

**TOWN COUNCIL
REGULAR MEETING
JUNE 21, 2000**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:02 p.m. by Mayor Venis and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present were Mayor Venis, Vice-Mayor Weiner and Councilmembers Clark, Cox and Paul. Also present were Town Administrator Middaugh, Interim Town Attorney Kiar, and Town Clerk Reinfeld recording the meeting.

3. PRESENTATIONS

3.1 Soccer Team Division Winners

3.2 Emily Kasmer, National Qualifier in Swimming Events

Mayor Venis announced that items 3.1 and 3.2 were being removed from the agenda.

3.3 Everglades Bass Anglers/Bass Pro Shops (Take-A-Kid Fishing)

Mayor Venis described the Take-A-Kid Fishing tournament, with Councilmember Cox thanking the Everglades Bass Anglers and Bass Pro Shops for their assistance in making the tournament a success. Everglades Bass Anglers and Bass Pro Shops were provided with plaques in appreciation for their assistance. Mayor Venis provided certificates of appreciation to those individuals that donated their time and participated in the tournament.

3.4 Florida Hometown USA

Town Clerk Reinfeld read the proclamation. Nikki Chinnners stated that she had captured the title of "Florida's Hometown U.S.A.", a program specializing in education and community involvement. She provided Mayor Venis with a plaque recognizing the Town for its community involvement.

3.5 Davie/Cooper City Chamber of Commerce

Arlene Broleman, representing the Chamber, updated Council on the Chamber's efforts.

3.6 Community Redevelopment Agency

Neal Kalis, Chair, provided a status report on the Davie Road Beautification Project, stating that installation of the bricks walkways would begin on June 26th. He thanked three new donors who were sponsoring benches along Davie Road: Dairy Queen, Bergeron Land Development, and Bergeron Properties and Investments. Mr. Kalis stated that plaques would be mounted on the individual benches and advised that the cost for each bench was \$1,200.

Mr. Kalis stated that the Agency had repaid its \$123,000 loan to the Town, approximately eight years early. He expressed his gratitude to the Town for its support and confidence, stating that he was pleased that the Agency had been able to pay off the loan sooner than was provided for in the agreement.

Mr. Kalis informed Council that an assessment of the needs within the Eastside Neighborhood was being concluded. He stated that the assessment would include such issues as sidewalks and special programs for the neighborhood residents.

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3.7 Pine Island Park Update

Assistant Town Administrator Robert Rawls provided an update of the improvements being completed at the Pine Island Park. He indicated that several donations had been received and advised that staff was handling these issues administratively.

Mr. Rawls stated that quality improvements would be completed within the bond program. He indicated that the multi-purpose building plans were essentially complete and expected that the bid would be put out on the street during the first week of July. Mr. Rawls expected that the improvements would be completed by April 2001.

Mayor Venis asked for a status report concerning Reese Road. Mr. Rawls advised that Broward County would be working on the street in the coming week and he hoped that the improvements would be completed within 60 days.

Councilmember Clark asked if Council would be advised if the Pine Island Project went over budget. Mr. Rawls replied affirmatively, emphasizing that it was staff's goal to meet the Town's budget for this project and explained that Council had approved a contingency account within the bond which could be drawn upon. He indicated that it was staff's intention to use those funds for items such as furnishings, but staff did not have the authority to move forward if all the funds were used. Mr. Rawls advised that regular updates would be provided to Council as each section of the project was completed.

3.8 Upcoming Special Events - Bonnie Stafiej and Sharon Pierce-Kent

Bonnie Stafiej, Special Projects Coordinator, advised that upcoming events included: 5 Star Rodeo (June 24th); family day and fireworks (July 4th); and Tale of Life, a Festival of Health (July 7th - 8th).

Sharon Pierce-Kent, Parks and Recreation Director, announced that upcoming events included: football and cheerleading programs (registration) and practice (beginning July 10th); seniors and adults pot lunch luncheon (June 26th); and seniors and adults cookout (July 7th).

Ms. Pierce-Kent indicated that the State had contacted her to advise that the Town had ranked high enough in the competitive process for the land and water conservation fund which was recently applied for. She stated that due to its ranking, the Town would be entitled to receive funding to assist with 61st Avenue park swimming pool. Ms. Pierce-Kent indicated that she would update Council as soon as additional information obtained .

Mayor Venis advised that item 3.9 would be added to the agenda, stating that Jack Curtis, the Town's Census Coordinator, had an update for Council concerning Census 2000.

Mr. Curtis stated that the door-to-door operations had been completed and 100 percent of the households in Davie had been contacted. He indicated that it was still possible that not every resident of Davie was counted and, therefore, a follow-up operation would be completed in August. Mr. Curtis stated that residents should still contact the Census Bureau if they had been on vacation, did not receive a Census form, or were not visited by a Census worker.

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7.5 Mayor Venis announced that item 7.5 would be heard at this time. Town Clerk Reinfeld read the proclamation. Mayor Venis provided Ms. Bolin with a Key to the City for her work and dedication. Ms. Bolin thanked the Town for the support it had always provided to Davie Elementary.

Mayor Venis announced that item 9.12 needed to be tabled to July 5, 2000.

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, tabling this item to July 5, 2000. In a voice vote, all voted in favor.

Mayor Venis announced that item 9.13 had been withdrawn by the petitioner.

**4. MAYOR/COUNCILMEMBERS COMMENTS
MAYOR VENIS**

CONGRATULATIONS. Mayor Venis congratulated his son, Harry, Jr., and daughter, Kathleen, for doing a great job at school.

HAPPY BIRTHDAY. Mayor Venis wished his wife, Audrey, a happy birthday.

MEETINGS. Mayor Venis stated that he had met with the Reflections regarding the proposed development on Orange Drive and Pine Island. He added that he had also met with the attorney for the development who had assured him that all the issues of concern would be addressed. Mayor Venis indicated that meetings with the homeowners would be scheduled and he would keep Council apprised of any new developments.

Mayor Venis indicated that he had met with the Falcon's Lea homeowner's who were happy with the progress being made on the speed humps. He added that the Police Department was looking at providing a citizen's patrol car. Mayor Venis stated that another Ivanhoe community would be receiving a citizen patrol car in the near future. He indicated that the community was anxious to get that program started in Ivanhoe.

TURNPIKE NOISE. Mayor Venis indicated that he had received a letter from the Florida Department of Transportation (FDOT) and advised that he would be meeting with FDOT to discuss buffering to alleviate the noise coming from the Ronald Reagan Turnpike.

THANKS. Mayor Venis thanked Comcast for providing a series of public service announcements regarding Census 2000. He believed that this participation allowed the Town a special opportunity to reach its residents for the 2000 count.

COMPLAINT. Mayor Venis stated that he had received a complaint from a resident about a home abutting her property that had been under remodeling for approximately nine years. He questioned if there was anything the Town could do to mandate the completion of this project as he felt that it created an eyesore. Mayor Venis believed that the Code needed to be modified so that this type of abusive delay did not continue. Development Services Director Mark Kutney stated that he was aware of the property in question and indicated that he and Building Official Tom Willi had discussed this issue at length. He indicated that compounding the problem was the requirements of the South Florida Building Code, which was adopted by reference in the Town's Code. Mr. Kutney stated that he would be addressing this issue with Mr. Kiar to determine if a stricter Code could be adopted by the Town. Mayor Venis asked that Mr. Kutney provide a status report on this matter at a future meeting.

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DRAINAGE. Mayor Venis stated that a meeting had been held with the Vista Filare homeowners to discuss drainage concerns. He indicated that progress had been made in addressing the drainage problems and thanked the Broward County Drainage District for its assistance.

COUNCILMEMBER CLARK

MR. KIAR. Councilmember Clark expressed her belief that Mr. Kiar had been doing a wonderful job as Interim Town Attorney and submitted a letter to him which she had previously submitted to the former Town Attorney, Barry Webber. She explained that a resident had requested a memorandum from Mr. Webber, however, the resident had received a letter stating that the memorandum was not part of the public records request. Councilmember Clark stated that she had questioned Mr. Webber concerning this matter, but had only received copies of his correspondence with the resident. She asked that if for some reason this memorandum could not be obtained, she wanted an explanation that she could understand.

ADVISORY BOARD QUORUM. Councilmember Clark stated that she wanted Mr. Kiar to recommend how the quorum for advisory boards could be changed. She indicated that if a meeting was canceled due to a lack of quorum, the attendance for each member was not properly registered. Councilmember Clark believed that if a quorum was not met, a record of the members who were absent should be maintained.

7-ELEVEN STORE COMPLAINT. Councilmember Clark questioned Mr. Kutney concerning a complaint which had been received against a 7-Eleven store. She indicated that Mike Bennett had been upset with the way the Town's departments had been handling the Code violation. Councilmember Clark stated that this particular business had been brought before the Special Master for non-compliance and asked if any resolution had been sought. Mr. Kutney stated that the last meeting addressing this issue had been held on June 6th. He indicated that the Special Master had continued the hearing until her next meeting date, which was approximately one month from now. He indicated that two Code Compliance Officers had met with Mr. Bennett to discuss his concerns. Mr. Kutney indicated that the history for this project was very long and suggested that perhaps he could meet with Councilmember Clark to discuss all the intricacies of this case.

SHUTTLE SERVICE WORKSHOP. Councilmember Clark stated that she was looking forward to Council's next workshop to discuss the shuttle services. She expressed her concern that there were problems with the program as currently set and asked when the next meeting would be set. Mr. Middaugh stated that a meeting would be scheduled within the next two weeks.

MEETING. Councilmember Clark stated that she had met with the Silver Oaks community and felt unsatisfied with the feeling that although they were located within Davie, the Town could do nothing to assist them. She indicated that she had suggested that the by-laws be read to determine what rights these residents had. Councilmember Clark stated that she had recommended to Mr. Middaugh that two seats on the Citizen Assembly Board be opened to Silver Oaks residents. She felt that this community could be a viable part of the Town and thanked the Police Department for making a presentation to the residents. Councilmember Clark felt it was important for Mr. Kiar to review the annexation agreement to determine what assistance the Town could provide to these residents.

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DAVIE ELEMENTARY SCHOOL. Councilmember Clark congratulated Ms. Bolin on her accomplishments. She stated that her sons had attended Davie Elementary and she was very pleased with their experience there.

Councilmember Clark understood that a resubmittal was needed to complete the School's request for a shelter. She wanted to make sure that staff was actively searching for a use for the shelter so that when the Town's funding support was requested, the Town could move forward with the completion of the project. Councilmember Clark believed that staff should direct its attention to providing programs near the school that were not easily accessible by the public.

POLICE ATHLETIC LEAGUE. Councilmember Clark stated that her sons had obtained trophies for participating in the Police Athletic League (PAL) baseball program. She felt that the Town needed to provide more support to the PAL and thanked Mayor Venis for the years of constantly requesting monies to support the PAL. Councilmember Clark stated that she would support Mayor Venis in his quest to obtain additional funds and programs for the PAL.

Councilmember Clark addressed the alarm ordinance, stating that Mayor Venis had requested that the funds obtained from the fees charged be given to the PAL program. She stated that Budget and Finance Director Christopher Wallace had indicated that the program had not been formalized; however, she felt that five years was too long a period of time to wait to formalize a Councilmember's suggestion. Councilmember Clark asked that Mr. Middaugh determine how this program could be formalized so that the program could work and that the funds could be used to support the PAL.

Councilmember Clark stated that she would be pushing for an "in-line" budget for the PAL. She indicated that the program set up to assist the Boys and Girls Club was working and believed that the same benefits should be provided to the PAL.

SIGNS. Councilmember Clark thanked Mr. Rawls for addressing the need for a sign at "our park" requiring drivers to slow down. She stated that people did not care anymore and indicated that she had requested speed humps which she new was being worked on.

COUNCIL. Councilmember Clark stated that she knew why she had come to this Council and that it was not to "play games with some of you", but to do a job. She stated that previous Councils had been lacking and she had been "reaping what previous Council and the staff has been sowing" and she was here to correct it. Councilmember Clark added that she would not go away and she would not be manipulated or frightened into submission.

ACCUSATIONS. Councilmember Clark stated that most individuals only knew her for four months and no one had ever known her to do anything wrong. She indicated that anyone could ask a resident, Lisa Edmondson, that she took defamation of character seriously and if anyone who "connected her with a crime" should be prepared to back it up. Councilmember Clark advised that anyone making accusations that could not be backed up would be made to apologize publicly.

E-MAIL. Councilmember Clark read an e-mail regarding individuals being dressed in black to show support for Mr. Middaugh and staff. She advised that a response had been sent that if Mr. Middaugh and staff would do their jobs instead of playing politics, life in the Town would be "grand". Councilmember Clark indicated that the responder had said that Mr. Middaugh was doing a poor job and the "old boy" network had hired him to serve their own political ends. She thanked Jason for his support.

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COUNCILMEMBER COX

MEETING. Councilmember Cox stated that she and Councilmember Clark had attended a meeting with the Stirling Lakes neighborhood and felt that great strides could be made in making the lake a part of the Town's Open Space Program. She indicated that Mr. Rawls was currently working on a lease and hoped that the necessary paperwork could be completed by the end of July.

CONDOLENCES. Councilmember Cox extended her condolences to the family of Frank D'Andrea who had recently passed away. She briefly described his accomplishments, including his tenure as a Councilmember and indicated that he would be sorely missed. Councilmember Cox felt that the Town should plant a tree in his memory or, in the alternative, provide for a plaque at one of the seats in the Council Chambers as had been done for other activists in the Town.

FIRE INVESTIGATION. Councilmember Cox felt that the articles in the Sun-Sentinel had been one-sided and indicated that it was well known that she "was not part of the group." She stated that the Sun-Sentinel had indicated in its article of June 14th that Council had requested a special meeting. She advised that she had not requested a special meeting although she had every intention of attending the news conference that was to be held by Mr. Middaugh. She indicated that she understood that the task at hand was under the purview of Mr. Middaugh's job and respected his ability to move forward with that task. Councilmember Cox indicated that part of that article also stated that Mr. Middaugh had angered Council when he chose to use the Police Department to complete the investigation. She advised that Mr. Middaugh had not angered her in his decision as she was well aware that the Town had tried for several months to find someone who would be acceptable to the union. Councilmember Cox felt that the Police Department was capable of determining fact from rumor and could not understand how someone could be disappointed that rumors could not be proven. She stated that another article appearing on the same day indicated that Council had lashed out at the search firm for not providing a particular piece of information. Councilmember Cox emphasized that she had not lashed out at the search firm, but had traced the rumor which had been promulgated by Vice-Mayor Weiner and was unsubstantiated. She stated that the articles had indicated that she was the lone dissenting vote in support of Mr. Middaugh's recommendations concerning Fire Chief Michael Donati and Fire Deputy Chief Leonard DePaola, but never once indicated that she had stated that perhaps Deputy Chief DePaola's punishment should be harsher.

Councilmember Cox stated that on June 16th, Mayor Venis had been quoted as saying that Council had given its direction and opinion regarding the dismissal of Chief Donati and Deputy Chief DePaola to Mr. Middaugh and Council was very clear on what it wanted. Now, it was up to Mr. Middaugh to implement Council's wishes. She indicated that if Council directed Mr. Middaugh to terminate or discipline either one of those employees, Council would be overstepping the bounds of the Charter. Councilmember Cox stated that termination and discipline was part of Mr. Middaugh's job and if Mayor Venis had said that, Council would have been recommending a violation of the Charter. She felt, however, that the Sun-Sentinel could have provided yet another misquote.

Councilmember Cox felt that probably because she was the lone dissenting vote, she had found in her office, a number of ballots and a letter addressed to her from the employees of Town Hall, requesting that staff's feelings be expressed. She was sorry that so much time was being wasted on unnecessary defenses that the Town's business was being left behind.

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Councilmember Cox read the letter into the record, which stated that employees of the Town were afraid to come forward and speak publicly without suffering retaliation and losing their jobs. The letter described loyal employees who loved the Town and worked for its betterment, while being devastated that they worked in a hostile environment with no trust in its Council. The letter described a secret vote of no confidence against Council, to show that "the silent majority was screaming inside". Councilmember Cox found it disturbing that so much time was being spent fighting and at odds with one another over these kinds of issues. She felt that staff was being rendered unable to work, stating that she could not understand how anyone could work in this type of environment. Councilmember Cox stated that Council should work together to resolve these issues. She apologized that employees would fear to speak up and that there was such dissension on the Town's issues.

Councilmember Clark stated that Mr. Kiar had been asked if Council "had crossed the line" at the special meeting held on June 14th and it was stated that "it was proper for the Town Council to have a special meeting in order for there to be public discussion in this matter, of great public concern, and to obtain public input, for the Town Administrator to consider and for the Town Council to express its recommendations to the Town Administrator at that special meeting. The Town Council acted appropriately."

Councilmember Clark stated that Mayor Venis had not broken the Charter and that Council had only made a recommendation. She indicated that Council's actions had been cleared by the Town Attorney. Councilmember Clark stated that she was sorry that employees felt the way they did, but believed that the same letter could be used by the firefighters. She indicated that none of the staff members felt at that time that the firefighters' cause was a worthy one and believed that people should take the time to read the reports before making judgments. Councilmember Cox clarified that she had not questioned Mr. Kiar's assessment of the situation, but had questioned the accuracy of the quote in the Sun-Sentinel which made it appear that Council had recommended that the Town's Charter be violated. She stated that the newspaper's quote made it appear that Council was interfering against the specific mandates of the Charter.

Vice-Mayor Weiner stated that he had a problem with the reports in the Miami Herald, stating that today's editorial was misleading and that the reporter should have taken the time to read the report.

Vice-Mayor Weiner stated he had provided Mr. Kiar with a letter in which he had requested that Mr. Kiar look into a matter. He explained that he had told Mr. Kiar to hold off until the Council meeting. Vice-Mayor Weiner stated that contrary to Councilmember Cox's comments, he wanted authority from Council to have Mr. Kiar review his allegations and questions. He explained that there were contradictory statements between the testimony of Town Clerk Reinfeld and Deputy Chief DePaola. Vice-Mayor Weiner stated that it was his understanding that the investigation was considered an official proceeding under Chapter 837, the perjury statute. Vice-Mayor Weiner emphasized that perjury under an official proceeding was not a misdemeanor to be swept under the rug, it was a felony - an attempt to conceal the commission of a crime was also a crime. He stated that the solicitation and disclosure of confidential records was a crime and he would not take those issues lightly. Vice-Mayor Weiner stated that the Town had admissions during testimony of records being disclosed. He indicated that the representation was that the Town had a waiver that allowed the Town to give the confidential information out to whomever was deemed necessary. Vice-Mayor Weiner stated that this was not the case and, if the wording of the waiver was

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reviewed, the Town had an obligation, not a right, to disclose confidential information to anyone who was bearing a copy of the release. He indicated that Town Clerk Reinfeld had no right to disburse the information and that this was the reason why there were criminal violation provisions in the law.

VICE-MAYOR WEINER

HAPPY ANNIVERSARY. Vice-Mayor Weiner wished Mr. and Mrs. Edmondson a happy anniversary.

HAPPY BIRTHDAY. Vice-Mayor Weiner wished the Town a happy birthday, stating that it was 39 years since the Town's incorporation.

BEST WISHES. Vice-Mayor Weiner wished Commissioner Scott Cowan his best wishes during a serious hearing he would need to attend.

EMPLOYEE SPEECH. Vice-Mayor Weiner indicated that over two years ago, he and Councilmember Paul had proposed allowing the Town's employees to have political conduct and speech on their own time. He stated that he would support that right, advising that employees did not leave their constitutional rights to free speech at "the front door." Vice-Mayor Weiner stated he appreciated the employees who expressed themselves and if employees feared retaliation, he apologized. He indicated that the Town Administrator was in charge of hiring and firing and that employees were protected under the "Whistle Blowers Act".

BUILDING DIVISION. Vice-Mayor Weiner stated that Council had previously asked that a review of the Building Division be completed as there appeared to be some problems in meeting the "24 hour rule". He indicated that he continued to look for a memorandum of explanation, however, one had not been forthcoming. Vice-Mayor Weiner stated that he had been advised that Mr. Willi had tried to provide Mr. Middaugh with a memorandum; however, Mr. Willi had said that he had been told that if he distributed the memorandum, he might not have a job. He questioned this type of retaliatory conduct. Vice-Mayor Weiner stated that Council had requested this information because although not yet an emergency, the Town was very close to losing its Building Division by having the County take over. He felt it was interesting that an update on this issue had not been included in tonight's agenda, as well as Mr. Middaugh's evaluation which was due in June.

COMMENDATION. Vice-Mayor Weiner commended Commissioner Cowan for appointing his predecessor, Terry Santini, to the Broward County Charter Review Commission.

Vice-Mayor Weiner addressed Ms. Edmondson, stating that he was aware that she was not into politics, and referred to Davey Crockett's motto, "make sure you're right and go ahead." He indicated that he had to attend a hearing before the Florida Ethics Commission which had found no probable cause regarding the "vicious" charges that were levied against him. Vice-Mayor Weiner added that he still needed to deal with the Florida Bar which was another issue. He stated that he was going to try to let things go by the way side, figuring that the viciousness would die down. Vice-Mayor Weiner believed that Ms. Edmondson would understand and move forward; however, there was now a "fan club." Vice-Mayor Weiner stated that he was going to file a petition with the Florida Ethics Commission to recover his costs and a hearing. He indicated that now he could obtain all the information of "what was really going on behind all the politics at Town Hall" under the discovery portion of the suit.

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COUNCILMEMBER PAUL

MEETINGS. Councilmember Paul stated that during the meeting with Vista Filare concerning the drainage problems, a resident had expressed concern that a Waste Management truck had spilled hydraulic fluid on the pavement. She indicated that she had thought the problem had been taken care of but "they" had assured her that it had not. Councilmember Paul indicated that she had requested that the Environmental Protection Agency be informed and that Waste Management repair the road. She asked that staff follow up on this matter.

Councilmember Paul stated that she had attended the Citizen Assembly meeting, indicating that it had been very informative with regards to preparing for hurricanes.

Councilmember Paul stated that a meeting would be held to discuss citrus canker on June 27th. She indicated that new research was being conducted to determine if it was actually necessary to cut down all the diseased trees.

EQUESTRIAN SIGN. Councilmember Paul advised that the equestrian sign on SW 130 Avenue was gone. She asked staff to look into replacing the sign, as well as perhaps finding a better location.

FIRE INVESTIGATION. Councilmember Paul stated that she took exception to comments made indicating that what was happening in Davie was a "witch hunt". She indicated that Council had to take care of business despite where that might lead. Councilmember Paul stated that the investigation was not, and should have never been, a union issue and emphasized that she agreed with the comments made by Vice-Mayor Weiner and Councilmember Clark. She indicated that Council could not be bystanders and it had an obligation to denounce the wrong that surrounded them. Councilmember Paul stated that teaching had to be done by modeling and, although one person's interpretation of wrong did not have to agree with another's, residents had the right to disagree at different levels. She indicated that a survivor of the holocaust had stated that "indifference was deadly", and she felt that Council needed to make sure that things did not get swept under the rug. Councilmember Paul indicated that insensitive remarks and action which promoted intolerance and injustice had to be denounced. She stated that those who took part in brushing these issues under the rug were just as guilty of the outcome. Councilmember Paul indicated that the Town had to confront the issues brought before it with the evidence and testimony and she felt that Council's recommendation at its last meeting was appropriate.

5. TOWN ADMINISTRATOR'S COMMENTS

BUILDING DIVISION. Mr. Middaugh addressed Vice-Mayor Weiner's comments concerning the Building Division. He indicated that two temporary inspectors had been hired to deal with the immediate problem of the workload being experienced within the Division. Mr. Middaugh explained that the memorandum he had received which was the subject of labor negotiations with the union employees as to how it would implement certain changes within the inspection division. He indicated that Council had not received a copy of the memorandum because it would have been inappropriate for him to disburse the memorandum prior to the necessary labor negotiations. Mr. Middaugh emphasized that Mr. Willi's job had not been threatened as a result of that conversation. Mayor Venis asked if a report had been generated. Mr. Middaugh explained that Mr. Willi had provided a memorandum in order to facilitate negotiations with respect to salaries and positions. Vice-Mayor Weiner stated that this was the information that Council had requested. Mr.

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Middaugh explained that the only way he could provide the information was to hold an Executive Session as it dealt with contract negotiations. Mayor Venis stated that he had been on the server and read a report prepared by Mr. Willi dated June 7th which outlined a study of the average wages within other municipalities. He expressed his belief that the Town was one step away from losing the Building Division. Mr. Middaugh disagreed. Mayor Venis stated that he received numerous complaints from contracts and the department needed to be "revamped". He was astounded that \$1.8 million remained in the Development Services Department budget. Mayor Venis expressed his opinion that the inspectors should have been receiving bonuses and salaries that were competitive with other municipalities. He indicated that it was pathetic that Council had been asked to prioritize projects within the department. Mayor Venis stated that he did not want to see the Building Division being taken away by the County. Mr. Middaugh explained that he did not disagree that there was a problem with the Division; however, he emphasized his belief that the Town was not at an immediate danger of being taken over by the County. He agreed that the Town was below the average of pay for several positions, but reiterated that this was a negotiating item and that the proper procedures had to be followed. Mayor Venis stated that Mr. Willi had also told him that if he distributed the survey, he would lose his job.

Councilmember Cox stated that if a division within the Town was understaffed, it was up to Council to ensure that adequate staffing was provided in the budget. She reminded Council that all budget issues were brought to Council for its consideration.

Vice-Mayor Weiner clarified that the Town did not have \$1.8 million in taxpayers dollars in the budget and explained that the Building Division were funded by the construction industry. He indicated that the Town was in danger of being sued period if the funds were not allocated appropriately as it was not general revenue. Vice-Mayor Weiner questioned how many inspectors and planners and the equipment could be hired with \$1.8 million. He asked if the Federation of Public Employees had been contacted with Mr. Middaugh responding in the affirmative. Mr. Middaugh stated that temporary inspectors had been hired to "plug the holes in the dike." Vice-Mayor Weiner stated that he could not understand why, although the position was not yet posted, the Town could not accept applications for the positions it was looking to fill.

EVALUATION. Mr. Middaugh stated that he had sent an e-mail to Council on June 5th, stating that he would perform a self-evaluation and then meet with Councilmembers individually to discuss their concerns. He indicated that a meeting would then be held to discuss his evaluation as a whole. He indicated that he had not received any objections from Council and, therefore, it was his goal to proceed in that fashion.

Vice-Mayor Weiner made a motion, second by Councilmember Clark, to have the evaluation on June 21, 2000. In a voice vote, with Councilmember Cox dissenting, all voted in favor. (Motion carried 4-1)

Mr. Middaugh stated that there would not be a productive discussion because he was not prepared to offer items he felt would be of value to Council in a "give and take" looking to improve.

CITIZEN'S ASSEMBLY COMMITTEE. Mr. Middaugh stated that the Committee had held a positive meeting in which hurricane preparedness was discussed. He indicated that the residents had actively participated and he felt confident that this meeting had been successful.

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IMPROVING SERVICES. Mr. Middaugh indicated that it was his goal to improve the services of the Town, with leadership being the key to success. He stated that long term true problem solving was necessary to effectively and pro-actively address the needs of the Town. Mr. Middaugh felt that the current reaction and blaming policy-like character of the Town needed to be changed. He emphasized that Council was, in large part, an essential part of making these changes. Mr. Middaugh suggested that Council consider an extra meeting a month to discuss policy issues only as he believed that the community would be better served if Council could direct its attention to policy issues to address long term affects.

FIRE INVESTIGATION. Mr. Middaugh stated that he had distributed copies of his final report on the Fire Department investigation. He indicated that he had discussed this issue with the investigators to ensure that no charges had been overlooked. Mr. Middaugh explained that all issues had been addressed and no new information had been obtained. He emphasized that the final report was completed and hoped that this issue could be set aside. Mr. Middaugh stated that since the reorganization he was seeking as part of the disciplinary action "did not appear to be on the horizon" and considering Council's recommendations, he had revised his discipline to include the demotion of Deputy Chief DePaola to firefighter. He explained that this demotion would essentially cut Deputy Chief DePaola's salary by \$30,000, not to mention the changes in benefits he had as part of management. Mr. Middaugh stated that he had not agreed to fire or demote Chief Donati and would, therefore, remain Fire Chief. He advised that Chief Donati would entertain a buy-out and he would obtain additional information if Council wished to further discuss this option. Mr. Middaugh explained that in the alternative, he and Chief Donati would continue to work at bringing the Fire Department forward. He stated that he wanted the Town to put this issue to rest and move forward for the betterment of the Town. Mr. Middaugh stated that he would need Council's support, as well as that of the fire union, to make the Fire Department whole.

6. TOWN ATTORNEY'S COMMENTS

SYMPATHIES. Mr. Kiar expressed his sympathies to the family of Frank D'Andrea and indicated that Mr. D'Andrea would be missed by many.

LITIGATION. Mr. Kiar stated that it had always been the Town's position that the Town should not be involved in the Transamerica suit which, for all intents and purposes, was between two individual property owners. He explained that after discussing the facts with the plaintiff's attorney, the plaintiff had agreed to drop the Town as a defendant.

Mr. Kiar stated that there were two proposed settlement agreements on tonight's agenda, items 7.24 and 7.25, which he wished to discuss when the item came up.

Mr. Kiar indicated that the Town had obtained a court order providing for ten days in which the plaintiffs in Kuegler vs. Davie were to provide the necessary discovery documents. He expected that the documentation would be obtained tomorrow; however, if the documents were not received, he would appear in court once again to request sanctions against the plaintiffs. Mr. Kiar stated that he had met with a title expert to discuss the issues of the case and requested Council's authorization to hire this individual in the preparation of the case. He indicated that the charge was \$225 an hour, but felt that it was necessary for the

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success of this litigation. Councilmember Clark asked if the special services were needed throughout the litigation or only for preparation. Mr. Kiar replied that he would need this expert to review the documents, to provide a legal opinion, and to possibly provide expert testimony.

Councilmember Paul made a motion, seconded by Councilmember Cox, allowing Mr. Kiar to retain an expert witness for the title and review and expert testimony in court, at \$225 an hour, for the case involving Kuegler vs. Broward County and the Town of Davie. In a voice vote, all voted in favor. (Motion carried 5-0)

Mr. Kiar stated that it had been Mr. Kutney's and Mr. Middaugh's desire to have former Town Attorney Barry Webber handle the ROHO-Flamingo Ice Plat litigation. He said that this was essentially what was referred to as a friendly litigation and briefly described the process that would be followed. Mr. Kiar stated that he did not have a problem with this request but he felt it was up to Council to make that determination. Mayor Venis indicated that since Mr. Kiar was now the Town Attorney, he could not see any reason why Mr. Kiar could not complete this litigation. Mr. Middaugh explained that Mr. Webber had completed approximately 90 to 95 percent of the work and, instead of starting over, it made sense to have Mr. Webber complete this case. He indicated that he had no objections to Mr. Kiar completing this litigation, but felt that it could slow down the process. Vice-Mayor Weiner asked if a complaint had already been prepared. Mr. Kiar replied affirmatively, stating that this was his understanding. Vice-Mayor Weiner stated that the complaint would be considered work-in-progress owned by the Town and Mr. Webber would need to turn the documentation over to Mr. Kiar if Council wanted Mr. Kiar to take over the case. Mr. Kiar felt that this would be the case.

Vice-Mayor Weiner made a motion having Mr. Kiar obtain the work product of former Town Attorney Mr. Webber. Vice-Mayor Weiner withdrew his motion.

Jeff Orlen, the attorney representing ROHO-Flamingo, stated that his client had been trying to get approximately one acre of land annexed into the land since nearly December 1999. He indicated that Mr. Webber was ready to submit the complaint and settlement stipulation and Mr. Orlen felt that starting over now would be more costly to the Town than to continue with Mr. Webber. He also wanted to make sure that his clients did not lose any additional time if Council decided to move forward with the change of legal representation in this matter. Mr. Kiar assured Council that if the complaint was provided to him, he would file it the next day.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, to have Mr. Kiar obtain the file from former Town Attorney Barry Webber and expeditiously file the lawsuit and bring it to a conclusion. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Cox mentioned the agreement that was held with Pasadena and Imagination Farms and, as a result of Council's denial of their rezoning request at the last meeting, she felt that the Town would probably get sued. She indicated that the agreement entered into could be rendered null and void since the developer could choose to believe that the Town had not lived up to its end of the obligations of that agreement. Councilmember Cox asked Mr. Kiar to review action taken by the State Legislature in which blasting was no longer an issue that local jurisdiction had control. She explained that blasting and permits for those types of activities were now controlled by the State Fire Marshal. Councilmember

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Cox feared that if the annexation agreement was voided, the blasting agreement made by the developer could also be rendered null and void. She also feared that the Town would have to deal with the State Fire Marshal to avoid any blasting within the Town's boundaries. Mayor Venis advised that he had already asked Mr. Kiar to review this matter. Mr. Kiar stated that he had received the request and would provide Council with information as soon as possible. Councilmember Paul reminded Mr. Kiar that the foundation of the property in question was in fact a landfill and that special care needed to be taken to ensure that if blasting was approved, any cracks in the lining would not be jeopardized. She felt it was important to ensure that safety was considered at all times.

Councilmember Paul commended Mr. Kiar on his performance, stating that the change was moving smoothly and rapidly in relation to all the items that needed to be taken care.

Vice-Mayor Weiner stated that he had mentioned this issue earlier in the meeting and, due to the seriousness of the concerns he had regarding the testimony in question, he wanted Council's approval to have Mr. Kiar further investigate the memorandum that he had forwarded. He stated that the memorandum he had prepared was public record once he had provided it to Mr. Kiar and indicated that copies could be obtained through Mr. Kiar's office. Vice-Mayor Weiner indicated that he had not originally copied the memorandum to Mr. Middaugh or Town Clerk Reinfeld as Mr. Middaugh had previously advised him that there was nothing he could do if public records were distributed.

Mr. Kiar stated that it was a pleasure to work for Council and thanked them for their confidence.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, authorizing Mr. Kiar to review the memorandum he had sent him regarding the allegations and concerns. In a voice vote, all voted in favor. (Motion carried 5-0)

7. CONSENT AGENDA

Minutes

- 7.1 April 5, 2000 - Regular Meeting (continued from June 7, 2000)
- 7.2 April 12, 2000 - Special Meeting

Proclamations

- 7.3 Recreation and Parks Month (July 2000)
- 7.4 Nikki Chinnors Day (June 21, 2000)
- 7.5 Phyllis Bolin Day (June 23, 2000)

Home Occupational Licenses

- 7.6 American Bobcat, Backhoe & Landscaping Inc., 5201 SW 76 Avenue (tabled from June 7, 2000)
- 7.7 No 1 Bobcat and Trucking, Inc., 2701 SW 154 Lane (tabled from June 7, 2000)
- 7.8 Hilton Construction Inc., 13271 SW 29 Court
- 7.9 Liliana Nicholls Interiors, 13650 SW 24 Street

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Resolutions

- 7.10 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**
R-2000-139 **THE BIDS FOR GASOLINE AND DIESEL FUEL, BROWARD CO-OP BID #D-2-00-042-B2. (MacMillan Oil Company of Florida, Inc. - tankwagon deliveries of gasoline; Amerada Hess Corporation - transport deliveries of gasoline; Coastal Refining & Marketing, Inc. - transport deliveries of diesel)**
- 7.11 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**
R-2000-140 **THE BIDS FOR WATER METER BOXES AND COMPONENT PARTS, CITY OF FORT LAUDERDALE BID NO. 602-8301. (Broward Cooperative Purchasing Group; \$20,000/year)**
- 7.12 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**
R-2000-141 **THE BIDS FOR CHAIN LINK FENCE. (Tropic Fence, Inc. - primary vendor; Lawrence Fence Corp. - secondary vendor)**
- 7.13 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**
R-2000-142 **THE BID FOR ORANGE PARK AREA STREET RESURFACING AND SWALE REGRADING. (General Asphalt Co., Inc.; not to exceed \$180,000)**
- 7.14 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**
R-2000-143 **THE BID FOR THREE POLICE BICYCLES AND RELATED EQUIPMENT FROM EASY RIDER TO BE FUNDED FROM THE LAW ENFORCEMENT TRUST FUND. (three bicycles and related equipment; \$3,435)**
- 7.15 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**
R-2000-144 **THE CITY OF MIAMI BEACH BID TO PURCHASE VEHICLE EMERGENCY LIGHTING AND RELATED EQUIPMENT FROM LAW ENFORCEMENT SUPPLY COMPANY, INC. (Law Enforcement Supply Company, Inc.; \$18,728.40)**
- 7.16 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**
R-2000-145 **THE BID TO PURCHASE ONE "M" SERIES ZOLL EKG MONITOR/DEFIBRILLATOR/PACERS FROM ZOLL MEDICAL CORPORATION AS A SOLE SOURCE SUPPLIER. (\$16,921.60)**
- 7.17 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**
R-2000-146 **THE BIDS FOR AIR CONDITIONING REPAIR SERVICE. (Apollo Air Conditioning, Inc. - primary vendor; Temptrol Air Conditioning, Inc. - secondary vendor)**

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- 7.18
R-2000-147 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN THE DAVIE/COOPER CITY CHAMBER OF COMMERCE AND THE TOWN OF DAVIE (59th Annual Davie/Cooper City Chamber of Commerce Championship Rodeo and Festival; November 25 and 26, 2000; waiver of fees, \$1,000)**
- 7.19
R-2000-148 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN THE DAVIE RODEO ASSOCIATION, INC. AND THE TOWN OF DAVIE, FLORIDA FOR THE RENTAL OF THE BERGERON RODEO GROUNDS, OF DAVIE FLORIDA (Jackpot Rodeo - \$100/week; September 6, 2000 to September 5, 2001)**
- 7.20
R-2000-149 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN THE DAVIE RODEO ASSOCIATION, INC. AND THE TOWN OF DAVIE, FLORIDA FOR THE RENTAL OF THE BERGERON RODEO GROUNDS, OF DAVIE FLORIDA. (Youth Rodeo and Barrel Racing; August 5, 2000 and August 18 and 19, 2000; waiver of rental fees, \$1,500)**
- 7.21
R-2000-150 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BIDS FOR SPEED HUMPS.**
- 7.22
R-2000-151 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN CANINE COMPANIONS AND THE TOWN OF DAVIE (March 10 and 11, 2001; waiver of fees, \$1,000)**
- 7.23
R-2000-152 **YOUTH - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO PARTICIPATE IN THE BROWARD EMPLOYMENT AND TRAINING ADMINISTRATION SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM.**
- 7.24
R-2000-153 **SETTLEMENT AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN ATTORNEY TO ENTER INTO A STIPULATED SETTLEMENT WITH THE STATE OF FLORIDA DIVISION OF RETIREMENT IN THE DIVISION OF ADMINISTRATIVE HEARINGS CASE NO. 99-1190, WHEREIN THE TOWN OF DAVIE IS THE PLAINTIFF AND THE DIVISION OF RETIREMENT IS THE DEFENDANT; AND PROVIDING AN EFFECTIVE DATE (\$567,469.27)**

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7.25 **SETTLEMENT AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN ATTORNEY TO ENTER INTO A STIPULATED SETTLEMENT WITH THE STATE OF FLORIDA DIVISION OF RETIREMENT IN THE DIVISION OF ADMINISTRATIVE HEARINGS CASE NO. 99-0490, WHEREIN THE TOWN OF DAVIE IS THE PLAINTIFF AND THE DIVISION OF RETIREMENT IS THE DEFENDANT; AND PROVIDING AN EFFECTIVE DATE (\$494,581.73)**
R-2000-154

7.26 **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A BOUNDARY PLAT TITLED, "ICE II PLAT", AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SUCH PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 12-2-99, ICE Plat II, 12401 Orange Drive) *Planning and Zoning Division recommended approval subject to conditions as outlined in the planning report; Planning and Zoning Board recommended approval subject to the planning report.***
R-2000-155

Site Plan

7.27 **SP 4-6-00, New Town Commerce Park South, 3901 South State Road 7 (M-2) *Planning and Zoning Division recommended approval subject to the conditions as outlined in the planning report; Site Plan Committee recommended approval based on staff's recommendations and additionally, to change the address on the plans to reflect 3901 South State Road 7, and that any mechanical on the roof will be hidden behind the facade.***

Mayor Venis indicated that he had already taken note of the items Mr. Kiar wished to discuss [7.24 and 7.25] on the Consent Agenda. Councilmember Clark asked that items 7.6 and 7.7 be removed.

Councilmember Paul made a motion, seconded by Vice-Mayor Weiner, approving the Consent Agenda without items 7.6, 7.7, 7.24, and 7.25. In a voice vote, all voted in favor. (Motion carried 5-0)

7.6 and 7.7 Councilmember Clark stated that she had requested the tabling of these two items at the last meeting as there was a request for a waiver of fees, yet Council had not been provided with a reason for the waiver. She indicated that the memorandums provided explained the request, but questioned if there was any policy that Council could follow when considering items such as these in the future. Mr. Kutney explained that exemptions were listed in the Florida Statutes, but he had no objection to providing memorandums with all future applications. Councilmember Clark suggested that the application be modified to obtain the information without requiring the need for a memorandum.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, approving 7.6 and 7.7. In a voice vote, all voted in favor. (Motion carried 5-0)

7.24 and 7.25 Mr. Kiar explained that item 7.24 authorized the Town to enter into a stipulation of settlement with the Division of Retirement regarding the Davie Police Officers' Pension Plan. He indicated that in 1997 and 1998, the Division had withheld certain tax

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premiums which would have otherwise paid into the pension plan. Mr. Kiar stated that the Town would be required to deposit \$206,000 into the pension plan as its share and the State would deposit \$567,000. He felt that this was a good recovery for the Town.

Mr. Wallace stated that the Town was obligated to make the initial deposit and, once completed, the State would make its deposit. He explained that once the deposit was made, the Town would be able to off-set future contributions that would have otherwise been made until the Town recovered its money. Mr. Wallace advised that this process would be slow and, in all probability, be extended throughout an entire fiscal year.

Vice-Mayor Weiner asked if "smooth sailing" could be anticipated now with the 1999 withheld premiums. Mr. Wallace believed it would be, explaining that the Town was adversely affected when the funds were withheld because the Pension Board was not managing the plan in compliance with State law. He indicated that now that the plans were in compliance, he did not foresee any additional problems.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, approving item 7.24 and 7.25. In a voice vote, all voted in favor. (Motion carried 5-0)

Mr. Kiar explained that item 7.25 was in addition to the \$567,000 being added to the Police Officers' Pension Plan. He indicated that the State had withheld a total of \$494,581.73 in 1997 and 1998 and, that those funds were being returned to the plan.

8. PUBLIC COMMENTS

Ordinances - First Reading (Public Hearings to be held July 5 and July 19, 2000)

8.1 AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, PROVIDING FINDINGS; PROVIDING FOR AMENDMENT OF SUBSECTION 5-6(A) OF THE CODE OF ORDINANCES BY EXCLUDING FARMS AND AGRICULTURAL USES FROM THE PROVISIONS OF THE SOUTH FLORIDA BUILDING CODE REGARDING NON-MOBILE STRUCTURES; PROVIDING FOR AMENDMENT OF SUBSECTION 8-16(A) OF THE CODE OF ORDINANCES BY EXEMPTING NON-RESIDENTIAL FARM BUILDINGS AND STRUCTURES FROM BUILDING PERMIT REQUIREMENTS; PROVIDING FOR AMENDMENT OF SUBSECTION 12-32(A) OF THE CODE OF ORDINANCES BY REPLACING THE TABLE OF GENERAL USES FOR RESIDENTIAL DISTRICTS AND BY PROVIDING FOR A DEFINITION OF AGRICULTURAL USES; PROVIDING FOR AMENDMENT OF SUBSECTION 12-33(T) BY ADDING SUB-SUBSECTION (1) THERETO EXEMPTING FARMS FROM NUISANCE ACTIONS AND CLAIMS IN CERTAIN CIRCUMSTANCES; PROVIDING FOR AMENDMENT OF SUBSECTION 12-238(C) BY ADDING SUB-SUBSECTION (13) THERETO EXEMPTING THE ERECTION, USE OR MAINTENANCE OF SIGNS ON A FARM IN CERTAIN CIRCUMSTANCES FROM BUILDING PERMIT REQUIREMENTS; PROVIDING FOR AMENDMENT OF SUBSECTION 12-243(D) BY EXEMPTING THE ERECTION, USE OR MAINTENANCE OF SIGNS ON A FARM IN CERTAIN CIRCUMSTANCES FROM DETAILED SIGN REGULATIONS; PROVIDING FOR AMENDMENT OF SECTION 12-503 BY ADDING SUBSECTION (6) THERETO TO EXCLUDE FARMS AND AGRICULTURAL USES FROM THE DEFINITION OF DEVELOPMENT THROUGHOUT THE CODE OF ORDINANCES; PROVIDING FOR A REPEALER; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Venis advised that a public hearing would be held on July 5, 2000. Town Clerk Reinfeld read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance.

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Jason Curtis, 3801 Flamingo Road, asked for Council's approval, stating that it would stop a lot of harassment. He indicated that the County was also working on a similar ordinance.

Fred Segal, 289 SE 4 Avenue - Pompano Beach, stated that he had forwarded a copy of the proposed ordinance to the Farm Bureau's general counsel who felt that it was the best job done by a municipality in bringing this section into compliance with State Statutes.

Mayor Venis closed the public comments.

Vice-Mayor Weiner stated that discussions had previously been held regarding the insertion of the existing table for clarification, as well as inserting the "little key following the table". He questioned if these would be considered material and substantial changes that would derail the proposed ordinance on second reading. Mr. Kiar replied negatively.

Mr. Kiar gave a history of the document, stating that the Town had adopted the South Florida Building Code in the Land Development Code. He indicated that Florida State Statutes provided an exception which exempted non-residential farm buildings on farms. Mr. Kiar stated that the Florida Right to Farm Act also exempted farm lands from nuisance lawsuits. He indicated that he would review the Bill that had just been approved prior to the second reading of the ordinance to ensure that no changes were required.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, approving the first reading of item 8.1 with the insertion of the existing Code, for exemplary purposes only, as well as the insertion of the key that was in the current portion of Section 12-32. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

Councilmember Clark asked if item 9.10 could be taken out of order as the Saunder family had their child with them and this was proving to be long meeting. There were no objections.

9.10 Mr. Kiar read the rules concerning the admission of evidence. Town Clerk Reinfeld swore in the witnesses. Mr. Kutney advised that his qualifications were on file in the Town Clerk's Office and entered the planning report. He read the planning report.

Mr. Kutney advised that the petitioner had expressed her intention to subdivide the property into four additional single family homes and that the remaining 2.9 acres would remain under their ownership. He indicated that Planning and Zoning Board Chair George Greb had emphasized that the only way he could vote to approve the petition was to have some assurance that the remaining 2.9 acres would never be subdivided. He added that the remainder of the Board had agreed with Mr. Greb and the petitioner had offered to provide the deed restrictions. Mr. Kutney stated that Ms. Saunders had provided a declaration of restriction just prior to tonight's meeting; however, staff had not had the opportunity to review it. He asked that if Council was inclined to approve the variance request, Council provide an opportunity to review the declaration of restrictions to ensure that the Town's intent was included.

Vice-Mayor Weiner asked if this request was governed by any section of the Americans with Disabilities Act (ADA). Mr. Kutney replied negatively, stating that ADA requirements would be interjected during the building aspect of the project, if approved. Councilmember

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Cox asked if the deed restrictions mentioned that the 2.9 acres would not be subdivided. Mr. Kutney replied that during a quick review, it appeared that a subdivision of the 2.9 acres would be prohibited; however, he felt that the language could be clarified a more.

Mr. Kiar asked if anyone wished to provide testimony in favor of or opposition to the petitioner.

Gary Diamond, representing the petitioner, stated that the petition was basically a request for the minimum size facility for a single person to live in. He indicated that the guest house was not in any way intended to house more than one person. Councilmember Cox stated that she was also concerned with the density issues, but felt that if the petitioner had no objection to restricting the property to a minimum of 2.9 acres, she had no problem with the variance request.

Mr. Kiar stated that the hearing was concluded.

Councilmember Cox made a motion, seconded by Councilmember Paul, to approve subject to the deed restrictions and staff's review thereof so that the petitioner was in compliance with the wishes of the Planning and Zoning Board and the staff found them to be adequate. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

Vice-Mayor Weiner asked that item 9.11 also be taken out of order. There were no objections.

9.11 Mr. Kiar explained the rules concerning the presentation of evidence. Town Clerk Reinfeld swore in the witnesses.

Mr. Kutney advised that his qualifications were on file with the Town and asked that the planning report be included as part of the record. He read the planning report into the record.

Vice-Mayor Weiner asked if there was a fee associated with this special permit application. Mr. Kutney replied affirmatively, stating that the petitioner had paid approximately \$970.

Mr. Kiar asked if anyone wished to provide testimony in favor of or opposition to the petition.

Neal Kalis, representing the petitioner, gave a history of the property. He questioned if, after hearing about the new legislation, a special permit was actually necessary. Mr. Kalis stated that he had had no objections to working with staff as the petitioner was under strict time constraints. He asked that Council approve the application so that the petitioner could begin rebuilding.

Paul Wunderlich, 4741 SW 72 Avenue, stated that his backyard adjoined the subject property and indicated that he definitely wanted the petitioner to rebuild.

Arthur Hurley, 4601 SW 128 Avenue, asked when Spyke's Grove had to the Town to request the ability to rebuild their building. Mr. Kutney replied that it had been several months ago, but he could not provide an exact date. Mr. Hurley asked how staff had determined that there was a conflict in the rebuilding of this property. Mr. Kutney replied that the Griffin Road Corridor did not permit this particular use. He indicated that as discussed on several previous occasions, zoning was still something that was applied as it related to farm related uses. Mr. Hurley asked what staff referred to when making that

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statement. Mr. Kutney stated that staff had seen it by virtue of circuit court cases, one being in the Orlando area, and that he had personally spoken with the Department of Community Affairs who had given him the same reading that had been provided to Mr. Hurley on numerous occasions. He further explained that by the mere fact that agriculture was mentioned throughout State Statute 163, farm activities were intended to be regulated. Mr. Hurley stated that he had no objections to Spyke's Grove rebuilding; however, he felt that the special permit fees should be refunded. He felt that this fee was nothing short of harassment of an agricultural business.

Mr. Kiar stated that the hearing was concluded.

Mayor Venis asked if the special permit fee could be waived. Mr. Kutney replied that there were no regulations in the Code which indicated that the petitioner would be exempt from the required fees.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, acknowledging that Spyke's Grove had the right to rebuild as a farm and as a non-residential structure on a farm and to direct staff to refund \$930 to Spyke's Groves.

Councilmember Cox stated that she would like staff to look further into refunding the application fee. She explained that she in no way wanted to hold back the redevelopment of the property; however, she expressed concern that a determination was needed as to whether the fee should have been charged in the first place. Councilmember Cox indicated that if Council wanted to waive the fees due to the extenuating hardships in this case, that was fine; however, she felt that a legal opinion was necessary prior to determining that the fee could be waived based on the State Statutes.

Councilmember Paul asked if Vice-Mayor Weiner's motion indicated that the special permit was being eliminated. Vice-Mayor Weiner replied negatively, stating that he did not believe that a special permit was necessary under State law. He indicated that his motion acknowledged that the petitioner had the right to rebuild and to refund the special permit fees which they were not required to pay in the first place. Vice-Mayor Weiner apologized to the petitioner, "although Mr. Kalis was a brother of the Florida Bar" that they had to incur attorney's fees in this matter. Mr. Kalis stated that he had not charged the petitioner's for his work in this matter, stating that he truly believed that the petitioner should not have to pay a special permit fee.

In response to Councilmember Cox's questions, Mr. Kalis explained that he had never intended to debate the issue as expediency was more important than winning. He further expressed his understanding that this was a very complex case and, since expediency was the issue, he was not prepared to argue or provide an opinion in this matter. Councilmember Cox stated that her only concern was that Council move forward on this matter in a correct manner. She reiterated her concern that if Council was waiving the fees based on Florida law, she wanted some assurance that this particular property met the necessary requirements. Mr. Kalis had no objections and indicated that he would graciously accept Council's recommendation. Councilmember Paul expressed concern that if the special permit was issued, the special permit itself could be used against the petitioner in the future. She wanted to ensure that the agricultural use was protected to the highest degree.

Vice-Mayor Weiner advised that he wanted to amend his motion for clarification and asked Councilmember Paul if she would rescind her second to the motion. Councilmember Paul had no objections.

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Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, acknowledging that no special permit was necessary for Spyke's Grove to proceed and to refund the special permit fees of \$930. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

Councilmember Paul advised that she had spoken with Mr. Kalis, Mr. Hurley and Barbara Speice. on the previously discussed issue. Vice-Mayor Weiner stated that he had received a telephone message from Mr. Kalis; however, he indicated that he had not returned the telephone call. Mayor Venis stated that he had spoken with Mr. Kalis on this matter. Councilmember Clark stated that she had also spoken with Mr. Kalis concerning this matter just prior to tonight's meeting. Councilmember Cox indicated that she had spoken with Mr. Kalis briefly this evening, but had not discussed this issue.

Mayor Venis indicated that item 9.9 would also be taken out of order.

9.9 Robert Lochrie, representing the petitioner, was present. He explained that the petitioner had recently received additional engineering comments and had engaged in conversations with one of their neighbors considering the project. Mr. Lochrie requested a tabling of this item to the next Council meeting in order to address the concerns raised.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, to table this item to July 5, 2000. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

8.2 VACATION - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, VACATING A PORTION OF ROAD RIGHT-OF-WAY FOR SW 46 AVENUE ADJACENT TO THE "IDF", "WEST DIXIE FARMS", JOHN C. SESSA", AND THE "NEWMAN'S SURVEY" PLATS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 2-1-00, Danielle/U-Pull-It, McKenzie Tank Lines, Inc., Adler Development, Inc., Manchac's Paving, 4000 SW 47 Avenue)

Town Clerk Reinfeld read the ordinance by title. Mayor Venis advised that a public hearing would be held on July 5, 2000.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Paul made a motion, seconded by Vice-Mayor Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - out of room; Councilmember Paul - yes. (Motion carried 4-0)

9. PUBLIC HEARINGS

Mayor Venis opened the public hearing portion of the meeting.

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Ordinances - Second and Final Reading

2000-20 9.1 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT ~~AND CF, COMMUNITY FACILITIES DISTRICT~~, TO R-5, LOW MEDIUM DENSITY DWELLING DISTRICT, ~~AND A-1, AGRICULTURAL DISTRICT TO CF, COMMUNITY FACILITIES DISTRICT~~, OF THE TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 7-1-99, Alpha Baptist Church, Inc., 5230 Pine Island Road) (tabled from June 7, 2000)**

Town Clerk Reinfeld read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance.

Barbara Hall, representing the petitioner, indicated that it would be help if staff made its presentation as there had been revisions to the ordinance. She stated that the project in question was originally designed with 81 units which had been decreased to 42 units.

Planning and Zoning Manager Jeff Katims provided a brief history of the rezoning request, describing the various changes which had occurred since the inception of the project. He indicated that the revised deed restrictions limited the use of the property to 42 single family homes which was necessary for the R-5 zoning. Mr. Katims added that it also limited the use of the 10 acres land use planned and zoning to CF to strictly water and private recreational uses and utilities infrastructure relating to the single family development.

Ralph Button, representing Alpha Baptist Church, stated that he had been briefed and had no objections to the project.

Mayor Venis closed the public hearing.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

Ms. Hall asked if item 9.7 could be discussed at this time as it related to the same project. There were no objections.

9.7 Town Clerk Reinfeld read the ordinance by title only.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

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9.2 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE,
2000-21 FLORIDA, AMENDING THE TOWN CODE BY ADDING TO CHAPTER 2,
ARTICLE VI, DIVISION 1, A NEW SECTION NUMBERED 2-172, ENTITLED
"RESTRICTIONS ON REPRESENTATION FOR COMPENSATION BEFORE
THE TOWN BY FORMER OFFICERS OR EMPLOYEES"; PROVIDING FOR
SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Town Clerk Reinfeld read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Cox questioned the issue of "retroactivity" as described by State law, asking if this ordinance was approved, was the retroactivity inclusive of previous employees. Mr. Kiar replied that this ordinance only brought the Town's Code into compliance with State Statutes and he did not believe that this could actually be made retroactive. Councilmember Cox questioned if that meant that an employee who left the Town last year would be prevented from representing anyone before Council. She indicated that perhaps retroactive was not the proper terminology. Vice-Mayor Weiner asked that Mr. Kiar look into this matter further; however, he stated that his perspective was that Council could define any existing employee, but Council could not define retroactive to any employee who had already left. Mr. Kiar felt that this would be his opinion as well, but indicated that he would look further into this matter at Council's request. Mayor Venis requested that Mr. Kiar look into the specifics of defining retroactive in this ordinance.

Vice-Mayor Weiner made a motion to table this item to the next meeting so that Mr. Kiar could research that issue.

Mr. Kiar clarified that the issue was whether the ordinance could be retroactive to any prior employee. Vice-Mayor Weiner stated that the issue was to determine if this ordinance would apply to any existing employees who started prior to the passage of the ordinance. Councilmember Cox explained that her concern was whether or not an employee who had left the employ of the Town prior to the passage of the ordinance would be prevented from representing a client before Council. Vice-Mayor Weiner stated that that employee would be prevented from representing a client before Council to the extent the State law would prevail in this matter. He explained that the ordinance would have to expressly state, if it could be done that way, that it would apply retroactively. Mr. Kiar stated that his "gut reaction" was that this could not be done. Vice-Mayor Weiner agreed and stated that his only concern was whether this ordinance could be applied to employees who were already working for the Town prior to the passage of the ordinance. Councilmember Cox felt that existing employees would be covered as they would be aware of the passage of the ordinance, but requested a clarification on the possibility of using retroactivity.

Vice-Mayor Weiner withdrew his motion.

Councilmember Paul made a motion, seconded by Councilmember Cox, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

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9.3 AMENDING OCCUPATIONAL LICENSE RATE SCHEDULE - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN'S OCCUPATIONAL LICENSE RATE SCHEDULE IN ACCORDANCE WITH CHAPTER 205.0535(4) OF THE FLORIDA STATE STATUTES BY INCREASING THE RATE OF EACH CLASSIFICATION BY FIVE PERCENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Town Clerk Reinfeld read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Mayor Venis asked if all the appropriate changes had been made to the proposed classifications. Vice-Mayor Weiner stated that Real Estate Appraisers were listed under the professional category and questioned if the category hatcheries: poultry and/or fish related to aquaculture. Mr. Kutney replied affirmatively. Vice-Mayor Weiner also questioned licensing for the uses of horses, stables, and other related issues which he felt should be exempt from the occupational license schedule as they were part of a farm. Mr. Kutney indicated that this was only a fee schedule and felt that the exemption of such issues should be dealt with under Section 13-29 of the Code. He explained the revision that staff was proposing to ensure that the Code complied with State law. Vice-Mayor Weiner stated that he had a problem with defining the exemption based solely on Statute 823.14. Mr. Kutney stated that staff could consider additional wording.

Mayor Venis questioned why some of the categories listed showed a license fee of zero dollars. Mr. Kutney replied that all the possible categories were listed, including those that were exempt to provide as much information and protection as possible. Mayor Venis felt that the exempt categories should just be listed under the exemption section to make the fee schedule easier to follow. Town Clerk Reinfeld explained that if this change was made to the fee schedule, the ordinance would need to be amended to include the exemptions. Mr. Kutney concurred and believed that the fee schedule should be revised once the ordinance was amended.

Vice-Mayor Weiner asked if the exempted categories would be sent notices for renewals of their license on October 1st. Mr. Kutney replied that this was not necessary, if Council directed staff to eliminate those businesses. Mayor Venis asked what time frame staff was looking at to amend the ordinance. Mr. Kutney replied that he was hoping to have the amended ordinance before Council for its consideration by October 1st. Mayor Venis questioned what would happen if the amended ordinance was not completed by October 1st. Mr. Kutney replied that the necessary businesses could be removed from the mailing list so that unnecessary fees would not be paid.

Vice-Mayor Weiner asked if it was essential for Council to approve this item tonight or, if Council had the opportunity to table this item so that staff could make the necessary changes. Mr. Kutney stated that he did not believe that tabling this issue would present a problem.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, to table the second reading to allow staff an opportunity to remove all references to exempt professions. Mr. Middaugh stated that the second hearing had actually been held and that Council could consider the tabling of its actions. Vice-Mayor Weiner indicated that this was the intent of

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the motion. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

2000-22 **9.4 REVISING/ESTABLISHING NEW OCCUPATIONAL LICENSE CLASSIFICATIONS - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN'S OCCUPATIONAL RATE SCHEDULE IN ACCORDANCE WITH CHAPTER 205 OF THE FLORIDA STATE STATUTES BY REVISING CLASSIFICATIONS AND ESTABLISHING NEW CLASSIFICATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Town Clerk Reinfeld read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Cox made a motion, seconded by Vice-Mayor Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

2000-23 **9.5 MODIFYING DISCHARGE LIMITS - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, MODIFYING THE ALLOWABLE DISCHARGE LIMITS FOR WASTEWATER WHICH WAS ADOPTED BY ORDINANCE 97-61; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Town Clerk Reinfeld read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Paul made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

2000-24 **9.6 REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM CF, COMMUNITY FACILITIES DISTRICT, TO RM-5, LOW MEDIUM DENSITY DWELLING DISTRICT, AND B-2, COMMUNITY BUSINESS DISTRICT, AND TO AMEND THE DECLARATION OF RESTRICTIONS; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 3-1-00, Madison Lakes, 5000 SW 82 Avenue)**

Town Clerk Reinfeld read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, to approve.

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Councilmember Cox asked if the change to the community district was for the mitigation site. Mr. Kutney replied affirmatively, indicating that it was also consistent with the land use which was commercial. Councilmember Cox expressed concern that there could be a problem in the future with mitigation being on commercial land.

In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

9.7 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, 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 4-1-00, Alpha Baptist Church, 5230 Pine Island Road)**

This item was discussed earlier in the meeting.

Vacation/Abandonment

9.8 **VACATION/ABANDONMENT - VA 5-1-00, Hacienda Cove, LLC, northwest corner of I-595 and US 441 (RM-16) Planning and Zoning Division recommended approval; Planning and Zoning Board recommended approval**

Mr. Katims read the planning report.

Councilmember Paul questioned if Council should have received copies of the letters from the utility companies showing no objections. Mr. Katims replied that staff ensured that a response was received from the necessary companies before the application came before Council. He indicated that the letters were not copied to Council but the information was included in the staff report.

Stephanie Toothacher-Walker, representing the petitioner, indicated that she had no additional comments.

Mayor Venis asked if anyone wished to speak for or against the petition. As no one spoke, the public comments were closed.

Councilmember Cox made a motion, seconded by Vice-Mayor Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

Quasi Judicial Hearings

9.9 **VARIANCE - V 5-2-00, Summerlake Apartment, Inc., 5941 Summerlake Drive (RM-16) (1) to reduce the required perimeter landscape buffer along the southern property line from ten feet to five feet, and 2) to reduce the number of required parking space from 216 spaces to 196 spaces) Planning and Zoning Division recommended approval subject to the conditions outlined in the planning report; Planning and Zoning Board recommended approval subject to the conditions outlined in the planning report**

This item was tabled earlier in the meeting

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- 9.10 **VARIANCE - V 5-3-00, Saunders, 1981 SW 139 Avenue (R-1) (1) to exceed the maximum allowable floor area for a guest house or cottage, and 2) to contain food storage, processing, handling, preparation areas and equipment, including but not limited to, a stove, oven, refrigerator, dishwasher, sink, disposal, washing machine, and clothes dryer) Planning and Zoning Division recommended denial; Planning and Zoning Board recommended approval subject to the conditions outlined in the planning report**

This item was discussed earlier in the meeting.

- 9.11 **SPECIAL PERMIT - SE 5-1-00, Kalis/Spyke's Grove, Inc., 7250 Griffin Road (Griffin Road Corridor) (A-1 and Griffin Road Corridor District) Planning and Zoning Division recommended approval subject to the conditions out line in the planning report: Planning and Zoning Board recommended approval subject to the conditions out line in the planning report**

This item was discussed earlier in the meeting.

Item to be Tabled

- 9.12 **STAFF REQUESTING A TABLING TO JULY 5, 2000**

SPECIAL PERMIT - SE 5-2-00, Nextel Communications/Southeast Properties, 5501 South University Drive (B-2)

This item was tabled earlier in the meeting.

Item to be Withdrawn

- 9.13 **PETITIONER REQUESTING THAT THIS ITEM BE WITHDRAWN**

VARIANCE - V 5-1-00, Mellgren/Adler Oakes, Ltd., 4350 Oakes Road (M-1, County)

This item was withdrawn earlier in the meeting.

10. APPOINTMENTS

Councilmember Clark asked if she could add an item to the agenda as item 10.8, Citizen Assembly Committee. She explained that she had received a letter from one of her appointments asking to resign from the Committee. There were no objections.

- 10.1 **Davie Water Advisory Board (exclusive appointment - Councilmember Clark; term expires December 2000)**

Councilmember Clark appointed Charles Kaiser.

- 10.2 **Florida Municipal Insurance Trust Nominations (term expires three years after appointment)**

Mr. Middaugh stated that Council needed to vote on this issue if a nomination was to be made. Mayor Venis nominated Councilmember Paul who declined, stating that she had no time to participate. Vice-Mayor Weiner stated that before anyone nominated him, he would decline serving on this board, stating that he did not believe that the Town should be involved in this.

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Mayor Venis and Councilmember Clark stated that they were too busy to participate. Councilmember Cox indicated that she did not feel comfortable undertaking this nomination as she did not know enough about insurance.

Councilmember Clark asked if the recommendation for nomination had to be a Councilmember. Mr. Middaugh replied affirmatively, but indicated that Council could opt not to appoint anyone. Mayor Venis questioned who had previously served on this board on behalf of the Town. Mr. Middaugh responded that former Councilmember Jim Bush had served as the Town's representative.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, not to nominate anyone. In a voice vote, all voted in favor.

10.3 Open Space Advisory Committee (exclusive appointment - Councilmember Clark and Vice-Mayor Weiner; term expires July 2000)

Councilmember Clark appointed Kelly Nunez. Vice-Mayor Weiner deferred his appointment.

10.4 Community Redevelopment Agency (exclusive appointment - Councilmember Paul; term expires April 2002) (member shall either reside or engage in business within the jurisdiction of the Town)

Councilmember Paul appointed Mickey Maros.

10.5 Open Space Advisory Committee (two exclusive appointments per Councilmember; term of August 2000 to July 2001)

Councilmember Cox appointed Sandy Switzer and deferred her second appointment. Vice-Mayor Weiner appointed Joy Yoder and deferred his second appointment. Mayor Venis appointed George Greb and Bob Hoth. Councilmember Paul appointed Toni Webb and Hilda Testa. Councilmember Clark appointed Kelly Nunez and Ellen Christopher.

10.6 Child Safety Board (two exclusive appointments per Councilmember) (members shall reflect to the greatest extent possible, interest and expertise in the following areas: law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood) (term of August 2000 to July 2001)

Councilmember Cox deferred her appointments. Vice-Mayor Weiner reappointed Mary Haas and appointed Douglas Iscovitz. Mayor Venis appointed Lil Olfern and Joy Yoder. Councilmember Paul appointed Dudley Jones and Rosemary Lansche. Councilmember Clark appointed Joseph Brill and Lorraine Hoffman.

10.7 Parks and Recreation Advisory Board (exclusive appointment - Councilmember Clark; term expires August 2000)

Councilmember Clark stated that she needed to complete item 10.8 before she could make her appointment to the Parks and Recreation Advisory Board.

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10.8 Citizen Assembly Board

Councilmember Clark stated that she had appointed Betty Jefferson to this Board; however, as Ms. Jefferson had not received any information concerning the first meeting and received the information for the second meeting late, Ms. Jefferson had not yet attended a meeting. She stated that Ms. Jefferson had provided a letter of resignation and, therefore, she wished to appoint Ann McNally to the Citizen Assembly Board.

Councilmember Clark indicated that she, in turn, wished to appoint Betty Jefferson to the Parks and Recreation Advisory Board.

11. OLD BUSINESS

11.1 Criteria for Town Donations to Organizations (Councilmember Paul)

Councilmember Paul stated that this issue had been deferred from several meetings and some discussion had been held regarding the tying of this item into the budget hearings. She asked if additional budget workshops were going to be held. Mayor Venis replied affirmatively. Mr. Middaugh indicated that a specific date had not yet been scheduled, but agreed that an additional workshop would be held in the near future. Councilmember Paul asked that this issue be tied into the budget hearings as was recommended at a previous meeting.

12. NEW BUSINESS

12.1 Waste Management (Vice-Mayor Weiner)

Vice-Mayor Weiner stated that he had brought up this issue during a disagreement with Mr. Middaugh as to whether Waste Management had breached the franchise agreement. He indicated that he had met with Mr. Laystrom, as well as representatives of Waste Management, and had made it clear that he would be requesting that this service be placed out to bid. Vice-Mayor Weiner stated that although Waste Management wanted to continue providing services to the Town, his position had been understood. He emphasized his position that if any franchise company breached their agreement with the Town, he wanted to be advised immediately.

Mayor Venis stated that he had written a letter to Waste Management due to several telephone calls he had received from individuals who did not reside within the Town for months at a time and were still being charged. Mr. Middaugh stated that the Town had offered an agreement, contingent on Council's approval, that anyone who was gone for 90 days or more at a time, could temporarily stop their garbage service. He indicated that there would, however, be a \$25 start-up service fee. Mr. Middaugh advised that the proposed ordinance addressing this matter had been prepared and sent to Mr. Kiar's office for review. He suspected that the ordinance should be ready by the next Council meeting for formal action. Mayor Venis asked that the residents he had contacted be advised of the status of this issue.

12.2 Proposals on Aquaculture Facility

Vice-Mayor Weiner advised that the Town had received a proposal from Nova Southeastern University (NSU) and a letter from Neptune Aquaculture. He stated that Neptune Aquaculture was interested in providing proposals, but was unsure exactly what the Town was looking for and if the Town was interested in talking to them for additional

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information. Mr. Middaugh indicated that the correct procedure, if the Town wished to change the agreements in place, would be to prepare a request for proposal or a public offering delineating Council's wishes. He indicated that in this manner, all interested parties would be able to submit their proposals. Councilmember Cox stated that a request for proposal would be appropriate in this matter and felt she would be uncomfortable speaking with just one party without providing other interested parties the same opportunity. Vice-Mayor Weiner suggested that Council hold a workshop with Neptune Aquaculture and then put out a request for proposal based upon the discussions of that workshop. He indicated that the workshop could be held by staff in a format where Council would be allowed to attend. Mayor Venis suggested that the meeting be held as a Council workshop so that Council could participate and provide direction if necessary.

12.3 Orange Drive and Shot Gun Road Trafficways Issue (Councilmember Paul)

Councilmember Paul stated that she had received a memorandum from Broward County Commissioner Lori Parish's office concerning this issue and asked for some time to review the issues mentioned in the memorandum. She asked Councilmember Cox what her concerns were regarding this issue. Councilmember Cox replied that she understood the trafficways concerns in this corridor, but was concerned that taking it off the Trafficways Plan would not result in controlling or restricting traffic out of that area. She indicated that the developer, who owned basically all the property in that area, would build the road any way he wanted. Councilmember Cox indicated that another negative aspect she saw in removing Orange Drive from the Trafficways Plan between Davie Road and Flamingo Road, was that future commercial developments in the area would not have to meet current setback requirements.

Councilmember Paul stated that she had spoken several times with Mr. Rawls in an effort to determine how Orange Drive could remain a two-lane road. Mr. Rawls explained that the traffic loads associated with respective uses were significantly greater in the western site. He indicated that residential property generated much less traffic than commercial sites. Councilmember Paul asked if there was any way Council could protect Orange Drive as a two-lane rural road. She felt that this had been the Town's pledge to its residents for a long time. Mr. Rawls stated that taking the road off the Trafficways Plan provided that assurance, but indicated that the courts would also make the decision as to what rights a property owner had to build the infrastructure necessary to support the development of his land. He indicated that this was a difficult situation as the property owner owned the property on either side of the road within the area of concern. Mr. Rawls stated that staff was open to discussing creative suggestions from the developer to amicably resolve this issue, but he recognized that this situation was a difficult one to deal with. Councilmember Paul stated that she did not want to "drop the ball" on this issue and wished to speak with Mr. Kiar concerning the legal aspects of removing the road from the Trafficways Plan, as well as meeting with Messrs. Kutney and Rawls to review the setbacks as it pertained to commercial lands. She asked that this issue be discussed under Old Business at a future meeting.

Councilmember Cox explained that the Trafficways Plan was not a road building plan, but rather a way to acquire rights-of-way. She indicated that the rights-of-way were provided as individuals came in to develop lands. Councilmember Cox stated that just because the rights-of-way were given, it did not mean that the road had to be constructed. She indicated that part of the reason Council had gone along with the bridges being installed between

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Griffin Road and Orange Drive was because it was one way to relieve traffic from Orange Drive. Councilmember Cox stated that although she was not particularly excited over the bridges, she understood that this assisted the Town in maintaining Orange Drive as a rural road.

Councilmember Clark stated that she had participated in a meeting with the Economic Development Council (EDC) where a question was asked regarding the Town's intent in this matter. She indicated that perhaps the Town should keep communications with EDC open, believing that the EDC deserved to be kept updated. Councilmember Paul felt that it was Economic Development Coordinator Margaret Wu's responsibility to provide the EDC with regular reports concerning this matter. Councilmember Clark stated that the EDC had expressed some concern over how it was treated by Council and that Council should make an extra effort to bring them into the process.

12.4 Single Member Districts

Councilmember Clark stated that she had watched the County develop into single member districts and she supported that issue. She indicated that she did not really see this issue as an argument as it was very difficult to campaign town-wide. Councilmember Clark stated that collecting contributions would be much easier if single member districts were initiated. She added that if single member districts were initiated, local sections of the Town would not be ignored. Councilmember Clark said that if the Town had used single member district, District 1 would not have been ignored for the past nine years. She felt that due to town-wide campaigning, the former Councilmember for District 1 was never held accountable. Councilmember Clark did not feel that low voter turnout was an excuse, stating that the few who voted in the area should have had the opportunity to vote for someone they thought would take care of their district. She stated that many people did not want to admit to the problems of discrimination and the difficulties it took for minorities to get involved, but being in denial was not excusable. Councilmember Clark believed that if single member districts were possible, prospective Councilmembers could run in their respective districts based upon their own merits. She indicated that people did not want to believe that Davie was a place where minority problems existed due to negative or prejudicial behavior; however, she constantly received reactions that were an embarrassment. Councilmember Clark asked that this issue be brought to the residents.

Vice-Mayor Weiner stated that the only problem he had with this issue at this point was due to the time of year and explained that this issue probably could not be placed on a ballot until March 2001. Councilmember Clark felt that it would be in the Town's best interest to have this issue brought to the residents in November when a higher number of voters would be at the polls. Councilmember Paul indicated that the problem was that it was not known if there would be sufficient room on the ballot to include the Town's referendum.

Mayor Venis asked that a workshop be scheduled to discuss any possible concerns, with the intent of providing this question on the ballot of March 2001. Vice-Mayor Weiner stated that providing this question on the November ballot would be in the best interest of the Town and believed that the Town should aim for that schedule if possible. Councilmember Clark asked if there was a deadline to provide the information to the Supervisor of Elections Office. Town Clerk Reinfeld replied affirmatively, stating that the information needed to be provided by the first week in September. She explained that the date provided was before the scheduled Council meeting and, therefore, the ordinance would

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need to be approved by the end of August. Mayor Venis asked that a workshop be scheduled in July to further discuss this matter. Vice-Mayor Weiner suggested that the workshop be held on July 12th.

12.5 441 Corridor (Councilmember Cox)

Councilmember Cox indicated that she had attended a meeting concerning 441 corridor, stating that the Department of Transportation (DOT) had pretty much made up its mind. She emphasized that she had brought up some issues of concerns, such as drainage, but was unaware if DOT would be addressing them. Councilmember Cox stated that she would advise Council of any updates pertaining to this matter.

12.6 Florida League of Cities

Vice-Mayor Weiner stated that Mr. Wallace had provided him with some preliminary information concerning the costs involved in being a member of the League. He indicated that the major concern was how much it would cost the Town to replace the insurance if the Town opted to not pay the membership to this institution.

Councilmember Cox stated that the Town received many benefits other than insurance from the League. She indicated that workshops and conferences provided by the League were very informative and added that the League could also provide assistance with difficult issues when working through the State legislature. Councilmember Cox felt that excluding the Town from the benefits the League could be detrimental.

Vice-Mayor Weiner stated that the Town did not need assistance by having the League oppose the Town in its dealings with the surcharges brought by the City of Sunrise. Mayor Venis agreed and felt that the League should have stayed out of that issue. He indicated that the matter affected more than one city and the League should have stayed neutral without taking sides. Councilmember Cox agreed with Mayor Venis, stating that the League should have remained neutral instead of pinning one city against another. She felt that just because they had taken sides did not mean that separating from the organization would help the Town.

12.7 Review of Request for Proposal - Outside Legal Counsel

Vice-Mayor Weiner asked who had generated the list of attorneys. Town Clerk Reinfeld stated that the list had been generated by the departments that participated in preparing the request for proposal. She explained that this was not an exclusive listing, but rather a listing of special counsel that was prepared for Council's review.

Mr. Middaugh stated that the back-up information also included information for in-house counsel. He asked Council for direction on how staff should proceed with both these issues. Mayor Venis suggested that the information concerning in-house counsel be addressed at a future meeting. Vice-Mayor Weiner suggested that both issues be tabled which would provide Council with an opportunity to further review the information. He indicated that the attorneys chosen would need to work hand-in-hand.

Vice-Mayor Weiner asked that these items be tabled to the meeting of July 5th under Old Business. The recommendation passed by acclamation.

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12.8 Review of Town Administrator

Vice-Mayor Weiner stated that this issue was not something he wanted to sit through. He made a motion to give Mr. Middaugh his termination without cause, that he commence some sort of leave for the next 60 days, because he was entitled to two months notice before a 12 month severance package kicked in.

Vice-Mayor Weiner felt that there was no need to prolong this and that the Town needed to "cut bait" and move forward. He indicated that he understood Council had the option to deliberate this issue, but felt that the best way to start the discussion was to make the motion to terminate Mr. Middaugh in accordance with the contract and requesting Mr. Kiar to provide written notice tomorrow. Vice-Mayor Weiner stated that in the mean time, Council should ask Mr. Middaugh to enjoy his 60 days notice.

Councilmember Clark asked if Council was legally bound to do what Vice-Mayor Weiner was suggesting to terminate immediately as the contract required for a 60 day notice of termination. Vice-Mayor Weiner stated that his motion provided Mr. Middaugh with 60 days leave, commencing the termination after the 60 days with 12 months pay. He explained that the termination would be effective 61 days after the notice was provided. Mr. Kiar stated that Council could make a motion to terminate Mr. Middaugh's employment, however, the 60 days notice had to be in writing and delivered either in person or by certified mail. He indicated that he did not see any problem with placing Mr. Middaugh on leave, knowing that the Town would still be required to pay Mr. Middaugh during that leave.

Vice-Mayor Weiner stated that he wished to terminate Mr. Middaugh without cause because he did not believe that Mr. Middaugh deserved to be told publicly why he was being terminated. He understood that Mr. Middaugh was entitled to certain things under his contract if that was the direction that Council decided to take.

Councilmember Paul knew that a number of Councilmembers had philosophical differences with Mr. Middaugh, but wanted to know where Council would go from here. She questioned if it would be appropriate to provide Mr. Middaugh the opportunity to present his point of view or plan. Councilmember Paul stated that she also did not want to drag this out, but felt this was a major step to move forward without further discussion. She wanted to make certain that if Council moved forward with this decision, the Town would be cleared of any lawsuits. Mr. Kiar stated that the employment contract provided that Mr. Middaugh was entitled to 60 days notice in writing and he was to receive a year's severance plus other benefits. He indicated that Council had the right to terminate Mr. Middaugh's employment without cause as long as the severance package was provided. Vice-Mayor Weiner asked if "cause" was a defined term in the contract meaning conviction of a felony or other serious types of offenses. Mr. Kiar agreed. Vice-Mayor Weiner stated that in that event, cause would never be an issue unless Mr. Middaugh was criminally investigated, prosecuted, and convicted. Mr. Kiar agreed.

Councilmember Clark asked if Council proceeded with this plan tonight, what would happen tomorrow. Mayor Venis stated that Council would decide this evening and added that Council would appoint an interim Town Administrator.

Councilmember Cox stated that she could not believe Council was doing this, indicating that Mr. Middaugh had the courage of his convictions to make a very difficult decision. She emphasized that during his short tenure, Mr. Middaugh had tried to effectuate some very good things for the Town. Councilmember Cox stated that Mr. Middaugh had been tossed a "number of grenades" and she felt that he had dealt with those issues as best he

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could. She believed that Mr. Middaugh enjoyed a good deal of support from the community, as well as from staff. Councilmember Cox stated that she could not believe that after searching so hard and finding someone who had brought such good things to the Town, Council was participating in another "late night massacre". She did not know how Council functioned this way and indicated that the answer to "where were we going?" was that the Town was going to a strong executive mayor.

Vice-Mayor Weiner stated that his list of issues against Mr. Middaugh did not include only fire union issues. He indicated that in regards to another "late night massacre," he had brought this issue up at the beginning of the meeting and felt that Councilmember Cox should have taken the opportunity to take this item out of order. Councilmember Cox felt that she would have been at the losing end and did not believe it would have done any good to request it.

Councilmember Clark agreed that Mr. Middaugh's convictions were strong, but felt her convictions were also strong and she was not in a position to continue with this type of administration. She indicated that she had always publicly stated that she did not support a strong-mayor form of government at this time, but this was not the issue tonight. Councilmember Clark stated that she heard this administration saying that it wanted to communicate, yet, she heard Council talking about several issues with nothing happening. She indicated that she agreed with Vice-Mayor Weiner that the "dirty details" should not be rehashed in public, but felt that there were many. Councilmember Clark stated that her only concern was what would happen tomorrow and asked that Vice-Mayor Weiner restate his motion.

Mayor Venis stated that it was not just one issue that concerned him and he was not pushing for a strong-mayor which was a rumor. He indicated that the Town would have an interim Town Administrator and added that he had his own business and also worked full time as mayor. Mayor Venis agreed that the "dirty laundry" should not be aired.

Councilmember Paul stated that the problem was much deeper and Council needed to look at existing problems in the Town and its departments. She indicated that these problems existed prior to Mr. Middaugh's arrival, yet Council had expected him to solve all the problems. Councilmember Paul emphasized that the Town needed to get to the root of the existing problems and begin moving forward. She indicated that the Fire Department had answered an alarm in her neighborhood in a professional manner and that they were still doing their jobs. Councilmember Paul indicated that if there were staff members who felt they could not work under the direction provided by Council, then that was unfortunate. She thought that it was time to clean house and get a fresh start.

Mayor Venis stated that during the interviews for the Town Administrator, the first issue he addressed with each candidate was that he wanted a thorough review of the organization with the appropriate steps taken to make each department run efficiently. He indicated that this goal had not been accomplished.

Vice-Mayor Weiner restated his motion, seconded by Councilmember Clark, to give Mr. Middaugh written notice of termination to be effective the 61 day after it was received and, in the interim period, that he continue to receive his pay as required pursuant to his contract. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - no; Councilmember Paul - yes. (Motion carried 4-1)

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Mayor Venis asked that Council discuss appointing an interim Town Administrator. Vice-Mayor Weiner stated that for informational purposes, he wished to divulge that he had discovered that dual-office holding was a serious issue. He indicated that he wished to bring this up so that Mr. Rawls was not placed in a compromising position. Vice-Mayor Weiner explained that dual-office holding was an issue that needed to be addressed by any public official, including department heads. He indicated that serving as an interim Town Administrator could provoke the loss of an existing position. Vice-Mayor Weiner stated that if Mr. Rawls was appointed as Interim Town Administrator, he would lose his position as Town Engineer. He indicated that the Charter would need to be amended in order to permit dual-office holding.

Councilmember Paul asked if there was anyone on staff that was qualified to serve as Interim Town Administrator.

Mayor Venis questioned that any public official who was required to file a disclosure form would have to resign from that position to serve as Interim Town Administrator. Vice-Mayor Weiner clarified that by law, the individual would immediately lose their right to hold a prior office once a second public office was attained. He explained that this issue would not become effective until someone challenged it. Vice-Mayor Weiner stated that he just wanted everyone to be aware of the possibility; however, he stated that it was not necessary to take one attorney's opinion on this matter. He explained again that the only way to protect an employee in this situation was to provide a section in the Charter or the Code that indicated that in the absence of a town administrator, the person in a particular position would assume those responsibilities.

Councilmember Cox did not understand what the big deal was since Council had done this many times before and reminded Council that Town Administrators were changed every few years. Vice-Mayor Weiner stated that being an attorney, it was his obligation to disclose information he knew to be fact especially if it affected his role on Council. He indicated that he had no objection to Mr. Rawls taking the position, if he so desired, however, he felt he needed to point out the specifics of the law.

Mayor Venis stated that he did not believe that the problems within the Development Services Department were caused by the administration of the division and that only some restructuring was needed. He indicated that he had spoken with Building Official Tom Willi and suggested that he be considered. Mayor Venis stated that Mr. Willi had worked in conjunction with Mr. Rawls and had an administrative background. Vice-Mayor Weiner questioned if Mr. Willi was willing to jeopardize his job with Mayor Venis being unsure. Councilmember Cox asked if Mr. Willi had a degree in Administration. Mayor Venis replied affirmatively and indicated that Mr. Willi had administered very large departments. He suggested that Council make a motion contingent upon Mr. Willi accepting the position.

Vice-Mayor Weiner asked Mr. Kiar how long it would take for him to serve written notice on Mr. Middaugh concerning his termination. Mr. Kiar stated that he would prepare the written notice first thing in the morning and have a process server deliver the letter. Vice-Mayor Weiner asked if a special meeting could be called if Mr. Willi did not accept the position. Mr. Kiar replied affirmatively.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, contingent upon Mr. Willi being amenable to putting his position as Building Official in jeopardy of a dual-office holding challenge to designate Mr. Willi as Interim Town Administrator.

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Councilmember Paul questioned what would happen while Mr. Willi provided his response to Council. Mayor Venis stated that Mr. Rawls continued to be the Assistant Town Administrator.

In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - no; Councilmember Paul - yes. (Motion carried 4-1)

Vice-Mayor Weiner reminded Mayor Venis that if Mr. Willi did not accept this position, he would need to call a special meeting to further address this matter. Councilmember Paul asked how much notice was necessary to hold a special meeting if Mr. Willi did not accept the position. Town Clerk Reinfeld advised that 2 hours was needed for an emergency meeting and 24 hours was needed for a special meeting.

13. ADJOURNMENT

There being no objections or further business, the meeting was adjourned at 11:45 p.m.

APPROVED _____

Mayor/Councilmember

Town Clerk