

**TOWN OF DAVIE**  
**TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

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

**PREPARED BY:** Barbara McDaniel, MMC, Assistant Town Clerk

**SUBJECT:** July 18, 2007 minutes

**AFFECTED DISTRICT:** n/a

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

**TITLE OF AGENDA ITEM:** July 18, 2007 (Regular Meeting)

**REPORT IN BRIEF:** Council minutes from the July 18, 2007 Council meeting.

**PREVIOUS ACTIONS:** n/a

**CONCURRENCES:** n/a

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):** Motion to approve

**Attachment(s):** July 18, 2007 minutes

**JULY 18, 2007**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 7:03 p.m. and was followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present at the meeting were Mayor Truex, Vice-Mayor Caletka, and Councilmembers Crowley, Luis and Starkey. Also present were Town Attorney Cherof, Town Administrator Shimun, and Assistant Town Clerk McDaniel recording the meeting.

**3. OPEN PUBLIC MEETING**

Mayor Truex explained the rules and procedures for the open public meeting.

Jimmy Newton asked why the Charter School had been given an extra 18 months without notifying the public. He reminded Council that when a site plan expired, all ordinances in effect should be followed and cited a 2004 ordinance that neighbors must be notified when the plan was reissued. Mayor Truex advised that Council had been given legal advice that they need not follow that procedure. Councilmember Starkey stated that staff had informed Council that the site plan had been approved previously and recommended that Mr. Newton meet with staff to get a better understanding of what had occurred. Mr. Newton indicated that the site plan had expired on January 27, 2006, and Council approved it again in May 2007, so all the ordinances in effect as of January 2006 should have been followed. He had put in a public records request for information regarding the Charter School, but had not received this information yet.

Damiano Pignato discussed the childhood obesity epidemic and objected to the Parks and Recreation Department's budget being reduced by 15% when the overall Town budget was only being reduced by 6%. He feared some travel teams would be eliminated if these budget cuts were made.

Ricky Hankins stated that the conditions on 73rd Avenue were so bad that residents were having difficulty using vehicles on the road. He said 50 to 100 people used the road each day, and they just wanted the road to be maintained properly. Councilmember Crowley agreed that these conditions must be addressed. Mayor Truex asked Mr. Shimun to look into this. Councilmember Starkey asked Mr. Shimun to report on this item at the next Council meeting.

Don Lunny advised that he was representing Mr. and Mrs. Rodríguez. He asked for more specific direction and asked that this issue be placed on the agenda for August 1st and August 15th. Mayor Truex asked Mr. Shimun what the status was. Mr. Shimun reported that the draft ordinance had been written and reviewed by the Town Attorney. Development Services Director Mark Kutney said the Town Attorney's Office had provided an initial draft and staff had discovered some problems with the draft, and had re-drafted it. He stated that the ordinance had gone to the Planning and Zoning Board first, and he felt it would be ready for first reading in late August or early September. Mr. Cherof said it was possible to schedule it for the Council's agenda as the title could be drafted broadly enough to accommodate amendments on first or second reading. Mayor Truex asked that it be put on the next available Planning and Zoning Board agenda.

Mitchell Chester said that on July 25th, the Florida Department of Transportation would meet with up to 100 companies to discuss the privatization of an elevated I-595. He said he was working against this, and thanked Council for their resolution opposing this. Mr. Chester said they had met with members of the Broward County Commission, and FDOT had stated their wish to meet with Davie Town Council, and any other interested parties regarding this issue. Mr. Chester distributed fliers to Council members and asked them to continue their efforts, remarking that, "We have a public safety disaster in the making with the current plan."

Linda Owen, representing the EASE Foundation, reported that in the last three months, they had assisted 250 families, distributing over \$39,000 in assistance. She said their pantry was currently bare, because demand for meals was higher in the summer months. Ms. Owen reported Cyril "Sid" Spiro, Regent Bank's Chairman, CEO and president was chosen as EASE's Humanitarian of the Year. She explained that Mr. Spiro had been very active in urban issues and in creating affordable housing in Broward County. On October 25th, there would be a luncheon at the Signature Grand honoring Mr. Spiro. Ms. Owen advised that anyone wishing to donate to the food bank, could bring their items to EASE office, located behind the Fire Station on Orange Drive.

Eric Zwillay would like the Town to adopt and promote hydrogen power and suggested the Orange Blossom Festival as a promotional event.

Karen Stenzel-Nowicki thanked the Police Department and Vice-Mayor Caletka for the increase in police patrol on Stirling Road, between the Turnpike and Davie Road. She thanked Mr. Cherof for the great job he had done as the Town's Interim Attorney and said she looked forward to his appointment as the permanent Town Attorney.

Ms. Stenzel-Nowicki asked the Council to consider moving the Town's election to November, noting that this would be a very simple cost-saving measure. She believed it would encourage more residents to vote.

Bob Kellner was very concerned with the development along 76th Avenue between Griffin Road and Stirling Road. Due to equestrian use of this street, he did not want to see a lot of vehicular traffic in the area.

Mr. Kellner said there would be a grassroots movement to make Broward County a "no kill" County for dogs and cats and he requested the Council's assistance in this regard.

Mr. Kellner asked if the insurance company had ever reimbursed the Town for any losses in the Kovanes incident. Mr. Shimun said the insurance company had reimbursed the Town for all losses. Mayor Truex added that there was also a small deductible and staff time.

Council agreed to hear items 9.1, 9.2 and 8.3 out of order.

Mayor Truex advised that items 4.9, 6.13 and 6.14 had been withdrawn.

#### **4. APPROVAL OF CONSENT AGENDA**

##### *Minutes*

- 4.1 May 15, 2007 (Goal Setting Session)
- 4.2 May 16, 2007 (Workshop Meeting)
- 4.3 May 16, 2007 (Regular Meeting)
- 4.4 June 4, 2007 (Workshop Meeting)
- 4.5 June 18, 2007 (Workshop Meeting)

##### *Home Business Tax Receipts*

- 4.6 Absolute Rehabilitation Corp., 13163 SW 16 Street
- 4.7 Bella Mujer Swimwear, 11501 SW 9 Street
- 4.8 South Florida Staffing Solutions, Inc., 13163 SW 16 Street

##### *Resolutions*

- 4.9 **FIRE MANAGEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SETTING FORTH CERTAIN BENEFITS FOR FIRE MANAGEMENT BATTALION CHIEF, FIRE INSPECTOR SUPERVISOR, FIRE MARSHAL, ASSISTANT FIRE CHIEF AND DEPUTY FIRE CHIEF; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE.**  
(tabled from June 20, 2007)

4.10        **AIRPORT OPPOSITION - A RESOLUTION OF THE TOWN OF DAVIE,**  
FLORIDA,  
R-2007-173    OPPOSING THE RATIFICATION OF ITEM NUMBER 1A, THE  
EXPANSION OF THE SOUTH RUNWAY TO 8,000 FEET AT THE FT  
LAUDERDALE-HOLLYWOOD INTERNATIONAL AIRPORT, ON JUNE  
5, 2007, BY THE BROWARD COUNTY BOARD OF COMMISSIONERS.

- 4.11 **CONTRACT EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN EXTENSION TO THE CONTRACT BETWEEN THE TOWN AND ASHBRIIT ENVIRONMENTAL SERVICES, INC. FOR DISASTER RECOVERY DEBRIS REMOVAL SERVICES. (not budgeted - FEMA reimbursement)
- 4.12 **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING  
R-2007-174 THE MAYOR TO EXECUTE A CONTRACT WITH BERGERON EMERGENCY SERVICES, INC. FOR DISASTER RECOVERY SERVICES. (not budgeted - FEMA reimbursement)
- 4.13 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN THE ARCHDIOCESE OF MIAMI ST. BERNADETTE'S CHURCH AND THE TOWN OF DAVIE POLICE DEPARTMENT FOR TRAFFIC CONTROL.  
R-2007-175
- 4.14 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AWARDDING THE BID  
R-2007-176 FOR FILTER MEDIA REPLACEMENT TO ACCU TEC SYSTEMS, INC. (\$128,700)
- 4.15 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID  
R-2007-177 FROM WEEKLEY ASPHALT PAVING, INC. AND GENERAL ASPHALT CO., INC. FOR ASPHALT OVERLAY. (cost dependent upon projects)
- 4.16 **SELECTION OF FIRM** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2007-178 SELECTING THE FIRM OF PROFESSIONAL CONCESSIONS, INC. TO PROVIDE CONCESSIONAIRE SERVICES AT THE BERGERON RODEO GROUNDS AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
- 4.17 **SELECTION OF FIRM** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2007-179 SELECTING THE FIRM OF LEARN TO SWIM TO PROVIDE AQUATIC PROGRAMMING SERVICES AT PINE ISLAND PARK POOL AND BETTY BOOTH ROBERTS PARK POOL AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
- 4.18 **ASSESSMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RELATING  
R-2007-180 TO THE COLLECTION AND DISPOSAL OF SOLID WASTE IN THE TOWN OF DAVIE, FLORIDA; ESTABLISHING THE ESTIMATED ASSESSMENT RATE FOR SOLID WASTE SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF DAVIE, FLORIDA FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2007 DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL;

AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING AN EFFECTIVE DATE.

- 4.19 **ASSESSMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RELATING  
R-2007-181 TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES AND PROGRAMS IN THE TOWN OF DAVIE, FLORIDA; ESTABLISHING THE ESTIMATED ASSESSMENT RATE FOR FIRE RESCUE ASSESSMENTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2007; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.
- 4.20 **GREEN BUILDING** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2007-182 ENCOURAGING CONSTRUCTING, AND OPERATING FACILITIES TO MINIMIZE ENVIRONMENTAL IMPACTS BY INCORPORATING THE USE OF RESOURCES AND ENERGY EFFICIENT MATERIALS, RENEWABLE RESOURCES, ALTERNATIVE ENERGY SOURCES, WATER CONSERVATION, WASTE REDUCTION, POLLUTION PREVENTION AND OTHER STRATEGIC ACTIONS TO PROMOTE SUSTAINABILITY AND GREEN BUILDING DESIGN.
- 4.21 **MEMBERSHIP** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2007-183 REQUESTING APPROVAL FOR THE TOWN TO JOIN AND BECOME MEMBERS OF THE U.S. GREEN BUILDING COUNCIL (USGBC), THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S ENERGY STAR PROGRAM AND THE FLORIDA GREEN BUILDING COALITION. (\$3,600; not budgeted)
- 4.22 **EASEMENT AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA  
R-2007-184 AUTHORIZING THE TOWN ADMINISTRATOR TO ENTER INTO A BRIDLE PATH EASEMENT AGREEMENT BETWEEN THE TOWN OF DAVIE, AND WEST CITY POINTE WEST COMMERCE I L.P., FOR THE GRANTING OF AN EASEMENT FOR BRIDLE PATH PURPOSES RELATING TO PARCEL E OF THE ICW NORTH PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING HIS SIGNATURE TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 4-1-07, ICW North Plat - Bridle Path Easement Agreement, generally located on the north side of Point West Drive, between Weston Road and I-75)
- 4.23 **EASEMENT AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA  
R-2007-185 AUTHORIZING THE TOWN ADMINISTRATOR TO ENTER INTO A BRIDLE PATH EASEMENT AGREEMENT BETWEEN THE TOWN OF DAVIE, AND POINTE WEST PROPERTY OWNERS ASSOCIATION, INC., FOR THE GRANTING OF AN EASEMENT FOR BRIDLE PATH PURPOSES LYING WITHIN TRACTS 5 AND 6 OF THE ICW NORTH PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING HIS SIGNATURE TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE (DA 4-2-07, ICW North Plat - Bridle Path Easement

Agreement, generally located on the north side of Point West Drive, between Weston Road and I-75)

- 4.24 **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A PLAT**  
R-2007-186 KNOWN AS "DWELL" AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P-1-3-06, Dwell, 2340 SW 130th Avenue) *Planning and Zoning Board recommended approval*

- 4.25 **PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A PLAT  
 R-2007-187 KNOWN AS THE “GREAT FLORIDA BANK CENTER” AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY AFFIXING THE MAYOR’S SIGNATURE AND THE TOWN SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 7-1-06, Great Florida Bank Center, 4700-4900 SW 78 Avenue) **[see related items 4.29, 6.3, 6.6, 6.10 and 6.11]** *Planning and Zoning Board recommended approval*
- 4.26 **AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING  
 R-2007-188 A DELEGATION REQUEST TO AMEND THE NOTE ON THE PLAT KNOWN AS “YOUNG WORLD”; AND PROVIDING AN EFFECTIVE DATE.

*Temporary Use Permit*

- 4.27 TU 6-1-07, Miami Dolphins Modular Buildings, generally located on SW 30 Street between University Drive and College Avenue

*Quasi-Judicial Consent Agenda*

- 4.28 SP 12-05-06, Forest Lawn Funeral Home, 6530 State Road 84 (B-2) *Site Plan Committee recommended approval subject to staff’s recommendations*
- 4.29 SP 7-4-06, Great Florida Bank Center, 4700-4900 SW 78 Avenue (B-2) (tabled from June 20, 2007) **[see related items 4.25, 6.3, 6.6, 6.10 and 6.11]** *Site Plan Committee recommended approval subject to the staff report and the following provisions: 1) place crosswalks at the main entrance, the east and west ends of SW 48 Street and curve the sidewalk at the southeast entrance into the site; 2) delineate the zoning areas on the site plan prior to going before Town Council; and 3) change the east elevation to match the floor plan*

Councilmember Luis pulled items 4.28, 4.25 and 4.29 from the Consent Agenda. Councilmember Starkey pulled items 4.11, 4.3 and 4.26. Councilmember Crowley pulled items 4.12, 4.13, 4.17 and 4.27. Vice-Mayor Caletka pulled items 4.16, 4.18 and 4.19.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve the consent agenda less items 4.3, 4.11, 4.12, 4.13, 4.16, 4.17, 4.18, 4.19, 4.25, 4.26, 4.27, 4.28 and 4.29. In a voice vote, all voted in favor.

**5. DISCUSSION OF CONSENT AGENDA ITEMS**

4.3 Councilmember Starkey said Council had received a corrected set of minutes.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve the minutes as amended. In a voice vote, all voted in favor. (Motion carried 5-0)

4.11 Councilmember Starkey advised that she had asked Mr. Cherof to review some conditions of the contract and explained that there was an issue with this vendor being in violation of the August 2005 contract. Mr. Cherof indicated that there was a provision in the contract prohibiting the vendor from being involved in the political process or making political contributions.

Councilmember Starkey had collected information indicating the vendor had made political contributions in violation of that provision. She distributed the report to which Mr. Cherof had referred and expressed her concern, stating this would set a very bad precedent.

Councilmember Starkey felt that Council should table this item for Mr. Cherof to consider what action Council should take. Councilmember Crowley said he would second Councilmember Starkey's motion to table this to their next meeting.

Councilmember Starkey said her suggestion to table the item was a motion.

Vice-Mayor Caletka asked if this was a standard clause in all Town vendor contracts. Mayor Truex said, "If it's in any other contract then they're all violating it." Vice-Mayor Caletka asked what constituted a political contribution. Mr. Cherof said the donation of money was certainly a violation, but there were also in-kind contributions. In this case, the language referred specifically to a contribution made locally to the Town. Mr. Cherof suggested they ask the vendor to explain his point of view, and whether he perceived it violated the contract.

Mayor Truex said that he did not know this was in the contract and wondered why it was included, since it was not in other contracts. Procurement Manager Herb Hyman explained that they had used the language from another community in the bid for service. The Bid Specification Committee had noticed that this clause was not included in other Town contracts, and had decided to allow Administration to make the decision whether to include it or not. Councilmember Starkey thought this might be a good opportunity to include such clauses. Councilmember Crowley felt they should delete it from this contract. Mayor Truex and Vice-Mayor Caletka agreed. Councilmember Starkey wanted to place a limit on political contribution amounts. Councilmember Luis had mixed feelings as it may be legal but as not right. He thought this was something that should be reviewed. Mayor Truex thought if they were considering this, it should be across-the-board and in the form of an ordinance.

In a voice vote, all voted in favor. (Motion carried 5-0)

4.12 Mayor Truex suggested that this item be tabled as well, so both contracts could return with identical language. Councilmember Crowley wanted to approve this item, so at least one vendor was in place.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve, removing the language on political contributions. Vice-Mayor Caletka wanted Mr. Shimun to make decisions regarding which firm serviced which area of the Town. Council agreed to discuss this at their next meeting. In a voice vote, all voted in favor. (Motion carried 5-0)

4.13 Councilmember Crowley said he favored this, but wanted staff to request a flashing light for the school from the County, for which the school had promised to provide reimbursement.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve and directing staff to send a letter to the County requesting approval for a flashing light during school hours. In a voice vote, all voted in favor. (Motion carried 5-0)

4.16 Vice-Mayor Caletka stated that the number two firm had filed a protest. He requested Council hear from both firms. Mr. Hyman explained that the Bid Selection Committee had seen proposals from the top two firms and unanimously ranked PCI, the current provider, number one.

Mayor Truex asked if anyone wished to speak on this item.

Mitch Caesar, representing Ultimate Catering, advised that the current vendor was not in compliance with the Town's RFP regarding subcontractors. He questioned whether PCI had insurance, as a public's record request from the Town had revealed that none was on file. PCI's bid also lacked specific brand names for most listed food items, which was required by the RFP. Mr. Caesar stated that there were also health violations against PCI and showed photos of what he believed to be the violations.

Mr. Caesar said his client charged less per food item to consumers, had excellent recommendations from the City of Fort Lauderdale and the Broward Sheriff's Office and were in this business full-time.

Mr. Hyman advised Councilmember Starkey that PCI was licensed, insured, and registered. He advised that PCI representatives and Special Projects Director Bonnie Stafiej

could address the health violation questions. Councilmember Starkey asked if sub-vendors would be covered by the same contract insurance. Mr. Hyman said PCI had informed him that any subcontractor would be covered by their insurance. Mr. Caesar said the subcontractors must be vetted, even if they were used only once.

Ms. Stafiej advised that four sub-vendors had been approved by the Town and confirmed that all the subcontractors fell under PCI's insurance. She said the Town had never received negative feedback about a PCI subcontractor in six years.

Dennis Minardi, president of PCI, assured Council that they were fully registered, licensed and insured. He explained that at the arena, they subcontracted specialty food concessions, but 90% of their concessions were conducted in-house with PCI staff. Mr. Minardi added that all subcontractors submitted certificates of insurance and Health Department licenses to PCI. He said he had not seen the photos provided by Mr. Caesar, but assumed that any violations would be investigated by the proper authorities.

Mr. Minardi said this was the second time in two years that Ultimate Catering had protested the unanimous selection committee decision to award a contract to PCI. He said that these protests had been taken "to a new low, trying to find fault and negligence with our company, slander myself, my general manager, the Town of Davie special projects director, in an attempt to reverse the unanimous decision on the part of the Town's selection committee..."

Mr. Hyman explained that the reason staff had ranked PCI first was because it had provided six years of satisfactory service to the Town and the amount of revenue they would pay back to the Town for the right to run the concession was \$1,100 more per month than the other vendor. PCI had also offered permanent capital improvements at the arena the Town would keep after the vendor had left.

Councilmember Crowley confirmed that the owner of Ultimate Catering and/or his child appeared in some of the photos depicting PCI health and safety violations, Councilmember Crowley wondered why the owner would place his child in a situation which he was pointing out as unsafe.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve, under the condition that staff make sure the health issues were followed up on and the vendors were checked. In a voice vote, all voted in favor. (Motion carried 5-0)

4.17 Councilmember Crowley said he had pulled this item because this was the item for which a coin toss had been used to make a decision.

Mr. Hyman explained the bidding process and advised that three vendors had made presentations. He said that Learn to Swim had been the vendor for 13 years and had offered the Town \$1,250 per month to run the pools, and Boca Swim Academy had offered \$1,500 per month to run the pools. When this decision was made, there were only six Bid Selection Committee members present, and their vote was split. The Committee was charged with making a recommendation to Council, and the only way to break the tie had been a coin toss.

Mayor Truex asked if anyone wished to speak on this item and reminded speakers that they would be limited to three minutes.

Mitch Morrall said he favored the incumbent company - Learn to Swim. He said this had been a great program for his child and asked Council to reconsider the Committee's decision.

Karen King, representing Learn to Swim, said they had been the vendor for 13 years, and her company was still the best choice. She described what the job entailed and said in 13 years, they had no accidents. Ms. King said Learn to Swim would be glad to pay the additional \$250 per month to the Town.

Eric Schwitzer, Learn to Swim site supervisor, said he had chosen to work with Ms. King because she was one of the most respected people in the country regarding aquatics and because he could work with his own neighbors.

Gail Freschette, representing Boca Swim Academy, provided credentials and background about her company.

Rob Emery, head coach and team owner of Broward Aquatics swim team, said Learn to Swim's background and partnerships were in the best interest of the Town.

Tracy Savaris, representing Boca Swim Academy, said Mr. Emery had contacted her company in June, requesting a contract with them.

Vice-Mayor Caletka said when the choice was as close as this one, he preferred to keep the incumbent to maintain those relationships. Councilmember Crowley agreed.

Councilmember Starkey said the community had been very satisfied with the Learn to Swim's program. She asked that a policy be instituted prohibiting the use of a coin toss to make a decision in the future.

Councilmember Luis said when they had an incumbent with whom they were so satisfied, he hated to make a change for the sake of change.

Councilmember Luis made a motion, seconded by Councilmember Crowley, to approve Learn to Swim. Vice-Mayor Caletka asked to amend the motion to include Ms. King's offer to pay the additional \$250 per month. Mr. Cherof said this would be addressed in the contract. In a voice vote, all voted in favor. (Motion carried 5-0)

4.18 Vice-Mayor Caletka advised that he had pulled this item because he had objections to the contract in general, and intended to vote against it.

Assistant Town Administrator Ken Cohen explained that the contract called for a cost-of-living increase.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a voice vote with Vice-Mayor Caletka opposed, all voted in favor. (Motion passed 4-1)

4.19 Vice-Mayor Caletka wanted to lower the fire assessment rate by one dollar. He said he had spoken with Mr. Shimun and Mr. Cohen, who informed him this was feasible. Mr. Shimun advised that commercial and industrial properties would make up the difference. He pointed out that each dollar reduction represented a \$50,000 cut to the Fire Department. Mayor Truex felt they should leave it as it was since they had not completed their review of the budget. Councilmember Starkey agreed.

Vice-Mayor Caletka made a motion, seconded by Councilmember Crowley, to set the fire assessment at \$103.

Councilmember Crowley said he wanted the figure included on the trim notice, because this was what the residents saw. Mr. Shimun confirmed that this number could be changed after their review of the budget.

In a voice vote with Mayor Truex and Councilmembers Luis and Starkey dissenting, all voted in favor. (Motion failed 2-3)

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a voice vote with Vice-Mayor Caletka and Councilmember Crowley dissenting, all voted in favor. (Motion passed 3-2)

4.27 Councilmember Crowley said he had pulled this because there had been a change to the backup involving the orientation of the trailers.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve based on the change in the detail, that the trailers would face east and west instead of north and south. In a voice vote, all voted in favor. (Motion carried 5-0)

4.25 Hope Calhoun, representing the applicant, stated that there were a number of items on the agenda for her client and asked that they be heard together.

Mr. Cherof swore in the witnesses.

Acting Planning & Zoning Deputy Manager David Abramson confirmed that there were six items for this applicant. He explained that in the plat application, the petitioner was requested to dedicate seven feet of right-of-way for the construction of SW 48th Street and under the resolution for flex application, it should be 4.03 residential to commercial flex acres.

Ms. Calhoun said the applicant concurred for the most part with the staff report. She described the requests, and showed depictions of the property and surrounding area. Ms. Calhoun reported that they had met with surrounding neighbors, who were unanimously supportive of the project.

Ms. Calhoun described the tenants, and informed Councilmember Crowley that there would be no nightclubs or late-night restaurants on site, and they would be willing to limit operational hours.

Frank Imedia, the applicant's representative, agreed that there would be no late-night operations, stand-alone bars or lounges. He also agreed to deed restrict that there would be no gambling whatsoever except for the Florida lottery.

Alex Nunez, in-house counsel for the applicant, said that so far, no tenants had expressed an interest in selling alcohol.

Mayor Truex asked if the applicant would be willing to work with staff and give the buildings more of a Florida vernacular look. John Barkley, the project architect, said they had wanted to accentuate the entries, break the site up, and provide a more modern, clean look.

Councilmember Crowley asked if they had incorporated any green building concepts. Mr. Barkley said that they were using green-friendly components such as the windows and the roof system.

Councilmember Starkey said she preferred the Florida vernacular or the "stacked stone... earthy... country feel."

Vice-Mayor Caletka did not care for the architecture, but noted that the Town had not asked prior projects on University Drive to conform.

Mr. Imedia pointed out that this building was across from the Atrium and when they had first met with staff, the challenge had been to build something compatible with that style. He stated that Site Plan Committee's comments were positive. To make a change to Florida vernacular, he felt they would need to do five leases and "LOI's" because tenants already bought into the proposed look.

Councilmember Starkey suggested changing paint color on some façades and adding some stacked stone components. She wanted to start carrying some themes throughout the Town to keep the appearance softer and more country. Mr. Barkley agreed to consider this.

Mayor Truex opened the public hearing portion of the meeting.

Robert Kellner advised that residents of Saddle Up Townhomes were concerned about light emanating from this building and indicated that they would prefer seeing greenery to a larger wall. He asked that these be made deed restrictions.

Mr. Cherof closed the public hearing.

Ms. Calhoun said they had met with Saddle Up Townhomes' residents and this issue had never been raised. She indicated that they were unable to move the wall. Ms. Calhoun suggested the bright mustard paint be replaced with beige, and the awnings be black. Mr. Barkley suggested a particular area for the stacked stone feature. Mr. Barkley said the Code required a six-foot wall and neighbors to the south had requested an eight-foot wall, which they had agreed to provide and to cover with vines.

Mr. Imedia suggested they pay to install a hedge on Saddle Up's side of the wall and Mr. Kellner agreed. He agreed to work with Town staff regarding proper hedge selection.

Mr. Abramson requested that any architectural/color changes return for site plan review. He added that any additional landscaping must be in front of the property line.

Council gave their disclosures on this item.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve the plat with the deed restrictions that were attested to about hours of operation, as well as restricted certain uses: no bars or nightclub, no gambling except for Florida lottery, and restaurants until 11. In a voice vote, all voted in favor. (Motion carried 5-0)

Later in the meeting, Councilmember Starkey restated her motion to amend Council's previous motion regarding the plat to include the roadway improvements. Councilmember Crowley seconded.

Ms. Calhoun stated they would make a full improvement to SW 48 Street, and improvements to SW 78 Avenue to the point of SW 78 Avenue that directly affected their property. She agreed to work out specific details with staff.

In a voice vote, all voted in favor. (Motion carried 5-0)

4.29 Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve with all of the conditions that were placed upon by the Site Plan Committee and the staff, as well as an eight-foot wall with a vine on the south side to be worked out with Chris Richter, and increased landscaping, as attested to by the residents, stacked stone on the angled wall on the front of the building, neutral beiges, green building concepts, attempting to work with staff on those.

Mayor Truex noted that ordinarily, the site plan would not come back, so approval was also subject to the site plan's returning for approval with the changes. Councilmember Starkey and Councilmember Crowley agreed.

Ms. Calhoun suggested they amend their motion to include that the applicant would make roadway improvements to SW 48 Street and SW 78 Avenue.

Councilmember Starkey made a motion, seconded by Mayor Truex, to amend Council's previous motion regarding the plat to include that additional item.

Councilmember Starkey amended to her motion regarding the site plan to add this. Councilmember Crowley agreed.

In a voice vote, all voted in favor. (Motion carried 5-0)

4.26 Councilmember Starkey asked the applicant to describe changes between what they had approved in October 2004 and now.

George Hanbury, representing the applicant, explained they still intended to build a hotel, retail, hospital and medical office building, but for plat approval at the County level, they needed to establish thresholds within the area they had discussed. He stated that nothing had changed from their original design. Councilmember Starkey thought there was additional square footage. An unidentified man explained that this was just a response to a County DRI comment. Nothing had changed with the site plan and no square footage had been added. This evening they were eliminating their ability to build the entire site at one time without returning to Council.

Ms. Calhoun explained that even though some of the uses had changed, the buildings would look exactly as they had in previous presentations. Councilmember Starkey was concerned about the increase in commercial uses. Mr. Hanbury anticipated it would take a year to create drawings, and they hoped to start construction in approximately one year. They had requested the additional 12 months in the event of a hurricane or other delay. Councilmember Starkey recommended they go for 24 months, and if they required additional time, they would return.

An unidentified man stated they were before the Council this evening because the County had sent them. He said the project had not change but the County had required their return as part of the process. He noted they could not begin construction until they had County approval.

Mr. Hanbury suggested a compromise of 30 months. Councilmember Starkey said she did not want to give away all their water capacity right now. Councilmember Luis wanted to see the project go forward, and did not object to allowing 36 months. Councilmember Crowley did not want to commit the water rights for the entire development. He wanted it made clear that this approval was strictly for phase one. He wanted an agreement that during later phases, if the Town ran out of water, the applicant would work with the Town to find a solution. Mr. Hanbury agreed to stipulate to this for the entire development.

Mr. Cherof clarified for Councilmember Crowley that they were not agreeing to anything beyond phase one for water use from the Town.

Vice-Mayor Caletka agreed with Councilmember Starkey and wanted to restrict this to 24 months.

Councilmember Starkey made a motion, seconded by Vice-Mayor Caletka, to approve, with the amendment of the term, number three, for 24 months. In a voice vote, all voted in favor. (Motion carried 5-0)

4.28 Mr. Cherof swore in witnesses.  
Mr. Abramson summarized the planning report.

Mark Ferrar, representing the applicant, hoped Council approved the site plan. He assured Councilmember Luis that no gravesites would be disturbed.

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

Council gave their disclosures on this item.

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

## **6. PUBLIC HEARING**

### *Resolutions*

6.1 **CAPITAL PROJECTS** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ADOPTING THE 5-YEAR CAPITAL PROJECTS PROGRAM FOR THE TOWN OF DAVIE FOR FISCAL YEARS 2008-2012. (tabled from June 6, 2007)

Vice-Mayor Caletka advised that Council received an update and he had not had a chance to review the amendments. Councilmember Starkey concurred.

Vice-Mayor Caletka made a motion, seconded by Councilmember Starkey, to table this item to the August 1st meeting. In a voice vote, all voted in favor. (Motion carried 5-0)

6.2 **DUE DILIGENCE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2007-189 **AUTHORIZING THE INITIATION OF DUE DILIGENCE PROCEDURES FOR THE LAUDERDALE PROPERTY.**

Mr. Cherof read the resolution by title.

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

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

6.3 **FLEX UNITS** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2007-190 **AUTHORIZING THE ALLOCATION OF RESIDENTIAL TO COMMERCIAL FLEXIBILITY TO THE "GREAT FLORIDA BANK CENTER" PLAT UNDER THE FIVE (5) PERCENT RESIDENTIAL TO COMMERCIAL FLEXIBILITY RULE IN ACCORDANCE WITH THE BROWARD COUNTY LAND USE PLAN AND THE ADMINISTRATIVE RULES DOCUMENT: BROWARD COUNTY LAND USE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE. (FX 7-1-06, Great Florida Bank Center, 4700-4900 SW 78 Avenue) [see related items 4.25, 4.29, 6.6, 6.10 and 6.11]**

Earlier in the meeting, Councilmember Crowley made a motion, seconded by Councilmember Starkey to approve with the same recommendations. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

*Ordinances - Second and Final Reading*

- 6.4 **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,  
2007-016 AMENDING GARBAGE AND REFUSE, CHAPTER 9, ARTICLE II., COLLECTION AND REMOVAL, SECTION 9-25 RECEPTACLE REQUIREMENTS; THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE III, USE REGULATIONS, DIVISION 2, GENERAL REGULATIONS, SECTION 12-33, GENERAL REGULATIONS ADDING SUBTITLE (JJ) DUMPSTER ENCLOSURES; ARTICLE VI, SITE LANDSCAPING, SECTION 12-111, MINIMUM LANDSCAPING REQUIREMENTS FOR OUTDOOR EQUIPMENT OR FACILITIES; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. **{Approved on First Reading June 20, 2007. The vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - out of room}**

Mr. Cherof read the ordinance by title.

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

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

*Ordinances - First Reading (Second and Final Reading to be held August 1, 2007)*

- 6.5 **REGIONAL ACTIVITY CENTER** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, DESIGNATING THE TOWN OF DAVIE "REGIONAL ACTIVITY CENTER," ENCOMPASSING THE LAND LYING BETWEEN UNIVERSITY DRIVE AND THE FLORIDA TURNPIKE AND BETWEEN STATE ROAD 84 AND GRIFFIN ROAD, AS AN AREA SUITABLE FOR APPLICATION OF INCREASED DEVELOPMENT OF REGIONAL IMPACT THRESHOLDS PURSUANT TO CHAPTER 380, FLORIDA STATUTES; APPROVING THE SUBMITTAL OF THE PROPOSED ORDINANCE TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS FOR CONSISTENCY; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Cherof read the ordinance by title. Mayor Truex announced that a public hearing would be held on this item at the August 1, 2007 meeting.

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

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

- 6.6 **VACATION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION APPLICATION VA 7-2-06 "GREAT FLORIDA BANK CENTER" VACATING A PORTION OF RIGHT-OF-WAY (O.R.B. 3326, PG 750, B.C.R.) LYING IN TRACT 2, EVERGLADES SUGAR AND

LAND COMPANY SUBDIVISION, AS RECORDED IN PLAT BOOK 3, PAGE 67 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 7-2-06, Great Florida Bank Center, 4700-4900 SW 78 Avenue) [**see related items 4.25, 4.29 6.3, 6.10 and 6.11**] *Planning and Zoning Board recommended approval*

Earlier in the meeting, Mr. Cherof read the ordinance by title. Mayor Truex announced that there would be a public hearing on the ordinance at the August 1, 2007 meeting.

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

*Ordinances - First Reading (Second and Final Reading to be held at a later date)*

6.7 **TEXT AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS, APPLICATION LA(TXT) 4-1-07 AMENDING THE TEXT OF THE TOWN OF DAVIE COMPREHENSIVE PLAN BY AMENDING THE TRANSPORTATION ELEMENT TO ESTABLISH A POLICY RESTRICTING ACCESS FROM INTERSTATE 75 (I-75) PART OF THE FLORIDA INTRASTATE HIGHWAY SYSTEM (FIHS) ONTO LOCAL ROADS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Cherof read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would take place at a later date.

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

Mr. Cherof informed Councilmember Luis that this ordinance would come back for a second hearing. He also stated FDOT had the authority to supersede local ordinance.

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

6.8 **TEXT AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS, APPLICATION LA(TXT) 4-2-07, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY ADDING A POLICY TO THE FUTURE LAND USE ELEMENT (POLICY GROUP 10: REGIONAL ACTIVITY CENTER USE) TO INCREASE THE THRESHOLDS AT WHICH PROJECTS WOULD HAVE TO GO UNDER REVIEW AS A DEVELOPMENT OF REGIONAL IMPACT PURSUANT TO CHAPTER 380, FLORIDA STATUTES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Cherof read the ordinance by title. Mayor Truex announced that a public hearing would be held on this item at a later date.

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

Councilmember Starkey asked staff why they wanted to incorporate it this way instead of going through the DRI process. Mr. Kutney explained that this followed the policies and plan language of the Regional Activity Center. He stated that this would be more of a localized process and advised that the Planning and Zoning Board had requested additional language regarding affordable housing in the residential thresholds.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve, with the recommendations from staff and the Planning and Zoning Board's recommendation about

affordable housing thresholds. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.9 **TEXT AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR ADOPTION TO THE DEPARTMENT OF COMMUNITY AFFAIRS, APPLICATION LA(TXT) 4-3-07, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY UPDATING THE CAPITAL IMPROVEMENTS ELEMENT WITH THE ADOPTED 5-YEAR CAPITAL PROJECTS PROGRAM PURSUANT TO CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR FILING WITH THE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Kutney explained that this ordinance complied with Senate Bill 360, which required the Town to provide an annual update to the State regarding capital improvement programs. Planner Ingrid Allen said this related to projects from 2007 through 2011.

Mr. Cherof read the ordinance by title. Mayor Truex announced that a public hearing would be held on this item at a later date.

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

*Ordinance - First Reading/Quasi-Judicial Item (Second and Final Reading to be held August 1,*

*2007)*

- 6.10 **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 7-3-06, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 7-3-06, Great Florida Bank Center, 4700-4900 SW 78 Avenue) [**see related items 4.25, 4.29, 6.3, 6.6 and 6.11**] *Planning and Zoning Board recommended approval*

Earlier in the meeting, Mr. Cherof read the ordinance by title.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve, with the same conditions as the other items. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

*Quasi-Judicial Items*

- 6.11 **VARIANCE** - V 11-1-06, Great Florida Bank Center, 4700-4900 SW 78 Avenue (B-2 and A-1) (to reduce the required landscape buffer from 30 feet to 10 feet along University Drive that runs adjacent to the western boundary line of the property) [**see related items 4.25, 4.29, 6.3, 6.6 and 6.10**] *Planning and Zoning Board recommended approval*

Earlier in the meeting, Councilmember Crowley made a motion, seconded by Mayor Truex, to approve with the same conditions as the other items. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.12 **VARIANCE** - V 4-1-07, Camacho, 14190 SW 20 Street (R-1) (allow a shadow box fence outside the building envelope - at the property line) *Planning and Zoning Board recommended approval subject to the condition that should 50% or more of the fence be damaged or destroyed, and if they so choose to reconstruct a fence, they shall be required to reconstruct the entire fence up to the current Code standards*

Earlier in the meeting, Mr. Cherof swore in the witnesses.

David Mankuta, representing the applicant, corrected the staff report stating that this was a board-on-board fence not a shadow box. He said only the side property line fence was at issue and advised that the south property line fence predated the ordinance.

Mr. Mankuta explained that the fence had come down in a hurricane and the Camacho's had hired a contractor and submitted plans for a permit. The Town issued the permit and the fence was erected and passed final inspection. Some months later, the Code Compliance Division had cited the property for violating the rural lifestyle regulations. Mr. Mankuta said this was not a self-created hardship since the Camacho's had acted in good faith and followed proper procedures for erecting the replacement fence.

Councilmember Luis agreed with the Planning and Zoning Board's condition.

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

Council gave their disclosures on this item.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve subject to Planning and Zoning Board conditions. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

*Items to be Withdrawn*

- 6.13 **PROPERTY OWNER REQUESTING A WITHDRAWAL**  
V 7-2-06, Davis, 6070 Griffin Road (Griffin Corridor District, EGZ) (tabled from January 3, 2007)

This item was withdrawn earlier in the meeting.

- 6.14 **ITEM WITHDRAWN AT THE JUNE 20, 2007 COUNCIL MEETING**  
AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CREATING ARTICLE IV COST RECOVERY, SECTION 24-100 USER FEES FOR DEPLOYMENT OF PUBLIC SERVICES OF THE TOWN OF DAVIE CODE OF ORDINANCES; ESTABLISHING AND IMPLEMENTING A PROGRAM TO IMPOSE AND COLLECT USER FEES FOR THE DEPLOYMENT OF PUBLIC SAFETY SERVICES RENDERED BY THE TOWN OF DAVIE FOR MOTOR VEHICLE ACCIDENT SERVICES; PROVIDING DIRECTIONS TO THE CODIFIER; AND PROVIDING AN EFFECTIVE DATE.

This item was withdrawn earlier in the meeting.

**7. APPOINTMENTS**

- 7.1 Mayor Truex  
7.1.1 Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2008) (members shall be a minimum 60 years of age)

No appointment was made.

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

No appointment was made.

- 7.2 Councilmember Starkey

- 7.2.1 Airport Advisory Board (one exclusive appointment - terms expire December 2007)

No appointment was made.

- 7.3 Councilmember Luis

- 7.3.1 Airport Advisory Board (two exclusive appointments; terms expire December 2007)

No appointments were made.

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

No appointments were made.

## **8. OLD BUSINESS**

- 8.1 Town Administrator Evaluation

Human Resources Director Mark Alan explained the summary. Mr. Cherof suggested that for any items where Mr. Shimun's performance had been deemed "unacceptable", Council should indicate what they desired in terms of improvement, so that it could be measurable and achievable.

Councilmember Starkey said that in most cases Mr. Shimun had met or exceeded her expectations. She felt that any areas needing improvement would be worked out over time. Councilmember Starkey said she would like Council's agenda packet to be complete when Council received it. She asked that Mr. Shimun acknowledge receipt when she forwarded concerns to him and let her know what action he intended to take.

Councilmember Crowley felt Mr. Shimun had not been there long enough for him to give an accurate review. He requested that Mr. Shimun sit down with him at some point to go over his evaluation one-on-one.

Councilmember Luis said he did not know Mr. Shimun very well, but he was disappointed the one time he had seen him interact with the public. Councilmember Luis said he would like more help from Mr. Shimun analyzing and making suggestions regarding budget issues.

Vice-Mayor Caletka said that when Mr. Shimun was first hired, there were some things that were upsetting to him, but he had met with Mr. Shimun a few times and the issues had been corrected. He felt Mr. Shimun's greatest strength was finding replacement hires. Vice-Mayor Caletka said he had requested this six-month evaluation to allow Mr. Shimun time to make corrective actions for any issues Council identified.

Mayor Truex said he was pleased with the job Mr. Shimun was doing and he found him to be accessible and available. He was also pleased with the hiring Mr. Shimun had done.

Mr. Shimun agreed to meet privately with individual Councilmembers to address their concerns.

8.2 Audio/Video Surveillance - Mayor Truex  
Council deferred this item to the August 1st meeting.

### 8.3 Outstanding Airport Issues

Earlier in the meeting, Richard Richards, representing Stearns, Weaver, said that at the last meeting, Council had requested they create a proposal for how to represent Davie regarding events relating to the airport expansion, bearing in mind the Town's budget constraints.

Mr. Richards stated the FAA would now take the comments submitted by Mr. Richards and all other public comments regarding the airport's Draft Environmental Impact Statement [EIS] to create the final EIS. The airport was also scheduled to complete a Part 150 Study to determine the noise impacts of the airport. After the FAA distributed the final EIS to all of their departments, they would create a Record of Decision, which was the FAA's final blessing on the project.

Amy Kimball-Merley, representing Four Gates Company Urban and Environmental Planners, gave a PowerPoint presentation summarizing what they hoped to do for the Town in the next phase of their work. She asked Council to authorize the first phase of work this evening and indicated that the cost estimate for the first phase was approximately \$117,000. Mr. Richards said the Town would be billed on an hourly basis, so if work were to stop in less than a year, the Town would not be paying for work not completed. Ms. Kimball-Merley estimated reporting to Council quarterly, or as needed.

Councilmember Starkey felt it very prudent to move forward, considering how many of their citizens were affected by this. Mayor Truex felt the Broward County Commission and County staff had "conveniently overlooked a lot of things," and he felt that Mr. Richards and Ms. Kimball-Merley would make it more difficult for them to overlook these things. He felt if they must confront the data, especially the costs. Council agreed to go along with the recommendations for phase one.

## 9. NEW BUSINESS

### 9.1 Legislative Update - Representative Martin Kiar

Earlier in the meeting, Representative Kiar said this had been a very productive legislative session and explained some things he had accomplished: funding the Holocaust Survivor Program, protecting the titles of certified nurse midwives, certified nurse anesthetists and certified nurse anesthesiologists, and allowing municipalities to reduce or eliminate occupational license taxes.

Representative Kiar advised that the bill extending of the First Generation Matching Grant Program to independent colleges and universities had passed in the House but failed in the Senate. He indicated that he had killed a bill that would have removed the uniform school start date,

Representative Kiar said the following items had passed in the Legislature: a comprehensive elections bill, moving the presidential preference primary, mandatory physical education for grades K-5, providing funds for the family of Martin Leanderson (the boy who was killed in custody of the State-run boot camp), cable telecommunications bill enabling increased competition, extending the sales tax holiday for hurricane and school supplies, restoring certain felons' right to vote, divesting Iran and Sudan of State of Florida investments, and stopping expiration of gift cards.

Representative Kiar listed the following things the Legislature should have done: fund the Kid Care health care program, address no-fault and personal injury protection insurance, and compensated Alan Kritzer (a man who would have been imprisoned for 24 years for crime he did not commit).

Representative Kiar said he was honored to support the property tax relief bill. He explained the proposed property tax constitutional amendment and added that this might sound like property tax relief, but he felt it was "smoke and mirrors." Representative Kiar explained that the super exemption was at the home's current assessment, not the assessed value on which the owner was already paying property tax. As a result of this, 56% of homeowners in Broward

County would pay more sales taxes than they were currently paying. It also removed the 3% Save Our Homes protection cap, which Representative Kiar felt would result in taxing people out of their homes. He said that homeowners would be forced to make a one-time choice between the super homestead exemption and the Save Our Homes protection.

Representative Kiar also opposed the constitutional amendment because it reduced funding for public education by \$7.1 billion. He noted that Florida was currently 49th in the nation for funding of public education. After this reduction, they would be number 50 and Representative Kiar felt this was disgraceful.

Councilmember Starkey asked if Representative Kiar would be willing to sponsor a “glitch” bill to cover Davie’s annexed areas. Representative Kiar said that he had voted for the property tax rollback. He explained he understood Councilmember Starkey’s concern, but could not support this because even though the figures might be a little off due to annexation, he wanted the rollback to go further.

Vice-Mayor Caletka thought the Constitutional amendment gave the selection of the super exemption or the Save Our Homes protection to the property appraiser's office, not to the individual homeowner. Representative Kiar explained that originally, there was no choice and homeowners were forced to take the new super exemption. This was changed to allow homeowners to make the choice.

Councilmember Luis encouraged Representative Kiar to address insurance reform. Representative Kiar agreed that the cost of homeowner insurance was disgraceful and they must do more to address this problem. He felt a very good way to address this was for the federal government to enact a national catastrophic insurance fund.

## 9.2 2005 Comprehensive Annual Finance Report

Earlier in the meeting, Tony Grau, representing Grau and Associates, gave a PowerPoint presentation on the 2005 audit and said the Town was in a very solid position at the end of 2005. The General Fund balance was \$36 million, and he assumed that it had improved in 2006.

Mr. Grau advised that the fraud situation had delayed the audit while they determined what the Town’s exposure was. There had also been allegations made regarding FEMA, which was significant because this involved federal funds. They had also needed to determine how the annuity investment affected the financial statements.

Mr. Grau informed Councilmember Crowley that they had begun preliminary work on the 2006 audit, but they had not yet received the trial balances, which they needed to begin. Mr. Shimun said the new finance director had been asked to provide this information as expeditiously as possible.

Vice-Mayor Caletka asked Mr. Grau's opinion of the Town's fiscal condition and Mr. Grau said it was excellent. They had discovered no significant abnormalities during the audit.

## 10. MAYOR/COUNCILMEMBER’S COMMENTS

### VICE-MAYOR CALETKA

**SILVER LAKES PARK VANDALISM.** Vice-Mayor Caletka reported vandalism was a recurring problem at Silver Lakes Park and was particularly concerned that the vandals were leaving water faucets running. He wanted to install sensor sinks so they could not be left running.

**OVERTIME PAY ISSUE.** Vice-Mayor Caletka said overtime was not uniform among all union employees and wanted to determine if a policy change should be made to avoid arbitration.

**KAREN STENZEL-NOWICKI.** Vice-Mayor Caletka commended Ms. Stenzel-Nowicki for the attention she paid to Davie government.

### COUNCILMEMBER CROWLEY

**BERMAN PARK.** Councilmember Crowley advised that Berman Park was being overrun by exotic species and this was supposed to be maintained as a wetland park. He requested an update at a future meeting.

**SW 70th AVENUE.** Councilmember Crowley said there was a dangerous situation here where the road was falling into the canal. He asked Public Works Director Manny Diez to look into this issue.

**COUNCILMEMBER STARKEY**

**POOL PERMIT.** Councilmember Starkey reported that James Williams was having difficulty getting a pool permit approved. She said that the Engineering Department was holding up the permit because they were requesting a right-of-way to install a roundabout. Councilmember Starkey asked Mr. Shimun to call Mr. Williams and resolve this issue.

**NOB HILL/PASADENA/PARK SIDE DANGEROUS ROADWAY.** Councilmember Starkey said there had been a number of serious accidents in this area and residents had suggested a traffic light be installed somewhere along the curve area. She asked to see police reports of accidents in the vicinity for the last two years, and to work with staff and engineering to work with County commissioners to have a traffic light installed.

**COUNCILMEMBER LUIS**

**WATER ISSUES.** Councilmember Luis said that area businesspeople had suggested that the Town make an announcement every few months explaining what they were doing regarding water issues.

**11. TOWN ADMINISTRATOR'S COMMENTS**

No comments were made.

**12. TOWN ATTORNEY'S COMMENTS**

No comments were made.

**13. ADJOURNMENT**

There being no further business to discuss and no objections, the meeting was adjourned at 12:05 a.m.

Approved \_\_\_\_\_

\_\_\_\_\_

Mayor/Councilmember

\_\_\_\_\_  
Town Clerk