

**TOWN OF DAVIE
REGULAR MEETING
JULY 6, 2005**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:04 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Truex, Vice-Mayor Hubert and Councilmembers Crowley, Paul and Starkey. Also present were Interim Town Administrator Kovanes, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

3. OPEN PUBLIC MEETING

Mayor Truex advised of the rules for the Open Public Meeting.

Dean Alexander requested that Council approve an ordinance that forbade seizure of private property by eminent domain by this Council and future Councils.

June Connors thanked the Town for the successful prosecution of the Lamar Electronics case.

John Ladue, 2961 SW 111 Terrace, questioned why residents had to go to a higher expense for fencing than the Town did.

Mayor Truex announced that the petitioner requested that items 4.15, 6.4 and 6.5 be tabled to July 20, 2005. Mr. Kovanes indicated that more time was needed for meetings to be held. Councilmember Paul advised of a meeting being held on July 12 at the Marriot Hotel. Mayor Truex requested that this information be posted on the Town's website.

Vice-Mayor Hubert made a motion, seconded by Councilmember Paul, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that item 6.7 needed to be tabled to July 20, 2005.

Councilmember Paul made a motion, seconded by Mayor Truex, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that item 8.3 was withdrawn by staff. Mr. Kovanes advised this item would come back before Council with FDOT analysis and data.

Mayor Truex announced that staff wished to add item 9.2.

Councilmember Paul made a motion, seconded by Vice-Mayor Hubert, to add. In a voice vote, all voted in favor. (Motion carried 5-0)

4. APPROVAL OF CONSENT AGENDA

Minutes

4.1. May 4, 2005 (Regular Meeting) (tabled from June 15, 2005)

4.2. June 1, 2005 (Regular Meeting)

Resolutions

4.3. **DELEGATION REQUEST - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A DELEGATION REQUEST TO CHANGE THE RESTRICTIVE NOTE ON THE PLAT KNOWN AS THE "WOLF FAMILY PLAT," AND PROVIDING AN EFFECTIVE DATE. (DG 10-3-04, Lakeside Town Shops, 5700 University Drive) (tabled from June 15, 2005)**
R-2005-188

**TOWN COUNCIL MINUTES
JULY 6, 2005**

- 4.4. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE
R-2005-189 BIDS AWARDED BY BROWARD SHERIFF'S OFFICE FOR UNLEADED GASOLINE, SOUTHEAST FLORIDA COOPERATIVE PURCHASING GROUP BID NO. 5-3-8-049. (Mansfield Oil Company and Streicher Mobile Fueling)
- 4.5. **MITIGATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-190 APPROVING A REQUEST FOR MITIGATION OF THE CODE COMPLIANCE LIEN IN CASE NO. 04-426 FROM \$31,250.00 TO \$5,709.19; AND PROVIDING AN EFFECTIVE DATE. (Miranda)
- 4.6. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-191 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH BROWN AND CALDWELL TO PROVIDE A WASTE WEIGHT GENERATION STUDY. (\$119,600)
- 4.7. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-192 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH BUDGET CONSTRUCTION CO., INC. FOR THE CONSTRUCTION OF THE DAVIE/COOPER CITY CHAMBER OF COMMERCE PARKING MODIFICATIONS. (Budget Construction Co., Inc. - \$561,441.50)
- 4.8. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-193 SELECTING THE FIRM OF MGT OF AMERICA TO PERFORM A PAY AND CLASSIFICATION STUDY AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
- 4.9. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-194 SELECTING THE FIRM OF C3TS TO PROVIDE ARCHITECTURAL SERVICES FOR THE NEW FLAMINGO ROAD FIRE STATION AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
- 4.10. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-196 AUTHORIZING THE MAYOR TO RENEW AND EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF DAVIE AND THE CITY OF HALLANDALE BEACH FOR INSPECTION, PLAN REVIEW, BUILDING OFFICIAL AND RELATED SERVICES TO BE PERFORMED BY THE TOWN OF DAVIE LICENSES AND INSPECTION REVIEW DIVISION OF THE DEVELOPMENT SERVICES DEPARTMENT.

**TOWN COUNCIL MINUTES
JULY 6, 2005**

- 4.11. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-196 AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO A TRAFFIC CONCURRENCY AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND R & R DAVIE, LLC FOR IMPROVEMENTS REQUIRED TO SATISFY REGIONAL ROAD CONCURRENCY FOR THE POINTE WEST CENTER NORTH PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 4-2-05, Rick Case Hyundai, 3550 Weston Road)
- 4.12. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-197 AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO A TRAFFIC SIGNALIZATION AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND LOWELL AT PROVENCE INC., FOR THE COST OF TRAFFIC SIGNALIZATION INSTALLATION RELATION TO FLAMINGO ROAD ESTATES PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 5-2-05, Flamingo Road Estates, generally located on the southwest corner of SW 14 Street between Flamingo Road and SW 127 Avenue)
- 4.13. **RATIFYING SETTLEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,
R-2005-198 FLORIDA, ACCEPTING AND RATIFYING THE STIPULATION OF SETTLEMENT BETWEEN McDONALD'S RESTAURANT, McDONALD'S CORPORATION, DAVIE COMMUNITY REDEVELOPMENT AGENCY AND THE TOWN OF DAVIE IN CODE COMPLIANCE CASE NUMBER 04-521, AND PROVIDING FOR AN EFFECTIVE DATE.
- 4.14. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-199 AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE TOWN AND TOWN ADMINISTRATOR, CHRISTOPHER J. KOVANES; AND PROVIDING FOR AN EFFECTIVE DATE.

Quasi-Judicial Consent Agenda

- 4.15. SP 2-4-03, Oak Scholar Academy Charter School, 3655 Shotgun Road (AG) (tabled from June 1, 2005) *Site Plan Committee recommended approval subject to compliance with the staff report and in addition 1) that the petitioner will install pavers in the four crosswalks of the 24-foot bypass drop-off area; 2) that the left-turn at the traffic circle be manually controlled by school staff during peak drop-off and pickup times; 3) that the sidewalk at the main entrance on the north side of the school shall be widened to an eight-foot clearance and move the decorative circles in order to achieve that widening; 4) that the petitioner agrees to prohibit cafeteria deliveries during peak drop-off and pickup times; 5) that a can wash will be installed by the dumpsters; 6) that the Queen Palms in the courtyard areas will be changed to double Alexandra Palms 18-to 20-feet tall; 7) that the Bald Cypress on the south property line will be changed to Live Oaks; 8) that the Sabal Palms at the northeast and southeast corners of the buss drop-off entrance area will be changed to heights of 16-to 30-foot overall; 9) maintain lighting at 3.0 at the main entrance and drop-off and pickup lanes; and 10) that there shall be a real bell in the bell tower*

**TOWN COUNCIL MINUTES
JULY 6, 2005**

- 4.16. MSP 8-1-04, Regency Plat, 4900 SW 148 Avenue (County, PUD) (tabled from June 15, 2005) *Site Plan Committee recommended approval based on the one comment in the planning report and the addition that crosswalks and concrete pavers be added at each of the four entrances*
- 4.17. SP 8-9-04, Regency Plat Parcel B, 4900 SW 148 Avenue (County, PUD) (tabled from June 15, 2005) *Site Plan Committee recommended approval based on the planning report and 1) to add gutters to the drop-off canopy and the end of the walkway going to the drop-off canopy; 2) change the 14 "ROY" trees to 14 Fox Trail Palms, 14-foot overall height, match; and 3) change the 15 single Alexanders to five triple Alexanders, 14-foot overall height, subject to the planning staff's approval*
- 4.18. SP 11-1-04, Regency Plat Parcel C, 4900 SW 148 Avenue (County, PUD) (tabled from June 15, 2005) *Site Plan Committee recommended approval based on the planning report and 1) that gutters be added to the drop-off canopy and the end of the attached and 2) that at the northeast corner, the three Sabal Palms be changed with Chinese Fan Palms, 14 foot, 16 foot, 18 foot overall height, staggered*
- 4.19. SP 8-8-04, Regency Plat Parcel A, 4900 SW 148 Avenue (County, PUD) *Site Plan Committee recommended approval based on the planning report and 1) that the previous landscape comments be addressed and corrected; 2) that the sidewalks be corrected so that they access the buildings in the right locations to doors; 3) add a sidewalk from building 'C' to the dumpster; 4) introduce a third paint color on the corner elements and perhaps around the entrances as well; 5) remove the keystone around the base recessed areas and add it to the entrance areas to make them a little nicer; and 6) when the color board is revised, present it to staff for review before final approval*

Vice-Mayor Hubert pulled items 4.11, 4.13 and 4.14. Councilmember Crowley pulled items 4.3 and 4.10. Councilmember Starkey pulled items 4.6 and 4.9. Councilmember Paul pulled items 4.2, 4.5, 4.12, 4.17, 4.18 and 4.19. Mayor Truex pulled item 4.16.

Vice-Mayor Hubert made a motion, seconded by Mayor Truex, to approve the Consent Agenda minus items 4.2, 4.3, 4.5, 4.6, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.16, 4.17, 4.18, and 4.19. In a voice vote, all voted in favor. (Motion carried 5-0)

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.2 Councilmember Paul advised that she had inadvertently stated that cases were filed against Broward Sheriff's Office when she was referring to Florida Highway Patrol.

Councilmember Paul made a motion, seconded by Vice-Mayor Hubert, to approve subject to correcting Broward Sheriff's Office to Florida Highway Patrol on the minutes. In a voice vote, all voted in favor. (Motion carried 5-0)

4.3 Councilmember Crowley questioned whether 76th Avenue would be closed during the construction process. Town Engineer Larry Peters advised that the applicant would conduct tests on the road to determine if it was okay to extend the road width by two feet. Councilmember Crowley voiced his concern about possible closure of the road. Mr. Peters stated that the road would not have to be closed entirely.

**TOWN COUNCIL MINUTES
JULY 6, 2005**

Councilmember Paul asked if staff had spoken with the developers about utilizing a flashing crosswalk with countdown at the Stirling Road and University Drive pedestrian crossing. Mr. Peters advised that the developer felt this could be a consideration based on the requirements for 76th Avenue.

John Petricola, representing the petitioner, advised that the developer was concerned about working with the neighbors regarding crosswalk improvements. He stated that FDOT had deferred approval of the traffic light further north until one month after opening to see if this was warranted.

Vice-Mayor Hubert objected to adding this request at this time. Councilmember Paul stated that as the applicant had come in requesting a change to the plat, they opened themselves up to Council's additional requests. Mr. Petricola explained that the applicant was not seeking to add square footage on the property but rather to designate 6,000 square feet of the 275,000 for bank use.

Mayor Truex asked staff to clarify the request. Deputy Planning and Zoning Manager Marcie Nolan explained that there was more additional square footage added from the stacking of drive-thru lanes. She clarified that the applicant was willing to install the countdown crosswalk at the traffic light north of the Stirling Road and University Drive intersection if the Town would support them in getting the warrants through FDOT. Mr. Petricola felt that with the Town's support in getting the traffic light to the north, Target would be happier to support a countdown crosswalk. Councilmember Paul stated she wanted both the lit crosswalk along with the countdown feature. Councilmember Crowley was in favor of the crosswalk improvements at the intersection that Councilmember Paul had requested and pointed out that the developer might not get approval from FDOT for the traffic light to the north.

Mayor Truex felt it was wise to agree on a dollar amount that that these improvements would not exceed and asked about the cost. Mr. Kovanes advised that the cost was approximately \$30,000. Mayor Truex directed that the cost not exceed \$30,000. Mayor Truex referred to the original minutes and spoke of the restrictive covenant added on May 19, 2004 regarding establishments to be excluded. Ms. Nolan stated that she would verify this. Mayor Truex requested that the document be executed accordingly.

Councilmember Paul made a motion, seconded by Vice-Mayor Hubert, to approve under the conditions set forth in regard to the light at the north end of the property and also at the intersection at Stirling Road and University Drive for the addition of a pedestrian crossing not to exceed \$30,000. In a voice vote, all voted in favor. (Motion carried 5-0)

4.5 Councilmember Paul thought Council had requested that no more mitigations come forward until revisions were made. Development Services Director Mark Kutney explained that this mitigation had already been worked out with the applicant by staff. Mayor Truex stated that he would go along with this as it met the guidelines. Mr. Kovanes assured Council there would be no further mitigations.

Vice-Mayor Hubert made a motion, seconded by Councilmember Crowley, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.6 Councilmember Starkey spoke of the waste generation study to be reimbursed by Waste Management and questioned what would happen to the surplus funding. Mr. Kovanes advised that when he and Waste Management representative Tony Spadaccia discussed this, it was agreed that the monies from the difference would be credited. Councilmember Starkey asked when the results were expected. Assistant Town Administrator Ken Cohen advised that the results would probably come back in February/March.

Councilmember Starkey made a motion, seconded by Vice-Mayor Hubert, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

TOWN COUNCIL MINUTES
JULY 6, 2005

4.9 Councilmember Starkey asked where the fire station was proposed for Flamingo Road and indicated that she was vehemently opposed to the SW 26th Street site because of the impact on residents.

Mayor Truex wanted more research on this item before further action was taken. Council requested that this item be discussed with appropriate information at a future meeting. Councilmember Starkey wanted meetings to be held with residents. Fire Chief Don DiPetrillo advised that publicly noticed meetings had been held with residents in the area.

Vice-Mayor Hubert asked if the current firehouse could be renovated with the funding allocated. Chief DiPetrillo responded in the negative.

Mayor Truex asked if Council could approve the bid itself. Mr. Kovanes responded in the affirmative and advised that this would be a long process.

Councilmember Paul made a motion, seconded by Vice-Mayor Hubert, to approve. In a voice vote, with Councilmember Starkey dissenting, all voted in favor. (Motion carried 4-1)

4.10 Councilmember Crowley asked how the Town's service agreement with other cities was working out. Mr. Kovanes stated that this had been positive so far and advised that the City of Dania Beach had requested to end its service agreement, as there was no longer a need. He added that while this was a revenue generator for the Town, staff would thoroughly review these types of agreement within 60 days. Councilmember Crowley asked if the Town had a similar contract with the City of Hallandale to provide services. Mr. Kovanes responded in the negative, as Hallandale did not have the personnel. Councilmember Crowley hoped that the Town had a city that it could depend on should the Town need help until staff could be hired. Mr. Kutney added that the Town could receive additional services from the County. Mr. Kovanes explained that the trend in the future was toward more professional continuing service agreements. Councilmember Crowley asked if the Town had enough Code compliance officers to accommodate another city. Mr. Kovanes stated that the Town was at maximum service and he would be hesitant to look at another city unless the agreement would pick up the full expenditure and benefits the Town would receive. Mr. Cohen stated that the reason this contract worked so well was that services were offered as staff were available.

Councilmember Crowley made a motion, seconded by Vice-Mayor Hubert, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.11 Vice-Mayor Hubert stated that \$300,000 would come from a grant, but pointed out that the language implied the entire \$500,000 was coming from Mr. Case which was incorrect. Mr. Kutney advised that the staff report and resolution should not be misconstrued to mean that Mr. Case agreed to the monetary allocations designated for the improvements. He explained that staff was simply reflecting the improvements Council wanted to see along with the monetary obligations. Vice-Mayor Hubert felt \$200,000 was excessive and recommended charging Mr. Case \$100,000. She pointed out that Mr. Case did not offer to pay \$200,000. Mayor Truex asked Mr. Case how much he was offering to pay. Rick Case stated that in the final negotiations earlier this year, he had said he could do a total of \$200,000 plus \$72,000 for Orange Drive. He stated that "it was at \$100,000 at one time" but Mr. Peters had increased the amount. Councilmember Paul felt Mr. Case's offer was very generous.

Vice-Mayor Hubert stated that initially Mr. Case had agreed to pay \$172,000 but that Mr. Peters had bumped this figure up to \$272,000. Mr. Peters explained that the \$100,000 had been delegated for a previous plat for improvements that were never made. He stated that this item concerned a separate request for additional square footage, which would result in extensive traffic impact on Shotgun Road. Bill Laystrom, representing the petitioner, explained that the applicant would pay \$172,000 plus an additional \$100,000 instead of doing the improvements.

**TOWN COUNCIL MINUTES
JULY 6, 2005**

Vice-Mayor Hubert asked where the \$300,000 was coming from. Councilmember Paul advised that grants were available but none had been looked at yet. Councilmember Starkey stated she did not understand why the Town would take a chance on spending this money if the equestrian trail would go down Linear Park.

Councilmember Crowley felt the \$200,000 figure was excessive considering the size of the parcel. Mayor Truex stated that Mr. Case was very generous and felt the Town should take him up on his offer. Mayor Truex wanted to revisit the discussion on where the money would be spent as he felt there were other important issues impacting residents on Shotgun Road. Councilmember Paul spoke of current unsafe conditions on the bridge and felt this concept would make it safer.

Councilmember Paul made a motion, seconded by Mayor Truex, to approve “with the \$272,000 figure.” In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Hubert - no; Councilmember Crowley - no; Councilmember Paul - yes; Councilmember Starkey - no. (Motion denied 3-2)

Vice-Mayor Hubert made a motion, seconded by Councilmember Crowley, “to put it back to the original \$172,000.” In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Hubert - yes; Councilmember Crowley - yes; Councilmember Paul - no; Councilmember Starkey - yes. (Motion carried 3-2)

4.12 Councilmember Paul asked if the \$50,000 was standard for a traffic signal. Mr. Peters advised that this was only a contribution and indicated that signals cost more. Councilmember Paul questioned who paid the remaining amount with Mr. Peters thought the State did.

Councilmember Paul made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.13 Vice-Mayor Hubert asked why the applicant had to pay additional costs if the Town had issued the original permit in error. Mr. Kiar advised that this was a Code compliance issue and stated that the Town’s view was that the property owner should have known the permit requirements. He explained that this was a settlement of a legal action that all parties had agreed to. Vice-Mayor Hubert felt the applicant should not have to pay twice considering the Town issued the wrong permit in the beginning. Mayor Truex pointed out that McDonald’s was getting a huge cost savings and felt it was wrong to second guess the CRA and other professionals who had already agreed on the legalities involved. He also felt it was wrong to give away the taxpayers’ money by waiving the fees.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve. In a voice vote, with Vice-Mayor Hubert dissenting, all voted in favor. (Motion carried 4-1)

4.14 Later in the meeting, Vice-Mayor Hubert felt Mr. Kovanes should pay for the life insurance instead of the Town. She also wanted Mr. Kovanes to give 90 days notice for resignation. Mr. Kovanes agreed to this condition.

Councilmember Starkey was uncomfortable with the indefinite contract term and preferred to see a three-year contract. Mr. Kovanes agreed to this condition. Councilmember Starkey stated that the severance clause should be reduced from 12 to 6 months, while Council reviewed the contract after one year. Councilmember Crowley had no objection to the 12 months’ severance and stated that this was common in administrators’ contracts. Mayor Truex pointed out that this worked out to 15 months with the 90 days’ notice requirement.

Councilmember Starkey referred to the amended contract language on salary, which she felt was unreasonable in light of the Town’s budget constraints. She wanted to reduce this from 10% to 5%, while

**TOWN COUNCIL MINUTES
JULY 6, 2005**

allowing Council to revisit this after the Town got through the budget cycle. Councilmember Starkey also wanted to see this tied into some type of merit system or evaluation process as an incentive. Councilmember Crowley agreed that Mr. Kovanes should make more than any director.

Mayor Truex felt this concept was “an awful one” and spoke of employees with 30 years of experience working in the Town. He brought up the issue of fairness in salary and questioned whether every supervisor would make more than other employees regardless of education, training or certification levels. Mayor Truex pointed out that the Town currently had a snug budget and was concerned that the Council was perceived to weigh decisions toward top management. He noted that this was a conflict of interest as the supervisor had the most input into employees’ salaries. Mayor Truex felt this would create a built-in conflict of interest or tendency to boost salaries of subordinate employees.

Mr. Kovanes clarified that he had included the 10% as a base figure in light of what he felt was fair after discussions with other administrators and managers. He spoke of the extensive requirements of his job and of the integrity and professional effort he had invested in the Town. Mr. Kovanes felt the risks of his position and financial stability merited this request.

Councilmember Paul felt the Town Administrator should be paid more than the highest paid directors as these directors reported to him. She felt Mr. Kovanes had the requirements needed academically and spoke highly of his work ethic.

Mayor Truex asked Council if they would require Mr. Kovanes to ensure every supervisor made more than their subordinates. Council responded in the negative. Councilmember Starkey was uncomfortable with the jump from \$116,000 to \$160,000 in light of the fact that merit increases would likely be added upon review. She wanted to see incentives and merits kept in the salary system. She indicated that she was comfortable with \$140,000, which could be revisited after the annual review with some percentage merit increase. Councilmember Crowley requested that Council discuss other concerns and return to salary.

Regarding executive days, Councilmember Starkey was in favor of 15 days to start, followed by evaluation. Council agreed to 17 days for the time being.

Councilmember Starkey voiced her concern about Mr. Kovanes’ ability to buy back time for the pension plan. Mr. Kovanes explained his buyback limitations based on specific language in the pension. He wanted the Town to pay the difference if the ordinance did not pass in the future. Councilmember Starkey wanted a letter of clarification from the State on the previous buyback assessment. Mayor Truex asked if this would benefit Mr. Kovanes. Councilmember Starkey responded in the affirmative and wanted an incentive for Mr. Kovanes to stay. Mr. Kovanes felt a percentage increase or an allowable allotment of service years he could buy back would be an additional benefit. He requested the same 3% buyback benefit that management received and stated that for a higher benefit, he would be willing to stay with the Town as a “final destination.”

Councilmember Crowley advised he was the lead person to negotiate the Town Administrator’s interim contract. He was in favor of 5% over the highest salary and a review in six months.

After some discussion, Mr. Kovanes clarified that the additional language would read, “the original buyback would be based upon my salary at that point in time.” Councilmember Starkey agreed and requested Mr. Kovanes to seek the letter from the state.

Mayor Truex wanted the Town to look into providing disability insurance if this was feasible. Mayor Truex asked for Council’s view on the salary. Vice-Mayor Hubert felt Mr. Kovanes should earn the 10% above. Councilmember Crowley agreed but also supported Councilmember Starkey’s suggestion to start at 5% above, for the next 6 months followed by 10% thereafter. Councilmember Paul was also in agreement with this option.

Mayor Truex summarized Council’s changes to the contract as follows: 1) page 1 - Council agreed to the 3-year term; 2) page 2 - Council agreed to change the severance notice from 30 to 90 days,

**TOWN COUNCIL MINUTES
JULY 6, 2005**

both ways; 3) page 3 - Council agreed to 17 executive days; and 4) page 4 - Council agreed to changing language in Section 12, "to base this on the previous salary and if not, if the existing salary was used, the Town would pay the difference."

Councilmember Crowley made a motion, seconded by Councilmember Paul, to approve subject to 5% above the highest paid for six months and 10% after for six months." Mr. Kovanes wanted clarification that he would receive 90-days' notice in the likelihood he would be terminated after his 3-year contract ended. Councilmember Paul pointed out that a clause was needed indicating that the contract was renewable after three years.

Councilmember Crowley made a motion, seconded by Councilmember Paul, to amend his motion to eliminate the three-year term in Section 2. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Hubert - yes; Councilmember Crowley - yes; Councilmember Paul - yes; Councilmember Starkey - no. (Motion carried 3-2)

4.16, 4.17, 4.18, & 4.19 Mayor Truex turned this portion of the meeting over to Mr. Kiar. Mr. Laystrom stated that these items could be heard along with the rezoning discussion. These items were discussed with item 6.1.

6. PUBLIC HEARING

Ordinances - Second and Final Reading

6.1. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 8-1-04 REGENCY SQUARE, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM: PUD (BROWARD COUNTY); TO: B-3, PLANNED BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 8-1-04, Regency Square, Regency Square at Broward Joint Venture/C. William Laystrom Jr., 4900 SW 148 Avenue) (tabled from June 15, 2005) *Planning and Zoning Board recommended approval subject to the condition of an eight-foot wall as requested by the residents and that the developer look at some kind of added landscaping*
{Approved on First Reading May 18, 2005 - all voted in favor}

Later in the meeting, Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting

Bill Laystrom, representing the petitioner, advised that he would be requesting a tabling for the rezoning [item 6.1]. He indicated that he had additional site plans [items 4.16-4.19] to show Council and agreed to discuss the rezoning and the site plans together.

Mr. Kiar advised that these items would be conducted as a quasi-judicial hearing. Mr. Laystrom indicated that he would waive his quasi-judicial rights. Attorney Andre Parke clarified that a quasi-judicial hearing would be held at the next stage with Mr. Laystrom confirming.

Mr. Laystrom explained features on the various site plans. He advised that the additional restrictions had been added to the deed restriction document, per Mayor Truex's request.

Charlie Puffin, representing the petitioner, explained features on the renderings. Besides the recommendations of the Site Plan Committee and staff, Mr. Laystrom committed to: 1) installation of pavers under the drive-thru overhang on each building; 2) enhancement of the light poles; and 3) payment of \$5,000 toward the Griffin Road crossing. Ms. Nolan advised that one condition of approval was the upgrade of the landscaping.

Mayor Truex closed the public hearing.

**TOWN COUNCIL MINUTES
JULY 6, 2005**

Councilmember Paul made a motion, seconded by Councilmember Crowley, to approve the four site plans subject to the condition of the upgrade in landscaping based on Chelsea's input [items 4.16, 4.17, 4.18, and 4.19] and to approve the rezoning. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Paul made a motion, seconded by Councilmember Crowley, to table to July 20, 2005 [item 6.1]. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Hubert - yes; Councilmember Crowley - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0)

6.2. **PENSION AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE POLICE PENSION PLAN AS PROVIDED BY THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWN AND THE FRATERNAL ORDER OF POLICE, LODGE 100; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading June 15, 2005 - all voted in favor with Councilmember Starkey absent}**
2005-13

Town Clerk Muniz read the ordinance by title.

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

Vice-Mayor Hubert questioned how the price changed and where the additional money came from. Deputy Budget and Finance Director Carol Menke explained that the amended language reflected a change in the actuarial impact to reflect assignment pay. She added that new language changes were proposed. Mr. Kiar referred to Section 6, item 4.31(b), where language should be changed to avoid ambiguity. Ms. Menke advised that the amended language in the second sentence to read "in no event can the total of the sum of years of credible service and years of DROP participation exceed 25 years for a member who enters the DROP."

Councilmember Starkey made a motion, seconded by Councilmember Paul, to approve with the new language Ms. Menke indicated in Section 6, item 4.3 b, in the second line.

Vice-Mayor Hubert asked if the Town would be paying twice to catch up. Don Mulaney, actuary for the Police Pension Plan, clarified that the Town would not be "back tracking."

In a roll call, the vote was as follows: Mayor Truex - yes; Vice-Mayor Hubert - yes; Councilmember Crowley - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0)

6.3. **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-05, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM R-3, LOW DENSITY DWELLING DISTRICT TO A-1, AGRICULTURAL DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 2-1-05, La Tierra De Monstera Deliciosa, 6838 SW 43 Court) Planning and Zoning Board recommended approval {Approved on First Reading June 15, 2005 - all voted in favor}**
2005-14

Earlier in the meeting, Town Clerk Muniz read the ordinance by title.

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

**TOWN COUNCIL MINUTES
JULY 6, 2005**

Councilmember Crowley made a motion, seconded by Vice-Mayor Hubert, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Hubert - yes; Councilmember Crowley - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0).

Ordinance - First Reading/Quasi Judicial Item (Second and Final Reading to be held July 20, 2005)

- 6.4. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-4-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM AG, AGRICULTURAL DISTRICT TO CF, COMMUNITY FACILITIES DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 2-4-03, Oak Scholar of Broward, LLC, 3655 Shotgun Road) (tabled from June 1, 2005) *Planning and Zoning Board recommended denial*

This item was tabled earlier in the meeting.

Ordinance - First Reading (Second and Final Reading to be held July 20, 2005)

- 6.5. **VACATION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 12-1-03, VACATING A PORTION OF THE 15 FOOT RIGHT-OF-WAY LYING SOUTH OF TRACT 40 AS SHOWN ON "FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1", SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 12-1-03, Oak Scholar Academy Charter School, 3655 Shotgun Road) (tabled from June 1, 2005) *Planning and Zoning Board recommended approval*

This item was tabled earlier in the meeting.

- 6.6. **REVISION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING A REVISION TO THE ESTIMATED REVENUES AND APPROPRIATIONS FOR THE FISCAL YEAR 2005.

Town Clerk Muniz read the ordinance by title. Mayor Truex announced there would be a public hearing held on the ordinance at the July 20, 2005 meeting.

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

Councilmember Starkey made a motion, seconded by Vice-Mayor Hubert, to approve. In a roll call, the vote was as follows: Mayor Truex - yes; Vice-Mayor Hubert - yes; Councilmember Crowley - yes; Councilmember Paul - yes; Councilmember Starkey - yes. **(Motion carried 5-0)**

**TOWN COUNCIL MINUTES
JULY 6, 2005**

Item to be tabled

6.7. STAFF REQUESTING A TABLING TO JULY 20, 2005

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, DECLARING A MORATORIUM FOR A PERIOD OF ONE HUNDRED AND EIGHTY (180) DAYS COMMENCING UPON THE ADOPTION OF THIS ORDINANCE; STATING THE FINDINGS AND REASONS FOR A MORATORIUM; PROHIBITING THE FILING OF ANY APPLICATION FOR ANY ADULT ENTERTAINMENT FACILITY OR ANY OTHER APPLICATIONS PERMITTED UNDER THE DAVIE CODE OF ORDINANCES RELATED TO THE USE OF ANY BUILDING FOR THE OPERATION OF AN ADULT ENTERTAINMENT FACILITY WITHIN THE TOWN OF DAVIE DURING THE MORATORIUM PERIOD; PROVIDING THE SCOPE OF THE MORATORIUM; PROVIDING FOR A DURATION; PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.

This item was tabled earlier in the meeting.

7. APPOINTMENTS

7.1. Airport Advisory Board (one exclusive appointment - Councilmembers Crowley and Paul; terms expire December 2005)

No appointments were made.

7.2. School Advisory Board (one exclusive appointment - Vice-Mayor Hubert; terms expire April 2006) (insofar as possible, members are to have experience in educational matters)

No appointment was made.

7.3. Senior Citizen Advisory Committee (two exclusive appointments - Vice-Mayor Hubert; terms expire April 2006) (members shall be a minimum 60 years of age)

No appointments were made.

7.4. Water and Environmental Advisory Board (one exclusive appointment - Mayor Truex and Councilmember Paul; terms expire April 2006) (insofar as possible, one member shall be a licensed engineer)

Councilmember Paul appointed Susan Vaught.

8. OLD BUSINESS

8.1. Spur Road Update - Michael Burke

Earlier in the meeting, special counsel Michael Burke gave an update on the Jolmy property (also called the Davie Travel Center property). He advised that the Town's site plan approval with conditions given in March remained in effect and that the approval was extended to October, 2005. He stated that no contract was entered into regarding the use of Spur Road by the Travel Center. Mr. Burke spoke of the sale of the Jolmy property and advised that the Travel Center which currently owned the property, requested that the Town subordinate a lien the Town held on the property. He spoke of two liens currently against the property: one for \$8,000,000 and the Town's lien for approximately \$1,900,000. Mr. Burke explained that under the lien agreement, the Town was required to subordinate its lien in light of the fair market value of the property. Councilmember Starkey advised of an appraisal document which indicated the property value in January 2004 was \$18 million.

Council discussed whether staff should prepare a resolution for the next meeting. Mr. Kovanes stated he was comfortable with the transaction. Councilmember Crowley had no objections.

**TOWN COUNCIL MINUTES
JULY 6, 2005**

Councilmember Paul made a motion, seconded by Vice-Mayor Hubert, to memorialize this in a resolution to subordinate this lien and bring it to Council on July 20, 2005. In a voice vote, all voted in favor. (Motion carried 5-0)

8.2. 58th Street Park Project Changes

Parks and Recreation Director Dennis Andresky advised that the Town had applied for a FRDAP grant to fund improvements to include a basketball court and playground area. He advised that the majority of residents in the area indicated that they wanted a passive park and the choice was to accept or not accept the grant based on the residents' wishes.

Vice-Mayor Hubert agreed with keeping a passive park but felt that parking was required. She also felt the park should be open to all residents. Mr. Andresky advised that parking needs had been addressed at the meetings.

Terry Gray, 5411 SW 58 Avenue, was opposed to having a basketball court in the park in light of burglaries of homes adjacent to the park last year. Mayor Truex asked if neighbors would be opposed to tot lots. Ms. Gray was opposed to noise from crying children.

Valerie Lucio, 5740 SW 54 Street, spoke of earlier plans to develop the site as a passive park per the community's wishes. She indicated that her home was burglarized and she was not in favor of a setting that attracted groups and cars to congregate.

Marianne Hill, 5730 SW 54 Street, wanted the park to remain passive as there were not many small children in the neighborhood.

Councilmember Crowley recalled the agreement for Westbrook and felt there were similar restrictions in this case regarding what the Town could put on there. Mr. Parke indicated that there were specific restrictions that precluded anything but a passive park. Councilmember Crowley felt there should be some handicapped parking spots.

Councilmember Starkey understood the residents not wanting a basketball court but the parking and landscaping were needed. She stated the Town should utilize the grant for some improvements such as the tot lot and the Vita Course. Councilmember Paul suggested that Mr. Andresky go back with the grant application and explain that legal restrictions on the property required an amendment excluding the basketball court. She felt the Town should appear before the granting authority and tell them that because of the deed restrictions on the property, the basketball court could not be constructed. Mayor Truex agreed that the park should be opened to everyone. Councilmember Starkey was concerned about losing the grant.

A resident recalled discussions about a chain link fence and felt this would be unattractive in the area. Mayor Truex advised that a fence was necessary, especially at a passive park with reduced lighting for security reasons. Mr. Andresky stated that staff was looking for direction from Council before this appeared on the Capital Plan.

Councilmember Crowley made a motion, seconded by Mayor Truex, to direct staff to move forward on Plan B, to modify the grant or reapply for a grant, and that the fence meets Town Code for a scenic corridor." In a voice vote, all voted in favor. (Motion carried 5-0)

8.3. East-West Transit Analysis
This item was withdrawn.

9. NEW BUSINESS

9.1. Marty Rubinstein - Broward County School Board

Earlier in the meeting, Mr. Rubinstein advised that he had presented a resolution to the Broward County School Board recommending that the cities pass ordinances to limit where sexual offenders could

**TOWN COUNCIL MINUTES
JULY 6, 2005**

live. He commended the Town for taking the lead in the County in passing this ordinance. Mr. Rubinstein spoke of the important role of government officials in providing for the general welfare of the residents they served. He presented Council with a copy of the School Board's resolution.

9.2 TU 7-1-05, Rick Case Hyundai Tent Sale, 3550 Weston Road

Councilmember Starkey made a motion, seconded by Councilmember Paul, to approve. In a voice vote, all voted in favor. **(Motion carried 5-0)**

**10. MAYOR/COUNCILMEMBER'S COMMENTS
COUNCILMEMBER PAUL**

HAPPY BIRTHDAY. Councilmember Paul wished former mayor, Harry Venis, a happy birthday.

EMINENT DOMAIN. Councilmember Paul requested to add the recent Supreme Court decision on the eminent domain issue for discussion on a future agenda.

CHARITABLE CONTRIBUTIONS. Councilmember Paul wanted to ensure that Council requested audits from all organizations requesting money from the Town. She spoke of a budget request from the Police Athletic League (PAL) for \$125,000 and she was concerned as she thought they were going to become more independent. Councilmember Paul spoke of the \$100,000 from the false alarm fees and questioned why this money was no longer going to PAL. Mr. Kovanes indicated that staff would research this discussion from past records. Councilmember Paul spoke of the need for more police volunteers for the PAL. Police Chief John George spoke of difficulties in getting law enforcement volunteers.

Vice-Mayor Hubert spoke of a request from PAL for assistance and additional board members from Town staff and Council to help keep the doors open. She spoke of deficiencies in the program for older children.

Mayor Truex felt if PAL was not able to function well, it should consider disbanding and having the Town take over. Councilmember Starkey agreed that PAL was not serving children in the community. Chief George felt the program should be supported but agreed that this could be better achieved within the fold of the Town. Mr. Kovanes felt this would be a large expenditure for the Parks and Recreation Department as PAL's revenues did not offset expenditures. He stated that if anything were to be done, Council should act now within the current budget cycle. Councilmember Starkey requested that staff look into the Children's Services Council, Memorial Healthcare and United Way for additional options.

COUNCILMEMBER STARKEY

AIRPORT EXPANSION. Councilmember Starkey spoke of a notice about a meeting on the airport expansion issue regarding the Chula Vista Isles Neighborhood Association, which was looking into legal action on the cross runway. She did not see how the Town could join in this effort as its goals would not be served.

FLORIDA LEAGUE OF CITIES MEETING. Councilmember Starkey announced that the Florida League of Cities would meet on August 18th to establish the League's six policy committees. She requested advance notice on any policies the Town might need to submit to the committee prior to the meeting.

ACCREDITATION. Councilmember Starkey congratulated Chief George on the Police Department's recent accreditation.

LEAGUE OF CITIES MEETING. Councilmember Starkey advised that August and December were available for the Town to host the Board of Directors meeting for the League of Cities.

**TOWN COUNCIL MINUTES
JULY 6, 2005**

NATIONAL LEAGUE OF CITIES. Councilmember Starkey spoke of a request for Mayor Joy Cooper to be appointed to the National League of Cities' Board of Directors. She requested that a letter of recommendation be drafted in support of Mayor Cooper.

COUNCILMEMBER CROWLEY

GRANT. Councilmember Crowley advised of a \$235,500 grant received by the Old Davie School Foundation. He requested that Administration or the Town Attorney review the agreement before the trustees approved it.

HIGH DENSITY DEVELOPMENT. Councilmember Crowley voiced his concern about high-density townhome developments coming in along the Griffin Road corridor. He requested that Council revisit this issue in the future. Mayor Truex asked that Council be briefed on this issue.

CONGRATULATIONS. Councilmember Crowley congratulated Mr. Kovanes and looked forward to working with him.

MAYOR TRUEX

EMINENT DOMAIN OPINION. Mayor Truex requested that Mr. Kiar provide Council with an overview on the Supreme Court's eminent domain ruling and how it applied to Florida.

CHARITIES. Mayor Truex wanted to ensure that the letter to charities would go to those who received money in the last one to two years along with anybody who requested money this year.

LEGISLATURE. Mayor Truex spoke of his earlier meeting with Representative Goldstein who had indicated that the sexual predator ordinance requiring 2,500-foot distance was likely to be enacted during the next legislature. He advised that Council needed to create a priority list of items the Town wanted from the State and Representative Goldstein would meet with Council individually. Mayor Truex requested that this information also be provided to Representative Davis.

11. TOWN ADMINISTRATOR'S COMMENTS

No comments were made.

12. TOWN ATTORNEY'S COMMENTS

LAMAR ELECTRONICS. Mr. Kiar advised that Martin Kiar had successfully prosecuted Lamar Electronics and another property owner in three non-compliance hearings. He advised that the Special Magistrate had awarded the Town a total of \$1,581,750 for all three cases. Mr. Kiar congratulated Council on this matter.

Councilmember Starkey asked about cleanup on the site. Mr. Kiar advised that a lot of material had been removed from the site by the owners, but indicated this would be pursued further by the Town.

SPECIAL EXECUTIVE SESSION. Mr. Kiar advised that he had spoken with Mr. Burke who had requested an Special Executive Session on August 3rd to discuss the lawsuit filed by Mr. DePaolo. He advised that the meeting would be approximately 1/2 hour and the attendees would be the Mayor and Council, Mr. Kovanes, Mr. Burke, Martin Kiar, Mr. Parke, a court reporter and himself. Mr. Kiar also requested that Council cover the Carmax and Cooper City cases at the same Session with the same attendees.

After some discussion, Council scheduled a Special Executive Session for 6:30 p.m. on August 3rd for the DePaolo case. Council scheduled a Special Executive Session for 6:30 p.m. on July 20 for the Carmax and Cooper City cases.

**TOWN COUNCIL MINUTES
JULY 6, 2005**

13. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 11:23 p.m.

Approved _____

Mayor/Councilmember

Town Clerk