

Village of Wellington

*12300 Forest Hill Blvd
Wellington, FL 33414*



Action Summary - Final

Thursday, May 21, 2020

4:00 PM

Village Hall - Conference Rooms 1E & 1F

Village Council Workshop

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

1. CALL TO ORDER

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

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

2. PLEDGE OF ALLEGIANCE

Mayor Gerwig led the Pledge of Allegiance.

3. REVIEW OF COUNCIL AGENDA

Mr. Schofield introduced the agenda for the May 26, 2020 Regular Council Meeting for review.

A. [20-3764](#)

PRESENTATION OF SCHOLARSHIPS AND CONTRIBUTIONS BY WASTE MANAGEMENT, INC. OF FLORIDA TO LOCAL AREA SCHOOLS

Mr. Schofield introduced the item. He explained that Waste Management, Inc. of Florida (WMI) will present sustainability scholarships to Wellington High School and Palm Beach Central High School (\$2,500 each), as well as provide contributions for the purchase of books to Elbridge Gale and Panther Run Elementary Schools (\$1,800 each) and Emerald Cove Middle School (\$900).

Mr. De La Vega mentioned that all five principals will be in attendance at the meeting on Tuesday.

B. [20-3812](#)

MINUTES OF THE SPECIAL COUNCIL MEETING OF MARCH 18, 2020 AND REGULAR WELLINGTON COUNCIL MEETINGS OF APRIL 14, 2020 AND APRIL 28, 2020

Mr. Schofield introduced the item. He stated that it was the approval of the Minutes of the Special Council Meeting of March 18, 2020 and Regular Wellington Council Meetings of April 14, 2020 and April 28, 2020. He said that if Council has any corrections, additions or revisions to please let Ms. Addie know.

C. [20-3573](#)

AUTHORIZATION TO AWARD A TASK ORDER TO PROVIDE ENGINEERING CONSULTING SERVICES FOR THE MEMBRANE TREATMENT SYSTEM IMPROVEMENT PLAN

Mr. Schofield introduced the item. He explained that this is the authorization to award a task order to Kimley-Horn and Associates,

Inc. in the amount of \$121,900, for the Membrane Treatment System Improvement Plan. He stated that there were many improvement plans for the utilities. He said that the first membrane plants were reverse osmosis and the new systems are significantly more cost effective and they produce more water.

Ms. LaRocque explained that this is a planning/engineering level to determine how they are going to get to the maximum capacity which is projected at 2038, which is about 14.8 million gallons a day. She said that this effort will look at the two membrane plants and evaluate what is the best path forward to expand the existing plan. She said that they will be looking at technology, enhancements, energy recovery options and expanding the trains. She mentioned that they need to do this effort first and understand what the cost will be before they can understand their path forward. This will ultimately eliminate the lime softening plant.

Mayor Gerwig asked if that it was because the lime softening was old technology, not as efficient and has more waste.

Ms. LaRocque stated that was correct. She said that in addition, every five years the EPA gives a list of about thirty unregulated contaminants that need to be tested for and monitored so that they can establish rules and regulations. She said that they have done about 100-120 over the last 15 years and those are not removable by a lime softening plant.

Councilman McGovern asked if this was a budgeted expense.

D. [20-3682](#)

AUTHORIZATION TO UTILIZE A BOYNTON BEACH ANNUAL CONTRACT FOR WATER SERVICE INSTALLATION AND RESTORATION SERVICES

Mr. Schofield introduced the item. He explained that it is the authorization to utilize a Boynton Beach annual contract with Line-Tec, Inc. for water service installations and restoration services in the amount of approximately \$100,000 annually. He said that they operate about 2,100 water meters and they have a life cycle of about ten years. He said that this is part of the normal maintenance.

Ms. LaRocque explained that they actually have 21,000 accounts and the meters are about 12 years old. She said that the life cycle is historically ten years, but they are trying to get the maximum life out of each meter that they can. For every meter that they delay, they

save anywhere from \$250-\$500. She said that they are starting every year to replace about 1,000 meters with their in-house staff, which is becoming more and more challenging as things keep happening. They were made aware of Line-Tec that has been doing work for other utilities. She said they thought they could supplement their internal resources with them for a maximum of \$100,000 annually. She said it is not guaranteed, but if they need them, they use them to help get meters replaced. She said that right now, there is a budget of \$250,000 per year for the meter replacements and in three years they will start budgeting \$1.2 million/year for those replacements.

Mayor Gerwig asked if these were the same meters that are able to be read as they drive by.

Ms. LaRocque stated that was called the AMR system and yes, they plan to stay with that system as it works very well.

Mayor Gerwig asked if it was just replacement of the meter.

Ms. LaRocque stated that it was just replacement of the physical meter.

E. [20-3758](#)

ORDINANCE NO. 2020-07 ADOPTING THE WATER SUPPLY FACILITIES 10-YEAR WORK PLAN AND REQUIRED UPDATE OF WELLINGTON'S COMPREHENSIVE PLAN

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, ADOPTING WELLINGTON'S WATER SUPPLY FACILITIES 10-YEAR WORK PLAN AND AMENDING WELLINGTON'S COMPREHENSIVE PLAN TO INCORPORATE THE WORK PLAN INTO THE INFRASTRUCTURE ELEMENT, AS REQUIRED BY FLORIDA STATUTE; AMENDING REFERENCES TO THE WORK PLAN IN THE FUTURE LAND USE, CONSERVATION, INFRASTRUCTURE, INTERGOVERNMENTAL COORDINATION, RECREATION AND OPEN SPACE, AND CAPITAL IMPROVEMENTS ELEMENTS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the item. He stated that this was the approval of Ordinance No. 2020-07 amending the Comprehensive Plan to incorporate the Water Supply Facilities 10 Year Work Plan in compliance with state-mandated water supply planning. He explained that every time the South Florida Water Management District (SFWMD) updates their plan, Wellington has to update theirs. He

said that this does not commit the Village to funding, but it does lay out the basis for how they will do capital planning for the future.

Mayor Gerwig asked if this was just for drinking water only or does this include the surface water distribution system.

Ms. LaRocque stated that it is for drinking water supply.

Mr. Schofield stated that this will be the first of two readings for this ordinance.

Mayor Gerwig asked if there would be a presentation on the document.

Mr. Schofield stated that they would do as much or as little as they wanted.

Ms. LaRocque said that they were not planning a formal presentation. She said that this is consistent with the recently issued consumptive use permit from the District. She explained that all this really does is "memorialize" what the District has already approved and this is required by Statute.

Mr. Schofield stated that they will have to do something similar in a few months when they adopt the School District's Comprehensive Plan.

F. [20-3798](#)

ORDINANCE NO. 2020-08 (SPECIAL MAGISTRATE APPOINTMENT POLICY AND PROCESS)

AN ORDINANCE OF THE VILLAGE OF WELLINGTON FLORIDA AMENDING CHAPTER 2, ARTICLE IV, SECTION 2-203 OF WELLINGTON'S CODE OF ORDINANCES ENTITLED "SPECIAL MAGISTRATE" TO ELIMINATE THE TERM LIMITS PREVIOUSLY ADOPTED AND CLARIFY THE APPOINTMENT PROCESS AND QUALIFICATIONS FOR SPECIAL MAGISTRATES; PROVIDING FOR THE REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT HEREWITH, INCLUDING ORDINANCE NO. 2012-18 AND RESOLUTIONS 2012-29 AND 2015-43; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the item. He stated that this is the approval for recommended changes to the Special Magistrate appointment policy and process.

Mr. Koch explained that this item is for second reading. He said that there have been no changes since the first reading. He explained that they are wanting Council's approval on the recommended changes to the special magistrate appointment policy and process. They are requesting appeal of the current term limits, clarifying and codifying the magistrates serve a two year term; and reappointment shall be self-executing unless a magistrate chooses not to serve or the Council chooses to remove a magistrate.

Mayor Gerwig asked how much of a notice is the magistrate required to give the Council if they are not going to renew.

Mr. Koch stated the ordinance indicates that staff will reach out to the magistrates 120 days prior. He stated that he does not believe there is a time frame for them to let staff know if they do not wish to continue to serve. He said that they will stagger the initial terms where one magistrate will serve the initial three year term and then revert back to the two year terms. The second magistrate will serve a two year term so that they are not on the same time frame any longer. He said that the third magistrate's term does not expire until next year. Two of the magistrates' terms end this year.

Mayor Gerwig asked if this ordinance limits them to only two magistrates or could they expand it.

Ms. Cohen stated that it says one or more persons could be appointed as magistrates.

Councilman McGovern asked if there was some urgency to this because these terms are ending.

Mr. Koch stated that was correct. They will be ending on June 1. He said that Ms. Cohen clarified that the magistrates can keep serving until the process is approved.

Ms. Cohen stated that the Council can always authorize them to continue to serve if they should happen to decide to postpone the second reading.

Mr. Koch stated that this also repeals the obsolete resolutions and puts them all in one ordinance.

TRIM RATES FOR THE WELLINGTON SOLID WASTE COLLECTION AND RECYCLING ASSESSMENTS AS FOLLOWS:

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL ADOPTING THE PRELIMINARY NON-AD VALOREM ASSESSMENT RATES FOR SOLID WASTE COLLECTION AND RECYCLING SERVICE FOR TRUTH-IN-MILLAGE ("TRIM") PURPOSES WITHIN THE JURISDICTIONAL BOUNDARIES OF WELLINGTON; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the item. He stated that is was the approval of Resolution No. R2020-20 setting the preliminary FY 2021 TRIM rates for solid waste collection and recycling proposed at \$135/unit for curbside service and \$100/unit for containerized service.

Ms. Quickel explained that the Solid Waste Authority asked the Village to get this to them early so that they could include it in their budget presentation and this is the same time that this was done last year. She said that they are proposing no changes to the rates for this year and the rates would remain at \$135/unit for curbside service and \$100/unit for containerized service. She mentioned that the Village is still owed approximately \$500,000 that will go back into this fund from FEMA reimbursements. The Village is owed approximately \$1.8 million for FEMA reimbursement from Hurricane Irma, but out of that, \$500,000 would go back into this fund. She said that they will be using fund balance of approximately \$876,000 to balance this budget.

Councilman McGovern asked if the Village leaves the rate as it is, they will have to use \$876,000 out of this reserve fund to balance this budget.

Ms. Quickel stated that was correct and that will still leave reserve balances of approximately \$3 million. She said that in addition, they will be discussing renewing the solid waste contract in next few months and they will be discussing a rate increase for next year for that.

Councilman McGovern asked how long the current contract is through this year.

Mr. De La Vega stated that the contract runs through September 30th of this year and has three one-year renewals available. The Village has been through the initial five-year period.

Councilman McGovern asked if the one-year renewals have to be done individually.

Mr. De La Vega stated that was correct.

Councilman McGovern asked if that was the Village's plan.

Mr. Barnes stated that it was the plan for this year and staff is currently negotiating those terms now with Waste Management.

Mayor Gerwig asked if that was unless the Council stated otherwise.

Mr. Barnes stated that if that was the case, then they needed to know that today.

Councilman McGovern stated that was why he asked because there was the mention of an increase this next year.

Mr. Schofield stated that in the contract with Waste Management, there is an increase built in. He said that what they plan on doing for this coming year is with the solid waste reserve, covering that increase.

Mayor Gerwig asked if there would be any impact to the residents.

Mr. Schofield stated there is no impact to the residents because there would be no change to the rate. He said that the discussion he would have with Council is do they believe the Village can get a better price by going out for bid. At this point, the amount that they are asking for is generally reasonable and the Village is significantly lower than others.

Councilman McGovern asked if the amount of increase that is being discussed now at 2%.

Mr. Schofield stated that was correct.

Councilman McGovern stated that they need to be discussing that with all of these contracts. In light of all the COVID budgetary shortfalls, the Village is really going to need them to think about whether this increase is something they absolutely need.

Mr. Schofield stated that part of the problem that they are having

now, which is COVID related from the last few months, is that the amount of waste they are picking up now is significantly higher than what they planned on. In some cases, it is almost 20% more and that is part of the reason they are talking to the Village about this. He said that he will commit to having that discussion with the Council next month.

Mayor Gerwig stated that it does not give them time to go out for bids for this year.

Mr. Barnes stated that based on the preliminary discussions they have had with Waste Management that at this point, the number that they come up with will be substantially lower than what they would get in the market. Currently, all bid contracts are within \$5-\$6 more per unit in any comparable contract throughout the County.

Mr. Schofield said that he will schedule one on one meetings with Council during the first part of June so they will know what staff is asking of them.

Ms. Quickel mentioned that a few years ago they discussed with Council that they had excess fund balance, so they lowered the rates to gradually use that. She said that they have been doing that for approximately four years. Ms. Quickel stated that they are at a point now where they need to turn that around.

Councilman McGovern asked if at the rate they are going now, they could probably go a couple more years with doing that the same.

Ms. Quickel stated that she would not agree with that at this point.

Mr. Barnes mentioned that the fund balances need to be maintained at a certain balance to address the hurricane related debris type removal.

Ms. Quickel stated that with Hurricane Irma, they spent almost \$4 million in 90 days and that came out of this fund.

Councilman McGovern stated that in this particular, unique year, the Village and Waste Management need to work together on these renewals.

Ms. Quickel stated that is why they have not proposed a change in

the rate and held it steady with the same excellent service.

Mr. Schofield stated that he will get those numbers and talk with them individually and at a workshop very quickly.

Mayor Gerwig stated that the question she gets more often is why the residents have to pay the Village for solid waste and Waste Management for solid waste.

Mr. Barnes said that there are two different charges. One is for the collection of the waste and one is for the landfill portion.

H. [20-3817](#)

COUNCIL APPOINTMENT OF BOARD AND COMMITTEE MEMBERS

Mr. Schofield introduced the next item. He said that this is the Council selection of new appointments to the Architectural Review Board, Construction Board of Adjustment and Appeals, Education Committee, Equestrian Preserve Committee, Parks & Recreation Advisory Board, Planning, Zoning & Adjustment Board, Public Safety Committee, Senior Advisory Committee and Tree Board.

Mayor Gerwig stated that they can go through that on Tuesday night.

Councilman McGovern mentioned that if anyone wants to apply, this is their last chance to get their applications turned in.

Councilman Drahos stated that he is still looking for a Senior Advisory appointee.

Mayor Gerwig stated that some never responded. She said Stacy Somers never responded, but spoke with her and is interested in serving.

Vice Mayor Siskind stated that Shelly Albright is interested as well.

Mr. Schofield mentioned that there are seven members on each committee/board. Two of those members (At Large) are ones that the Council collaborates on their appointment. Each Council person has an individual appointment.

Councilman Napoleone suggested that they review the tenure of some of the people. He said that some of them have been on these committees 8-10 years, which he thought was a long time.

Mayor Gerwig stated that many times when they have been on that long, they may not be interested in renewing.

Councilman Drahos stated that he sees that differently. He says that when they have served that long, they have knowledge that is very valuable. He said that the newer members look to those longer lasting members for guidance.

Mayor Gerwig mentioned that she would like to discuss adding Dr. Carmine Priore to the Founder's Plaque. She asked if there has been any further discussion about that.

Mr. Schofield stated that they have pulled all the information on what the plaque was intended to be. He said that it is a bit confusing in that it is not clear if the plaque is just supposed to be for founders or anyone that has significantly contributed. He said that he will put that information together for them and they can decide on the recommendations. He said that Dr. Priore is one that he intends on recommending to the Council for this.

Mayor Gerwig stated that her concern was that with the COVID threat, if they put off too long the presentation of this, they may not get the opportunity to be in person with some of the residents. She said that she feels Dr. Priore's contribution between Acme and the incorporation process of this Village and even acquiring the property that they are on now is quite important.

Mr. Schofield stated that he would have Ms. Addie distribute all the information that is available on how the process came together and they can look at that more under Council comments on Tuesday night.

4. WORKSHOP

5. ATTORNEY'S COMMENTS

Ms. Cohen reminded the Council that there would be a Shade session on Tuesday, May 25th at 6:00 p.m. She said that Mr. Chain would be there and they would be discussing the foreclosure matter in the 130 violations case.

Ms. Cohen stated that there was some miscommunication put out on social media about a code enforcement matter. This is where the property owner, which was Palm Beach Polo, applied for a fine

reduction. She said she wanted to clarify that was the Dog Park case, not the 130 violations case. She said that Palm Beach Polo and the POA were similarly situated in terms of reuniting the parcel. Mr. Koch offered an 80% reduction to the POA, who accepted that. He made that same offer to Palm Beach Polo. Palm Beach Polo's fine was much greater because even though they were offered a stay, they did not accept the stay and there was an appeal, so their daily fine amounted to a much higher fine. The reduction was offered to both parties.

Councilman McGovern asked if they accepted it.

Ms. Cohen stated that they did not. She said that they are entitled by Chapter 162 and Wellington's Code of Ordinances to go before the magistrate. They asked for further reduction. The magistrate felt that the 80% was the maximum that they were comfortable offering. The magistrate determined that when Palm Beach Polo filed the quiet title action against the POA, even though that was not actually compliance, it was a step towards compliance and that the fine should stop at that point. This, therefore, reduced the total outstanding fine and reduced it again to 20% of that amount. So, that was what ended up being the order that was posted on social media, which was around \$44,000. She said that is a process that is in our code.

Councilman McGovern asked which magistrate that was.

Ms. Cohen stated that it was Mr. Posner.

Councilman Drahos stated that the first he heard of this was on social media, so it came as a bit of a surprise to him. He said that he accepts the fact that they are not going to be informed of every single code enforcement hearing and every single reduction, however he does think they need to take a look at this process. He said that he believes the Council should be aware when there is a proposed 80% reduction, regardless of who the parties are, of a six figure code fine. He thinks this process should have a fresh look and perhaps they can bring it up in visioning. He stated that at that time he can then express a bit more of his concerns as to how this is operating and that there should not be a moment, in his opinion, where he is seeing something for the very first time on social media involving a six figure code enforcement.

Mayor Gerwig stated that it has changed over the years, back and forth on the process. She said that the last reiteration was when they gave staff that authority. She said that if they do not agree with that, then it would be the time to look at that again.

Councilman Napoleone stated that the reason was that they did not want to have all the code enforcement reductions to come to the Council level. He said it seemed inappropriate because there could be a reduction request for any number of reasons, many of which could be personal, and they did not want to get involved in that process.

Councilman Drahos stated that he agreed with that, but when they are talking about someone with an \$800,000 reduction, he would like to know about that. He said that he does not want to hear about it for the first time on social media.

Mayor Gerwig stated she did not see this post on social media. She asked Ms. Cohen to clarify the reasoning of the fine adjustment.

Ms. Cohen stated that the fine amount was roughly \$863,000.

Councilman McGovern asked if this was just over the dog park case.

Ms. Cohen stated that was correct. She said that at some point during the accrual of that fine, Palm Beach Polo filed quiet title action against the POA. At the hearing, the magistrate decided that would have been their attempt to comply. So, he recalculated the fine to stop at that point, which reduced the total fine down to a lower number and then 80% of that was reduced. She reminded the Council that when code violations go to the magistrate, code enforcement does not report back to her. They report to Mr. Schofield and Tim Stillings.

Councilman McGovern asked who makes presentations to the magistrate.

Ms. Cohen stated that it is typically Code Enforcement staff. She said that if there is some reason for her to be involved, then she will come down, but they would notify her if there was a case that needed her there.

Councilman McGovern stated that there was a time when the Council

heard those cases and there could be issues such as foreclosure, loss of a job, health issues and medical procedures. He said that once the current Council was all seated, they decided that they wanted to get out of that. He said that he thought there was always a caveat that on litigated matters, those would still come in front of the Council.

Ms. Cohen stated that they are.

Councilman Drahos asked how many six figure code enforcement fines the Village could possibly have. He stated that it would seem to him that those would be extraordinary circumstances.

Ms. Cohen stated that she did not know the answer to that question. She said that she thought Mr. Koch might know the answer to that question.

Councilman Napoleone stated that it is not a fine commensurate with the offense. It is a daily fine that just keeps running until they come into compliance.

Councilman Drahos stated that he understood, but even under those circumstances, he still felt it was rare to get to the number of particularly \$800,000 and it is something that should be under their radar.

Mr. Schofield stated that code enforcement finds that fines can get to the point where they are hundreds of thousands of dollars.

Councilman Drahos asked how often that happens.

Mr. Schofield stated that it is way more often than they realize. He said that the easy solution to this is if it is the dollar value that is the issue, then if they say they are going to do a fine reduction that will exceed six figures, then we will notify Council before they do it. He said that places very little burden on staff.

Mayor Gerwig stated that she has a problem with saying that under certain circumstances they are okay with the magistrate hearing everything and making that decision.

Ms. Cohen stated that she misspoke on the numbers. The adjusted amount that was reduced was \$446,608 and then the magistrate

reduced that amount by 80% to make the total fine due \$89,808.67. The magistrate gives the property owner thirty days to pay the reduced fine and if they do not pay it within that time, then it goes back up to the original fine amount.

Mr. Schofield stated that they would not bring the fine reduction to the Council after the fact, that they would be bringing it to the Council before the intended magistrate hearing. He said that if they look at the list and the property is qualified for the up to 80% reduction and that amount is in the six figures, then he will make sure that Council is aware of it.

Councilman Drahos stated that he did not mean to make a long discussion of it, but it was on his mind and he wanted to make them aware of it.

Mr. Schofield stated that he would need to have an EOC meeting very soon before they lost all the staff for the day.

Mayor Gerwig asked how much of the Village's cost was able to be collected for the code enforcement hearing.

Ms. Cohen explained that the hard cost that code enforcement incurred in processing the violation is on top of the fine. She said it was appealed, but it was upheld.

Councilman McGovern stated that if a case has been to the courthouse, then they need to be notified of that.

Mayor Gerwig stated that the Code is for the benefit of all the residents. She said that it is to bring compliance.

Councilman Napoleone mentioned that he thought when a case went to litigation that Mr. Koch lost discretion. Then, the case would go to Council to decide.

Councilman McGovern stated that in the sense of this case, litigation was in the broadest sense and should have been brought to the Council for decision.

6. MANAGER COMMENTS

Mr. Schofield stated that they needed to convene to the EOC meeting.

7. COUNCIL COMMENTS

None.

8. ADJOURN

There being no further business to be discussed by Council, the meeting was adjourned at 5:00 p.m.