7.1
OLD BUSINESS

# TOWN OF DAVIE
# TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Gary P. Shimun, Town Administrator

**PREPARED BY:** Russell C. Muniz, Town Clerk

**SUBJECT:** New Business

**AFFECTED DISTRICT:** Townwide

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** Charter Review Board Recommendations

**REPORT IN BRIEF:** The Charter Review Board met from July through October of 2007 and reviewed the Town's Charter. A joint workshop was held with the Town Council and the Charter Review Board to present their recommendations. The Town Council recommended that the Charter be reviewed over several Town Council meetings to further discuss these issues and decide which recommendations should be referenda questions on the March 2009 ballot.

**PREVIOUS ACTIONS:** At the May 7, 2008 meeting, Council discussed Sections 1 - 7. Discussion should begin with Section 8 at the May 21, 2008 meeting.

At the April 2, 2008, Town Council meeting this item was tabled to the April 16, 2008 meeting. On April 16, 2008, the item was tabled to May 7, 2008.

**CONCURRENCES:** N/A

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):** Discussion of recommendations for Charter Sections 1-7.

**Attachment(s):** Action sheet from Charter Review Board

## PART I CHARTER*

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***Editor's note:** The Charter as set out in Part I hereof is derived from Ch. 61-2056, Laws of Florida, Sp. Acts 1961 as shown in the citations following each section. Only minor, nonsubstantive modifications have been made for the purposes of clarity, consistency and uniformity of style. Bracketed material has been added by the editor for the convenience of the user. Amendatory legislation shall be cited in chronological order following citations to Ch. 61-2056.

Ordinance No. 97-7, adopted January 15, 1997, and approved by a majority of the electors voting in a referendum held March 11, 1997, extensively amended the Charter by deleting and renumbering sections. For specific disposition, see the Charter Comparative Table.

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**Sec. 1. Creation and powers.**

The Town of Davie created by Special Acts, Chapter 61-2056, § 6, Laws of Florida, shall continue and is hereby vested with the governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services and may exercise any power for municipal purposes not expressly prohibited by the Constitution, general or special law or county charter.
(Ord. No. 97-7, § 2, 1-15-97)

No changes were made.

**Sec. 2. Corporate limits.**

The corporate limits of the Town of Davie, Florida, are as set forth in Exhibit "A" attached hereto. All ordinances of annexation of the town heretofore adopted and as may be adopted prior to the effective date of this Charter amendment are hereby incorporated herein and the lands described in such ordinances together with the boundaries of the town as described in Exhibit "A" attached hereto are hereby declared to be the corporate limits of the town.
(Ord. No. 97-7, §§ 3, 8, 1-15-97)

No changes were made.

**Sec. 3. Powers and limitations.**

The town shall have all the powers and privileges granted generally to municipalities by the Constitution and general laws of the State of Florida, the same as if said powers and privileges were herein recited in full; together with all of the implied powers necessary to carry into execution all of the powers granted; and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the town shall have and may exercise all powers which under the Constitution of this state it would be competent for this Charter specifically to enumerate save only the extent that such powers are specifically limited by this Charter.

The power and jurisdiction of the town includes all extraterritorial powers and jurisdiction previously granted by any special or general law and shall include the power to acquire by purchase, gift, devise, condemnation, eminent domain, or otherwise, property, real or personal, or any estate therein, within or without the town, to be used for any purpose necessary or to meet the needs of the town; and to operate, maintain, repair, improve any and all such properties, real or personal, including streets and sidewalks by expenditure of the money of the town for all lawful purposes. When zoning all areas encompassed by the town, the following should be considered as well as other applicable factors: safety, health, general welfare and compatible zoning in relation to surrounding areas.
(Sp. Acts, Ch. 61-2056, § 8; Sp. Acts, Ch. 67-1266, § 1; Sp. Acts, Ch. 67-1267, § 1; Sp. Acts, Ch. 69-979, § 1; Sp. Acts, Ch. 69-981, § 1; Sp. Acts, Ch. 69-982, § 1; Charter Amend. 4-17-73; Ord. No. 75-6, § 1, 4-2-75; Ord. No. 90-2, § 2, 1-17-90; Ord. No. 97-7, §§ 4, 9, 47, 1-15-97)

**Sec. 4. Charter review board.**

There shall be a Charter Review Board appointed by the members of the town council by April 2004, and at least every seven (7) years thereafter. Each council member shall select two (2) members to the Charter Review Board. The terms of the members shall commence upon their appointments and shall terminate upon the acceptance by the town council of the board's report.

Any vacancy occurring shall be filled by the appointing member of the town council for the remainder of the board member's unexpired term. All members of the Charter Review Board shall be electors of the town.

No changes were made.

The Charter Review Board shall be empowered to conduct a comprehensive study of all phases of the Charter with the exception of district boundaries. Upon appointment of the Charter Review Board members, the board shall prepare a recommendation to the town council as to proposed amendments to the Charter. The board shall submit its report of recommendations to the town council within one hundred twenty (120) days from the date of appointment of the board.

In the event the Charter Review Board fails to submit its report to the town council within one hundred twenty (120) days from appointment of the board, the council may submit for referendum amendments to the Charter without the recommendation of the Charter Review Board.
(Ord. No. 97-7, §§ 5, 10, 1-15-97)

**Sec. 5. Form of government.**

The Town of Davie shall be governed by a council/manager form of government consisting of five (5) members, one of whom shall be the elected at-large mayor and one of whom shall be the vice mayor.
(Sp. Acts, Ch. 61-2056, § 9; Ord. No. 74-17, § 1, 4-3-74; Ord. No. 97-7, §§ 6, 11, 47, 1-15-97)

Elections, § 13.

**Sec. 6. Administrative department.**

(a) [*Administrative Head or Manager.* ] The administrative duties of the town shall be conducted by an administrative head, and wherever the words "administrative head" or "manager" occur in the Charter, they shall mean and shall include "town administrator," which duties shall include the following, to wit:

(1) Supervision over the administrative activities and provide for the coordination of such activities.

(2) Powers granted to him in this Charter and the laws of the State of Florida concerning appointment and removal of administrative employees and commissions as herein provided.

(3) Annual submission to the council for its consideration of an operating budget and a capital improvements program.

(4) Exercise of the right to attend all council meetings and the authority to present messages, reports and other communications to the council as hereinafter provided.

(5) Unless otherwise provided herein, appointing and discharging authority of all employees of the Town of Davie or its various departments.

09/24/07 - Board approved including language that should there be a vacancy in the Police or Fire Departments that a Police and/or Fire Chief Nominating Committee shall be appointed which shall be comprised of two residents appointed by each Councilmember and Mayor, and two members of either the Police or Fire Department depending on which office is open and the Committee shall review each application and submit a minimum of the top three candidates to the Town Manager who shall then hire either position from the minimum of the three choices

Yes - Green, Notman, Paul, Rechtman, Spages, Stevens, Venis

No - Adkins, McLaughlin

(Aitken absent)

10/02/07 - approved replacing the proposed language "from the minimum of the three candidates" to "from the list submitted" - all voted in favor (Aitkin, Notman, Venis absent)

(5) continued

09/24/07 - Board approved language that the town administrator shall not have the sole authority to terminate the Police Chief and/or Fire Chief without the approval of the town council by simple majority vote. The town administrator shall make recommendations in open forum for the termination of the Police and/or Fire Chief and the town council shall have the final decision making authority

Yes - McLaughlin, Notman, Rechtman, Spages, Stevens

No - Adkins, Green, Paul, Venis

(Aitken absent)

08/13/07 - Board approved recommending that the appellate process be revised to assist non-represented employees.

Yes - Adkins, Aitken, Green, McLaughlin, Paul, Stevens, Venis

No - Notman, Spages

(Rechtman absent)

(6) Exercise of such other powers and performances of such other duties as may be prescribed by this Charter, town ordinances or resolutions, or by applicable laws of the State of Florida.

(b) *Reserved.*
(c) *Reserved.*

(d) *The Town Attorney.* The town attorney shall be a practicing attorney and a member of the Florida Bar. The town attorney shall be retained by the town council and shall act as the legal advisor to and counselor for the town and all of its officers in matters relating to their official duties; provide written legal opinions on official matters when requested to do so by council members and/or town administrator; draft or review ~~for legal correctness~~ ordinances, contracts, franchises and other instruments; perform such other professional duties as may be assigned to him by the council and/or town administrator. For his services, the town attorney shall be compensated by a retainer set by the council. Notwithstanding anything contained herein to the contrary, the Town council may, at its sole discretion, retain a full-time Town Attorney and/or retain an independent attorney/law firm to act as Town Attorney

08/13/07 - Board approved - all voted in favor (Rechtman absent)

(e) *Town Clerk's Office:*

(1) The town administrator, subject to confirmation by the town council, shall appoint a town clerk and such assistant town clerk(s) as are required to perform such clerical work and duties as may be assigned to the town clerk by the town administrator.

(2) The town clerk shall be responsible for the keeping of minutes of council meetings and advisory boards, ordinances, resolutions, all public hearings, and ~~shall act as the town treasurer and shall be responsible as collector of all taxes and assessments and other monies due to the town; act as official custodian for all town monies; disburse funds on the basis of valid authorization; and~~ file as a public record the annual audit report; and, in the administration of the town functions, comply with the provisions of this Charter, ordinances adopted hereunder, and the general laws of the State of Florida. Adequate surety bonds as determined by the town council must be carried by the town upon the town treasurer and employees in his office performing duties in connection with the collections, custody and disbursements of the town monies.

10/02/07 - Board approved - all voted in favor (Aitkin, Notman, Venis absent)

(f) *Reserved.*

(g) *Creation of Departments.* The council may by ordinances assign to existing departments any new functions or programs to be undertaken by the town, but to the extent that this is not practicable, the council may create additional departments which shall in all respects be subject to the provisions of this Charter.

(h) *Advisory Committees.* The council may appoint advisory committees whose function shall include counsel and advice to the town council. Standing committees and special committees may be created by resolution. The length of service of each committee and terms of office shall be designated in the enacting resolution.

(i) *Reserved.*

(j) *Reserved.*

(k) *Sale of Town Property.*

(1) *Sale of Personal Property.* All confiscated, unclaimed or abandoned personal property coming into the possession of the town, or any personal property owned by the town which has become obsolete, or which has out lived its usefulness, or which has become inadequate for the public purposes for which it was intended, shall be disposed of by public auction, open competitive bidding, direct sale, trade or gift at least annually on a date set by the manager. In the event of public auction or open competitive bidding, there shall be notice of such public sale published in a daily newspaper with the publication to be at least thirty (30) days prior to the public sale. This section shall not apply to property obtained by the town pursuant to contraband forfeiture statutes. Contraband shall be disposed of in accordance with Florida Statutes.

(2) *Sale of Real Property.* All confiscated real property coming into the ownership of the town or any real property owned by the town which has outlived its usefulness or which has become inadequate or is not needed for public purpose, may be disposed of by the town. The disposition of the aforementioned property shall be accomplished by open competitive bidding or may be sold by direct sale, trade or gift, if it is deemed by the town council to be in the best interest of the Town of Davie. In the event of open competitive bidding, direct sale, trade or gift, there shall be notice of such disposition of town real property in a daily newspaper of general circulation at least thirty (30) days prior to the disposition of such real property. The publication shall include notice that the approximate value of the real property, as determined by the town or its agents, will be available at Town Hall thirty (30) days prior to the scheduled sale. This section shall not apply to property obtained by the town pursuant to contraband forfeiture statutes. Contraband shall be disposed of in accordance with Florida Statutes.

(l) *Restriction of Employment of Relatives:*

(1) No individual may be appointed or hired as an officer or employee of the town who is a relative of an officer or employee within the same department of the town.

(2) "Relative" shall be given the same definition, for the purposes of this section, as the definition contained in Florida Statutes 116.111, as amended.

(m) *Definition of "Daily Newspaper."* "Daily newspaper," as used in this Charter, shall mean a newspaper as defined by State Statute 50.031.
(Sp. Acts, Ch. 61-2056, § 10; Sp. Acts, Ch. 67-1271, § 1; Sp. Acts, Ch. 69-984, § 1; Ord. No. 71-11, § 1, 4-7-71; Ord. No. 71-12, § 1, 4-7-71; Charter Amend. 4-17-73; Ord. No. 74-17, § 2, 4-3-74; Ord. No. 75-6, § 2(1)--(10), 4-2-75; Ord. No. 7810, § 1, 2-1-78; Ord. No. 79-1, § 1, 1-3-79; Ord. No. 81-3, § 1, 2-4-81; Ord. No. 81-9, § 1, 3-4-81; Ord. No. 82-5, § 1, 1-21-82; Ord. No. 90-2, § 5, 1-17-90; Ord. No. 97-7, §§ 7, 12--17, 47, 1-15-97)

**Sec. 7. The council, mayor and legislation.**

(A) *Councilmembers, Mayor, Number, Term, and Selection.* The legislative body of the town shall be known as the town council which shall be composed of four (4) members who shall be known as councilmembers and who shall each be elected solely from the registered voters within the respective single member district from which he/she seeks election; and one member who shall be known as mayor/councilmember and he/she shall be elected at large from all of the town's registered voters. Reference to "councilmember" in this Charter shall include the mayor/councilmember. All councilmembers shall be elected by the qualified electors on a nonpartisan basis. The town council shall be elected in five (5) separate classes. When qualifying for such office, each candidate shall designate the class he/she is qualifying for. One class shall consist of the office of mayor/councilmember without reference to any district. The remaining four (4) classes shall represent offices of councilmembers to be elected as representatives of four (4) single-member geographical districts established by ordinance, from time to time based upon reasonably equal areas of population.

(1) *Boundaries.* The district boundaries for each district shall be provided by ordinance.

(2) *Review of district boundaries.* District boundaries shall be reviewed upon the occurrence of any of the following events:

(a) The town's geographical boundaries change by ten (10) percent or more;
(b) The town's population changes by ten (10) percent of more;
(c) A single annexation causes the population of the town to increase by five (5) percent or more;
(d) The passage of at least five (5) years since the previous review of the town's boundaries.

A committee of ten (10) qualified electors of the town shall be created by the council of the Town of Davie. Each councilmember shall appoint two (2) members of the committee from his/her district to review, and, if found necessary, recommend district boundary changes.

(3) *Term of office.* All council members shall serve for a period of ~~three (3)~~ four (4) years. Those council members elected in March of 1988 shall serve until the third Wednesday in March of 1991 and until their successors shall have qualified. Those council members who were elected in March of 1989 shall serve until the third Wednesday in March of 1992 and until their successors have qualified. An election shall be held to elect successors for each council member so as to have the various successors elected at the expiration of the term of the respective council members.

08/29/07 - Board approved changing the terms from 3 years to 4 years

Yes - Adkins, Green, McLaughlin, Rechtman, Paul

No - Notman, Spages,Stevens

(Aitken, Venis absent)

09/24/07 - Board approved a package that includes a 4 year term and moving elections to November with the March 2009 terms extended 8 months and March 2010 terms extended for 8 months

Yes - Adkins, Green, McLaughlin, Paul, Venis

No - Notman, Rechtman, Spages, Stevens

(Aitken absent)

(B) *Qualifications for Councilmen.* A councilman shall, at the time of his qualification for office, be a qualified elector of the Town of Davie. He shall have resided within the town or an area that at the time of his qualification is a part of the town and in the respective district that he may represent (if qualifying for a class based on district representation) for the six (6) months immediately preceding his qualifying for office. He shall remain residing in the geographical district he represents during his term in office, but any councilman who has his district changed by council action shall remain in office until the normal expiration of his term.

(C) *Council Powers and Duties.* All legislative powers of the town shall be exclusively vested in the council and shall be exercised by it in the manner subject to the limitations herein set forth. All laws of the State of Florida affecting matters of local concern but otherwise not inconsistent with the Charter shall have the force and effect of ordinances of the town. In addition to exercising its general legislative powers, the council shall confirm appointments as prescribed herein, adopt the budget, undertake necessary investigations, provide for an independent audit by an established and recognized accounting firm which should be reviewed and may be rotated at least every five (5) years, and take such other actions as it deems necessary and are consistent with this Charter and the laws of the State of Florida. This section shall not interfere with any contracts in existence at the time of its adoption. All legislative powers exercised by the council shall be consistent with provisions of this Charter, the United States Constitution, the Florida Constitution, laws of the State of Florida, and laws and ordinances of the town.

(D) *Recall of Council Member, Removal from and Vacancy of the Office of Council Member:*

(1) *Recall of council member.* The Florida statutory provisions concerning recall of members of municipal governing bodies are hereby adopted. In addition to the statutory grounds for removal of elected municipal officials, substance abuse shall be deemed grounds for removal of a member of the town council.

(2) *Removal from and vacancy of the office of council member.* The office of a council member shall become vacant upon the death of an incumbent, upon the adjudication of incompetency of an incumbent, upon the resignation of an incumbent, or upon the following eventualities, to wit:

(a) Failure to meet the qualifications for the office as prescribed by this Charter; or

(b) Failure to take his oath of office; or

(c) Ceasing to be a resident of the town, or ceasing to be a resident of his geographical district unless his district is changed by council action, in which case he shall remain in office until the normal expiration of his term; or

(d) Conviction of a felony or any crime involving the violation of his official oath or duties; or

(e) Being absent from council meetings for two (2) consecutive calendar months without being excused by the council; or

(f) Being absent from regular council meetings for three (3) consecutive months even if a number of absences have been excused by the council; or

(g) Acceptance of an appointment to an elective public office or being elected to a public office other than an office that is incidental to the duties of a council member.

(E) *Filling Vacancies of the Council and Mayor.* In the event that a vacancy should occur in the office of a councilmember or the mayor, the council shall forthwith elect by a vote of at least three (3) councilmembers a successor councilmember or mayor having such qualifications (including district resident requirements) as prescribed herein for the office of councilmember or mayor until the next available general election. A successor councilmember or mayor shall then be elected to the office for the unexpired term. If the Council fails to elect a successor councilmember or mayor within the next three (3) ensuing meetings after such vacancy should occur, then a special election shall be declared to elect a successor councilmember or mayor to serve the balance of the unexpired term.

(F) *Mayor and Vice-Mayor of the Council.*

(1) [*Election, qualification and tenure.* ] At the meeting of the third Wednesday of March of each year, the council shall elect by majority vote one of its members as vice-mayor. The mayor shall preside at all meetings of the council. The vice-mayor shall preside at meetings of the council during the absence or disability of the mayor, and he shall serve as acting mayor during any period in which the mayor is absent or disabled.

(2) *Powers and duties of mayor.* The mayor shall be recognized as the official head of the town for all ceremonial purposes and recognized by the courts for the purposes of serving civil processes but shall have no administrative duties. The mayor shall have the right to vote and debate as a councilman at all council meetings.

(G) *Council Meetings.* The term of the councilmembers shall begin on the first regular meeting following the general municipal election, and they shall meet at the town hall, or at some other designated place, on that day at 7:30 p.m. to take office and to organize for the purpose of carrying out their assigned duties. Thereafter, the council shall meet regularly ~~as its rules may prescribe but not less often than twice each month~~. The first meeting of each month shall provide at the beginning thereof an opportunity for public input for a period of at least thirty (30) minutes or until all speakers are heard, whichever occurs first. Special meetings shall be called by the town clerk upon the written request of the mayor or any two (2) councilmembers. Such request shall state the subject to be considered at such special meeting, and no other subject shall be considered thereat. Councilmembers shall be given at least twenty-four (24) hours' written notice of the time and place of such special meetings, except that only two (2) hours 'notice shall be required when an emergency has been declared. All regular and special meetings of the council shall be open to the public. No ordinance, rule, resolution, regulation, order or directive shall be adopted except at a meeting open to the public.

08/29/07 - Board approved - all voted in favor (Aitken, Venis absent)

(H) *Council and Board Procedure and Quorum.* In all matters, no less than three (3) members of the council shall be required to make any determination or effect any action, and all action to be valid must be voted upon affirmatively by no less than three (3) members. With three (3) council members present, a two (2) to one (1) vote automatically tables the question until the next regular meeting; with four (4) members of the council present, a tie vote automatically tables the question until the next regular meeting. The council and all boards shall conduct their meetings in accordance with Robert's Rules of Order, except that the council or boards may, by resolution, make specific exceptions to such rules. All actions of the Town Council for approval of or support for a land use amendment pursuant to Section 12-304 of Article X of Chapter 12 (as now numbered or as in the future renumbered) of the Code of the Town of Davie shall require an affirmative vote of no less than a super-majority of the members present of the Town Council ("super-majority" being defined as a majority plus one of the Town Council members present).

(I) *Council Journal.* The council shall cause the town clerk to keep a journal of its proceedings, which shall show every matter considered by it, its disposition, and the yeas and nays of every vote on each matter submitted for a vote. The journal shall be open to public inspection.

(J) *Salary for Councilmembers and Mayor:*

(1) The salary to be paid to a councilmember and the mayor shall be determined by ordinance and shall not exceed the average salary of the five cities in Broward County closest in population to the Town of Davie. ~~not exceed six hundred dollars ($600.00) per month plus expenses as determined by ordinance. The aforestated salary limitation shall be subject to a cost of living adjustment on an annual basis commencing in October, 1997. The index for determining the adjustment and the method of computing the cost of living adjustment shall be the same as that used for the non-represented employees of the town.~~

08/13/07 - Board approved subject to the average of the cities as Mr. Rayson described

Yes - Adkins, Notman, Paul, Spages, Stevens, Venis

No - Aitkin, Green, McLaughlin

(Rechtman absent)

••The Board recommended that a resolution or ordinance be created placing Council in the Florida Retirement System - all voted in favor (Rechtman absent)

(K) *Ordinances and Resolutions:*

(1) *Form.* Every ordinance and resolution proposed for adoption by the town council shall be in the proper form as required by the Florida Statutes.

(2) *Procedure.* An ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the town clerk shall distribute a copy to each council member and to the administrative head, shall file a reasonable number of copies in the office of the town clerk and such other public places as the council may designate, and shall publish the ordinance, by title only together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council. The public hearing shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment or reject it but, if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance. This procedure will not be required for zoning ordinances but the requirements of the Florida Statutes must be followed.

(3) [Reserved.]

(4) *Effective date.* Except as otherwise provided in this Charter, every ordinance adopted by the council shall become effective immediately, unless otherwise provided therein, and shall be signed by the presiding officer of the council.

(5) *"Publish" defined.* As used in this section, the term "published" means to print in one or more daily newspapers of general circulation in the town: (1) the ordinance or brief summary thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection.

(6) *Emergency ordinances.* An ordinance may be passed as an emergency measure after one reading when the council shall find that an emergency exists and causes to be shown on its journal the nature of the emergency. An emergency ordinance may go into effect immediately or at a fixed time, or upon the occurrence of a named contingency. The vote of four (4) members of the council shall be required to pass an emergency ordinance. The emergency procedure shall be restricted to the following, to wit:

(a) Ordinances dealing with conditions immediately affecting the peace, property, health, safety or morals of the community.

(b) Ordinances making emergency appropriations or authorizing the issuance of emergency notes as hereafter provided.

(7) *Record of ordinances.* Every ordinance shall upon its final passage be recorded in an ordinance book kept by the town clerk. Each ordinance shall be authenticated by the signatures of the presiding officer and town clerk. Such record shall be verified with the ordinance passed, and such ordinance book shall be properly indexed. After any ordinance has been copied into the ordinance book and authenticated by the signatures of the presiding officer and the town clerk, such shall be the official ordinance, and certified copies of same may be obtained upon request. Such certified copies may be received in evidence in all courts.

(8) *Codification of ordinances.* The council shall arrange for a compilation or codification of all ordinances and must codify recently enacted ordinances at least every six (6) months. Such compilations or codifications shall be placed on file with the town clerk for public use and shall be made available for purchase at a reasonable price.

(9) *Resolutions.* Resolutions may be introduced and passed by three (3) affirmative votes at any regular or special meeting of the town council. The adopting clause of all such resolutions shall be "Be it resolved by the Town Council of the Town of Davie, Florida." All resolutions shall become effective immediately unless otherwise specified therein.

(10) *Records of resolutions.* Every resolution shall upon its final passage be recorded in a resolution book kept by the town clerk. Each resolution shall be authenticated by the signatures of the presiding officer and town clerk. Such record shall be verified with the resolution passed and such resolution book shall be properly indexed. After any resolution has been copied into the resolution book and authenticated by the signatures of the presiding officer and the town clerk, such shall be the official resolution, and certified copies of same may be obtained upon request.

(L) *Reserved.*

(M) *Initiating Referendums.* Proposed ordinances or proposed amendments to existing ordinances may be submitted to the council by a petition signed by registered voters of the town equal in number to at least ten (10) per cent of the registered voters. An initiative measure which requires the expenditure of funds must provide therein for the additional revenues which will be required to carry out the ordinance. Initiative petitions shall be uniform in character and shall contain the proposed ordinance in full, shall set forth the address of each person signing, shall be in the form prescribed by the town clerk, and shall be filed with the town clerk. The clerk shall, on the next working day after filing, transmit to the Broward County Supervisor of Elections, who shall, within the ensuing twenty (20) days, verify the sufficiency of the signatures thereto. The Broward County Supervisor of Elections shall then certify to the town clerk the sufficiency of the signatures of town electors and, if found sufficient, transmit the petition to the council, which shall proceed with the proposal in the regular manner herein provided. The council shall either enact the ordinance without amendment in substance or reject it within thirty (30) days. In the event the council shall fail to enact such ordinance or amendment, the council shall, at the next regular election held within the town, submit the same to a vote of the people. The town clerk shall issue a proclamation notifying the electors at least thirty (30) days prior to such election, and shall cause to be published a notice that the ordinance will be voted on at the next general election and a copy of the proposed ordinance in a daily newspaper in general circulation within the town. Such publication shall be not more than twenty (20) nor less than ten (10) days before the election. All initiated ordinances shall have the title which shall state, in a general way, the purpose and intent of such ordinance. The form of ballot used for such referendum shall be prepared by the town attorney and shall contain a title of such ordinance. A majority of the electors voting shall be required to enact an ordinance of an initiated referendum.
(Sp. Acts, Ch. 61-2056, § 11; Sp. Acts, Ch. 69-976, § 1; Sp. Acts, Ch. 69-977, § 1; Sp. Acts, Ch. 69-987, § 1; Charter Amend. 4-17-73; Ord. No. 74-17, §§ 3, 4, 4-3-74; Ord. No. 75-6, § 3(2)--(12), 4-2-75; Charter Amend. 12-16-75; Ord. No. 78-10, § 2, 2-1-78; Ord. No. 80-4, § 1, 1-16-80; Ord. No. 81-10, § § 1-4, 3-4-81; Ord. No. 82-5, § § 2-7, 1-21-82; Ord. No. 85-1, § 1, 1-2-85; Ord. No. 88-6, § 1, 1-20-88; Ord. No. 88-48, § 1, 9-7-88; Ord. No. 90-2, § § 6--8, 10, 1-17-90; Ord. No. 92-2, § 1, 1-2-92; Ord. No. 93-1, §§ 2, 3, 1-6-93; Ord. No. 97-7, §§ 8, 18--24, 47, 1-15-97; Ord. No. 98-35, § 2, 8-19-98; Ord. No. 2001-2, § 1, 1-3-01; Ord. No. 2001-3, § 1, 1-3-01)

**Sec. 8. Finance.**

(A) *[Finance Department.]* The finance department, as created by the town council, shall assist the town administrator in all budget matters. The finance department shall consist of a finance director and such employees as are required to perform such work and duties as may be assigned to the finance director by the town administrator.

The finance director shall act as the town treasurer and shall be responsible as collector of all taxes and assessments and other monies due to the town; act as official custodian for all town monies; disburse funds on the basis of valid authorization.

Adequate surety bonds as determined by the town council must be carried by the town upon the town treasurer and employees in his office performing duties in connection with the collections, custody and disbursements of the town monies.

(A.1) *Fiscal Year.* The fiscal year of the town shall begin on the first day of October and end on the last day of September.

(B) *Submission of Budget and Budget Message.* On or before the 1st day of August of each year, the administrative head shall submit to the council a budget for the ensuing fiscal year and an accompanying message.

(C) *Budget Message.* The administrative head's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the town for the ensuing fiscal year, describe important features of the budget, indicate any major changes from the current in financial policies, expenditures and revenues, together with the reason for such changes, summarize the town's debt position and include such other material as the administrative head deems desirable.

08/29/07 - Board approved - all voted in favor (Aitken, Venis absent)

(D) *Budget.* The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year, and, except as required by law or this Charter, shall be in such form as the administrative head deems desirable or the council may require. In organizing the budget the administrative head shall utilize the most feasible combination of expenditures classification fund, organization unit, program, purpose or activity and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditures; and

(3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the town and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

(E) *Capital Program:*

(1) Submission to council. The administrative head shall prepare and submit to the council a five-year capital program at least three (3) months prior to the final date for submission of the budget. (2) Contents. The capital program shall include:

(a) A clear general summary of its contents;

(b) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(c) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

(F) *Council Action on Budget:*

(1) *Notice and hearing.* The council shall publish in one or more newspapers of general circulation a summary of the budget and a notice stating:

(a) The time and places where copies of the message and entire budget are available for the public; and

(b) The time and place, not less than one (1) week after such publication, for a public hearing on the budget. This section shall not, however, be construed to conflict with any statutory requirements.

(2) *Amendment before adoption.* After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any program or amounts, except expenditures required by law or for debt service or for estimated cash deficit; provided, that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.

(3) *Adoption.* The council shall adopt by ordinance the budget in accordance with the requirements of the Florida Statutes.

(G) *Council Action on Capital Program:*

(1) *Notice and hearing.* The council shall publish in one or more daily newspapers of general circulation the general summary of the capital program and a notice stating:

(a) The times and places where copies of the capital program are available for inspection by the public; and

(b) The time and place, not less than two (2) weeks after such publication, for a public hearing on the capital program.

(2) *Adoption.* The council by resolution shall adopt the capital program with or without amendment after the public hearing at the first regular meeting in June.

(H) *Public Records.* Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the town.

(I) *Amendments After Adoption:*

(1) *Supplemental appropriations.* If during the fiscal year the administrative head certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(2) *Emergency appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the town administrator or designee may recommend emergency appropriations which may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(3) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the administrative head that the revenues available will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(4) *Transfer of appropriations.* At any time during the fiscal year the administrative head may transfer part or all of any unencumbered appropriation balance ~~among programs~~ within a department, ~~office~~ or agency provided the amount transferred shall not exceed ten thousand dollars ($10,000.00) with approval by the Town Administrator and Finance Director. Amounts above ten thousand dollars ($10,000.00) must be approved by the Town Council. ~~one thousand dollars ($1,000.00) unless approval of the town council is first obtained and, upon written request by the administrative head, the council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.~~

(5) *Limitations; effective date.* No appropriations for debt service may be reduced or transferred, and no appropriation may be reduced by any amount required by law to be appropriated or by more than the amount of unencumbered balance thereof. The supplemental and emergency appropriation and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption

08/29/07 - Board approved

Yes - Green, McLaughlin, Notman, Spages, Stevens, Rechtman

No - Adkins, Paul

(Aitken, Venis absent)

(J) *Reserved.*

(K) *Reserved.*

(L) *Reserved.*

(M) *Transfer of Funds and Appropriations of Accruing Revenue:*

(1) The town council shall have authority to transfer any part of any unencumbered balance of an appropriation to a purpose or object for which the appropriation of the current year has proved insufficient, or may authorize a transfer to be made between items appropriated to the same office or department, provided the provisions of this section shall not apply to special earmarked funds nor to the sinking funds.

[(2) Reserved.]

(N) *Reserved.*

(O) *Centralized Purchasing.* The administrative head, acting in accordance with this Charter, town ordinances, resolutions, and departmental rules and regulations, shall purchase and contract for all materials, parties, supplies, equipment and services required by any department or agency of the town. The town council shall adopt centralized purchasing procedures by duly enacted ~~ordinances~~ resolutions.

08/29/07 - Board approved - all voted in favor (Aitken, Venis absent)

(P) *Insurance and Surety Bonds.* Insurance against fire, windstorm and other hazards shall be obtained for the protection of the property of the town in such amounts and under such conditions as the council shall deem necessary. The town may, without waiver of its governmental immunity, obtain liability insurance covering such risks and in such amounts as the council may deem necessary; provided, that all such policies stipulate that the insurer shall not assert the governmental immunity of the town as a defense in any claim or litigation. Subject to the conditions provided herein, the council shall determine which officials, officers and employees of the town shall be required to have surety bonds, and the council shall determine the amount of each such individual or blanket bond. All surety bonds shall be in favor of the town, and the premiums thereon shall be paid by the town. The town ~~clerk~~ shall obtain all insurance and surety bonds in accordance with ordinances or resolutions authorizing the same. All insurance and surety bonds shall be obtained from companies licensed by the State of Florida to insure such risks in the amounts involved.

08/29/07 - Board approved - all voted in favor (Aitken, Venis absent)

(Q) *Reserved.*

(R) *Revenue Collection, Custodian of Funds, and Surety of Employees.* The ~~town clerk~~ finance director, under the direction of the administrative head, shall provide for the collection of all personal and special taxes or assessments due the town, act as official custodian for all town monies, disburse funds on the basis of valid authorizations in the administration of town functions, in accordance with Section 12(V), and comply with the provisions of this Charter and ordinances adopted hereunder. Adequate surety bonds for the ~~town clerk~~ finance director and for employees in his office performing duties in connection with the collection, custody and disbursement of town monies shall be obtained in accordance with the provisions hereinabove set forth.

08/29/07 - Board approved - all voted in favor (Aitken, Venis absent)

S) *Notes and Bonds.* As used in this Charter, the term "notes" is defined as evidences of indebtedness which the council shall have authority to issue for municipal purposes, to pay operating expenses authorized in the budget or to pay expenditures ultimately to be financed with the proceeds of bonds previously authorized and to be issued pursuant to the provisions herein or the general laws. The term "bonds" is defined as evidences of indebtedness which the council shall have authority to issue in compliance with the applicable provisions of the Constitution and general laws. Bonds may be issued for the purpose of acquiring real property, constructing capital improvements, purchasing equipment, financing legal obligations of the town, or such projects as are allowed by law, or refunding outstanding bonded indebtedness. In all cases, all evidences of indebtedness shall bear interest at not more than the maximum rate specified by law.

There shall be a review of the firms and/or companies handling notes and bonds for the town including but not limited to competitive fees, interest and other service charges.

(T) *Reserved.*
(U) *Reserved.*

(V) [*Payment.* ] Moneys shall be paid out of the town treasury only on warrants or checks signed by the mayor and the ~~town clerk~~ finance director or their designees as provided by resolution of the town council.
(Sp. Acts, Ch. 61-2056, § 12; Sp. Acts, Ch. 67-1269, § 1; Sp. Acts, Ch. 67-1273; § 1; Sp. Acts, Ch. 69-978, § 1; Sp. Acts, Ch. 69-980, § 1; Sp. Acts, Ch. 69-985, § 1, Sp. Acts, Ch. 69-986, § 1; Charter Amend. 4-17-73; Ord. No. 74-17, § 5, 4-3-74; Ord. No. 75-6, § 4(1)-(10), 4-2-75; Ord. No. 78-10, § 3, 2-1-78; Ord. No. 82-5, § § 8-1, 1-21-82; Ord. No. 88-44, § 1, 8-17-88; Ord. No. 90-2, §§ 12--15, 17, 18, 1-17-90; Ord. No. 97-7, §§ 25--36, 47, 1-15-97)

08/29/07 - Board approved - all voted in favor. (Aitken, Venis absent)

••The Board approved a recommendation that the resolution indicate an elected official as the mayor's designee.

**Sec. 9. Town planning and development.**

(A) *Town Plan.* It shall be the policy of the town to conserve and protect its natural resources, scenic beauty, rural character, and equestrian lifestyle. The town council shall identify the remaining rural and equestrian areas within the town and adopt appropriate legislation to ensure the preservation of these areas. This policy shall not interfere with the legally established property rights.

(B) *Reserved.*

(C) *Town Planning and Zoning Board.* The town council shall create and establish a town planning and zoning board, consisting of five (5) members, to serve without compensation at the discretion of the town council. Each councilmember shall be entitled to exclusively nominate one person. After nomination by the councilmember, if the nominee fails to be appointed by an affirmative vote of at least three (3)councilmembers, then the nominating councilmember shall nominate another person and shall be entitled to continue to nominate prospective members until a nominee is appointed by an affirmative vote of at least three (3) councilmembers. Each member shall be a resident of the town and a qualified voter of the town. Such board shall elect a chair and a vice-chair from its members. The town clerk, town building inspector, town attorney and other town officials delegated by the council shall serve as advisors to the board and may be called on from time to time to meet with said board as the board may deem necessary. Regular meetings of the board shall beheld no less than once a month provided there are matters pending. Minutes of the meetings shall be electronically recorded and preserved pursuant to state regulations and filed with the town clerk. Special meetings may be called upon seventy-two (72) hours' notice by the chair of the planning and zoning board. The duties of the planning and zoning board shall be as follows, to wit:

(1) *Advisory capacity.* To act in an advisory capacity to the council on questions relating to zoning and to conduct investigations and hearings on matters and proposals to change zoning regulations, and report its findings and recommendations on such proposals to the council.

(2) *Planning.* To study existing town plans with a view of improving and the probable future growth of the town, and from time to time make recommendations to the council for changes in the existing town plan so as to incorporate new developments or to adopt a new town plan in conformity with the provisions hereinabove set forth.

(3) *Plats.* To investigate and make recommendations on new plats presented to the council for approval.

(4) *General power.* To perform such other duties as may from time to time be assigned to such board by the council.

(5) *Local planning agency.* To serve as a "local planning agency" for the Town of Davie as is required by Chapter 163 of the Florida Statutes, as it may be amended from time to time.

(D) [Reserved.]

(E) *New Streets.* No dedicated public street or alley can be constructed, improved or extended by private individuals except by consent and approval of the town or under its supervision. No such dedicated streets or alleys may be constructed except at street grades established by the town, and adequate easements and rights-of-way shall be provided for the installation and extension of water mains and other utilities. The town shall specify the minimum base surface which may be permitted and the minimum right-of-way width.

(F) *Vacating or Abandoning Streets.* The council is hereby authorized to cause any street, alley or public highway to be opened, straightened, diverted, widened, narrowed or vacated. No street, alley or property dedicated to public use shall be vacated or abandoned except by ordinance and as provided herein. Streets, avenues, alleys or other public places or properties either appearing on any plat or record or dedicated to the public use cannot be vacated or abandoned without the person or parties desiring the vacating or abandonment making formal application to the town council for such vacating or abandonment. The town council shall refer such application for vacating or abandonment of street or alley to the town planning and zoning board for its recommendation, and thereafter the council shall cause a public hearing to be held on such matter at a regular meeting of the council not less than fifteen (15) days after the presentation of such application. Notice of such public hearing shall be duly advertised as prescribed by ordinance and/or duly posted within the town limits at two (2) public places prescribed by ordinance. After such public hearing, the council may vacate or abandon such street, alley or property by ordinance.

(G) *Illegal Erection of Buildings.* If any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building[,] structure or land is used in violation of any ordinance or other regulations of the town, the council, in addition to its other remedies, may institute any appropriate action or proceeding: to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violations; to prevent any illegal act, conduct, business or use in above such premises, regardless of whether a permit for such construction has been issued or not. In the event the council fails to take proper action within a reasonable time, any resident free holder may do so. (Sp. Acts, Ch. 61-2056, § 14; Ord. No. 75-6, § 5(1), (2), 4-2-75; Ord. No. 90-2, §§ 20--22, 1-17-90; Ord. No. 97-7, §§ 38--40, 47, 1-15-97; Ord. No. 2001-5, § 1, 1-3-01)

**Sec. 10. Police department.**

The police department of Davie, Florida, is hereby created and established. The police department shall consist of a chief of police and as many subordinate officers as may be employed, and employees as may be necessary for the functioning of said department in accordance with applicable state laws, town ordinances and departmental rules and regulations. The chief of police may appoint additional police officers and other employees for temporary service. The chief of police shall be responsible for the enforcement of law and order in the town. The chief of police, under the direction of the town administrator, shall execute the legal commands of the council, and shall direct the activities of the police department in accordance with the policies set by the council. The police chief shall attend in person or by designee all regular meetings of the council, and perform such duties appropriate to the office as may be imposed by the laws of the State of Florida, the ordinances of the town and departmental rules and regulations. The police chief shall head the police department and be charged with the responsibility of seeing that the laws and ordinances of the town are enforced. All police officers or employees of the police department may be suspended or discharged by the chief of police on account of incompetency, general inefficiency, neglect of duty, immorality, drunkenness, substance abuse, failure to obey orders given by the proper authority, dishonesty or for any other just and reasonable cause prescribed by state law, town ordinance or resolution.

Every police officer of the town shall have the power to pursue a violator of any ordinance of the Town of Davie across and beyond the corporate limits and to any point in Broward County for the purpose of apprehending or arresting said violator, provided the violation is committed in the presence of the police officer and pursuit is continuous and is made immediately thereafter. The police officers of the Town of Davie having taken a person legally into custody for violation of any ordinance shall have the power and authority to exercise police jurisdiction over said person while in such custody any place in Broward County, Florida, to transport said person from any place in Broward County or to re-take in Broward County any person without a warrant, who has been in legal custody and, before being released by order of any competent court, has escaped such custody.

Any nonemergency agreement between the town and the sheriff of Broward County providing for the sheriff to provide law enforcement services as an independent contractor to the town shall require prior authorization by a referendum in which not less than a majority of the town's registered electors voting upon said agreement approve such agreement. In the event no less than four (4) council members by affirmative vote deem the entry of such an agreement to be an emergency, then the agreement may be entered into without a referendum upon affirmative vote in favor of the agreement by no less than four (4) council members.
(Sp. Acts, Ch. 61-2056, § 15; Sp. Acts, Ch. 67-1272, § 1; Ord. No. 75-6, § 6, 4-2-75; Ord. No. 78-10, § 5, 2-1-78; Ord. No. 90-2, § 24, 1-17-90; Ord. No. 97-7, §§ 41, 47, 1-15-97)

**Sec. 11. Fire department.**

The town council is hereby authorized to create and establish a regular fire department for the town. The fire department shall consist of a fire chief and as many regular full-time firefighters and such additional employees as may be necessary for the efficient function of said department in accordance with applicable state laws, town ordinances and departmental rules and regulations. The chief of the fire department shall be the head of the department. He shall be responsible for the executive supervision and control of all personnel of the fire department. In the event of riot, conflagration or other emergencies, the chief may appoint additional firefighters for temporary service. The fire department shall have jurisdiction of all areas in the vicinity of a

fire or conflagration and its personnel shall have the power to prevent any interference with the department or any of its companies, squads or members in the performance of their duties. The fire department shall keep an inventory of equipment, inspect buildings and premises of the town for the purpose of ascertaining and correcting fire hazards, and do all that is necessary and proper to eliminate fire risks and hazards. All officers or employees of the fire department may be suspended or discharged by the fire chief on account of incompetency, general inefficiency, neglect of duty, immorality, drunkenness, substance abuse, failure to obey orders given by proper authority, dishonesty or for any other cause prescribed by state law, town ordinance or resolution. Notwithstanding any of the foregoing provisions, the fire department may cooperate with any volunteer or regular fire department even though such organization may be situated outside of town limits. Any non-emergency agreement between the Town and any other entity providing for that entity to provide firefighting and/or rescue services as an independent contractor to the town shall require prior authorization by a referendum in which not less than a majority of the Town's registered electors voting upon said agreement approve such agreement. In the event no fewer than four (4) councilmembers by affirmative vote deem an emergency to exist, a temporary agreement may be entered into without a referendum upon affirmative vote in favor of the temporary agreement by no fewer than four (4) councilmembers. A joint powers agreement with other governmental bodies authorized by Florida Statutes shall not be deemed an agreement with an independent contractor.
(Sp. Acts, Ch. 61-2056, § 16; Ord. No. 90-2, § 25, 1-17-90; Ord. No. 97-7, § 47, 1-15-97; Ord. No. 98-35, § 3, 8-19-98; Ord. No. 2001-6, § 1, 1-3-01)

**Sec. 12. Franchises.**

(A) *Franchise Grants.* The town council may grant a franchise to any individual, company, firm or corporation to exercise a public function in the town, or to operate any public utility in the town or on the streets and public grounds of the town, or to use public property. Before granting a franchise the town council shall give public notice of the holding of a public hearing. Public notice shall consist of publication, in a daily newspaper within the town, of two (2) weekly notices of the time, place and subject matter of the hearing, not more than thirty (30) days or less than ten (10)days prior to the hearing date; and such notice shall also be posted in two(2) public places within the town limits for not less than ten (10) days before the hearing. To the extent allowable by law, franchises shall be granted by ordinance or resolution only after competitive bidding or negotiations and any such grant thereof shall not be made in violation of any of the limitations contained herein.

(B) *Period of Grants.* No such grant or franchise shall be made for a longer period than thirty (30) years. All extensions of a franchise shall be subject as far as practicable to the terms of the original grant and shall expire therewith. All such individuals or corporations performing functions under such franchises shall be liable for damages caused by their negligent acts.

(C) *Conditions.* All franchise grants shall provide that the rate to be charged shall at all times be under the supervision, direction and control of the town council, and no rate shall be in effect unless same is approved by said town council; provided, that the provisions of this section or any other section of this Charter shall not be inconsistent with the rules and regulations of the Florida Public Service Commission. No ordinance shall prevent the town from acquiring the property of any utility by condemnation proceedings, or in any other lawful manner. Notwithstanding any thing to the contrary therein contained, all grants, renewals, extensions or amendments of public utility franchises, whether or not it is so provided in such grant, applicable ordinance or resolution, shall be subject to the rights of the town to do the following:

(1) *Repeal for cause.* To repeal the same by ordinance at any time for misuse, nonuse, failure to begin construction within the time prescribed, or otherwise to comply with the terms prescribed.

(2) *Require extensions.* To require proper and rates.

(3) *Require efficiency.* To require the maintenance of the plant and the fixtures at the highest practicable standard of efficiency.

(4) *Require standards.* To establish reasonable standards of service and quality for products and to prevent unjust discrimination in service or adequate extensions of plant and service.

(5) *Prescribe accounting.* To prescribe the form of accounts and other records, and at any time to examine and audit the accounts and other records of any such utility; but if public service commission or any other authority shall be given the power by law to prescribe the forms of accounts for public utilities throughout the state, the forms so prescribed shall be controlling so far as they go, but the council may prescribe more detailed forms for the utilities within its jurisdiction.

(6) *General regulations.* To impose such other regulations as may be conducive to the safety, welfare and accommodations of the public.

(7) *Charter provisions.* To impose all of the terms and conditions of this Charter, whether or not such terms are specifically mentioned in the grant, or applicable resolution or ordinance.
(Sp. Acts, Ch. 61-2056, § 19; Sp. Acts, Ch. 67-1270, § 1, Charter Amend. 4-17-73; Ord. No. 90-2, § 27, 1-17-90; Ord. No. 97-7, §§ 43, 47, 1-15-97)

**Sec. 13. Elections.**

Elections in the Town of Davie shall be held in a manner and time as specified and required by prevailing state statutes as same now exist or may hereafter be amended.
(Sp. Acts, Ch. 61-2056, § 22; Sp. Acts, Ch. 67-1268, § 1; Sp. Acts, Ch. 69-983, § 1; Ord. No. 71-13, § 1, 4-7-71; Charter Amend. 4-17-73; Ord. No. 75-6, § 10(1)--(8), 4-2-75; Ord. No. 78-10, § 8, 2-1-78; Ord. No. 97-7, §§ 37, 47, 1-15-97)

**Sec. 14. Fees of offices; nuisances; sanitation.**

(A) Fees. No officer or employee of the town shall retain any fees or costs for any services he may perform, nor shall he receive any compensation other than the salary affixed by ordinance except as may be provided by ordinance. All fees and remuneration for services shall be part of the revenue of the town and shall be paid to the town ~~clerk by the town official or employee receiving same~~.

10/02/07 - Board approved - all voted in favor (Aitkin, Notman, Venis absent)

(B) [Reserved.]
(Sp. Acts, Ch. 61-2056, § 23; Ord. No. 90-2, § 29, 1-17-90; Ord. No. 97-7, § 47, 1-15-97)

**Sec. 15. Severability.**

If any one or more sections, paragraphs, sentences, clauses or provisions of this Charter is held invalid or unenforceable by final judgment of any court of competent jurisdiction, such holdings shall not affect the validity or enforceability of the remainder hereby, nor of said portion so held invalid under other circumstances if such holding should apply only to particular circumstances.

(Charter Amend. 4-17-73; Ord. No. 97-7, § 47, 1-15-97)

**Sec. 16. Gender neutral references.**

Whenever this Charter contains the terms "he," "him" or "his" they shall be read as gender neutral descriptions so as to include "she," "her" or "hers."
(Ord. No. 97-7, § 46, 1-15-97)

**Editor's note:** Section 46 of Ord. No. 97-7, adopted January 15, 1997, and approved by a majority of the electors voting in a referendum held March 11, 1997, added a new section to the Charter but did not specify designation; hence, inclusion of such new provisions as § 16 was at the discretion of the editor.

10/02/07 - Board approved the following language:

Effective January 1, 2008, the Town Council shall retain a Town Auditor to conduct financial and compliance, economy and efficiency, and performance audits of Town government, Town officials, Town employees, departments, offices, boards, activities, and agencies.

The Town Auditor shall be a person/entity/and/or Association of Professionals qualified by education and/or experience in governmental accounting, internal auditing practices and fiscal controls, who shall have no personal interest, direct or indirect, in the fiscal affairs of the town government or any of its officers and/or employees.

The Town Auditor shall report directly to the Town Council and shall not be subject to the direction and/or control of the Town Administrator and/or any other Town employee. The Town Auditor shall submit written reports to the Town Council as to any findings made and/or investigations undertaken.

Notwithstanding anything contained herein in to the contrary, the Town Council may, in its sole discretion retain a full time Town Auditor and/or retain an independent audit firm to act as Town Auditor.

All voted in favor (Aitkin, Notman, Venis absent)

10/02/07 - Board voted to accept the Open Space Advisory Committee recommendations for park preservation as written with changing Section (B)(2) from "unanimous vote" to "4 out of 5".

Yes - McLaughlin, Rechtman, Spages, Stevens

No - Adkins, Green, Paul (they supported the proposal but were in favor of unanimous vote)

(Aitkin, Notman, Venis absent)