

1052



PALM BEACH COUNTY COMMISSION ON ETHICS
300 North Dixie Highway, Suite 450, West Palm Beach, Florida 33401
Hotline: 877-766-5920 or 561-355-1915

COMPLAINT FORM

1. Complainant (Person bringing Complaint) Add pages, if necessary.

Please list all information where you would like to be contacted. Our preference is email.

Name: Bart Novack E-Mail _____
Address: 15670 Cedar Grove Lane
City: Wellington, Florida Zip: 33414
Home #: 561-790-3344 Work #: _____ Cell #: _____

2. Respondent (Person against whom complaint is made) Add pages, if necessary.

Please provide as much information as possible.

Name: Alan S. Zangen E-Mail asz@zangenlaw.com
Address: 12008 South Shore Blvd.
City: Wellington, Florida Zip: 33414
Home #: _____ Work #: 561-793-2400 Cell #: _____
Title/Office Held or Sought: Attorney at Law - Lobbyist

3. IF KNOWN, CHECK THE BOX OR BOXES THAT APPLY

Allegation is against person in
County/Municipal Government

Allegation is about County:
Whistleblower Retaliation

4. STATEMENT OF FACTS BASED ON YOUR PERSONAL KNOWLEDGE

In a separate attachment, please describe in detail the facts and actions that are the basis of your complaint, including the dates when the actions occurred. Also attach any relevant documents as well as names and contact information of persons who may be witnesses to the actions. If known, indicate the section of the ordinance you believe is being violated. For further instructions, see page 2 of this form.

5. OATH

I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments are true and correct, to the best of my knowledge and belief.

[Signature]
Signature of Person Making Complaint

STATE OF FLORIDA

COUNTY OF Palm Beach

Sworn to (or affirmed) and subscribed before me this 28 day of November 2014, by

Bart Novack
(Name of Person Making Statement)

who is personally known to me ☒ or produced identification _____. Type of identification produced: _____

[Signature]

(Signature of Notary Public, State of Florida)

Donna Crusco FF022602
(Print, Type, or Stamp Commissioned Name of Notary Public)



Bart Novack

15670 Cedar Grove Lane

Wellington, Fl. 33414

November 28, 2014

Palm Beach County on Ethics

300 North Dixie Highway

Suite 450

West Palm Beach, Fl. 33401

Statement for Alan Zangen as Lobbyist,

On November 11, 2014 at a Village Council meeting under the Public Hearing forum Mr. Zangen attorney at law represented my HOA Cypress Forest Homeowner Association, Inc. in regards to Binks Pointe A-14-780 ordinance no. 2014-22 and 14-781 resolution no. R2014-27. Mr. Zangen was requesting conditions to be imposed by the village council and trying to influence a decision by the village council. There was at least one other time lobbying on the matter.

At that point he was lobbying in my opinion. He is not a register lobbyist in the state, county or village.



Bart Novack

15670 Cedar Grove Lane

Wellington, Fl. 33414

February 3, 2015

Palm Beach County on Ethics

Suite 450300 North Dixie Highway

West Palm Beach, Fl. 33401

Dear Mr. Bennett, investigator

As per our conversation yesterday afternoon you are requesting an interview with me asking for another statement also questioning me with multiple questions from you and who else is present for the interview.

I will be happy to answer any and all questions in writing from your office Also my complaint falls under your Palm Beach County Lobbyist Registration Ordinance, effected April 2, 2012 and Code of Ethics, effected June 1, 2011.

Please inquire the 2 village council tapes on the listed complaint which is self-explanatory. I was present at both meeting. This was personal knowledge.

I await your response.

Thank You,

Bart Novack, complainant

CC: Steven Cullen, Executive Director

Anthony Bennett, 2/3/15

You may need these dates for Mr. Zangen.

8/26/14

B-14-575

Ordinance # 2014-22

11/14/14

A-14-780

Comprehensive Plan Amendment

B- 14-781

Master Plan Amendment

R2014-27

Bart Novack

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF INQUIRY

To: Steven Cullen, Executive Director
From: Anthony C. Bennett, Investigator
Re: C14-014 – Alan Zangen, Wellington

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff via a sworn complaint filed by Mr. Bart Novack (Complainant) of Wellington on November 28, 2014. The Complaint was properly notarized and delivered to the Commission on Ethics (COE) on December 1, 2014. The Complaint listed Alan Zangen of Wellington as Respondent.

Attached to the sworn Complaint was a letter that was signed but not dated. The letter was addressed to "Palm Beach County on Ethics" and titled, "Statement for Alan Zangen as Lobbyist".

The letter alleged Alan Zangen (Respondent) attended the November 11, 2014 Wellington Village Council meeting. Complainant states Respondent is an attorney at law representing his "Home Owners Association, Cypress Forest". Under the "Public Hearing" forum Respondent was trying to influence a decision by the Village Council in regards to Binks Pointe A-14-780 Ordinance No. 2014-22 and 2014-781 / Resolution No. R2014-27. The letter also alleged Complainant believes, "At that point he was lobbying and he is not a registered lobbyist in the state, county or village." The letter does not state exactly what issue is being "lobbied" by Respondent.

The following documents/information were provided with the Complaint and submitted to the file:

- **Documents provided by Complainant**

1. Letter addressed to the COE signed by Complainant. (1 page)
2. COE Complaint Form – signed and notarized by Complainant. (1 page)

- **Inquiry**

Respondent was found listed in the Florida Bar website as Alan Scott Zangen. It shows him as a practicing attorney with an "active" Bar Number and lists him as a "Member in Good Standing" eligible to practice law in Florida. His office information shows an address located in Wellington, Florida, with his major areas of practice being "Real Property and Probate Law."

On Thursday, January 15, 2015, I reviewed the video of the November 11, 2014 Village Council 7 pm Meeting. The link was found on the Village website under the Council Agenda section.

All Council Members were in attendance, which included Mayor Bob Margolis, Vice Mayor John Greene, Councilman Matt Willhite, Councilman Howard Coates, and Councilwoman Anne Gerwig. Respondent was also in attendance. The issues in question, Ordinance Nos. 14-780 and 14-781, were both listed on the Council Agenda under the "Public Hearings" section as subsections A and B. There were numerous discussions regarding the Binks Pointe Comprehensive Plan Amendment.

Below is a timeline of relevant information from this meeting:

- 00:11:45 Mayor Bob Margolis called the meeting to order.
- 00:14:20 Village Manager Paul Schofield introduced Agenda Item A (Ordinance No. 14-780).

- 00:14:28 Ordinance read into the record, stating proposal to turn 2.6 acres of identified property from commercial to residential use.
- 00:15:16 It was identified by Mayor Margolis that a quasi-judicial hearing was taking place. Individuals identified to speak and/or make presentations were sworn in.
- 00:14:28 Village staff Mr. Stillings presented the staff report before the Council.
- 00:39:22 Jennifer Vail from Land Design South made a presentation before the Council for the Applicant, Binks Pointe.
- 01:24:16 Mayor Margolis made a motion to open the "Public Hearing" on this agenda item.
- 01:24:18 The motion for Public Hearing was seconded.
- 01:24:23 The Council passed the motion unanimously with a (5-0) vote.
- 01:24:28 Respondent was recognized as submitting a Comment Card to address the Council and called to the podium.
- 01:24:36 Respondent advised he was there representing the Cypress Forest Homeowner's Association. He stated his client is located immediately south of the new development in question. He gave his address to the Council for the record, which is located in Wellington, Florida.

Respondent stated he did meet with the developer and Ms. Vail, of Land Design South, on behalf of his client and he advised them of conditions his client wanted addressed. He told the Council Ms. Vail had mentioned some of his client's conditions during her presentation, but he wanted more clarification before the Council prior to a vote. Those conditions are as follows:

1. One year rental restriction with limitations of five hardship units. This would include a restriction that the developer and the community would not be able to amend the restriction while they are in charge with less than 80% approval.
2. Construction access be limited to Flying Cow Road verified with written approval from FPL.
3. Construction hours be limited to 7:00 am to 7:00 pm with no construction on Sundays.
4. Hedges be placed behind five (5) identified homes, which were already acknowledged during Ms. Vail's presentation.

- 01:31:18 Respondent ended his comments during the Public Hearing portion of this agenda item.

Both the Ordinance and the Resolution passed after vote was taken by the Council.

On Thursday, January 29, 2015, I checked the Village website and reviewed the requirements set forth by the Village regarding lobbying the Council.

According to the Village website under the "Lobbyist Registration" section, any paid lobbyist attempting to influence the outcome of a matter that would ultimately come before the Board of County Commissioners or any participating municipality, must comply with the requirements of the Palm Beach County Lobbyist Registration Ordinance. This requires lobbyists to register before engaging in lobbyist's activities even if it is done on an occasional basis. It was clearly stated that all Lobbyists doing business in the Village must first register with Palm

Beach County. A link was provided to direct individuals to the Palm Beach County website Lobbyist section, as well as, a link to the appropriate lobbyist forms.

On Wednesday, September 3, 2014, I checked the online Palm Beach County Lobbyist Registration Database to see if Respondent is listed as a Registered Lobbyist, as defined in the PBC Lobbyist Registration Ordinance.

Respondent's name was not found in the database, in any combination (last name first or first name last). The Cypress Forest Home Owner's Association, as an entity, was not found to be listed in the database either

On Wednesday, February 4, 2015, at 10:44 am, I contacted Complainant, Bart Novack, via telephone in an effort to set up an interview in an effort to gain additional information. Complainant declined to be interviewed.

Complainant faxed over two documents on February 4, 2015 addressed to me.

The first document was a letter from Complainant acknowledging that I asked for "another statement." The second document lists me as the recipient with a note, "You may need these dates for Mr. Zangen." The document also has the date/time *August 8, 2013 05:54p* listed in the upper right hand corner.

The following information was listed on the document:

8/26/14	11/14/14
B-14-575	A-14-780
Ordinance #2014-22	Comprehensive Plan Amendment
	B-14-781
	Master Plan Amendment
	R2014-27

There was no other information regarding Respondent listed on the document.

I was able to ascertain the numbers listed on the document faxed over by Complainant were listings of Wellington Council Agenda Items for the respective dates of August 26, 2014 and November 14, 2014. I pulled the meeting minutes from both Council meetings. The meetings did address the Binks Pointe Comprehensive Plan Amendment, but the Respondent was only mentioned at the November 14, 2014 meeting which was detailed earlier in this report. No new information could be gathered from the document provided by Complainant.

- **Applicable Law**

The Following sections of the PBC Commission on Ethics Ordinance are relevant:

Sec. 2-254. Creation and jurisdiction.

The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby established. The jurisdiction of the commission on ethics shall extend to *any person required to comply with the countywide code of ethics*, the county lobbyist registration ordinance, and the county post-employment ordinance... (Emphasis added)

Sec. 2-260. Procedure on Complaints filed.

- (a) *Filing of complaints.*
 - (1) Any person may file a complaint with the commission on ethics.
- (b) *Legal sufficiency of complaints.*
 - (1) In order to be found legally sufficient, complaints filed by persons under section (a) 1 above, must:
 - a. Be in writing, and executed on a form prescribed by the commission on ethics;

- b. Allege the elements of a violation within the commission on ethics' jurisdiction in the complaint and/or supporting documents provided;
- c. Be based substantially upon the personal knowledge of the complainant; and
- d. Be signed under oath or affirmation by the complaining person.

The Following sections of the PBC Lobbyist Registration Ordinance are relevant:

Sec. 2-352. Definitions.

Lobbying shall mean seeking to influence a decision through oral or written communication or an attempt to obtain the goodwill of any county commissioner, any member of a local municipal governing body, any mayor or chief executive officer that is not a member of a local municipal governing body, any advisory board member, or any employee with respect to the passage, defeat or modification of any item which may foreseeably be presented for consideration to the advisory board, the board of county commissioners, or the local municipal governing body lobbied as applicable

Lobbyist shall mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government. **"Lobbyist" shall not include:**

- (2) **Any person who is retained or employed for the purpose of representing an employer, principal or client only during a publicly noticed quasi-judicial hearing or comprehensive plan hearing, provided the person identifies the employer, principal or client at the hearing. (Emphasis added)**

Local Municipal Governing Body will mean the councils and commissions of the municipalities located within Palm Beach County, Florida.

Member of Local Municipal Governing Body will mean any member of the municipal council or commission.

Sec. 2-353. Registration and expenditures.

(a) Registration required. Prior to lobbying, all lobbyists shall submit an original, fully executed registration form to county administration, which shall serve as the official location for countywide lobbyist registration and which shall be known as the "Central Lobbyist Registration Site."

- **Additional documentation added during the course of the investigation:**

- 1. Florida Bar Member Profile (Alan Scott Zangen) – (2 pages)
- 2. Village of Wellington Meeting Agenda – 11/11/14 7:00 pm – (9 pages)
- 3. Village of Wellington Action Summary – 11/11/14 7:00 pm – (5 pages)
- 4. Letter from Bart Novack – (2 pages)

- **Summary of Investigation**

In order to find a violation of §2-353(a) *Registration and Expenditures: Registration Required*, of the PBC Lobbyist Registration Ordinance, it would have to be established that Respondent was required by the Ordinance to register as a lobbyist by submitting an original, fully executed registration form to county administration, "which shall serve as the official location for countywide lobbyist registration and which shall be known as the Central Lobbyist Registration Site." Under this Section, a person who fails to register as a lobbyist when required to do so, is in violation of the Lobbyist Registration Ordinance.

Complainant Bart Novack alleged that Respondent Alan Zangen failed to register as a lobbyist for the Cypress Forest Homeowner's Association in dealings with the Village of Wellington surrounding Wellington's approval of Agenda Item 14-780 (Ordinance No. 2014-22 Binks Pointe Comprehensive Plan Amendment) and Agenda Item 14-781 (Resolution No. R2014-27 Binks Pointe Master Plan Amendment). Based on this allegation, Respondent would have been required to register as a lobbyist. However, there are exceptions to this requirement.

The relevant portion of Section 2-442, *Definitions*, of the PBC Code of Ethics states:

Lobbyist shall mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government. "Lobbyist" shall not include:

- (2) Any person who is retained or employed for the purpose of representing an employer, principal or client only during a publicly noticed quasi-judicial hearing or comprehensive plan hearing, provided the person identifies the employer, principal or client at the hearing.*** (Emphasis added)

I reviewed the Palm Beach County Central Lobbyist Registration Site. Per Village of Wellington potential lobbyist requirements, all lobbyists must be listed on this registration site prior to lobbying the Village. There was no listing for Alan Scott Zangen or Cypress Forest Homeowner's Association. I also reviewed the Florida Bar website and found a listing for Mr. Alan Scott Zangen, Wellington, as a "Member in Good Standing" in the Florida Bar.

Based on his testimony at the Public Hearing, Respondent identified himself as the attorney for Cypress Forest. He addressed the Council in an effort to protect the interest of his client the Cypress Forest Homeowner's Association, which is a community located immediately south of the proposed development site. He asked the council ensure certain requests were clarified prior to any action on the Amendment. He never stated whether he or his client was for or against the project.

Although Respondent did address the Wellington Village Council, it was during the Public Hearing portion of the meeting, which falls under the exception guidelines listed in the above County Ordinance. In addition, Respondent did not have any association with Binks Pointe officials. It was not found that he was the Binks Pointe attorney, did not represent them in any form at the meeting, and subsequently did not lobby for approval or denial of their requested Amendment.

Additional information provided by Complainant did not yield any information which supported the lobbying allegation. In reviewing the August 26, 2014 Council Meeting, Respondent did not participate in portion of the meeting nor was he listed in any of the documents provided concerning the meeting.

- **Analysis**

For this complaint to be legally sufficient, the following must be applied:

1. The complaint must be regarding an individual who is within the jurisdiction of the Commission on Ethics and the Palm Beach County Code of Ethics.
 - a. Respondent appeared before the Wellington Village Council at the November 11, 2014 meeting, hour mark 1:24:36 and could be covered under the jurisdiction of the COE based on potential lobbyist activities.
 - b. Upon closer observation, Respondent addressed the Council during the Public Hearing portion of the meeting, which falls under the exception clause of §2-442 and Respondent did not represent the actual applicant to the Village.
2. The complaint filed must be in writing and executed on a form prescribed by the COE.
 - a. The complaint was submitted on a Complaint form used by the COE and signed by Bart Novack.

3. The complaint must allege the elements of a violation within the jurisdiction of the COE with supporting documents provided.
 - a. The complainant has alleged that Alan Zangen appeared as a lobbyist before the Village Council of Wellington lobbying for Agenda Items 14-575, 14-780 and 14-781. A check of the Palm Beach County Lobbyist Registration Database shows Alan Zangen is not listed as a Lobbyist for Binks Pointe, The Cypress Forest Homeowner's Association or any other entity within Palm Beach County in violation of §2-353(a).
 - b. The complainant submitted several documents in which did not support of the violations alleged. Said documents are listed by name above.
4. The complaint must be based substantially on the personal knowledge of Bart Novack.
 - a. The letter submitted by Mr. Novack did indicate he has personal knowledge of the allegations listed above, because he attended the same meeting.
5. The complaint must be signed under oath or affirmation by the complaining person.
 - a. Bart Novack's signature was notarized by a Notary Public for the State of Florida on November 28, 2014.

- **Recommendation**


After reviewing the background information, the documents submitted by Bart Novack, the applicable law, I prepared an analysis and believe that there was no violation of the PBC Lobbyist Registration Ordinance that could be found if the allegation is true and committed by the Respondent. Therefore, it is my recommendation that **LEGAL SUFFICIENCY DOES NOT EXIST** in this matter, that this Inquiry be closed, and that then Complaint be **DISMISSED**.

Submitted by:


Anthony C. Bennett
PB County Commission on Ethics

3/11/15
Date

Reviewed by:


(Initials)

3/11/2015
Date

Village of Wellington

*12300 Forest Hill Blvd
Wellington, FL 33414*



Meeting Agenda

Tuesday, November 11, 2014

7:00 PM

Village Hall

Village Council

*Bob Margolis, Mayor
John Greene, Vice Mayor
Matt Willhite, Councilman
Howard K. Coates Jr., Councilman
Anne Gerwig, Councilwoman*

1. CALL TO ORDER**2. PLEDGE OF ALLEGIANCE****3. INVOCATION**

Rev. Rainer Richter, St. Peter's United Methodist Church, Wellington

4. APPROVAL OF AGENDA**5. PRESENTATIONS AND PROCLAMATIONS****A. 14-920 PRESENTATION BY CONGRESSMAN TED DEUTCH**

Congressman Ted Deutch has requested to make a presentation on the current topics in Washington.

6. CONSENT AGENDA**A. 14-909 MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETING OF SEPTEMBER 23, 2014**

Approval of the Minutes of the Regular Wellington Council Meeting of September 23, 2014.

B. 14-897 CERTIFICATES OF CORRECTION FOR NON-AD VALOREM ASSESSMENTS

Approval of Certificates of Correction for Non-Ad Valorem Assessments for parcels: 73-41-44-20-09-000-0330 and 73-41-44-20-09-0340.

C. 14-756 AUTHORIZATION TO AWARD A CONTRACT FOR UTILITY PROCESS CONTROL SYSTEMS MAINTENANCE AND MODIFICATION TO PROCESS CONTROL CONSULTANTS, INC

Authorization to award a contract for utility process control systems maintenance and modification to Process Control Consultants, Inc. in an amount not to exceed \$110,500.

D. 14-885 RESOLUTION NO. R2014-65 (DROWNING PREVENTION COALITION "BUCKS" CERTIFICATE PROGRAM)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL APPROVING AND AUTHORIZING THE MAYOR AND CLERK TO EXECUTE AN INTERLOCAL AGREEMENT WITH THE DROWNING PREVENTION COALITION OF PALM BEACH COUNTY TO PROVIDE FOR VOUCHERS FOR FREE SWIMMING LESSONS UNDER THE "BUCK PROGRAM" FOR FISCAL YEAR 2014-2015; AND PROVIDING AN EFFECTIVE DATE.

Approval of the FY15 Drowning Prevention Coalition "Bucks" Program.

7. PUBLIC HEARINGS

A. 14-780

ORDINANCE NO. 2014-22 (BINKS POINTE COMPREHENSIVE PLAN AMENDMENT)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE WELLINGTON COMPREHENSIVE PLAN FUTURE LAND USE MAP (PETITION NUMBER 2013-61 CPA 2) BY CHANGING THE FUTURE LAND USE MAP DESIGNATION FROM COMMERCIAL RECREATION TO RESIDENTIAL "E" FOR CERTAIN PROPERTY KNOWN AS PARCEL "V" OF THE LANDINGS AT WELLINGTON PUD, TOTALING 0.26 ACRE, MORE OR LESS, LOCATED APPROXIMATELY 1/2 MILE SOUTH OF SOUTHERN BOULEVARD ON THE WEST SIDE OF BINKS FOREST DRIVE, AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the Agenda item. Ms. Rodriguez read the ordinance by title.

Since this was a quasi-judicial hearing, Ms. Cohen administered the oath to those people who indicated they would be speaking on this item.

Council each disclosed their ex-parte communications.

At this point, Mr. Schofield announced that item B was a companion item to this Comprehensive Plan Amendment and that Council might want to consider one presentation for both items, and noted that they would require separate motions. Council agreed to hear one presentation for both items. Mr. Schofield said that Council's ex-parte communications would remain the same for both items.

Mr. Stillings presented the staff report and explained Agenda item R2014-27 would be heard together. The applicant and agent would provide a presentation for Council.

Jennifer Vail from Land Design South and Mike Smolak from Schickendanz Capital Group provided a presentation and answered Council's questions.

Public Hearing

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

1. Alan Zangen, 12008 South Shore Boulevard. Mr. Zangen stated that he represents Cypress Forest HOA, and he asked Council to consider several conditions that were presented to the developer. (1) One year rental restriction with limitations of five hardship units, and to include a restriction that the developer and the community would not be able to amend the restriction while they are in charge with less than 80% approval; (2) Construction access via

Flying Cow Road with a written approval in hand from FPL; (3) Construction hours limited to 7:00am to 7:00pm with no construction on Sunday; (4) Request was that the hedges be placed behind the five homes that Ms. Vail indicated in her presentation be a condition of approval. Ms. Vail agreed to contact the owners within the next thirty days.

2. Bart Novack, 15670 Cedar Grove Lane. Mr. Novack voiced his opposition to the project and raised several concerns: (1) the future traffic count going over the bridge was not yet known; (2) a traffic light and flashing signs were needed to slow down the oncoming traffic because the area was dangerous; (3) the build-out period should be two years; (4) a continuance in four years for the project should be denied, and (5) he does not support the project.

3. Bobby Munden, 14551 Halter Road. Mr. Munden said that the rental restrictions used in condominiums state that one person or related parties can only own a maximum of three units and those stipulations should be applied with this project so that the units would not be treated as rental properties. If he lived in the Preserve, he would not like the separation to be hedges but a wall similar to the wall behind Palm Beach Outlet Mall and the Presidents Golf Course. Mr. Munden further suggested that the entire development be pushed north where there was additional land and space and not south towards the golf course and questioned the accuracy of the space between where the diagram indicates where the project would be and the existing homes and felt the diagram was making it look like wider space.

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

A motion was made by Councilman Coates, seconded by Councilman Willhite and passed (5-0), approving Ordinance No. 2014-22 on Second Reading as presented.

B. 14-781

RESOLUTION NO. R2014-27 (BINKS POINTE MASTER PLAN AMENDMENT)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL, APPROVING A MASTER PLAN AMENDMENT (PETITION NUMBER 2013-61 MPA 2) FOR CERTAIN PROPERTY KNOWN AS POD "L" (BINKS POINTE F.K.A. RESIDENCES AT BINKS FOREST GOLF CLUB) OF THE LANDINGS AT WELLINGTON PUD, TOTALING 15.27 ACRES, MORE OR LESS, LOCATED APPROXIMATELY 1/2 MILE SOUTH OF SOUTHERN BOULEVARD ON THE WEST SIDE OF BINKS FOREST DRIVE, AS MORE SPECIFICALLY DESCRIBED HEREIN; TO INCREASE THE ACREAGE OF POD "L" BY INCLUDING PARCEL "V" 0.26 ACRE, DESIGNATE POD "L" AS OPTIONAL RESIDENTIAL (OR) AND AMEND CONDITIONS OF APPROVAL; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

A combined staff report for both items A and B had previously been presented for this item.

A motion was made by Councilman Coates, seconded Vice Mayor Greene and passed (5-0) approving Resolution No. R2014-27 with the following changes: (1) Development be limited to a one year rental restriction on the initial sale and all subsequent owners and subject to no more than five hardships at one time. The hardship amount cannot be changed by the developer while in control of the property and once turnover occurs, the hardship amount would be subject to seventy percent vote of the home owners association. (2) The developer cannot change or amend the restriction for the rental period while in charge and change would be subject to a seventy percent vote of the members. (3) The designated construction access road would be via Flying Cow Road which would be subject to the approval from FPL and Binks Golf Course easement, unless access to the easement would be canceled, terminated or denied by FPL or golf course. (4) Construction hours for the interior and exterior areas of construction would be between 7:00am and 7:00pm with no construction on Sunday. (5) Response from the five property owners that have been contacted by the developer regarding additional hedges must be completed no later than at the end of the completion of the construction of the three southeastern most buildings. The completion date would be the date measured by the CO (Certificate of Occupancy) being issued for each of the buildings. (6) The setbacks that have been represented at the meeting would be Council imposed conditions subject to the changes in the setbacks that Mr. Stillings and Ms. Vail calculated with respect to the four designated areas for visitor parking. (7) The conservation easement would be required as a condition subject to easements stating the maintenance requirement continues to rest with the applicant and the HOA. (8) Section 5b (of the resolution) be revised to reflect payment would be subject to approval by the Village Engineer. (9) Provide enhanced landscaping as the buffer between the visitor parking and the end units.

C. 14-808

ORDINANCE NO. 2014-26 (EQUESTRIAN BRIDLE PATH MAP CPA)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE WELLINGTON COMPREHENSIVE PLAN BY ADOPTING THE BRIDLE TRAIL MAP IN THE EQUESTRIAN ELEMENT; PROVIDING FOR CONFLICT AND SEVERABILITY; AUTHORIZING THE MANAGER TO UPDATE THE COMPREHENSIVE PLAN; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the agenda item. Ms. Rodriguez read the ordinance by title.

At this time, Councilman Willhite asked if it would be appropriate to postpone the hearing of this ordinance until Mr. O'Dell could provide a map of the equestrian bridle trails so that they could see what Council was actually voting on. Mr. O'Dell indicated that he wanted to make the presentation because he thought he had a solution.

Mr. O'Dell presented the agenda item explaining that the ordinance relates to the Village's Bridle Path System. He noted that the Bridle Path System is identified in the Village's Comprehensive Plan; however, the plan being presented was one that had been developed in 2004 in a plan by CM2MHill. He indicated that it was the only map that he had, but he had a solution to that. He said that, with Council's approval, he wanted to move all of the colors over to the GIS system and then move forward with that map as being the base map

moving forward. He said that it would have the same colors, but would be in the Village's system.

Mr. Schofield said that given that it was unknown what that map would look like and there were also some changes discussed at the Agenda Review, he recommended that this be postponed to the first meeting in January.

Councilwoman Gerwig said that the Village actually knows where the bridge paths are whether or not they can see them, but they needed to include the element. Mr. Schofield explained that the problem was that putting this in the Village's GIS system does not give it the same force as putting it in the Comprehensive Plan. He said that Mr. O'Dell had just suggested moving it into the GIS system which tells them where the trails are which they already know. Mr. O'Dell explained that he would create the same map in the Village's GIS system so that they can make any changes to it as they move forward with it. Mr. Schofield said that since they don't have that for a Comprehensive Plan Amendment at this time, he said it was appropriate to postpone the item.

A motion was made by Councilman Coates, seconded by Councilman Willhite, and unanimously passed (5-0) to postpone Ordinance 2014-26 time certain to the first Council meeting in January 2015.

D. 14-782

ORDINANCE NO. 2014-25 (REASONABLE ACCOMMODATION POLICY)

AN ORDINANCE OF THE VILLAGE OF WELLINGTON, FLORIDA, AMENDING ARTICLE V OF WELLINGTON'S LAND DEVELOPMENT REGULATIONS BY ADDING CHAPTER 13 "REASONABLE ACCOMMODATION", SETTING FORTH A PROCEDURE FOR PERSONS WITH DISABILITIES TO REQUEST ACCOMMODATIONS TO VILLAGE OF WELLINGTON RULES, POLICIES, AND PROCEDURES AND ESTABLISHING AN APPEAL PROCESS; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Schofield introduced the Agenda item. Ms. Rodriguez read the ordinance by title.

Ms. Cohen explained that this was an ordinance that formalized a policy that the Village has had to provide reasonable accommodations to those with disabilities. It provides people who may want to request reasonable accommodations with the procedure that they would need to follow as well as providing an appeal process. She recommended approval.

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

There being no public comments a motion was made by Councilman Coates, seconded by Councilman Willhite and unanimously passed (5-0) to close Public Hearing.

A motion was made by Councilwoman Gerwig, seconded by Councilman

Coates, and unanimously passed (5-0) approving Ordinance No. 2014-25 on Second Reading as presented

8. REGULAR AGENDA

A. 14-858 AUTHORIZATION TO ENTER INTO AN AGREEMENT FOR SOLID WASTE CONSULTING SERVICES

Mr. Schofield introduced the item and stated that the item would be divided into two sections:

1. Authorization to Enter into an Agreement for Solid Waste Consulting Services.
2. Direction Regarding the Solid Waste Request for Proposal (RFP).

Mr. Schofield explained when the item was presented for the first time there was one request to hire the consultant and obtain direction from Council regarding policy points on the RFP. After discussion at the Agenda Review meeting Council consensus was to separate the topics in order to obtain separate discussion and deal with the topics individually.

Authorization to Enter into an Agreement for Solid Waste Consulting Services.

Mr. De La Vega presented the staff report.

A motion was made by Councilman Willhite, seconded by Councilman Coates, and unanimously passed (5-0) approving the authorization to enter into an agreement with David Dee, Esq, Attorney with Gardner, Bist, Wiener, Wadsworth, Bowden, Bush, Dee, LaVia & Wright, P.A. to provide Solid Waste Consulting Services with the following change: the amount was not to exceed \$50,000.

Direction Regarding the Solid Waste Request for Proposal (RFP).

Mr. Barnes stated that staff recommends issuing a two-step RFP similar to what was issued in 2007, and minimum qualification requirements would be established.

At this point a motion was made by Councilman Willhite, seconded by Vice Mayor Greene, and unanimously passed (4-1) with Councilwoman Gerwig dissenting, approving the meeting's continuation after 11:00P.M.

Council consensus was reached for the following decision points:

1. New trucks or used trucks with an age limit? – Minimum seven year average fleet and well maintained. Diesel or Natural Compressed Gas? – Not a mandatory requirement.
2. What limits on number of years of current experience, size or number of accounts for providing commercial and residential solid waste, recycling, vegetation and bulk waste services? - Five years minimum experience and minimum of three similar contracts.
3. Automated, semi-automated, or manual experience? - Fully automated service for garbage and vegetation.

4. Roaming grapple truck to be paid by the Village? - Contract shall include a requirement for a roaming grapple truck to be included in the price of the contract.

5. Limit on cubic yards of bulk vegetation? - No limit.

6. Contract term in number of years? - Initial five year contract with three additional one year renewals.

7. Containers to be provided by the Hauler or will the Village continue to purchase? - The hauler shall provide containers and the pricing of the containers would be included as part of the contract. The Village staff would continue to distribute the containers.

8. RFP Scoring Criteria weighting? – 30 Points for Qualifications, 30 Points for Approach and Methodology and 40 points for Price.

9. Consultant fees reimbursable by the awarded vendor? – Yes.

10. Selection Committee composition? - Staff would serve as the committee members.

B. 14-893

DIRECTION REGARDING THE LOBBYING SERVICES AGREEMENT

Mr. Schofield introduced the item and requested Council's direction on whether they would like to proceed with this item.

A motion was made by Vice Mayor Greene, seconded by Mayor Margolis, and unanimously passed (3-2) approving authorization to enter into an agreement for lobbying services with Coker Consulting, LLC and Metz, Husband and Daughton.

C. 14-890

DIRECTION REGARDING K-PARK RFP

Mr. Schofield introduced the item.

Councilwoman Gerwig stated that she would have to recuse herself based on the advice of the Commission on Ethics.

Mr. De La Vega stated that six proposals have been received and staff has met with all of Council on an individual basis in order to summarize each proposal. Staff was seeking direction based on the terms in the RFP:

1. Reject all bids.
2. Score and rank each proposal on the submittal material and either short list the highest ranked proposer for the interview/presentation phase or recommend entering into negotiations with the highest ranked proposer.
3. Bypass scoring and ranking of the submittal material and schedule interviews/presentations with all proposers.

PUBLIC COMMENTS

1. Bobby Munden, 14551 Halter Road. Mr. Munden spoke in opposition to this and raised the following concerns: (1) residents always considered this

property a park and open space would have to be replaced in the Village; (2) the current plans were not special or appealing; (3) property is worth more than what proposals offered citing value of surrounding properties;

2. Bart Novack, 15670 Cedar Grove Lane. Mr. Novack spoke in opposition to the sale of K-Park and raised the following concerns: (1) residents were promised a park; (2) taxpayers were paying for the easement between the church and the property and the church should reimburse the Village; and (3) all bids should be rejected.

Mayor Margolis stated that Council reached a consensus to move forward with the interview process for all six perspective bidders and the interviews should be held in December.

Mr. De La Vega explained that he would schedule the interviews for early December and each bidder will be allotted forty minutes for the presentation and twenty minutes for questions, the presentations will be closed to the public, and all sessions will be recorded. Since this was not a short list, the order of the presentations would need to be selected and staff was ready to pick the order by pulling the names.

(At this point, Mr. Barnes pulled the names out of a box)

1. Wellington Gardens Partners, LLC

2. Stiles

3. Divosta/JKM Developers

4. Bainbridge/Brefrank Joint Venture, LLC

5. Reinvent America

6. Lennar

Mr. De La Vega explained after Council listened to all the presentations, an open discussion would follow that could include Council's ranking the firms and/or a recommendation to move in any other direction would be taken.

Council consensus was to interview the proposers in early December and the ranking results would be made public at that point in time and during a separate public meeting. The January agenda item would provide the public with Council's final decision.

9. PUBLIC FORUM

1. Bart Novack, 15670 Cedar Grove Lane. Mr. Novack felt that the K-Park location was the best area to have a park due to the ease of moving traffic in and out of the site.

10. ATTORNEY'S REPORT

Ms. Cohen: No Report.

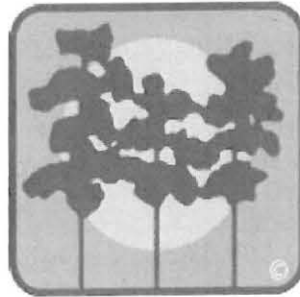
11. MANAGER'S REPORTS

1. The next Regular Council meeting will be held on Tuesday, November 25, 2014 at 7:00 p.m. here in Council Chambers.

12. COUNCIL REPORTS

Village of Wellington

*12300 Forest Hill Blvd
Wellington, FL 33414*



Action Summary - Final

Tuesday, November 11, 2014

7:00 PM

Village Hall

Village Council

*Bob Margolis, Mayor
John Greene, Vice Mayor
Matt Willhite, Councilman
Howard K. Coates Jr., Councilman
Anne Gerwig, Councilwoman*

1. CALL TO ORDER

Mayor Margolis called the meeting to order at 7:01 p.m.

2. PLEDGE OF ALLEGIANCE

Boy Scout, Nano Velez led the Pledge of Allegiance

3. INVOCATION

Rev. Rainer Richter, St. Peter's United Methodist Church, delivered the Invocation.

4. APPROVAL OF AGENDA

Mr. Schofield presented the Agenda for approval recommending two changes: (1) Remove Congressman Deutch's presentation from the Agenda as he was unable to attend the meeting; and (2) Split item 8A into two parts: (a) Authorization to Enter into an Agreement for Solid Waste Consulting Services; and (b) Direction Regarding the Solid Waste RFP.

A motion was made by Vice Mayor Greene, seconded by Councilman Coates, and unanimously passed (5-0), approving the Agenda as amended.

5. PRESENTATIONS AND PROCLAMATIONS**A. 14-920 PRESENTATION BY CONGRESSMAN TED DEUTCH**

Congressman Deutch's presentation had to be rescheduled.

6. CONSENT AGENDA

Mr. Schofield presented the Council Agenda recommending approval as presented.

A motion was made by Councilman Coates, seconded by Vice Mayor Greene, and unanimously passed (5-0) approving the Consent Agenda as presented.

A. 14-909 MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETING OF SEPTEMBER 23, 2014

This item was approved on Consent.

B. 14-897 CERTIFICATES OF CORRECTION FOR NON-AD VALOREM ASSESSMENTS

This item was approved on Consent.

C. 14-756 AUTHORIZATION TO AWARD A CONTRACT FOR UTILITY PROCESS CONTROL SYSTEMS MAINTENANCE AND

MODIFICATION TO PROCESS CONTROL CONSULTANTS, INC

This item was approved on Consent.

D. 14-885

RESOLUTION NO. R2014-65 (DROWNING PREVENTION
COALITION "BUCKS" CERTIFICATE PROGRAM)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL
APPROVING AND AUTHORIZING THE MAYOR AND CLERK TO
EXECUTE AN INTERLOCAL AGREEMENT WITH THE DROWNING
PREVENTION COALITION OF PALM BEACH COUNTY TO
PROVIDE FOR VOUCHERS FOR FREE SWIMMING LESSONS
UNDER THE "BUCK PROGRAM" FOR FISCAL YEAR 2014-2015;
AND PROVIDING AN EFFECTIVE DATE.

This item was approved on Consent.

7. PUBLIC HEARINGS**A. 14-780 ORDINANCE NO. 2014-22 (BINKS POINTE COMPREHENSIVE PLAN AMENDMENT)**

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE WELLINGTON COMPREHENSIVE PLAN FUTURE LAND USE MAP (PETITION NUMBER 2013-61 CPA 2) BY CHANGING THE FUTURE LAND USE MAP DESIGNATION FROM COMMERCIAL RECREATION TO RESIDENTIAL "E" FOR CERTAIN PROPERTY KNOWN AS PARCEL "V" OF THE LANDINGS AT WELLINGTON PUD, TOTALING 0.26 ACRE, MORE OR LESS, LOCATED APPROXIMATELY 1/2 MILE SOUTH OF SOUTHERN BOULEVARD ON THE WEST SIDE OF BINKS FOREST DRIVE, AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Approval of Ordinance No. 2014-22 a Comprehensive Plan Amendment.

B. 14-781 RESOLUTION NO. R2014-27 (BINKS POINTE MASTER PLAN AMENDMENT)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL, APPROVING A MASTER PLAN AMENDMENT (PETITION NUMBER 2013-61 MPA 2) FOR CERTAIN PROPERTY KNOWN AS POD "L" (BINKS POINTE F.K.A. RESIDENCES AT BINKS FOREST GOLF CLUB) OF THE LANDINGS AT WELLINGTON PUD, TOTALING 15.27 ACRES, MORE OR LESS, LOCATED APPROXIMATELY 1/2 MILE SOUTH OF SOUTHERN BOULEVARD ON THE WEST SIDE OF BINKS FOREST DRIVE, AS MORE SPECIFICALLY DESCRIBED HEREIN; TO INCREASE THE ACREAGE OF POD "L" BY INCLUDING PARCEL "V" 0.26 ACRE, DESIGNATE POD "L" AS OPTIONAL RESIDENTIAL (OR) AND AMEND CONDITIONS OF APPROVAL; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Approval of Resolution No. R2014-27, amending The Landings at Wellington PUD Master Plan to increase the acreage of POD "L" by including the former Parcel "V" 0.26 acre preserve area, designate Pod "L" as Optional Residential (OR) and amend conditions of approval.

- C. 14-808 ORDINANCE NO. 2014-26 (EQUESTRIAN BRIDLE PATH MAP CPA)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL,
AMENDING THE WELLINGTON COMPREHENSIVE PLAN BY
ADOPTING THE BRIDLE TRAIL MAP IN THE EQUESTRIAN
ELEMENT; PROVIDING FOR CONFLICT AND SEVERABILITY;
AUTHORIZING THE MANAGER TO UPDATE THE COMPREHENSIVE
PLAN; AND PROVIDING AN EFFECTIVE DATE.

Approval of Ordinance No. 2014-26 comprehensive plan map amendment adopting a bridle trail map in the equestrian element.

- D. 14-782 ORDINANCE NO. 2014-25 (REASONABLE ACCOMMODATION POLICY)

AN ORDINANCE OF THE VILLAGE OF WELLINGTON, FLORIDA,
AMENDING ARTICLE V OF WELLINGTON'S LAND DEVELOPMENT
REGULATIONS BY ADDING CHAPTER 13 "REASONABLE
ACCOMMODATION", SETTING FORTH A PROCEDURE FOR
PERSONS WITH DISABILITIES TO REQUEST ACCOMMODATIONS
TO VILLAGE OF WELLINGTON RULES, POLICIES, AND
PROCEDURES AND ESTABLISHING AN APPEAL PROCESS;
PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION;
PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE
DATE.

Approval of the Reasonable Accommodation Ordinance No. 2014-25.

8. REGULAR AGENDA

- A. 14-858 AUTHORIZATION TO ENTER INTO AN AGREEMENT FOR SOLID
WASTE CONSULTING SERVICES

Authorization to enter into an agreement with David Dee, Esquire, Attorney with Gardner, Bist, Wiener, Wadsworth, Bowden, Bush, Dee, LaVia & Wright, P.A. to provide solid waste consulting services in the amount not to exceed \$60,000.

- B. 14-893 DIRECTION REGARDING THE LOBBYING SERVICES AGREEMENT

Direction regarding the lobbying services agreement.

- C. 14-890 DIRECTION REGARDING K-PARK RFP

Direction regarding K-Park RFP.

9. PUBLIC FORUM

10. ATTORNEY'S REPORT

11. MANAGER'S REPORTS

12. COUNCIL REPORTS**13. ADJOURNMENT****NOTICE**

If a person decides to appeal any decision made by the Village Council with respect to any matter considered at this meeting, you will need a record of the proceedings, and you may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (The above notice is required by State Law. Anyone desiring a verbatim transcript shall have the responsibility, at his own cost, to arrange for the transcript).

Pursuant to the provision of the Americans With Disabilities Act: any person requiring special accommodations to participate in these meetings, because of a disability or physical impairment, should contact the Village Manager's Office (561) 791-4000 at least five calendar days prior to the Hearing.

Village of Wellington

*12300 Forest Hill Blvd
Wellington, FL 33414*



Action Summary - Final

Tuesday, August 26, 2014

7:00 PM

Village Hall

Village Council

*Bob Margolis, Mayor
John Greene, Vice Mayor
Matt Willhite, Councilman
Howard K. Coates Jr., Councilman
Anne Gerwig, Councilwoman*

1. CALL TO ORDER

Mayor Margolis called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

Mayor Margolis led the Pledge of Allegiance.

3. INVOCATION

Pastor Larry Mayer, LifeChurch, Wellington delivered the Invocation.

4. APPROVAL OF AGENDA

Mr. Schofield presented the agenda recommending approval with the following changes: (1) Move item 5C (Sole Source Contract for the Purchase of Badger Waer Meters and Components to the Regular Agenda. At this time, Mayor Margolis said that he had received answers to his questions so it could stay on the Consent Agenda.

Councilman Willhite requested that item 5E Resolution No. R2014-48 Wellington Charter School Plat be moved to the Regular Agenda.

Councilman Willhite also asked for consensus to allow the public to speak at two times during the meeting under Public Comments in the event the meeting should run late. There was Council consensus to do this.

Mr. Schofield noted that the last change was to add item 8B; and add Authorization to replace existing drainage culvert at Palm Beach Polo and C-7 Canal to the Regular Agenda.

A motion was made by Councilman Willhite, seconded by Vice Mayor Greene, and unanimously passed (5-0) approving the agenda as amended.

5. PRESENTATIONS AND PROCLAMATIONS**A. 14-608**

PROCLAMATION PROCLAIMING THE MONTH OF AUGUST AS "FIREFIGHTERS APPRECIATION MONTH" IN THE VILLAGE OF WELLINGTON

Mr. Schofield introduced the agenda item. Ms. Rodriguez read the Proclamation title.

Ms. Kaitlin Harris, Muscular Dystrophy Association, recognized the firefighters for the money that they have raised for the Muscular Dystrophy association. Battalion Chief Arena thanked the Association for their support and said that the firefighters would be out that weekend collecting money for the cause.

At this time, the Council went outside to take a photo with the new fire truck. Chief Arena noted that this was a new piece of apparatus that would be housed at Station 20 on Greenview Shores.

6. CONSENT AGENDA

Mr. Schofield presented the Consent Agenda recommending approval as amended.

A motion was made by Councilman Coates, seconded by Councilman Willhite, and unanimously passed (5-0) approving the Consent Agenda as amended.

A. 14-625

MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETING OF JUNE 24, 2014

This item was approved on Consent.

B. 14-614

RESOLUTION NO. R2014-50 (ANNUAL LISTING OF PROCLAMATIONS)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AUTHORIZING THE MAYOR TO EXECUTE CERTAIN PROCLAMATIONS FOR FISCAL YEAR 2014/2015; AND PROVIDING AN EFFECTIVE DATE.

This item was approved on Consent.

C. 14-215

AUTHORIZATION TO AWARD A SOLE SOURCE CONTRACT FOR THE PURCHASE OF BADGER WATER METERS AND COMPONENTS

This item was approved on Consent.

D. 14-409

AUTHORIZATION OF DISPOSITION OF SURPLUS TANGIBLE PERSONAL PROPERTY

This item was approved on Consent.

F. 14-212

AUTHORIZATION TO RENEW AN EXISTING AGREEMENT WITH PUBLIC FINANCIAL MANAGEMENT, INC. (PFM) TO PROVIDE THE VILLAGE WITH INVESTMENT MANAGEMENT SERVICES

This item was approved on Consent.

PUBLIC FORUM

Mr. Mark Hilton requested to have a workshop with the Watch Group Captains, the Director of Community Services and Mr. Schofield in the next 30 to 45 days. Mr. Schofield stated that his assistant, Linda White, would work on scheduling the meeting.

A card was submitted by a resident requesting that the Village have Saturday hours for those citizens who work during the week.

7. PUBLIC HEARINGS

A. 14-574**ORDINANCE NO. 2014-23 (ARTICLE 14 CODE ENFORCEMENT)**

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING ARTICLE 14, ENFORCEMENT PROCEEDINGS AND PENALTIES OF THE LAND DEVELOPMENT REGULATIONS OF THE VILLAGE OF WELLINGTON; ELIMINATING REFERENCES TO THE CODE ENFORCEMENT BOARD AND SPECIAL MASTER; ADDING REFERENCES TO SPECIAL MAGISTRATE; REPEALING SECTION 14.4.2; PROVIDING A CONFLICTS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the agenda item. Ms. Rodriguez read the ordinance by title.

Mr Tim Stillings presented the staff report and outlined the changes to the Ordinance. This was the second reading.

There were no public comments.

A motion was made by Councilman Coates, seconded by Councilman Willhite, and unanimously passed (5-0) approving Ordinance No 2014-23 on Second Reading as presented.

14-591**RESOLUTION NO. R2014-48 (WELLINGTON CHARTER SCHOOL PLAT)**

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL ACCEPTING AND APPROVING THE WELLINGTON CHARTER SCHOOL PLAT FOR A 8.0483 ACRE PARCEL LYING IN SECTION 19, TOWNSHIP 44 SOUTH, RANGE 42 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA, BEING A REPLAT OF TRACT 7, BLOCK 25, THE PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE NORTH 28 FEET THEREOF, LYING IN SECTION 19, TOWNSHIP 44 SOUTH, RANGE 42 EAST.

Mr. Schofield announced that the applicant's agent, Mr. Marty Perry, had made a request for Council to move the hearing of the Wellington Plat item up in the agenda as he had to leave for another public hearing. There was Council consensus to move this item up in the agenda.

At this time, Mr. Schofield introduced the agenda item. Ms. Rodriguez read the resolution by title.

Councilman Willhite advised Mr. Perry that he had two concerns: (1) there has been traffic backing up going into and out of the school; and (2) Council understood that the mast arm light would be put in place and be operational in August; however, Mr. Riebe had advised them that it most likely would not be

in until maybe November. He asked Mr. Perry to convey to the schools the concerns about the traffic backing up at the school and; and (2) do whatever he could to try and get the mast arm in place as soon as possible working in conjunction with staff.

Mr. Perry said that he had been working with Mr. Riebe on the getting the COs and approvals by the School board and had not been involved with this, but he would personally get involved to see that these concerns are addressed.

Councilman Willhite also asked Mr. Perry to convey to his client that they ensure that the access road to Palomino is accessible and usable. Mr. Perry indicated that he would also take care of that.

A motion was made by Councilwoman Gerwig, seconded by Councilman Coates, and unanimously passed (5-0) approving Resolution No. R2014-48 for the Wellington Charter School Plat as presented.

B. 14-575

ORDINANCE NO. 2014-22 (COMPREHENSIVE PLAN AMENDMENT)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING THE WELLINGTON COMPREHENSIVE PLAN FUTURE LAND USE MAP (PETITION NUMBER 2013-61 CPA 2) BY CHANGING THE FUTURE LAND USE MAP DESIGNATION FROM COMMERCIAL RECREATION TO RESIDENTIAL "E" FOR CERTAIN PROPERTY KNOWN AS PARCEL "V" OF THE LANDINGS AT WELLINGTON PUD, TOTALING 0.26 ACRE, MORE OR LESS, LOCATED APPROXIMATELY 1/2 MILE SOUTH OF SOUTHERN BOULEVARD ON THE WEST SIDE OF BINKS FOREST DRIVE, AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the agenda item. Ms. Rodriguez read the ordinance by title.

Mr. Stillings presented the staff report. Ms. Jennifer Vail, Land Design South and agent for the applicant, spoke on behalf of the applicant highlighting the project.

Members of the public from the Binks community spoke regarding this project and raised concerns regarding: (1) master plan; (2) they wanted input into the project; (3) the length of time the project would be completed; (4) issue with landscaping; (5) dangers on that roadway; and that the area should remain a preserve.

A motion was made by Councilwoman Gerwig, seconded by Vice Mayor Greene, and unanimously passed (5-0) approving Ordinance No. 2014-22 as presented with the reconfiguration of the preserve area and that no entitlements are added.

C. 14-576

RESOLUTION NO. R2014-35 (EQUESTRIAN VILLAGE SITE PLAN)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL, APPROVING THE SITE PLAN FOR PETITION 2014-029 SP1, TRACT 30C-2 OF THE WELLINGTON PLANNED UNIT DEVELOPMENT (PUD), ALSO KNOWN AS EQUESTRIAN VILLAGE, LOCATED ON THE NORTH SIDE OF PIERSON ROAD AND EAST SIDE OF SOUTH SHORE BOULEVARD; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Mr. Schofield introduced the agenda item. Ms. Rodriguez read the resolution by title. Mr. Stillings presented the staff report and addressed Council questions.

Mr. Dan Rosenbaum and Mr. Michael Sexton spoke on behalf of the applicant.

Members of the public spoke on this item raising concerns about there not being a circulation plan; the screening from unpleasant views and noise, and parking. A resident supported Mr. Bellissimo and the equestrians and dollars he will bring to area.

A motion was made by Councilman Coates, seconded by Councilwoman Gerwig, and unanimously passed (5-0) approving Resolution No. R2014-35 subject to the following:

- (1) The Circulation Plan that Mr. Sexton presented is to be attached as part of the approval.
- (2) Remove Condition #2 dealing with the solid opaque fence which means that the fence will be a requirement.
- (3) Eliminate Condition #6 relating to grassed parking in its entirety. It should be substituted with the alternative language presented by Mr. Sexton in his presentation to which the Village Engineer indicated he could work with.
"Grass parking shall be permitted in areas as shown on the final site plan. If at any time the Village determines that the grassed parking area does not meet the standards of Section 7.2.3.J. of the Wellington Land Development Regulations, the Planning Director shall require restoration of the grassed surface or the paving of the grassed area for parking. If paving is required, a land development permit must be obtained."
- (4) Remove Condition #8 requiring paving all parking spaces along the south edge of the property subject to the following: that there is a one (1) year period of evaluating the efficacy of the grassed parking spaces and whether they could be adequately maintained. If in the Village Engineer's determination, he believes another option should be pursued, such as paving those spaces, then a recommendation should be made and brought back to Council after a period of one year.
- (5) Remove Condition #10 requiring the construction of a roadway section to accommodate a future left turn lane from Pierson Road into the site.
- (6) Revise the site plan to reflect the changed conditions.

8. REGULAR AGENDA

A. 14-613

RESOLUTION NO. R2014-49 (REGULAR COUNCIL MEETING SCHEDULE)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL
ADOPTING A SCHEDULE FOR REGULAR COUNCIL MEETINGS

FOR 2014/2015; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schofield introduced the agenda item. Due to the conflict with the Regular Council meeting scheduled for September 22, 2015 with the Yom Kippur holiday, the Council Meeting was changed to Wednesday, September 23, 2015.

A motion was made by Vice Mayor Greene, seconded by Councilman Coates, and unanimously passed (5-0) approving Resolution No. R2014-49 with one amendment: change the September 22, 2015 meeting to Wednesday, September 23, 2015.

Note: Late in the meeting a motion was made to change that meeting to Thursday, September 24, 2015.

B. 14-638

PALM BEACH POLO C-7 CANAL REPLACEMENT OF EXISTING CULVERTS

Mr. Schofield introduced the agenda item. Mr. Barnes presented the staff report.

A motion was made by Councilman Willhite, seconded by Councilman Coates and unanimously passed (4-0) authorization the replacement of the existing drainage culvert at Palm Beach Polo and C-7 Canal, at an estimated cost of \$147,600 (includes 20% contingency).. Councilwoman Gerwig was out of the room at the time of voting.

10. ATTORNEY'S REPORT

Ms. Cohen presented the following report:

•She announced that the Village had received an offer from Waste Management to extend the deadline for exercising the renewal until October 30, 2014. She said that would provide the Village with additional time to negotiate after which time they would be bring it back for Council to decide if they wanted to approve the renewal. She said that Council would have to vote if they wanted to accept that which would modify the contract to extend the time for exercising the renewal by the one month period.

Mr. Barnes supported the request from Waste Management for the extension because it would afford them the opportunity to prepare the research necessary to come back with the best negotiated proposal. He noted that Waste Management had not yet received the transmittal so staff has not received any formal revision or offer from them.

Council raised concerns about modifying the contract. Ms Cohen explained that staff obtained input from the IG's office and their was opinion that as long as they don't have any material deviations other than potentially the price that it would considered an acceptable renewal under the provisions of the contract. She said that any material deviations, which she considered to be any changes in the scope or increase in price, would result in the Village having to rebid the contract.

A motion was made by Councilwoman Gerwig , seconded by Councilman Coates, which failed 2-3 with Mayor Margolis, Vice Mayor Greene and Councilman Willhite dissenting, to approve the extension that was requested.

Ms. Cohen said that the contract remains the same and the exercise of the renewal has to be by September 30th. Mr. Barnes indicated that staff would be back to Council on September 9th.

•Ms. Cohen said that Ms. Margolis had communicated that Wednesday would not work requesting that it be postponed until Thursday, September 24.

A motion was made by Councilman Coates, seconded by Vice Mayor Greene, and unanimously passed (5-0) to change the September 2015 meeting from September 22nd to September 24th.

11. MANAGER'S REPORTS

Mr. Schofield presented the following report

•The next Regular Council meeting is scheduled for Tuesday, September 9, 2014 at 7:00 p.m. here in the Council Chambers.

Village offices will be closed on Monday, September 1st for the Labor Day holiday.

•The Village will have the annual remembrance ceremony on September 11th at 6:00 p.m. at the Patriot's Memorial.

•The Annual Jeff Annas Run will take place on September 13, 2014 starting at 7:30 a.m. at the Amphitheater.

•He indicated that he had spoken to each Council member individually advising them that the Village has the opportunity to refinance their outstanding utility bonds at a lower interest rate which would save the Village about \$150,000. He said that the cost to do this will be about \$15,000. He asked for Council consensus to retain the Bond Counsel to start that process.

Council consensus was to approve refinancing the utility bonds and to authorize Mr. Mr. Schofield to retain Bond Counsel to start the process.

12. COUNCIL REPORTS

Councilwoman Gerwig presented the following report:

•She thanked the Village for sending her to the League of Cities Conference which she found to be very informative.

Vice Mayor Green presented the following report:

•He wished everyone a happy and safe Labor Day.

Councilman Willhite presented the following report:

•He noted that the Village had done a hedge on Greenbriar from Greenview Shores to Yarmouth; however, it was not continued. He said that there has been some concern to have that continued.

Mr. Schofield indicated that there is another piece of fencing in that area that they want to do first which is along Greenview Shores from Greenbriar along the back of the multifamilies to the first intersection, and then the other area will get worked into the budget next.

•He said that the hedges along the major thoroughfares has been a topic of discussion for a long time. He said that he didn't know where staff was in evaluating that going forward, and he wanted to see an analysis of what staff found and what the plan is. Mr. Schofield said that staff had completed the major thoroughfare inspections. He noted that there are 191 homes along the thoroughfares that have a fence or hedge violation which range from very minor to very major. Mr. Schofield said that staff was working on a proposal

for a grant program to help with that. He said that Council would be receiving an AT probably in the next day or so on that. Mr. Schofield said that he and Mr. Fleury will review that with Council.

- Councilman Willhite noted that the Jeff Annas Run is a great event for the Village of Wellington noting that it has increased over years. There are approximately 1,300 runners already registered.

- Mr. John Napolitano will be the speaker at the 9/11 Remembrance whose son lost his life in the 9/11 tragedy.

- Councilman Willhite asked if Public Works could find out why the ATT box at Greenbriar and Greenview Shores was not being changed out.

- He said that he talked to Ms. Cohen about the Council procedures, particularly having the ability to change the start time of the meetings to 6:00 p.m. Ms. Cohen said that Council could do that.

- He said that he wanted to disband the Wellington Community Foundation because he felt it was dysfunctional. Ms. Cohen recommended that Council have it become a private organization to run it noting that there had been some discussion with an individual who would be interested in assuming that function. She said that rather than letting those dollars go to waste, it would be a good service to keep it going. Councilman Willhite said that his intention was to donate those funds and disband the corporation, but he was not looking for an outside party to run it because Council would lose control of the funds. He said that things have changed since the organization was originally created. Councilwoman Gerwig thought the funds could be used towards the outstanding debt the Village has for the Patriot Memorial or Scotts Place. Ms. Cohen said that there needs to be an annual meeting of the Foundation and then at that meeting if they want to disband, then that would be the time to make that decision. Councilman Willhite thought at that meeting they would set up a criteria to distribute those funds and then when it is clear, they either have another meeting to disband or give direction where Ms. Cohen would send in the appropriate paperwork. A meeting of the Wellington Community Foundation would be scheduled for September 23, 2014 to further discuss this.

Councilman Coates presented the following report:

- He met with a potential buyer of Wellington Parc that day regarding a modification to their plans for the property which would include changing the Comp Plan and Land Use Designation from Office to Office/Retail. He said that the representative indicated that staff had indicated they were in favor of the change.

Councilman Coates said he did not know if the representative was correct in his statement, but he felt that staff needs to be careful what they tell applicant regarding items that are inherently policy-driven and policy-decided by Council. Councilman Willhite said that he met with that representative as well and that possibly stemmed from input made by Mr. Riebe.

Mr. Schofield said that he understood Councilman Coates concern, but explained that staff tries very hard not to intrude into policy. He said that they will make recommendations on policy, but when it comes to things such as Comprehensive Plan Amendments, staff will give their professional opinion based on the Code. He said that he was not aware of a conversation that staff where they would approve retail especially since studies along that Corridor have indicated that retail is not needed.

Mr. Riebe said that applicants come in and talk to them, but staff advises that it

has to go to Council. He said that staff was not trying to dissuade or persuade them, but that it may or may not work. He said that staff understands their place.

Mayor Margolis presented the following report:

- He wished his wife a Happy Anniversary.
- He wished everyone a Happy Labor Day.

PUBLIC FORUM

At this time, Ms. Cohen said that there was some confusion about whether or not there was public comment at the end of the meeting. She said that Mr. Rosenbaum would like to speak.

Mr. Dan Rosenbaum asked for clarification in the motion because he needed to know if it was the Council's position that the Equestrian Village facility could not be used until all of the required improvements are constructed. He felt that there was some ambiguity about the motion. He believed that there was a special use permit for one event, but there are other matters that are planned and events that are ongoing with respect to the end of the year. He said that Equestrian Village had been operating on the basis that it would be permitted to continue with planned events. Mr. Rosenbaum said that if the interpretation of Condition #11 was that the facility couldn't be used, it would be in conflict with the Compatibility Determination which is in effect. He said that would be a deviation from the Code which does not permit changes to Development Orders during the site plan review so he needed that clarified.

Ms. Cohen said that if the intent was that the entire facility could not be used, then Council should express that which she believed they did, but was not certain. She said if the intent was that it could continue to be used for the limited purposes that it is presently being used for prior to the date, then they can express that. She thought that the motion was clear because it included the limitations that are included in the conditions.

Mr. Riebe explained that the intent was not to prohibit all activities. He said that the uses that are there now and the uses provided in the approved Special Use Permit has been sanctioned by the Council. He said that there are certain required improvements for any development that have to be constructed in order for there to be beneficial use of the subdivision, house, etc. He said that the infrastructure improvements need to be put in place before they have beneficial use of the compatibility determination as using it as a commercial equestrian arena on a permanent basis. He said that was consistent with every development that is done and has been done in Wellington for years.

Mr. Schofield said that there are uses by right that don't require the compatibility determination to allow, i.e., stabling, schooling which are uses by right. He believed they can safely say those are acceptable. He said that Mr. Riebe was correct that the activities that are dependent on the infrastructure being in place like the overflow parking and those types of things won't start until after the completion date of this.

Mr. Rosenbaum said that there are events that are planned that have to be advertised ahead of time. He said that this condition was not in the compatibility determination, but was being imposed at site plan review which was inconsistent with the Code and was not an appropriate condition. He said that he asked for a reconsideration of that and to allow for the continuation of

Wellington Village Council Meeting 11/11/14

- 1:24:17 Motion to open Public Hearing (Mergolis)
- 1:24:18 Second Motion (Unknown - Inaudible)
- 1:24:23 Council Approves Motion (5-0)
- 1:24:28 Zangen recognized as submitting card; Approaches the podium.
- 1:24:36 States name & who he's representing: Cypress Forest Home Owner's Association
- * Property immediately to the South of proposed development
 - * Gives work address (Wellington)
 - * Advised clients had conditions they wanted clarified by Council and Developer
 - > 1 year rental restriction
 - > Hardships limited to 5 units
 - > RESTRICT so Developer cannot make changes without 80% approval
 - > Construction access limited to Flying Cow Road
 - > Construction limited to 7am - 7pm (No Sundays)
 - > Hedges placed behind 5 Cypress Forest Houses
- * Ordinance ? Resolution passes Council Vote

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Alan Scott Zangen

Member in Good Standing

Eligible to Practice Law in Florida
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County: Palm Beach

Circuit: 15

Admitted: 04/12/1979

10-Year Discipline None

History:
Sections: Real Property, Probate Law

Law School: John Marshall Law School

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PALM BEACH COUNTY COMMISSION ON ETHICS

LEGAL SUFFICIENCY DETERMINATION

To: The Palm Beach County Commission on Ethics
From: Steven P. Cullen, Executive Director
Re: C14-014 – Alan Zangen, Wellington

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff via a sworn complaint filed by Bart Novack of Wellington on November 28, 2014. The Complaint was properly notarized and delivered to the Commission on Ethics (COE) office on December 1, 2014. The Complaint listed Alan Zangen of Wellington as Respondent.

Attached to the sworn Complaint was a dated letter addressed to the "Palm Beach County Commission on Ethics" and titled, "Statement for Alan Zangen as Lobbyist."

The letter alleged Alan Zangen, a Florida attorney with offices in Palm Beach County, is an unregistered lobbyist who appeared before the Wellington Village Council at the November 11, 2014 meeting on behalf of The Cypress Forest Homeowners Association to "influence a decision by the Village Council" in regards to Ordinance Numbers 2014-22 and 2014-781 and Resolution Number R2014-27. The letter alleged Respondent failed to register as a lobbyist in accordance with the Palm Beach County Lobbyist Registration Ordinance.


- **Finding**

The Inquiry determined that Respondent is a properly licensed attorney in Florida. He spoke before the Wellington Village Council only during the public hearing portion of the meeting, and prior to speaking identified himself as representing the Cypress Forest Homeowners Association. Under Section 2-352 (2), *Definitions*, of the Lobbyist Registration Ordinance, the term "lobbyist" does not include, "Any person who is retained or employed for the purpose of representing an employer, principal or client only during a publically noticed quasi-judicial hearing....provided the person identifies the employer, principal or client at the hearing. Because Respondent was not "lobbying" during this meeting, but acting only as a licensed attorney representing a client during a properly noticed quasi-judicial public hearing, he was not required to register as a lobbyist.

Legal sufficiency exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based substantially on the personal knowledge of the Complainant, relating to an alleged violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

Even if the allegations as stated in the Complaint are true, they do not constitute a violation of the Lobbyist Registration Ordinance based on the aforementioned exception. Therefore, based on the information listed in both the Complaint and the Memorandum of Inquiry, there is **NO LEGAL SUFFICIENCY** for further investigation of the Complaint.

BY:



Steven P. Cullen, Executive Director
Florida Bar No. 362204
PBC Commission on Ethics



Date