

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

PREPARED BY: Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

SUBJECT: April 2, 2008 minutes

AFFECTED DISTRICT: n/a

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: April 2, 2008 (Regular Meeting)

REPORT IN BRIEF: Council minutes from the April 2, 2008 Council meeting.

PREVIOUS ACTIONS: n/a

CONCURRENCES: n/a

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Motion to approve

Attachment(s): April 2, 2008 minutes

TOWN OF DAVIE
REGULAR MEETING
APRIL 2, 2008

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:06 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Truex and Councilmembers Crowley, Caletka and Starkey. Also present were Town Administrator Shimun, Town Attorney Rayson, and Town Clerk Muniz recording the meeting. Vice-Mayor Luis was absent.

3. OPEN PUBLIC MEETING

Arthur Joseph congratulated Vice-Mayor Luis on being appointed as Vice-Mayor. Mr. Joseph asked that the Girl Scouts or Campfire Girls present the flag at a future Council meeting. He remarked that the Boy Scouts in Florida had become too right wing for his taste and he “would like to see some moderation in your choice of who presents the flag.”

Mr. Joseph advised that there currently was a State Statute preventing the expenditure of Public funds for religious purposes that he feared would be changed in the fall. He thought the existing Statute was in accordance with the U.S. Constitution and said he opposed this change.

Mayor Truex invited all scout groups to contact him regarding presenting the flag at a Council meeting.

Judy Paul said that Mr. Shimun had authorized a staff person to reference the Town’s position on the I-595 Corridor using a resolution from 2004 that involved a scenario that no longer existed and wondered if Mr. Shimun had not done his homework on this subject. She said that Mr. Shimun’s reply to her e-mail had been vague and when she responded with further questions, he had not replied. Ms. Paul remarked that Mr. Shimun had “not been the man that I voted to hire” and remembered Mr. Shimun’s promise during the interview process to be responsive to residents.

Ms. Paul had prepared a resolution she believed clarified the Town’s positions on the I-595 Corridor. She distributed copies and hoped Council would discuss this.

Councilmember Starkey advised that she had been in contact with Broward County Mayor Lois Wexler, who had also tried to contact Mr. Shimun. Councilmember Starkey noted that some members of the Metropolitan Planning Organization (MPO) were confused by the positions presented by staff, since they seemed inconsistent with those previously presented. She said there were resolutions in 2004 and 2005 regarding this issue.

Councilmember Caletka advised that he had indicated to the County that he would oppose “Lexus lanes” because these would not be accessible to Davie residents. He also objected to the fact that the Town would still be responsible for responding to accidents in the Lexus lanes.

Mr. Shimun stated that he had responded to Mayor Wexler and he had not received the second email from Ms. Paul. Mr. Shimun explained that he and Ms. Nolan had met with a member of the MPO and discussed the Town’s position. He added that he had stated that that the Town’s position was that “relative to the TOC and the RAC, we need to have mass transit.”

Councilmember Starkey said that the resolution indicated Council supported transit up to University Drive, but could not reach a consensus and therefore took no position regarding the area west of University Drive. They had agreed that stations should be shared by the cities. Councilmember Starkey felt there were sufficient records to accurately reflect the Town’s position and asked Mr. Shimun and staff to consult this information.

Mayor Truex suggested that Mr. Shimun create a new resolution, superseding all previous positions, for Council to discuss and approve.

Eric Swalley favored a wall separating Trotters Chase from the residential area and said he had approached the County Commission regarding this issue. He remarked on the increase in traffic that nearby residents would suffer from the Trotters Chase development. Councilmember Crowley advised that he had spoken with Mr. Swalley and Mr. Mele and recommended a meeting with the Engineering Department to determine if there was enough room to accommodate a wall. Mayor Truex did not object to a meeting, but did object to a wall.

Juan Prieto, owner of Loving Care Day Care, did not want the wall to be constructed adjacent to his building because this would impinge on his parking situation. Councilmember Starkey opposed a wall, but said she would support a landscape buffer.

Doris Monier opposed building a wall as well, but did want to prevent cars cutting through.

Regarding Sunny Lake Bird Sanctuary, Ms. Monier said the Town had built the fence to protect the park, but people routinely accessed the park illegally. Councilmember Crowley indicated that he had brought up this issue at the last Council meeting and it needed to be resolved. Public Works Director Manny Diez acknowledged that the current 4-foot fence was inadequate and there were plans to put up a 6-foot fence on the east side. He estimated this would take two to three weeks.

Barbara Powers-Mayer spoke of her love of Wolf Lake and she was concerned about the trash in the lake and fact that the bathrooms were not open. She wanted to work with the Town to increase the quality of Wolf Lake and increase revenue through sponsorship. Mayor Truex advised Ms. Powers-Mayer to approach the Parks and Recreation Advisory Board with her suggestions.

Karen Stenzel-Nowicki stated that she had recently learned that the Town supported bus/light rail transit and sharing stations with Plantation. She remarked on the negative impact the sharing would have on Pine Island Ridge. Ms. Stenzel-Nowicki said two Councilmembers had asked that this item be returned to Council for further discussion, but this had never happened. She requested Council discuss this matter before it went before the County. Mayor Truex informed Ms. Stenzel-Nowicki that Council had determined earlier in the meeting that they would do this.

Councilmember Caletka made a motion, seconded by Councilmember Starkey, to excuse Vice-Mayor Luis' absence. In a voice vote, with Vice-Mayor Luis absent, all voted in favor. (Motion carried 4-0)

Mayor Truex wanted to table the Charter Review Board item until Vice-Mayor Luis could be present.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to table the Charter Review Board Recommendations to the next meeting [April 16, 2008]. In a voice vote, with Vice-Mayor Luis absent, all voted in favor. (Motion carried 4-0)

Mayor Truex advised that item 6.5 had been withdrawn.

Mayor Truex stated that there was a request to table item 6.8 to April 16, 2008.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to table. In a voice vote, with Vice-Mayor Luis absent, all voted in favor. (Motion carried 4-0)

Mayor Truex stated that there was a staff request to table item 6.9 to April 16, 2008.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to table. In a voice vote, with Vice-Mayor Luis absent, all voted in favor. (Motion carried 4-0)

4. APPROVAL OF CONSENT AGENDA

Minutes

- 4.1 February 20, 2008 (Regular Meeting)
- 4.2 February 29, 2008 (Goal Setting Session)

Business Tax Receipts

- 4.3 All Florida Home Services, Inc., 2601 SW 110 Way
- 4.4 Express Auto Paint, Inc., 1401 SW 136 Avenue

Resolutions

- 4.5 **DONATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2008-60 AUTHORIZING THE TOWN OF DAVIE TO PAY TEN (10) PERCENT OF ENGINEERING FEES FOR THE BOY SCOUTS OF AMERICA'S CAMP SEMINOLE THROUGH A DONATION FROM THE TOWN OF DAVIE ENDOWMENT FUND. (\$35,794.62)
- 4.6 **CONTRACT EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN EXTENSION OF THE CONTRACT BETWEEN THE TOWN AND AMERICAN COACH LINES OF MIAMI, INC., FOR BUS TRANSPORTATION SERVICES. (approximately \$5,000/year)
- 4.7 **CONTRACT EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE,
R-2008-61 FLORIDA, APPROVING AN EXTENSION OF THE CONTRACT BETWEEN THE TOWN AND SUNSHINE AFTER SCHOOL CARE, INC., TO RENT DAVIE PINE ISLAND MULTIPURPOSE CENTER FOR AFTER SCHOOL, EARLY RELEASE DAYS, SCHOOL DAYS OFF, WINTER BREAK AND SPRING BREAK. (estimated annual rental revenue of \$4,750)
- 4.8 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,

- R-2008-62 AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN THE DAVIE RODEO ASSOCIATION, INC. AND THE TOWN OF DAVIE, FOR THE USE OF THE BERGERON RODEO GROUNDS FOR AN ALL GIRL RODEO AND REQUESTING A REDUCED RENTAL RATE. (request to reduce arena rental fee to \$340)
- 4.9 **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
- R-2008-63 AUTHORIZING THE PURCHASE OF DIESEL EXHAUST REMOVAL SYSTEMS FROM WARD DIESEL FILTER SYSTEMS THROUGH A GRANT RECEIVED FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY, 2007 ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM (\$169,760).
- 4.10 **SELECTION OF FIRM** - A RESOLUTION OF THE TOWN OF DAVIE,
- R-2008-64 FLORIDA, SELECTING THE FIRM OF BURTON & ASSOCIATES TO PROVIDE A COMPREHENSIVE IMPACT FEE STUDY AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
- 4.11 **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SUPPORTING
- R-2008-65 AND AUTHORIZING THE APPLICATION FOR A GRANT FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION, YEAR 2008 TRANSPORTATION ENHANCEMENT PROGRAM, AND IF AWARDED THE GRANT, AUTHORIZING ITS ACCEPTANCE AND EXECUTION (WITH AN IN-KIND MATCH).
- 4.12 **PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A
- R-2008-66 PLAT KNOWN AS THE "STERLING RANCH" AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 4-1-05, Sterling Groves, 4621 SW 58 Avenue)

Quasi Judicial Items

- 4.13 MSP 2-1-07, Sterling Groves, 4621 SW 58 Avenue Avenue (R-1) *Site Plan Committee recommended approval subject to the staff report excluding item one and revising item two to say ... "prior to the issuance of the first Certificate of Occupancy in each phase;" and that if Sterling Groves was the first to develop, they would install a round-about on SW*

58th Avenue and discuss sharing the expense with their neighbor to the west

- 4.14 SP 3-3-07, The Plaza - McDonald's, 11200 State Road 84 (B-2) *Site Plan Committee recommended approval subject to the staff's notes; that a pedestrian gate be installed by the dumpster; that an accent element of stone and curved metal which is similar to the entrance of the non-drive-thru elevation is to be added between the two service windows of the drive-thru elevation; and to upgrade the landscaping and the signage of the Town's "Welcome to Davie" sign*

Councilmember Starkey pulled item 4.14 from the Consent Agenda. Vice-Mayor Caletka pulled item 4.6. Mayor Truex pulled items 4.4, 4.5, 4.12 and 4.13.

Councilmember Starkey made a motion, seconded by Councilmember Caletka, to approve the Consent Agenda, less items 4.4, 4.5, 4.6, 4.12, 4.13 and 4.14. In a voice vote, with Vice-Mayor Luis absent, all voted in favor. (Motion carried 4-0)

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.4 Mayor Truex confirmed with staff that no painting was taking place on the premises. Staff agreed to inspect the property monthly for the next few months.

Arthur Joseph reported that there were often many cars at the property and he believed there was a business being conducted out of the house.

Councilmember Starkey made a motion, seconded by Mayor Truex, to table to their next meeting [April 16, 2008], pending staff inspection. In a voice vote, with Vice-Mayor Luis absent, all voted in favor. (Motion carried 4-0)

4.5 Mayor Truex wanted to ensure that the donation was capped at \$35,794.62.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve amending Section 1 to state "The Town authorizes the Town to pay 10 percent, not to exceed \$35,794.62." Mayor Truex requested a breakdown of the disposition of the endowment fund. In a voice vote, with Vice-Mayor Luis absent, all voted in favor. (Motion carried 4-0)

4.12 Mr. Rayson swore in the witnesses and read the resolution by title.

The applicant agreed the items could be heard together.

Mr. Rayson opened the public hearing portion of the meeting. As no one spoke, Mr. Rayson closed the public hearing portion of the meeting.

Council gave their disclosures on this item.

Councilmember Caletka made a motion, seconded by Councilmember Crowley, to approve. In a voice vote, with Mayor Truex dissenting and Vice-Mayor Luis absent, all voted in favor. (Motion carried 3-1)

4.13 Mr. Rayson read the resolution by title.

Council gave their disclosures on this item.

Councilmember Caletka made a motion, seconded by Councilmember Crowley, to approve.

Dennis Mele confirmed that approval would include the conditions from the Site Plan Committee that were printed on the agenda.

In a voice vote, with Mayor Truex dissenting and Vice-Mayor Luis absent, all voted in favor. (Motion carried 3-1)

4.14 Mr. Rayson read the resolution by title and swore in witnesses. Planning & Zoning Deputy Manager David Abramson summarized the planning report.

Councilmember Starkey asked if a traffic study was updated for the site. Town Engineer Le Nguyen believed the applicant had submitted a traffic study to Engineering and staff had found no problems. Councilmember Starkey was concerned with the access and egress to the site. Staff said they had not heard concerns regarding this and it had not been an issue at the most recent delegation request.

Mr. Rayson opened the public hearing portion of the meeting. As no one spoke, Mr. Rayson closed the public hearing portion of the meeting.

Council gave their disclosures on this item.

The applicant's representative agreed to present a landscape plan for the green space area from State Road 84 to the turn. Councilmember Starkey asked that the new Town Seal be included on the Town marker and that stacked stone and trees be included. The applicant's representative indicated a paver path would be provided to the sidewalk and a pedestrian way would be created to cross the street. Trees and grass would be added to the median as well.

Mr. Nguyen advised that the traffic study indicated the existing driveway to the site offered acceptable service and there were no recommendations for improvements.

The applicant's representative agreed to maintain the landscaping as well.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve subject to the terms and conditions of the site plan and staff recommendations, in addition to providing the sign and working with staff on the foliage within the median and swale as well, and providing striping for a pedestrian crossing along Hiatus Road, to be determined by engineers as to where it would be the most safe.

Mayor Truex noted the approval included the provision that the applicant would maintain the landscaping.

The applicant agreed to all of the proposed conditions.

In a voice vote, with Vice-Mayor Luis being absent, all voted in favor. (Motion carried 4-0)

4.6 Councilmember Caletka said he noticed an error in the math.

Councilmember Caletka made a motion to approve changing the rate to \$67.10. Parks & Recreation Director Dennis Andresky indicated he would need to review this.

Councilmember Caletka made a motion, seconded by Mayor Truex, to table to their next meeting. In a voice vote, with Vice-Mayor Luis being absent, all voted in favor. (Motion carried 4-0)

6. PUBLIC HEARING

Ordinances - Second and Final Reading

6.1 **TEXT AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**

2008-13 ADOPTING APPLICATION LA(TXT) 10-1-07 AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY ADDING A PUBLIC SCHOOL FACILITIES ELEMENT, AMENDING THE TEXT OF THE INTERGOVERNMENTAL COORDINATION ELEMENT AND THE CAPITAL IMPROVEMENTS ELEMENT IN ORDER TO INCORPORATE SCHOOL CONCURRENCY PROVISIONS REQUIRED BY FLORIDA STATE STATUTES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading December 19, 2007. All voted in favor.}

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Caletka made a motion, seconded by Mayor Truex, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - absent; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-0)

6.2 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE,**
2008-14 FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 6, SECTION 6-9 (a), ENTITLED ESTABLISHMENT OF FINE AND LIEN; PROVIDING FOR INCREASE OF CODE COMPLIANCE FINE PROVISIONS ADMINISTERED BY A CODE ENFORCEMENT BOARD OR SPECIAL MAGISTRATE; PROVIDING FOR COST RECOVERY TO REIMBURSE THE TOWN OF DAVIE TO COVER ALL COSTS INCURRED BY THE TOWN IN ENFORCING ITS CODES AND ALL COSTS OF REPAIRS RELATED THERETO; PROVIDING FOR CRITERIA TO BE CONSIDERED BY THE CODE ENFORCEMENT BOARD OR SPECIAL MAGISTRATE IN DETERMINING THE AMOUNT OF CODE ENFORCEMENT FINES; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from March 19, 2008) {Approved on First Reading March 5, 2008. All voted in favor.}

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Caletka made a motion, seconded by Councilmember Crowley, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - absent; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-0)

6.3 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 5, ENTITLED BUILDING AND BUILDING REGULATIONS; PROVIDING FOR INCLUSION IN THE CODE OF**

ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading March 19, 2008. All voted in favor.}

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Caletka made a motion, seconded by Mayor Truex, to approve.

Councilmember Starkey referred to Section 5.8 and felt the Town should notify the Homeowners' associations. She indicated that she wanted to retain the original language.

Acting Development Services Director Marcie Nolan reported that staff had drafted language to address the notification issue. An affidavit process had been created requiring permit applicants to indicate, via a notarized document, that they had notified their homeowner's association or that they did not belong to a homeowner's association. Councilmember Starkey did not believe this process would work and this solution did not satisfy what Council was seeking, or what homeowners' associations wanted. She wanted to require applicants to provide the name of their homeowner's association president and management company so staff could notify them.

Mr. Shimun advised that it was not the Town's responsibility to enforce a contract between a property owner and a homeowner's association. He added that staff did not want to assume this legal responsibility. Mayor Truex recommended leaving the existing language and adding language indicating that homeowners' associations registered with the Town would be notified. It would become the homeowners' associations' responsibility to keep the Town informed of their current management companies and presidents.

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Luis - absent; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - no. (Motion failed 2-2; automatically tabled to the next meeting)

Ordinance -First Reading (Second and Final Reading to be held April 16, 2008)

6.4 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 25 OF THE TOWN CODE ENTITLED "UTILITIES", SECTION 32 ENTITLED "WATER CONSERVATION" BY ADDING LANGUAGE TO INCLUDE MASTER METERED MOBILE HOME PARKS, PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Rayson read the ordinance by title. Mayor Truex announced there would be a public hearing on the ordinance on April 16, 2008.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey asked staff to explain the intent. Mr. Cohen explained that master metered communities excluded mobile home communities, but three mobile home parks were master metered. Individual unit utility bills for master metered communities were determined by dividing the total bill by the total number of units. With the new "stepped up" pricing, the three mobile home parks excluded from the

master metered billing were in a much higher individual pricing bracket. This language would significantly reduce the price of water for those communities.

Councilmember Caletka made a motion, seconded by Councilmember Crowley, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - absent; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-0)

Quasi Judicial Items

6.5 V 11-1-07, Stonebridge Estates, 2651 Flamingo Road (R-1) (to reduce the minimum lot area from 35,000 square feet to 20,000 square feet) (tabled from March 5, 2008) *Planning and Zoning Board recommended denial*

This item was withdrawn earlier in the meeting.

6.6 V 2-1-07, Sterling Groves, 4621 SW 58 Avenue (R-1) (to reduce the minimum lot area from 35,000 square feet to 20,000 square feet) *Planning and Zoning Board recommended approval*

Earlier in the meeting, Mayor Truex asked the minimum lot requested. Mr. Abramson informed him that the actual minimum square footage was 25,000. The variances for the lots were set forth in the site plan.

Councilmember Starkey remembered they had desired as much on-site water retention as possible. Dennis Mele, representing the applicant, reported that between the lakes and the wetlands, there was 30% open space on site.

Mr. Rayson opened the public hearing portion of the meeting. As no one spoke, Mr. Rayson closed the public hearing portion of the meeting.

Council gave their disclosures on this item.

Mayor Truex said he would vote against this because the reduction of the lot size was too dramatic for him. He asked the motion include that the variance for 25,000 and to tie it to the site plan.

Councilmember Caletka made a motion, seconded by Councilmember Crowley, to approve changing the 35,000 to 25,000 feet and to tie it to the site plan. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Vice-Mayor Luis - absent; Councilmember Starkey - yes. (Motion carried 3-1)

6.7 V 1-2-08, Kaplan, 7200 Peppertree Circle North (A-1) (to reduce the required side setback from 30 feet to 27 feet along the western property line) *Planning and Zoning Board recommended approval*

Mr. Rayson swore in the witnesses and read the request by title.

Planning & Zoning Manager David Quigley summarized the staff report.

Celina Kaplan, the applicant was present, explained the request.

Mr. Rayson opened the public hearing portion of the meeting. As no one spoke, Mr. Rayson closed the public hearing portion of the meeting.

Councilmember Caletka made a motion, seconded by Councilmember Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor

Luis - absent; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-0)

Items to be tabled

6.8 PETITIONER REQUESTING A TABLING TO APRIL 16, 2008

V 9-1-07, Rick Case, Hyundai Dealership, 3550 Weston Road

This item was tabled earlier in the meeting.

6.9 PLANNING AND ZONING BOARD TABLED TO MARCH 26, 2008; COUNCIL CAN TABLE TO APRIL 16, 2008

V 10-1-07, Perez, 2751 SW 121 Avenue

This item was tabled earlier in the meeting.

7. APPOINTMENTS

7.1 Agricultural Advisory Board (one exclusive appointment per Councilmember; terms expire April 2010) (insofar as possible, members shall have experience in agricultural matters, related occupations or other similar skills)

Mayor Truex appointed Greg Hoover. Councilmember Starkey asked that her attendance for this Board be verified. Councilmember Crowley appointed Julie Aitken. Councilmember Caletka appointed Jackie Daniels.

7.2 Budget Advisory Committee Board (one exclusive appointment per Councilmember; terms expire April 2010) (members shall have experience in a financial related occupation, or similar skills)

Mayor Truex reappointed Scott Spages. Councilmember Starkey reappointed Robert Preziosi. Councilmember Crowley reappointed George Rudd. Councilmember Caletka reappointed Dan Barr.

7.3 Open Space Advisory Committee Agency (two exclusive appointments per Councilmember; terms expire April 2010)

Mayor Truex reappointed Janice Carey and Don Burgess. Councilmember Caletka reappointed his members. Councilmember Caletka reappointed his members. Councilmember Starkey reappointed Casey Lee and Linda Greck.

7.4 Parks and Recreation Advisory Board Agency (two exclusive appointments per Councilmember; terms expire April 2010) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

Mayor Truex reappointed Doug Notman and Todd Evans. Councilmember Starkey reappointed Michael Bartlett. Councilmember Crowley reappointed Mark Solomon.

7.5 Senior Citizen Advisory Committee (two exclusive appointments per Councilmember; terms expire April 2010) (members shall be a minimum 60 years of age)

Councilmember Crowley reappointed Lorraine Heylmann and Janet Nilsen. Councilmember Caletka reappointed Yvonne Siegrist and Jim Thomas. Councilmember Starkey reappointed Margaret Draudt and Alice McDonald.

- 7.6 Water and Environmental Advisory Board (two exclusive appointments per Councilmember; terms expire April 2010) (insofar as possible, one member shall be a licensed engineer)

No appointments were made.

- 7.7 Youth Education and Safety Advisory Committee (one exclusive appointment - term expires April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

Mayor Truex reappointed John Pisula. Councilmember Caletka reappointed Colleen Gulla and Eric Swalley. Councilmember Crowley reappointed Barbara Tilley.

- 7.8 Community Redevelopment Agency (two non-exclusive appointments; terms expire April 2012) (members shall either reside or engage in business within the jurisdiction of the Town)

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to appoint Joan Kovac and Sy Dorn. In a voice vote, all voted in favor. (Motion carried 4-0)

- 7.9 Unsafe Structures Board (two non-exclusive appointments; terms expire April 2009) (one appointment shall be a plumbing contractor and one appointment shall be a real estate property manager - both members shall be a permanent resident or have their principal place of business within the Town's jurisdiction)

No appointments were made.

8. OLD BUSINESS

8.1 Nuisance Abatement

Code Enforcement Official Danny Stallone advised that Code Compliance continued to receive complaints about a property that was covered with Australian pines. The attorney for the estate that owned the property had informed him that the estate had no liquid funds and therefore, could not afford to comply with the Special Magistrate's order.

Mr. Stallone stated that there were ongoing non-compliance hearings and there was a lien against the property for approximately \$16,000. Mr. Stallone proposed creating a 50-foot buffer around the perimeter of the property. He explained that one option was for the Town to take over maintenance of the property and lien the property for these costs. Another option was to increase the accruing fines in the hope of inducing the owner to comply the property sooner.

Mr. Rayson indicated that the property owner was willing to allow the Town to enter the property to remove trees, but he did not believe a court would order the estate to

pay money it did not have to remove the trees. He felt the most expedient way to handle the problem was for the Town to have an agreement with the owner to enter the property, clear the land and lien the property.

Councilmember Starkey objected to this proposal. She said that it was one neighbor who continued to complain and most of the neighbors did not object. Councilmember Starkey felt only the trees that were an imminent danger should be removed. Councilmember Starkey remarked on the number of properties all over Town that had foliage that could also prove hazardous in a hurricane.

Mayor Truex was concerned about the situation and wanted to follow staff's recommendation. Councilmember Caletka agreed. Councilmember Crowley did not object to the Town's removing the trees, provided they had permission from the estate executors or from a court. Mayor Truex said the owner must agree to the lien or the Town should pursue a lawsuit to recover their expenses. He added that the Town must find a way to enforce the Code to prevent property owners from ignoring it.

Council agreed to allow staff to continue negotiations with the property owner and to report back to Council.

8.2 Mobile Home Exit Relocation

Mr. Rayson reported that he had drafted an ordinance and indicated that Jamie Ross of A Thousand Friends of Florida had drafted one as well. Mr. Rayson recommended that Council accept his proposal.

Mr. Rayson believed State Statute 723 had a preemption that prohibited any local government from taking action. He said that his ordinance was not in violation of the Statute and in his legal opinion, Mr. Ross's proposal was because it contained requirements that were preempted by Statute. Mr. Rayson said his ordinance did not require payments from mobile park owners except voluntary payments, those made pursuant to a settlement agreement or a payment currently set by State law. He believed going beyond this would encourage a lawsuit that would result in the ordinance's being stricken.

Councilmember Starkey asked if Mr. Rayson felt the recent emptying of mobile parks was a violation of Statute 726. Mr. Rayson referred to a court case that put no burden on the park owner, whose only obligation when filing for rezoning was to provide tenants six months' notice. Councilmember Starkey pointed out that park owners could only apply to rezone; if they did not comply with Town, State or County codes, the Town could deny the rezoning. Mr. Rayson advised that the court case disagreed. He said this issue could not be resolved by the Town because of the preemptive language in Statute 726, it must be resolved by the Legislature.

Mayor Truex said the relocation plan in Mr. Rayson's ordinance was a step up from what they currently had. He admitted it was somewhat unsatisfactory, but Mr. Rayson had indicated it would be illegal to force the park owners to pay for the tenants' relocation costs. He suggested if Council wished, additional outside counsel could be sought.

Councilmember Caletka believed Council must choose to trust the opinion of the Town Attorney at this point. Councilmember Crowley noted the provision to review this annually. They could revisit this issue and hopefully some court cases would be resolved

by then and provide them the opportunity to strengthen their ordinance. He wanted Council to pressure their legislators to work to resolve this issue.

Housing & Community Development Director Shirley Taylor-Prakelt was proud of the work done by the Mobile Home Task Force and reminded Council that the Task Force recommendations had not been entirely fleshed out. She explained that once the report process has been completed and the Task Force members began to address the issue of how to help tenants when a mobile home park closed and who should bear the costs, they had hit an impasse. She respectfully disagreed with Mr. Rayson regarding the ordinance. Ms. Taylor-Prakelt stated the ordinance drafted by Jamie Ross was the Mobile Home Task Force ordinance, based on the Pinellas County model.

Ms. Taylor-Prakelt pointed out that the Pinellas County ordinance had not been legally challenged and this indicated to her that it was legal and constitutional to impose rules that went above and beyond State Statute 723. She read from 723-083, which forbade a municipal government from taking any action that would result in the removal or relocation of mobile home owners residing in a mobile home park without first determining that adequate mobile home parks or other facilities existed for their relocation. Ms. Taylor-Prakelt said there were two Attorney General Opinions regarding the meaning of “comparable.” The Attorney General had determined that it meant comparable in every way, including its location in the same municipality. Rule 9-J5, the Housing Element, stipulated the Town must have adequate sites for future housing, including housing for low, very low or moderate income families, mobile homes and other facilities. Ms. Taylor-Prakelt stated that some Task Force members believed 723-083 indicated that since the Town had declared an affordable housing crisis, and that there was no comparable housing, no mobile home park could change use until the Town determined that adequate comparable replacement housing existed.

Mayor Truex noted a loophole in 723-083 because if an owner emptied a park before requesting rezoning, action taken by the municipality no longer affected current tenants because there were none. He and Ms. Taylor-Prakelt acknowledged that the State Legislature must address this issue. Ms. Taylor-Prakelt said the Task Force’s ordinance gave an optional relocation plan to owners wishing to redevelop.

Ms. Taylor-Prakelt asked Council to continue to consider other legal alternatives and to consider the fact that Davie was unique in its high proportion of mobile home dwellers and its lack of comparable replacement housing. She asked who should bear the burden when the mobile park closed, the taxpayers or the person who stood to make a profit. When the trust fund was envisioned, they imagined two divisions: one for the recurring revenue source and one for a voluntary payment by park owners who chose to redevelop in an environment where there was a lack of comparable replacement housing.

Mr. Shimun supported Mr. Rayson’s ordinance because he felt it was more legally defensible.

Council asked that Mr. Rayson’s version be put on a future agenda.

Mayor Truex said he had spoken to a representative from Palma Nova, who informed him that contrary to rumors, there were no pending plans to redevelop.

9. NEW BUSINESS

9.1 Charter Review Board Recommendations

This item was not discussed.

10. SCHEDULE OF NEXT MEETING

10.1 Local Road Master Plan Workshop

Ms. Nolan advised Council that the workshop should only take one hour. Council scheduled the workshop on May 7th at 6 p.m.

11. MAYOR/COUNCILMEMBER’S COMMENTS

COUNCILMEMBER CROWLEY

BROWARD LEAGUE OF CITIES MEETING. Councilmember Crowley advised that he was unable to attend the upcoming meeting on April 8th. Councilmember Starkey agreed to attend for him.

COUNCILMEMBER CALETKA

FLAMINGO ROAD. Councilmember Caletka indicated that he had received complaints from residents regarding the condition of Flamingo Road. He knew that this was not the Town’s responsibility, but asked that something be done.

COUNCILMEMBER STARKEY

WEEKLEY PARCEL. Councilmember Starkey said that a meeting was held to discuss a proposal and she requested updated surveys and appraisals to help determine how much of the property the Town would be interested in. She noted that Mr. Weekley had a contract with the School Board that had not been executed, but he would rather sell some of the land to the Town and develop the rest. Mr. Cohen explained that the appraisals had cost \$3,000 to \$6,000 each, but since these were updates, he expected them to be appreciably less. These costs would be paid out of District 3’s Bond funds.

12. TOWN ADMINISTRATOR’S COMMENTS

WAIVER OF FEE. Mr. Shimun advised that he had received a request from the Miami Dolphins to waive the \$100 fee for the use of Pine Island Park for a Public Service Announcement for Youth Football. Council agreed to waive the fee.

13. TOWN ATTORNEY’S COMMENTS

No comments were provided.

14. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 10:07 p.m.

Approved _____

Town Clerk

Mayor/Councilmember

