modifications, and miscellaneous architectural, security and site improvements at a price of \$300,534.00.

Ms. LaRocque said that Council previously approved a contract with Wharton Smith to be the Village's Construction Manager under a guaranteed maximum price contract mechanism. She said that they are doing other projects with the same type of contract. She said that it is an excellent contracting mechanism that brings a lot of value and certainty to a project. She said that this is about a \$6.5 million project overall. She said that due to the limited footprint on the Water Plant, they first need to build a new generator facility in order to do the bigger project. She said that this amendment allows them to order the material for the pole barn for the generator, and this was only for materials and does not include installation. Ms. LaRocque said that they would have another final GMP package to Council in the February/March timeframe, which will be the remainder of the project. She said that under this form of contracting, the Village has the architect and construction manager at the table at the same time as they go through the design. She said that they are about 60% designed at this time. Ms. LaRocque said that the Construction Manager took the 60% design for the generator and pole barn and went

out to get bids. She said that through this mechanism, the Construction Manager gets the bids and not the Village. She said that they received five bids, the Village evaluates them and that is what they use to determine which manufacturer receives the award.

Mayor Gerwig said that the CM at Risk allows more input from the contractor during the process and maintains the guaranteed maximum price. Ms. LaRocque said that it provides a greater level of cost control from day 1; and provides the ability for value engineering through the entire time of the design phase. She added that the Construction Manager can either be a consultant and do no contracted work or they can also perform some of the construction activity. Ms. LaRocque said the Village's model would allow them to do some self-performing work; however, on those items where it is not self-performed, the Village has to go out and get bids. She said that at the end of the job they are guaranteed a price, the Village will get any cost savings, and it generally provides certainty and speeds up a project as opposed to a traditional model.

Mayor Gerwig said that some governments are afraid of this process even if it takes longer; however, she has been a fan of this model. She asked Ms. LaRocque to advise her if she gets into difficulties with this, but she felt it provides control. She wanted Ms. LaRocque to advise Council if it is not a cost savings. Ms. LaRocque said that they have already value engineered about \$700,000 in savings from this project because the Construction Manager was there from day one.

G. [19-3369](#)

AUTHORIZATION TO: 1) AWARD A TASK ORDER TO PROVIDE HYDROGEOLOGIC CONSULTING SERVICES FOR PHASE III OF THE WELLFIELD REHABILITATION PROJECT; AND 2) AWARD A TASK ORDER FOR REHABILITATION OF SURFICIAL AQUIFER WELLS

Mr. Barnes introduced the agenda item. This was authorization to: 1) Award a task order to JLA Geosciences, Inc., to provide hydrogeologic consulting services for Phase III of the Wellfield Rehabilitation project in the amount of \$96,500; and 2) Award a task order to Florida Design Drilling, Inc., for the rehabilitation of Wells R1, R6, R7, 23 and a test well at the Booster Station on Lake Worth Road, in the amount of \$548,672.50.

Ms. LaRocque stated that they are doing comprehensive rehabilitation to the Village's Wellfields. She further stated that are about 30-40 years old and many passed their useful life. She said that this is Phase 3 noting that they have successfully completed Phase 1, and Phase 2 is nearing completion part of which is removing Well 3 off of the Boys & Girls Club onto the Water Plant site. She said that they wanted to ensure that when the contractor was done with Phase 2, they could roll right into Phase 3.

Ms. LaRocque said that this is rehabilitation of four wells and a new test well as they are getting ready to expand the wellfield as the demands increases. She said that Florida Design Drilling has done the first two phases and has done an excellent job. She said that they are recommending that JLA Geosciences, the Village's hydrogeologic do the design during the construction phase. She believed they would have another successful project noting that they have seen an increase in capacity in the wells anywhere from 23% to 81% and this will extend the life for another 30 years.

Vice Mayor Napoleone asked how many phases were in this project. Ms. LaRocque believed there would be two more phases after this one. She said that the first two phases were at \$1 million, this will be about a little over \$500,000 and they will have another \$1 million after this.

H. [19-3372](#)

AUTHORIZATION TO UTILIZE A FLORIDA SHERIFFS ASSOCIATION CONTRACT FOR THE PURCHASE AND DELIVERY OF TWO FIXED EMERGENCY POWER GENERATORS

Mr. Barnes introduced the agenda item. This was authorization to utilize Florida Sheriffs Association (FSA) contract #19-VEH17.0, as a basis for pricing, for the purchase and delivery of two (2) fixed emergency power generators for Lift Stations 5 and 85 in the amount of \$92,545.00 from Tradewinds Power Corp.

Ms. LaRocque said that the Phase 2 Lift Station project is under construction and under that contract; the Village is to provide two permanent fixed generators for two of the lift stations. She said that this would allow them to fulfill that. She said that the Village will purchase them and the company will install them.

Ms. LaRocque stated that their goal is to have it all at the lift stations and for fixed generators to be at all major lift stations. She said that they just received a grant for another four generators, which will be for the construction of Phase 2 that Council just authorized the design for 3 of them.

Vice Mayor Napoleone asked if these were the first two fixed generators that the Village was putting in. Ms. LaRocque said that they have some noting that Village Royale is a huge lift station and they have a fixed generator there and she believed they had two others. She said that they are moving to 100% of the manned lift stations to have generators.

I. [19-3363](#)

RESOLUTION NO. R2019-67 (REVISED UNIFIED PALM BEACH COUNTY LOCAL MITIGATION STRATEGY PLAN)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL

AUTHORIZING APPROVAL AND ADOPTION OF THE REVISED UNIFIED PALM BEACH COUNTY LOCAL MITIGATION STRATEGY PLAN AS REQUIRED BY THE DISASTER MITIGATION ACT OF 2000; AND PROVIDING AN EFFECTIVE DATE.

Mr. Barnes introduced the agenda item. This was authorization and approval to adopt the revised unified Palm Beach County Local Mitigation Strategy (LMS) Plan for 2020.

Ms. Nicole Coates, Director, Emergency Management and Public Safety, explained that this is the Local Mitigation Strategy Plan for 2020. She said that this plan is done in accordance with the Disaster Mitigation Act of 2000, so the plan is updated every five years. She said that when the plan is updated, they look at all of the community vulnerabilities and hazards affecting communities in Palm Beach County. She noted that all 39 municipalities are included in the document. Ms. Coates said that by adopting the plan every five years, which the Village has done, allows the Village to be eligible for Hazard Mitigation Grant funds, which ties in to what Ms. LaRocque was discussing and what Ms. Quickel secured through that grant by receiving funding for the six generators.

Mayor Gerwig asked if there was anything in the document that Ms. Coates thought Council should be aware of. Ms. Coates said that the plan included some things that were more informative for Appendix A, page 4, which goes through the relative vulnerabilities and hazards and breaks out all 39 municipalities. She said that they plan for natural hazards in the Village.

Ms. Coates directed Council to page 78 of the document that lists the local mitigation projects throughout the County which are all unfunded that tie into a hazard and how they will be mitigated., which is how they are ranked and scored.

Ms. Coates said that they have not seen many disasters prior to the current years which wasn't funded. She said that they received grant funding for the Community Center for impact windows, but it wasn't typically funded. She said that with the increase in storms and disasters, we are seeing them get funded more. Ms. Coates thought it was important to stay on top of it and that they submit projects that might not be funded in the capital program for the near term. She added that the Village has until December/January to adopt this plan.

J. [19-3300](#)

RESOLUTION NO. R2019-68 (AGREEMENT WITH THE FLORIDA DEPARTMENT OF CORRECTIONS FOR THE PROVISION OF INMATE LABOR FOR MAINTENANCE OF THE WELLINGTON ENVIRONMENTAL PRESERVE AT THE MARJORY STONEMAN DOUGLAS EVERGLADES HABITAT)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING AND AUTHORIZING THE MANAGER OR DESIGNEE TO EXECUTE THE CONTRACT WITH THE FLORIDA DEPARTMENT OF

CORRECTIONS TO PROVIDE FOR THE USE OF INMATE LABOR IN WORK PROGRAMS WITHIN THE WELLINGTON ENVIRONMENTAL PRESERVE AT THE MARJORY STONEMAN DOUGLAS EVERGLADES HABITAT; AND PROVIDING AN EFFECTIVE DATE.

Mr. Barnes introduced the agenda item. This was approval of the Agreement between Wellington and the Florida Department of Corrections for the provision of inmate labor for the maintenance of the Wellington Environmental Preserve at the Marjory Stoneman Douglas Habitat.

Mr. De La Vega explained that this was an annual contract that the Village brings before Council where they have Florida Corrections Department of Labor assisting with maintenance at the Marjorie Stoneman Douglas Environmental Habitat. He said that the amount of the contract was \$57,497.00 which is the same price they have paid for the past three or four years. He said that this helps the Village so they do not have to use their own staffing, and they will continue to recommend approval of this. Mr. Barnes added that this is more cost-effective than utilizing staff or having to contract it out.

Mayor Gerwig said that they have not had a problem or occurrences using these inmates. Mr. Barnes said that their work at the Preserve is supervised by a Corrections Officer and they also have a staff member oversee the work that they are assigned. He said that they have not had any issues between the oversight by the Corrections Office and Village staff member.

Mayor Gerwig thought that the Village had also used them at Peaceful Waters. Mr. Barnes said that they will bring them over there as part of this contract, but generally, they try to notice they will be doing work over there and they will actually shut it down to do the maintenance at that location. He said that they utilize them at multiple locations; but their primary base of operations is at the Environmental Preserve.

K. [19-3374](#)

ORDINANCE NO. 2019-07 (COMPREHENSIVE PLAN AMENDMENT - FUTURE LAND USE MAP DESIGNATION FOR THE PLAYER'S CLUB RESIDENCES)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, APPROVING A COMPREHENSIVE PLAN AMENDMENT [PETITION NUMBER 19-003 (2019-002 CPA1)] TO AMEND THE FUTURE LAND USE MAP DESIGNATION FOR CERTAIN PROPERTY KNOWN AS THE PLAYERS CLUB (F.K.A. EQUESTRIAN POLO VILLAGE AND COMPLEX OF PALM BEACH POLO AND COUNTRY CLUB), TOTALING 5.58 ACRES, MORE OR LESS, APPROXIMATELY LOCATED ON THE SOUTHWEST CORNER OF SOUTH SHORE

BOULEVARD AND GREENVIEW SHORES DRIVE, AS MORE SPECIFICALLY DESCRIBED HEREIN, FROM COMMERCIAL RECREATION TO RESIDENTIAL F (8.01 DU/AC TO 12.0 DU/AC); PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

- L. [19-3375](#) ORDINANCE NO. 2019-05 (COMPREHENSIVE PLAN TEXT AMENDMENT - BUILDING HEIGHT)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING POLICY 1.3.8 OF THE LAND USE ELEMENT OF THE WELLINGTON COMPREHENSIVE PLAN TO MODIFY BUILDING HEIGHT LIMITATIONS FOR PROPERTIES WITH MULTI-FAMILY RESIDENTIAL FUTURE LAND USE MAP DESIGNATIONS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

- M. [19-3378](#) RESOLUTION NO. R2019-025 (THE WELLINGTON PUD MASTER PLAN AMENDMENT - THE PLAYERS CLUB RESIDENCES)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL, APPROVING A MASTER PLAN AMENDMENT [PETITION NUMBER 19-004 (2019-003 MPA 1)] AMENDING THE WELLINGTON PLANNED UNIT DEVELOPMENT (PUD) FOR CERTAIN PROPERTY KNOWN AS THE PLAYERS CLUB (F.K.A. EQUESTRIAN POLO VILLAGE AND COMPLEX OF PALM BEACH POLO AND COUNTRY CLUB WELLINGTON), TOTALING 5.58 ACRES, MORE OR LESS, APPROXIMATELY LOCATED ON THE SOUTHWEST CORNER OF SOUTH SHORE BOULEVARD AND GREENVIEW SHORES BOULEVARD, AS MORE SPECIFICALLY DESCRIBED HEREIN; TO MODIFY THE MASTER PLAN DESIGNATION OF POD 30C FROM TENNIS POLO FACILITY TO MULTI-FAMILY; TO MODIFY THE ACREAGE OF POD 30C FROM 8.3 ACRES TO 5.58 ACRES; TO ALLOCATE 50 DWELLING UNITS TO POD 30C; TO ADD TWO (2) ACCESS POINTS ALONG SOUTH SHORE BOULEVARD; TO ALLOW FOR INCREASED BUILDING HEIGHT FOR THE PROPERTY; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

- N. [19-3377](#) ORDINANCE NO. 2019-06 (ZONING TEXT AMENDMENT - BUILDING HEIGHT)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING ARTICLE 6, CHAPTER 5, SECTION 6.5.8.C, BUILDING HEIGHT, OF THE WELLINGTON LAND DEVELOPMENT REGULATIONS BY MODIFYING THE BUILDING HEIGHT

REGULATIONS FOR PROPERTIES WITH A MULTIFAMILY RESIDENTIAL FUTURE LAND USE DESIGNATIONS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Barnes introduced the agenda items. There were four related items: (1) Approval of Ordinance No. 2019-07, a Comprehensive Plan Amendment to amend the Future Land Use Map designation of The Player's Club Residences from Commercial Recreation to Residential F (8.01- 12.0 DU/AC); (2) Approval of Ordinance No. 2019-05, a Comprehensive Plan Text Amendment to modify building height limitations within Policy 1.3.8 of the Land Use Element of the Comprehensive Plan for multi-family residential properties; (3) Approval of Resolution No. R2019-025, to amend the Wellington PUD Master Plan to modify the Master Plan designation of Pod 30C from Tennis and Polo Facility to Multi-family; to correct the acreage of Pod 30C from 8.3 acres to 5.58 acres; to allocate 50 dwelling units to Pod 30C; to add two (2) access points along South Shore Boulevard and to allow for increased building height for the property; and (4) Approval of Ordinance No. 2019-06, a Zoning Text Amendment to modify Section 6.5.8.C of Wellington's Land Development Regulations to increase the allowable building height for multifamily residential properties.

Mr. Basehart explained that there were four applications noting that it is second reading for three of the applications that are ordinances. He said that the adoption of the ordinances then allows Council to approve the master plan amendment, which only requires one hearing. He said that these applications were basically for the Players Club site. Mr. Basehart said that Council is familiar with the ordinance since they were heard at first reading; however, staff could go through a presentation. He said that at first reading Council unanimously approved all of the ordinances as did the Planning, Zoning & Adjustment Board at their meeting.

Ms. Basehart explained that at first reading Council recommended two proposed changes to the proposed zoning text amendment. He directed Council to page 952 of the agenda book. He said that the provision known as Section 6.5.8cd4 is the criteria that they would be using to evaluate requests for increased height. He said that the provision previously had required three of seven criteria and Council asked staff to add some more criteria. Mr. Basehart said that was done, which resulted in criteria 8, 9 and 10. He added that any height limitations that would be over 35 feet have to get Council approval. He said that these amendments do not enable anybody to build higher than 35 feet except for the SR7 Corridor, which already has a 72 foot height requirement in place.

Councilman McGovern recalled Council wanting additional criteria so that it would be broadly applicable throughout the Village rather than just written for this project or a similar project. He said that this now has more options than the mandatory ones that still exist, and provides a broader scope Village-wide.

Mayor Gerwig asked what the impetus was for number 10, which was to provide for relocation assistance for residents. Mr. Barnes thought that this would be in place for a redevelopment scenario. He explained that if an area that has existing residents was being redeveloped, then for whatever reason, they would be provided with relocation assistance. Mr. Barnes said that is something that is required when you get into federal funding, but in many cases, it is used as a way to facilitate the redevelopment and work with the community that is directly impacted. He said that it would not be the case here; however, it is something that could be used as criteria for future projects.

Mayor Gerwig felt that number 10 seemed out of place because they could not force anyone to move out. Mr. Basehart said if it is a market rental project that does not involve federal assistance, and if the property owner decides not to renew leases, he can throw people out when the lease is expired. He said that if you are proposing to redevelop a property and even though you are not required because of federal requirements, if you are going to provide housing relocation services, then you get credit for that. He said that is an incentive for people to do that.

Councilman McGovern said that even though there might be a legal obligation to do so, these are people who might automatically renewed those leases who were now going to be displaced. He said that they are saying that if you assist those people you will get credit. Ms. Cramer said that it could be ownership of multi-family units where in order to redevelop; they would have to purchase every unit. She said that many times, as part of that incentive to sell, they throw in the ability to relocate them for a year or a temporary amount of time. She said that sometimes they will allow them to have the first choice to move back when the project is done.

Vice Mayor Napoleone agreed with the Mayor stating he felt this criteria did not belong in here. He said that this is a benefit for those people that are directly impacted by the development; however, it is not a benefit to the Village's law regarding what needs to be done to get additional height accommodation. He said things like greenspace, design and things like that are a benefit to the overall community, but this is a very specific benefit to certain people. Vice Mayor Napoleone said that if

people want to buy their properties they would do whatever they have to do to acquire them. He reiterated that he did not believe that belonged in there.

Mr. Basehart said that they could take it out. Mayor Gerwig said that they could discuss it further at the Council meeting. Ms. Cramer added that the thought process behind including it was to encourage and incentivize redevelopment. She said that many times density and height are the two key reasons that these opportunities will become effective. She said that to offer relocation helps the nexus between the height and density.

Mr. Basehart said that it was also important to remember that what they have done in the amendment is put in a requirement that you are not eligible for a potential height increase if you are adjacent to a single family development. He added that they are also requiring additional setbacks, so every foot that you go up on a building, you increase the setback by a foot as well. He said that the other change that Council wanted to make, which was made, was that no more than 50% of the roof area or footprint of the building could be above the normal 35 foot height limit. He said that Council asked staff to amend it to 35% with an option to request up to 50%.

Concerning the specific application for the Player's Club, Vice Mayor Napoleone asked if there had been any changes to the site plan proposal or discussions on whether they are going to put in the freestanding building. Mr. Basehart said that they have not submitted any revisions to the plan. He said that they have told staff that they will most likely eliminate the second building and absorb the units into the main building, but reiterated that they have not done that yet. Ms. Cramer indicated that their recent Architectural Review Board (ARB) submittal, illustrates the building noting that they had submitted elevations for it. She thought that they are intending to keep it at this point, and if not, they would have to modify the site plan prior to going before the ARB. Vice Mayor Napoleone asked what the height of the building was. In response, Ms. Ferraiolo, Senior Planner, said the height was 35 feet.

Ms. Cramer said that staff may request reordering the agenda to put the master plan after the zoning text amendment. She explained that it typically would not make a difference because of the type of application, however, this is the first time there is specific criteria which they talked about that has to be documented somewhere.

Mayor Gerwig asked Ms. Cohen to explain the legal standpoint of what is before Council. In response, Ms. Cohen explained that there are four items. She explained that three of the four are legislative and the master

plan amendment is quasi-judicial. She said that they would typically combine the hearings for all of the items and presentations into one. Ms. Cohen said that she could not recall a situation where an applicant objected to that being done. She said that even though three of the items are legislative, they will just go ahead and swear in the witnesses and ex-parte discussions for the master plan amendment and handle it as one hearing.

Ms. Cohen further explained that the Comprehensive Plan Amendment is legislative and their basis for approving or denying it is much more stringent than quasi-judicial. She said that as long as there is a rational basis for approval or denial of that or any legislative item and as long as it is not arbitrary and capricious, it would be upheld. She said that, on the other hand, quasi-judicial items have to be based on the evidence presented at the hearing and has to be in accordance with due process. She said that this means reasonable notice, a meaningful opportunity to be heard, ability to cross-examine the witnesses and that sort of things.

Mayor Gerwig asked if there were any requests for additional time. Ms. Cohen said that, to her knowledge, there had not been any requests for anyone to be an interested party. Mr. Basehart concurred with Ms. Cohen noting that at Planning, Zoning & Adjustment Board meeting, they had one or two speakers and Mr. Tumin spoke at the Council meeting for the first hearing. Ms. Cohen noted that if anyone wanted to be an interested party, they would have had to already request that opportunity. She believed that they would see just a normal presentation, staff presentation, questioning by Council, possibly closing arguments by the applicant and then a vote. She noted that each of the items would be voted on separately.

Mr. Basehart reiterated that items C and D should be swapped.

Ms. Cohen said that all of the items require a public hearing so they will just have one public hearing for all four items.

Mayor Gerwig noted that they had received the letter back from the State with no objections.

Vice Mayor Napoleone asked if they have had any other input, questions, or comments from the public. Mr. Basehart said there were none.

Mayor Gerwig asked Mr. Basehart to go back and look at the Neighborhood Renaissance that had been passed around 2010 and see how that meshes with this. She also asked him to see if there are tools that they should be looking at for the Neighborhood Renaissance Plan

that this might allow for now. She wanted people to know their redevelopment options in some of the older neighborhoods. Mayor Gerwig thought it would be nice to combine the two plans and asked if that was possible. Ms. Cramer said that they were looking at that as part of their redevelopment incentive. She said that the incentives that are currently in Article 6 for the Residential Renaissance are not great enough so they did not see that any developer could find a financial way to redevelop multi-family areas or targeted areas. She felt that there are potentially some things in that section of the Code that could be put into Article 6 in the future that could bring that up-to-date as well as incorporate it into the redevelopment incentive package.

Mr. Barnes said that there were some good things in the Neighborhood Renaissance process but the wheels came off the cart and they never got the final adoption of that process. He said they think there are some good things in there that they would want to carry forward again.

Mr. Basehart said that redevelopment is a matter that is paramount for Wellington's future as it is almost built out. He said that unless they do a lot of annexation, most of the development in the future, other than what is currently in the system, will be redevelopment. He said if sufficient incentives are not there to help make that happen, it will not happen.

Mayor Gerwig said that was her concern and wanted to be sure they were evaluating all of that. She said that she wanted to see the incentives from this carry over. Ms. Cramer said that staff agrees with that, and internally they have talked about the way they laid this particular amendment out, was a good platform as they look at the other elements of development whether it be density, design or locations. She said that it was a very good tool and a good way to test the format.

O. [19-3373](#)

ORDINANCE NO. 2019-12 (CHAPTER 9 OF ARTICLE 7, SIGN CODE)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE WELLINGTON LAND DEVELOPMENT REGULATIONS, MORE SPECIFICALLY, A ZONING TEXT AMENDMENT TO AMEND THE SIGN CODE; TO ESTABLISH SPECIFIC STANDARDS AND REGULATIONS RELATED TO SIGNS IN ARTICLE 7 OF THE LDR; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

Mr. Barnes introduced this item. This was approval of Ordinance No. 2019-12 to amend the sign code of Wellington's Land Development Regulations.

Ms. Cohen said that Council should have a redlined copy that shows the

changes. Mr. Barnes explained that this was modifications to the sign code from legal to bring them consistent with federal regulations and recent judicial interpretation.

Ms. Cramer said that Council will see this once and then it would be put back on Article 7 and then see it again as part of Article 7 when everything comes back.

Mayor Gerwig asked if staff could take them through the changes. Vice Mayor Napoleone asked if there was anything that they should be aware of.

Ms. Cohen explained that they were trying to make sure that whatever regulations were included in this are content neutral as well as to provide the Village with the ability to have as much regulations as they legitimately can. She said that many of the regulations are just revised to make sure that they are targeting exactly what they need. She said that they put in some language in the beginning to clarify the intent in case it ever challenged. She said that they wanted to go from having exempt signs to authorized signs in every district except for certain things that are not authorized. Ms. Cohen said that they just cleaned it up a bit. She said that certain signs would require a special use permit or things like that. She said that Council would see the changes. She said that it looks like more than it is because things have been moved around or reworded, but in reality, there were not a lot of changes. She believed that the intent in the beginning gives them the ability to defend any challenge to the sign code. Mr. Basehart added that they did not really change the substance.

Councilman McGovern said that it looks like a lot of change. Ms. Cohen said that if Council read through it, it really was not a lot of change. She reiterated that there were some wording changes, a little bit of structural change in terms of authorizing all signs except if they are prohibited, but basically it is the same thing, just cleaned up a little bit and in line with what the consensus is among municipal attorneys with respect to what you can and cannot do.

Mayor Gerwig asked if the Village could still control those things that were inappropriate or had sexual content. Ms. Cohen responded affirmatively noting that pornography was not allowed. She explained that typically Council has more control over commercial signs than non-commercial signs. She said that commercial speech enjoys less protection than private speech. She felt that Council would be able to regulate those.

4. WORKSHOP

NONE.

5. ATTORNEY'S COMMENTS

Ms. Cohen reported the following:

She advised Council that they had one last chance to talk about the Opioid Class Action. Ms. Cohen said that she did not believe there was any basis or that it would be in the Village's best interest to opt out of it. She said that she would raise that issue at the Council meeting and get their direction.

Secondly, Ms. Cohen said that Council received a request from the City of Miami Beach to join in an Amicus Brief relating to a challenge to the human rights ordinance that Orange County had adopted. She explained that Council had previously adopted a human rights ordinance in October 2015. She further explained that they adopted the State's civil rights ordinance, which they were bound by anyway as well as their housing and anti-discrimination policy with respect to the County. She said that the County has created an Office of Equal Opportunity and Fair Housing and the Village adopted that as part of the ordinance. Ms. Cohen said that, in addition to being bound by the State statutes, they are also bound by the County ordinance. She said that the County ordinance contains specific reference to gender expression and identity, sexual orientation and extends protection exclusively for that. She said that it applies to all businesses in the entire County, but it only applies to municipalities and local government if you do not opt out of the definition of employer.

Mayor Gerwig said that all of the Village employees would be protected by this. She said that the arbitration would happen at the County level. Ms. Cohen explained that it actually was not arbitration, but it is a County panel. She stated that the Commission appoints people who do not have any background in anti-discrimination practices or civil rights or anything like that, as that is not a requirement.

Ms. Cohen continued explaining that the Council considered it at that time and ultimately rejected opting out of the definition of employer. She said that the Village has an anti-harassment policy and anti-sexual harassment policy which includes protection for gender expression, gender identity and sexual orientation, but by expanding that and adopting the County's version, it gives employees the right to go to the County if they feel they are being discriminated against rather than going to the EEOC.

Ms. Cohen said that recently as an unintended consequence of not opting out of the definition of employer, Lake Park had a negative

experience where they had denied reasonable accommodations to five sober homes located in their community. She said that it went before the Special Magistrate who denied the request for the reasonable accommodation. She said that the five sober homeowners filed a complaint with the County charging housing discrimination and discrimination in marital status. Ms. Cohen said that Lake Park's and the Village's definition of family and almost every definition of family in other municipalities in the County, define it as either four or more unrelated persons by marriage living together under one roof. She said that in a sober home if you have six unrelated people than that would violate the definition of family and would be a code violation unless a reasonable accommodation was granted for that particular home. She said that Lake Park was brought before the County Office of Equal Opportunity. Ms. Cohen said that they found them to be in violation despite the arguments by Lake Park's attorney that it was not a proper forum for an appeal of a special magistrate order and that the Office of Equal Opportunity Employment lacked subject matter jurisdiction over it because it conflicted with the County's definition of family. She said that under the County Charter, if the municipal ordinance of control to the extent they conflict with County's ordinances, unless it falls within certain specific categories. She said that they argued that the ordinance was intended to apply to private businesses and not local governments, but the County rejected that. She said that she ultimately thought they resolved whatever their dispute was although she could not recall what the resolution was. Ms. Cohen said that in February of 2019, she raised this issue and sent a memo asking Council what they wanted to do, i.e., continue to keep the ordinance in place, opt out of the definition of employer, repeal the ordinance and what did they want to do. She said that was still the question stating that she felt that Council's response to that question would drive their desire whether or not to sign on to the brief.

Mayor Gerwig asked Ms. Cohen to address the Miami Beach request. Ms. Cohen said that in the Miami Beach case, which is called Ames versus OC Food and Beverage and is pending in Orange County. She said that there were some women who went to an adult entertainment venue, which she believe was in Palm Beach County, and they were refused admission unless they were accompanied by a male. She said that they sued for discrimination alleging that the policy by the business violated Orange County's prohibition against general discrimination. Ms. Cohen said that the Circuit Court refused to even consider the merits and ruled that it was pre-empted by the Florida Civil Rights Act and therefore Orange County's Civil Rights ordinance was invalid. So, obviously Orange County is appealing that and Miami Beach is arguing that there is no pre-emption and that their ordinance and Orange County's

ordinance, Wellington's ordinance and all of the other municipalities that have these ordinances are proper. Ms. Cohen said that the reason it is important is because if the pre-emption is ultimately upheld and if the Village's ordinance was challenged as having been pre-empted, there is a new statute 57.112 that awards reasonable attorney's fees, costs and damages to the prevailing party who challenges a municipal or local government ordinance and that the ordinance is found to be pre-empted. She said that there is a 30-day safe harbor period in that statute. She said that during the 30 days, the Council could repeal an ordinance.

Vice Mayor Napoleone asked what triggers safe harbor. Ms. Cohen said that it would be a notice form a party claiming that it is pre-empted.

Councilman McGovern said that if the Village receives notice that some ordinance of theirs is pre-empted by a state law, they have 30 days from the receipt of that notice to repeal. Ms. Cohen said that was correct and pointed out that they only needed one meeting to repeal, but it would have to be advertised.

Ms. Cohen said that she was bringing this to Council to let them know where they are at and get their thoughts as to what they wanted to do with the Village's ordinance, whether they wanted to keep, change or repeal it. She said then if they wanted to sign on to the Miami Beach Amicus Brief in support of Orange County.

Vice Mayor Napoleone said that he wanted to receive Ms. Cohen's February memo that was circulated. Councilman McGovern also wanted to receive the Miami information that Ms. Cohen had received as well as whatever came out of the Circuit Court. He said that he was unclear how the Orange County ordinance would apply to some trip to Palm Beach County.

Mayor Gerwig believed they were using the same verbiage. She said that the real question was if they spoke with the League attorney and received their comments. Ms. Cohen said that they have not reached out to them.

Councilman McGovern said that he also wanted to know if and what other municipalities in Palm Beach County were joining on to this.

Mayor Gerwig asked if Lake Park had attempted to rescind the ordinance. Ms. Cohen said that Lake Park had attempted to opt out of the definition of family, but in reviewing the ordinance and talking with the County, that was not a possibility. She said that the ordinance expressly allows them to opt out of the definition of employer for purposes of their

employees being able to utilize the EEOE process through the County, but there was nothing in the ordinance that would allow them to opt out of a portion that defines family. She said that either you repeal the whole thing or you keep it and run the risk that it is challenged as Lake Park's was. She said that as far as she knew, they had not repealed their ordinance, but she would check on that.

Mayor Gerwig said that she did not want the Village to get into any liabilities from these companies that market going after municipalities, but she did not want to send the message that they don't want to protect their residents and employees.

Ms. Cohen said that she would send Council the information they requested, and they would have the weekend to review it. She said even if Council's decision is to do nothing, and to sign on to the brief, they would still have the safe harbor provision.

6. MANAGER COMMENTS

Mr. Barnes reported on the following:

He said that the League sent out a request to those members participating in the Florida Municipal Pension Trust Fund advising that they are seeking to fulfill a vacancy on the board. He said that they would have to submit resumes for consideration for that position for anyone who is interested by November 13th.

Mr. Barnes said that the Veterans Day Celebration is on Monday with the parade starting at 8:15 am and the event at 8:30 a.m.

Mayor Gerwig asked if the Village was closing both lanes. Mr. Barnes said that they generally allow for continuous traffic and will close the lane closest to the sidewalk while they are parading. He recommended staying away from there between 8 and 8:30 a.m.

Mr. Barnes also announced that they have the groundbreaking for Tiger Shark Cove's Basketball Court at 5:30 p.m. on Tuesday before the Council meeting.

7. COUNCIL COMMENTS

Mayor Gerwig said that there was a dog that was in Meadowood and the story evolved that they believe it was eaten by an alligator. She asked if the Village had any knowledge of that. In response, Mr. Barnes said that they have not received any information regarding that. He said that they will keep an eye out, but they haven't heard anything like that.

8. ADJOURN

There being no further business to be discussed by the Village Council, the meeting was adjourned at 5:15 p.m.