

**TOWN OF DAVIE
REGULAR MEETING
JULY 10, 2002
7:00 P.M.**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:07 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present were Mayor Venis, Vice-Mayor Clark, Councilmembers Paul, Starkey, and Truex. Also present were Town Administrator Willi, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

3. PRESENTATIONS

3.1. Representative Nan Rich

Representative Rich spoke about the last six months of legislative sessions, which included reapportioning districts and rewriting the school code. Annexations were considered and parts of two bills she filed had ended up in the budget. Representative Rich advised that the Comptroller and Insurance Commissioner responsibilities had been separated by another bill, which separated the regulation of financial and insurance institutions. The Preservation 2000 fund was rated by the legislature and the proposal to use these funds for education and human services was vetoed by the Governor. The session on rewriting the school code was necessary to bring the State's education laws in line with the new K-20 education system; however, it included a religious rights issue which resulted in using more session time and taxpayer dollars. Representative Rich added that there was an unsuccessful attempt to change the zero tolerance policy on guns to allow students to bring guns to school as long as they were locked in their cars. She felt that more important school issues should have been addressed. Representative Rich spoke about the importance of a balance between growth and development in Davie.

Councilmember Starkey spoke about the Community Redevelopment Agency and asked Representative Rich to support the Town in its battle to try to preserve community redevelopment.

3.2. Canine Companions

Bob Waitkus and Therese Finnegan thanked Council for their support of the Paws for Applause event. Mr. Waitkus advised that Gimbel, a service dog in training, would come to be a service dog for a disabled person.

3.3. Citizen Recognition – Fire Chief Don DiPetrillo

Chief DiPetrillo presented two residents with recognition awards, who recently helped another resident during a fire at his residence.

3.4. Community Redevelopment Agency (CRA)

Redevelopment Administrator Will Allen advised that the CRA had approved a loan subsidy for the Davie Professional Building and a loan subsidy for the Megan South building.

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Funds had also been set aside for the purchase of land for a fire station on the east side and initial funding of infrastructure on the east side would also be part of next year's budget. Playground equipment for Betty Booth Roberts Park was also approved.

3.5. Upcoming Special Events - Bonnie Stafiej and Dennis Andresky

Special Projects Director Bonnie Stafiej advised that upcoming events included: Labor Day event (September 2nd), rededication of the Tony Salvino Bridge (August 24th), and the Town's auction (August 3rd).

Parks and Recreation Director Dennis Andresky advised that programs included: youth tackle and flag football, tackle football (beginning July 15th), pre-school centers, adults and seniors' French cuisine classes (July 16th), ice cream social (August 13th), and a trip to Festival Flea Market (July 25th).

Mayor Venis announced that item 7.11 was requested to be tabled until November 6, 2002.

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

Mayor Venis announced that item 7.14 was withdrawn by staff and item 8.4 was requested to be tabled until August 21, 2002.

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

Mayor Venis indicated that items 11.3 and 11.4 were requested to be added to the agenda.

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

4. MAYOR/COUNCILMEMBER'S COMMENTS

Comments were provided later in the meeting.

5. TOWN ADMINISTRATOR'S COMMENTS

Comments were provided later in the meeting.

6. TOWN ATTORNEY'S COMMENTS

Comments were provided later in the meeting.

7. CONSENT AGENDA

Resolutions

- R-2002-157 **7.1. MITIGATION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF THE CODE COMPLIANCE LIEN IN CASE NO. 97-075 FROM \$31,750 IN AMOUNT TO \$2,894.60; AND PROVIDING AN EFFECTIVE DATE.**

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- 7.2. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF HOLLYWOOD AND TOWN OF DAVIE FOR DEVELOPMENT PERMIT AND PUBLIC SAFETY SERVICES; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THE SIGNATURE TO SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.
- R-2002-158 7.3. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN SILVERADO OWNERS ASSOCIATION, INC. AND THE TOWN OF DAVIE POLICE DEPARTMENT FOR TRAFFIC CONTROL.
- R-2002-159 7.4. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND G.L. HOMES OF DAVIE ASSOCIATES IV, LTD., PROVIDING FOR THE INSTALLATION OF REQUIREMENT IMPROVEMENTS RELATED TO THE SOUTH POST PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 6-1-02, 4200 Shotgun Road)
- R-2002-160 7.5. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND G.L. HOMES OF DAVIE ASSOCIATES IV, LTD., PROVIDING TRAFFIC SIGNALIZATION IMPROVEMENTS RELATED TO THE SOUTH POST PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 6-2-02, 4200 Shotgun Road)
- R-2002-161 7.6. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND LANTANA SQUARE SHOPPING CENTER, LTD. AND NADINE CURCIE, FOR REGIONAL ROAD CONCURRENCY RELATING TO THE MJB/DAVIE I PLAT; PROVIDING FOR REMEDIAL MEASURES TO SATISFY CONCURRENCY REQUIREMENTS; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 6-3-02, 5990 SW 82 Avenue)

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- 7.7. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND LANTANA SQUARE SHOPPING CENTER, LTD. AND NADINE CURCIE, FOR INSTALLATION OF REQUIREMENT IMPROVEMENTS RELATING TO THE MJB/DAVIE I PLAT; PROVIDING FOR REMEDIAL MEASURES TO SATISFY CONCURRENCY REQUIREMENTS; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 6-4-02, 5990 SW 82 Avenue)
- R-2002-162
- 7.8. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO PROVIDE MAINTENANCE SERVICES FOR VARIOUS COMPUTER PERIPHERAL EQUIPMENT AND SOFTWARE PURCHASED UNDER STATE OF FLORIDA CONTRACT 250-05-97-1, WHOSE MAINTENANCE CONTRACT HAS RECENTLY EXPIRED. (\$24,430)
- R-2002-163
- 7.9. **WAIVER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING A WAIVER TO THE REQUIREMENTS OF A DEVELOPMENT PERMIT APPLICATION PROCESSED UNDER THE BROWARD COUNTY LAND DEVELOPMENT CODE FOR THE "FALCON'S LEA" PLAT, AND PROVIDING AN EFFECTIVE DATE. (DG 5-4-02, Stirling Road and SW 148 Avenue)
- R-2002-164
- 7.10. **WAIVER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING A WAIVER TO THE REQUIREMENTS OF A DEVELOPMENT PERMIT APPLICATION PROCESSED UNDER THE BROWARD COUNTY LAND DEVELOPMENT CODE FOR THE "HAWKE'S BLUFF" PLAT, AND PROVIDING AN EFFECTIVE DATE. (DG 5-5-02, Stirling Road and SW 156 Avenue)
- R-2002-165
- 7.11. **PLAT REVISION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING A REVISION TO THE RESTRICTIVE NOTE OF THE "P & J ESTATES" PLAT, AND PROVIDING AN EFFECTIVE DATE. (DG 6-2-02, 10591 Orange Drive)
- 7.12. **CHANGE ORDER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER #6 WITH CENTERLINE COMMERCIAL, INC. FOR VARIOUS ITEMS IDENTIFIED ON THE CHANGE ORDER FOR THE "POTTER PARK COMMUNITY CENTER AND GYMNASIUM" BUILDING. (\$27,919.91)
- R-2002-166

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- 7.13. **RATIFICATION/AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ratifying the Letter of Understanding (LOU) and Amendment of Collective Bargaining Agreements (CBAS) between the Town of Davie and the Blue Collar Unit and the White Collar Unit of the Federation of Public Employees (FPE).
R-2002-167
- 7.14. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE BID AWARDED BY CITY OF JACKSONVILLE, BID NO. SC-0463-00 TO "CONTRACT CONNECTION INC." FOR SUPPLYING AND INSTALLING ONE "POLIGON" PAVILION MODEL 665SF FOR THE "POTTER PARK COMMUNITY CENTER AND GYMNASIUM" SITE. (\$28,511.70)

Temporary Use Permits

- 7.15. TU 6-2-02, Flamingo Petroleum, 4351 South Flamingo Road
7.16. TU 6-3-02, Jaffee at 595, Inc., 10200 SW 101 Road

Site Plan

- 7.17. SP 4-1-02, New Building for Mainguy Landscape, 1855 Flamingo Road (AG) (tabled from July 3, 2002) *Planning and Zoning Division recommended approval subject to the planning report; Site Plan Committee recommended approval subject to staff's recommendation regarding lighting; that the dumpster be relocated within the southwest corner of the paved area of the site; and a footnote for Council's attention - the Committee feels that it is a commercial building located on agricultural zoned land*

Councilmember Paul asked that items 7.5, 7.16 and 7.17 be removed from the Consent Agenda. Councilmember Truex asked to remove items 7.1, 7.2 and 7.8.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to approve the Consent Agenda without items 7.1, 7.2, 7.5, 7.8, 7.16, and 7.17. In a voice vote, all voted in favor. (Motion carried 5-0)

7.1 Councilmember Truex suggested that the guidelines be used or, if they were not adequate, they should be changed. He felt that in the future the guidelines should be adhered to. Development Services Director Mark Kutney advised that normally, the guidelines were followed to the letter, but this was a special circumstance.

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

7.2 Mr. Kutney felt there were issues that needed to be investigated further and the applicant wished to withdraw this request.

John Voigt, on behalf of the petitioner, asked to withdraw this request

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

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7.5 Councilmember Paul advised that at another meeting, it was discussed that a signal was not wanted at Shotgun; however, GL Homes planned to install a traffic calming roundabout at that location.

Gladys DiGirolamo, representing the petitioner, indicated that Councilmember Paul's characterization was accurate.

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

7.8 Councilmember Truex stated that he did not agree with this being a piggyback bid and felt it was not beneficial to the Town. He stated that this resolution provided for an up front payment for three years of service, which he did not agree with. Councilmember Truex pointed out that there were a number of other authorized dealers in the area and this should be bid out.

Information Systems Director Frank Apicella explained that this contract was in addition to the already existing agreement and covered more equipment. He explained that all resalers paid the same price because it was a State contract.

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

7.16 Councilmember Paul indicated that she knew the permit was for a construction trailer but had questions regarding landscape buffer areas. She stated that some of the trees were very substantial and asked if they would be moved and put into the landscape buffer or mitigated.

An unidentified speaker indicated that the policy was to keep the trees in the area as much as possible. Discussion followed regarding the placement of the oaks and poincianas.

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

7.17 Bill Laystrom, representing the petitioner, referred to the handout provided to Council and stated that in the section regarding intended use of the facility, the planting of the nursery operation would begin prior to receiving their CO. The building had been reduced from 7,000 square feet to 5,000 square feet, composting would be limited to what the business used and would not be imported, retail sales would be limited to what was grown and the petitioner would not bring products on site to sell. An area east of the property line near the canal would be maintained and the petitioner would do the crosswalk markings for the horses. Signage would also include something about nursery operations and maintenance of equipment would be limited to their own.

Councilmember Paul asked if the back of the property was cleared of vegetation and recommended that planting begin immediately. Mr. Kutney agreed. Councilmember Paul asked if the applicant would be willing to raise the nursery operation to 60%. Mr. Laystrom stated that a dry retention area was needed and 51% was the majority of the site, which was what they were willing to do. Mr. Kutney indicated that a nursery operation fell under agriculture and spoke about the measures which would determine if this were a nursery or a

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landscape maintenance company. If all the requirements were met, the principal use would be determined to be a nursery.

Vice-Mayor Clark asked about the parking and how many vehicles were in the client's fleet. Mr. Laystrom indicated that the applicant operated 14 vehicles.

Councilmember Paul spoke more in detail about the restriction of retail sales and asked if the building would be set back further on the property. Mr. Laystrom advised that they were well set back off Flamingo Road because of the canal and because of the 51% property usage agreement, the building needed to be placed where it was proposed. Councilmember Paul spoke further about the parking and how it would be paved.

Councilmember Truex made a motion, seconded by Vice-Mayor Clark, to approve subject to and including Exhibits 1 and 2 and staff and Planning and Zoning Board recommendations. In a voice vote, with Councilmembers Starkey and Paul dissenting, all voted in favor. (Motion carried 3-2)

7.11 Alex Heckler voiced his objections to this item being tabled since he and his client wanted the item to be heard this evening. Mr. Kutney explained how staff had made the determination to table the item until November 6, 2002.

Planning and Zoning Manager Fernando Leiva stated that the land use and the zoning were consistent with the zoning classification and felt this could be tabled until the next meeting. The land use attorney for this project was consulted and the zoning in progress would not change this request.

Councilmember Starkey made a motion, seconded by Vice-Mayor Clark, to reconsider item 7.11. In a voice vote, all voted in favor, Councilmember Truex dissenting. (Motion carried 4-1)

Councilmember Starkey made a motion, seconded by Vice-Mayor Clark, to table to August 6, 2002. In a voice vote, all voted in favor. (Motion carried 5-0)

8. PUBLIC HEARINGS

Ordinance - First Reading (Second and Final Reading to be held August 7, 2002)

8.1. **COST RECOVERY - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA PROVIDING FOR COST RECOVERY TO REIMBURSE THE TOWN OF DAVIE FOR SPECIAL COSTS INCURRED BY THE TOWN IN THE PROCESSING OF APPLICATIONS FOR DEVELOPMENT PERMITS, CONTAINING PROVISIONS FOR COST RECOVERY ACCOUNTS; PROVIDING FOR IMPLEMENTATION OF THE COST RECOVERY PROGRAM; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE.** (tabled from June 19, 2002)

Mayor Venis advised that a public hearing would be held on August 7, 2002. Town Clerk Muniz read the ordinance by title.

Mr. Kutney explained that much research had been conducted regarding this ordinance and indicated that not many municipalities were doing cost recovery. Three methods were

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determined and an exemption section was included to differentiate between a larger developer and a smaller developer.

Councilmember Starkey distributed a matrix that displayed the differences of the ordinance drafted by the Town Attorney's Office and the ordinance drafted by Development Services. The intent of the ordinances was different, with one devoted to recovering special costs and one devoted to recovering all costs. Councilmember Starkey recommended that a second reading be held if this were to go to "all costs" by a Council decision. She stated that the developer would bear the cost of the fringe benefits in one plan and in the other, the Town incurred the cost. This should be incorporated in 18.6, dealing with costs. Councilmember Starkey noted that Section 18-5 under exemptions was a problem because a larger development would be totally exempt and this seemed inequitable

Mr. Kiar felt that items 2, 3 and 4 seemed to be problematic. Mr. Connick explained that 1 and 5 were exemptions the Town would be interested in, but 2, 3 and 4 would be exempting some very large developments.

Councilmember Paul had a concern about protecting small business owners and asked for a clarification. Mr. Kiar stated that a building footprint of 20% or less on a large development would qualify them as exempt along with a single-family property. Mr. Kutney indicated that this did not deal with acreage, but with square footage. Mr. Leiva explained that the intent of this language referred to footprint, not coverage.

Councilmember Starkey spoke about Section 18.6 and felt it was too vague, as it did not indicate who would set the fee schedule. She felt that Council should determine the fees. Mr. Willi agreed that Council should set the schedule, not a developer or staff. Councilmember Starkey stated that similar language should be incorporated as it was listed in the other draft. Mr. Kiar explained that this would be added just for clarification.

Discussion followed concerning the appeals process. Councilmember Starkey did not recommend giving up these decisions to the discretion of staff. Mr. Willi felt this would burden Council unnecessarily to take the responsibility for all decisions. Mr. Kutney spoke about fast tracking and how coming back to Council would work against that idea. Vice-Mayor Clark felt that staff would not misuse this opportunity to capture fees, but would do well with the decisions.

Mr. Kutney explained that staff's goal was not to usurp the finance accounting and how they did their job. Mayor Venis explained that Councilmember Starkey wanted a safeguard so developers would need to maintain a certain level in the account. Mr. Kutney explained the progression of invoices.

Councilmember Truex stated that he and Mr. Kutney had discussed that certain districts or areas could be exempted. He did not agree with the acreage issue, as he felt that small development would mean small acreage and a large development would be large acreage. Mr. Kutney stated that the acreage could be looked at again and the elaborate monitoring procedures could be revised.

Councilmember Starkey stated that Council should be involved and the appeals process should be kept in place. Councilmember Truex disagreed and felt that the small business owner should be supported.

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Mr. Kutney stated that the fee schedule was being updated and this would come before Council for approval. He advised that the firms used by the Town and their fees would be added to this schedule. Councilmember Starkey recommended that "Town Council" be added to the wording.

Mr. Kutney referred to the phrase "cannot dispute filing fee" in the dispute resolution procedures, stating that there was intricate monitoring by staff and the applicant could appeal and dispute after the initial filing fee. Discussion followed including the time frame imposed on the applicant before coming back to Council.

Councilmember Truex recommended getting rid of the language regarding appealing to the director of Development Services. Mr. Willi agreed it would say "Town Administrator or his designee." Council agreed on the time frame of 45 days.

Mr. Kutney spoke about internal accounting procedures. Councilmember Starkey stated that an initial deposit of 50% would protect staff's investment of time. She wanted to know if invoicing for future special services could be accomplished in the invoicing process. Mr. Kutney stated that a staff project manager would be assigned, as a consultant could not make determinations on many of the issues. This would result in a fee.

Mr. Kiar indicated that 18.4 A2b spoke about consultants suggesting the language be added "from a list approved by the Town."

Councilmember Starkey asked if the 10% administrative fee would cover costs. Mr. Kutney stated that all direct costs including fringes would be captured and added that the initial filing fee was not all encompassing. Councilmember Starkey was concerned that this would represent a double fee. Mr. Kutney advised that some developers would have a problem with this. He gave an example of site plans where staff was helping the applicant and fees would mount if guidelines and requirements were not met. The review would not be compromised by trying to rush a plan.

Councilmember Starkey recommended that this item be readvertised.

Mr. Kutney offered to take this to other committees and suggested that Chief DiPetrillo may want to use this as well. Councilmember Starkey listed those committees who would need to see this again.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to table until the second meeting in August [August 21, 2002]. In a voice vote, all voted in favor. (Motion carried 5-0)

Resolution

8.2. **CONSOLIDATED PLAN - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ADOPTING THE CONSOLIDATED PLAN FOR FEDERAL FUNDS 2002 - 2007 AND THE ACTION PLAN FOR FY 2002/03 WHICH INCLUDES THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM BUDGET; AUTHORIZING THE TOWN ADMINISTRATOR TO EXECUTE ALL NECESSARY CERTIFICATIONS AND GRANT RELATED DOCUMENTS; AUTHORIZING MINOR, NON-SUBSTANTIVE CHANGES TO THE ACTION PLAN WHICH MAY BE IDENTIFIED DURING THE REVIEW AND APPROVAL PROCESS WHICH DO NOT SIGNIFICANTLY AFFECT THE**

R-2002-168

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PURPOSE, SCOPE, BUDGET, OR INTENT OF THE PLAN; AND
AUTHORIZING SUBMISSION OF THE PLAN TO HUD.

Town Clerk Muniz read the resolution by title.

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

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

Quasi Judicial Item

8.3. **VARIANCE** - V 4-3-02, Khavanin/Hicks, 13301 SW 36 Court (A-1) (to reduce the minimum rear yard from 40 feet to 26 feet to allow a detached garage in a location that allows mature live oak trees to remain undisturbed) (tabled from July 3, 2002) Planning and Zoning Board recommended approval with the following stipulations: 1) that a "4-Hour" fire rating dry wall be used for walls and ceiling; and 2) for noise prevention, that there be an eight inch separation between the dry wall and the concrete block with insulation

Mayor Venis swore in witnesses.

Gus Khavanin, representing the petitioner, explained the request.

Councilmember Paul asked Planning and Zoning Board Member Bob Waitkus to clarify the Board's recommendation as she was concerned about the conversation. She disclosed that she had spoken with Mike Bender on this issue.

Mr. Waitkus explained the discussion and the environmental concerns with the proximity of the garage to the adjacent environment. The petitioner was amenable to add the four-hour fire rating dry wall and the eight-inch insulated separation between dry wall and block.

Councilmember Paul spoke about the initial site plan, stating that the positive aspect was the buffer and expanse in the back. Her concerns included the 5,000 square feet, a lift, office space, and that work would be done on vehicles. At the last meeting, the petitioner had indicated that he would not have to cut the trees. Discussion followed regarding the driveway and its location.

Councilmember Paul asked Mr. Kutney if a structure was more than 20%, would it be part of a separate site plan. Mr. Kutney stated that this kind of limitation was not in the Code for accessory structures in relation to the primary structure.

Councilmember Paul asked how to deal with the driveway in relationship to the tree issue. Mr. Khavanin stated that if the building were to be moved, the driveway would need to be moved and indicated that the water precluded another entrance. Discussion followed regarding the property line, the easement, and the parking area.

Councilmember Paul pointed out that this building was not part of the original site plan and asked for landscaping around the two sides and drainage into the pond. Discussion followed on the retention area, a perimeter berm, and the placement of the building.

Councilmember Paul asked if the trees were protected. Town Engineer Larry Peters

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responded in the affirmative. Mr. Khavanin stated that the trees would not be touched, but the concern was building the driveway on top of the roots. Councilmember Starkey recommended bricks which Mr. Khavanin agreed to.

Mr. Leiva asked if the petitioner could provide staff with an updated plan including pavers and the need for a second story. He suggested tabling until the next meeting. Mr. Khavanin stated that the agreement could be made without submitting another plan. Mr. Kutney asked if the chief architect could look at this again.

Councilmember Paul felt it was important for Council to address the extra building the applicants were putting on their property.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to table this item until the next meeting [August 7, 2002]. In a voice vote, all voted in favor. (Motion carried 5-0)

Item to be Tabled

8.4. STAFF REQUESTING A TABLING TO AUGUST 21, 2002

TRANSMITTAL APPLICATION - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR TRANSMITTAL APPLICATION LA 02-1B AMENDING THE TEXT OF THE TOWN OF DAVIE COMPREHENSIVE PLAN BY AMENDING THE INTERGOVERNMENTAL COORDINATION ELEMENT (ICE) AS REQUIRED BY FLORIDA STATE STATUTE CHAPTER 163.3177; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from May 15, 2002)

This item was tabled earlier in the meeting.

9. APPOINTMENTS (*Pursuant to Ordinance 2002-9, all appointments are to be registered voters unless the person is a minor or a legal resident alien*)

9.1. Child Safety Board (one exclusive appointment - Councilmember Starkey; term expires April 2004) (whenever possible, members shall have interest and expertise in law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood)

Councilmember Starkey appointed Doug Davison.

9.2. School Advisory Board (one exclusive appointment - Councilmember Truex; term expires April 2004) (insofar as possible, members are to have experience in educational matters)

Councilmember Truex deferred his appointment.

9.3. Open Space Advisory Committee Agency (one exclusive appointment - Councilmember Starkey; term expires April 2004)

Councilmember Starkey appointed Linda Greck.

9.4. Parks and Recreation Advisory Board Agency (one exclusive appointment - Councilmember Truex; terms expire April 2004) (members should have a concern

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with or an interest in the park facilities and recreational needs of the citizens of the Town

Councilmember Truex deferred his appointment.

10. OLD BUSINESS

There was no old business discussed.

11. NEW BUSINESS

11.1. Recommendation on Fencing in Designated Open Space

Mayor Venis advised that the Open Space Advisory Committee wanted Council to defer its action until after their Committee meeting on Thursday.

Mr. Kutney circulated an issue paper on fencing in open space areas.

Mayor Venis convened a recess at 10:02 p.m. and reconvened the meeting at 10:10 p.m.

Mr. Leiva spoke about the specifics of the present Code as it related to open space requirements. He indicated that there had been many requests for fencing, some into canal easements. Mr. Leiva indicated that he and Mr. Kutney had spoken with the residents regarding fencing that would go all the way into the lake. He summarized this presentation to Council on the issue paper, which proposed rezoning the E district to suburban, which required 15% open space. Staff felt that the best way to address fencing was to rezone all lots into a suburban district. Mr. Leiva stated that one concern was that it would take three to six months to go through the entire process. Open space preservation may change for the Town under this proposal. Staff recommended that with further reduction of open space, the Long Lake Homeowner's Association pay a fee, which would go to the Town's Park and Recreation funds. This would bring the Town's open space ratio to 24.8%.

Mayor Venis spoke about the fence ordinance as it was first discussed and he felt that passing this ordinance would handle these situations. Mr. Kutney confirmed that what was previously decided took care of those along the lake, but not those with a landscape buffer easement. Mayor Venis pointed out that fencing did not necessarily diminish the open space. A heavy hedge would be allowed even though one could not see through it.

Councilmember Paul felt that this was taking a step backwards from preserving open space and added that the buffer should not be fenced. The placement of the fencing was further discussed and how the buffers would affect the residents. Councilmember Paul asked if a land use amendment would be forthcoming if this would be changed to suburban. Mr. Leiva stated that based on research so far, an amendment should not be required. Mr. Kutney agreed and explained the benefits of having a district that was currently on the books. Not all E districts would be suburban. Councilmember Paul felt that a district should not be changed after residents moved in. Mr. Kutney explained that fencing down to the water would truly interfere with the easements, which could create a liability first with the property owner, then with the Town.

Councilmember Starkey stated that authority had already been granted for the Homeowner's Association to construct their condo documents, which restricted residents from

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being allowed to walk behind other people's property anyway. Access to the area behind houses at the lake was denied. She added that some residents in certain developments were prohibited from fencing and in other areas it was allowed.

Vice-Mayor Clark felt that fencing should be restricted, just as it was restricted in front yards. Councilmember Starkey felt that a consensus should be taken from the community regarding fencing abutting the bridle path, which would create an alleyway. She was adamant that the property needed to be seen to understand the situation. Mr. Kutney stated that a Homeowner's Association could not pass restrictions precluding the decision of the Town on a site plan.

Carol Cohen, President of Homeowner's Association at Long Lake Estates, felt that the current conditions at Long Lake Estates were a farce. The condo documents had always stated that resident could not walk behind properties and 74% of all homeowners stated that they wanted this. She stated that while this issue was being fought, she had moved her fence three different times. Many homeowners were waiting to finish pools because they did not want to construct their fences more than once. Ms. Cohen indicated that there was an alleyway of 35 feet between the property and the bridle path. She pointed out that all the landscaping on the properties was not visible.

Vickie Nash, 10491 North Lake Circle, stated that she had a fence down to the water's edge and spoke about the neighbor next to her who was denied the fencing. She stated that she stopped everything she was doing in this regard until a decision could be made. Ms. Nash asked Council to make Long Lake consistent and then write an ordinance to disallow further fencing in other developments. Councilmember Starkey asked how many homes along the canal had fencing already. Mrs. Nash explained there were two on the Long Lake side and on the Westridge side, the majority of homes had fencing to the water.

Councilmember Paul asked Mr. Kutney if several different staff members issued permits because it seemed that there was a tremendous inconsistency. Mr. Willi indicated that Code requirements were not clear on fencing. Some landscape properties did not have an additional landscape buffer. Mr. Kutney stated that there was not continuity and indicated that more than one staff member had issued permits. Each case would need to be reviewed and there were always differing opinions.

Councilmember Paul asked how other areas would be impacted if the E district was changed to suburban. Mr. Kutney stated there were approximately nine developments that were either E or PRD and each one was a case by case basis. Some homeowner's associations would need to be negotiated with and the decision handled legally.

Mayor Venis asked Councilmember Starkey to meet with the residents and report back to Council at the next meeting. Councilmember Starkey agreed and felt that each community should be addressed individually. Mayor Venis asked that Mr. Kiar attend the meeting, as well.

Mr. Willi stated that Council needed to decide whether they would agree to the reduction in open space. Vice-Mayor Clark stated that ordinances should be changed and open space should not be reduced. Mayor Venis stated that fencing down to the water looked better than fencing across. He was in favor and did not feel that open space was being given up. Councilmember Starkey indicated that she did not like giving up open space, but fences that

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obstructed a view were aesthetically inferior. She spoke about Parcel B, stating it should definitely be deed restricted

Councilmember Truex was concerned that 5% were against, which represented people who relied on what the Town had decided. Mr. Connick spoke about the initial issue with fences and the resulting ordinance. A sentence in the ordinance stated that nothing in the ordinance took away the rights of the owners, which would mean that a homeowner would have the right to take the association to court. Councilmember Truex stated that he was against the suburban district. Mr. Connick agreed and felt it should stay an E district.

Jeff Rittenberg, a resident along the bridle path, wanted to make sure that whatever decision was made would not affect the bridle path. Mr. Kutney clarified that the only issue to be looked at was the policy regarding canal maintenance easements

Mr. Kiar read the rules regarding fences, open spaces, trails, paths and the rights of lot owners found in the Town's ordinance. Fences were allowed to be gated on both sides where the homeowner association approved. Mr. Kutney stated that this ordinance did not address whether an open space property could be fenced through. His concern was that the development approval was not being considered. He asked Council to make a decision.

Mr. Connick stated that the way the ordinance was written, a homeowner on the lake in an E district could go to the water's edge with fencing.

Ms. Cohen asked if she would need to sign off on the permits. Mr. Connick stated that the president of the homeowner's association would need to sign.

11.2. Guard Gate Entrance Issues

Mayor Venis explained that this ordinance was necessary because there had been problems with EMS vehicles getting access through guard gates

Chief DiPetrillo suggested a standardized method of access for all gated communities, including a back up access plan. The Town could pay for a contractor to install the access mechanism at an initial cost to the Town with reimbursement from the homeowner's associations.

Council gave direction to pursue standardizing this access.

11.3 R-2002-169 A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SUPPORTING THE APPLICATION FOR THE FLORIDA COMMUNITY TRUST-FLORIDA FOREVER PROGRAM GRANT.

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

11.4 R-2002-170 A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, OPPOSING THE PROPOSED BROWARD COUNTY REGIONAL FIRE RESCUE SERVICES DELIVERY PLAN BEGINNING FISCAL YEAR 2002-2003.

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

TOWN ATTORNEY'S COMMENTS

CITRUS CANKER. Mr. Kiar spoke about the case in which the Fourth Court of District Appeals granted the motion by the Department of Agriculture sending it to the State Supreme Court.

TOWN ADMINISTRATOR'S COMMENTS

SMALL PARCEL. Mr. Willi spoke about 1/6 of an acre that the Department of Transportation was offering to the Town as its first right of refusal. He stated that it had no value to the Town and asked Council for permission to tell the State that the Town was not interested in this vacant piece of property. Council agreed.

RODEO STATE FINALIST. Mr. Willi spoke about Isaac Diaz, a 15 year old resident, who was leaving for the National High School Finals Rodeo in New Mexico and was asking for sponsorship from the Town. Council took no action and Mr. Willi indicated that he would forward the request to the Bergeron Five Star Rodeo.

VICE-MAYOR CLARK

HAPPY BIRTHDAY. Vice-Mayor Clark wished her one year old son a happy birthday.

COUNCILMEMBER STARKEY

MASTER PLAN UPDATE FOR THE AIRPORT. Councilmember Starkey stated that Mr. McCaliley wrote about the second supplemental to the plan and drafted a letter to the FAA asking them to postpone the second environmental supplemental until the mater plan could be updated. She stated that she would forward this e-mail to Mr. Willi.

MATH IGLER GROVES. Councilmember Starkey stated that the special master ruled that they must cease doing convenience store operations at their groves.

JULY 4TH. Councilmember Starkey thanked all who participated in this event.

Mr. Kutney spoke about the Zoning in Progress and recommended that a workshop be held in early August. Councilmember Paul stated that the meeting needed to be held before the first meeting in August.

Mr. Kutney stated that changes to the R/O ordinance were in progress and indicated that the changes being proposed would help change Mrs. Thomas' zoning of her property to B-1. Council suggested there were some residents who were opposed to this rezoning.

12. ADJOURNMENT

There being no further business to discuss and no objections, the meeting adjourned at 11:48 p.m.

Approved _____

Mayor/Councilmember

Town Clerk