

**TOWN OF DAVIE
REGULAR MEETING
FEBRUARY 19, 2003**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:01 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.

Mayor Venis announced that a number of residents from the Ivanhoe community were in attendance who wanted to address their concerns regarding item 9.9, which was being tabled to the March 19th meeting. He advised that Councilmember Paul had scheduled a meeting in the Ivanhoe Community Center on March 13th and he would be in attendance.

Councilmember Truex voiced his objection to tabling this item. He stated that he did not tell residents to attend this meeting as was rumored, but he felt that the residents should have the opportunity to voice their opinions as they were in attendance. Mayor Venis agreed and indicated that he was going to allow representatives of Ivanhoe to address Council. He invited a representative of Ivanhoe to address Council, rather than having an open public hearing at this time.

Thomas Crowder, 4909 SW 153 Avenue, advised how he would be affected by this request because of the close proximity to his property. He advised that a dealership in this area would negatively affect traffic, safety, and the well being of residents. Mr. Crowder also had concerns regarding monies that were spent to improve the area with landscaping.

Carolina Olivetto, 14957 SW 50 Court, supported the comments made by the previous speaker and thanked Council for the opportunity to oppose this project. She stated that she attended last week's meeting and was encouraged to attend this meeting and bring an attorney. Ms. Olivetto indicated that what was originally planned for the property was not what was being proposed. She opined that 99% of the residents agreed that this was not an appropriate plan for this site.

David Wilborn, 4940 SW 151 Avenue, felt that the tractor-trailers bringing in cars to the dealership would create unnecessary noise. He also had concerns with property values decreasing. Mr. Wilborn asked about the process for approving the plat. Councilmember Paul spoke of the history of this issue and stated that she voted for it with the condition that it would be first discussed with residents in the area.

Mayor Venis advised that item 7.21 was requested to be tabled until March 19, 2003.

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 advised that items 7.18 and 7.19 were requested to be tabled until March 5, 2003.

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

Mayor Venis advised that item 9.6 was requested to be tabled until April 16, 2003.

Vice-Mayor Clark made a motion, seconded by Councilmember Starkey, to table.

Richard Coker, representing the petitioner for items 7.18 and 7.19, indicated that he had no knowledge of this tabling and asked Mr. Willi for an explanation. Mr. Willi indicated that he was informed this afternoon that the Department of Community Affairs (DCA) had not approved the DRI agreement that Council entered into. He stated that approval of the site plan would vest the petitioner with certain rights and he could not recommend that Council move forward with the site plan until the DRI agreement was signed.

Mr. Coker questioned where Mr. Willi got this information. Mr. Willi stated that he was informed by Ed Stacker with Mr. Coker indicating that Mr. Stacker had nothing to do with this project. Mr. Coker added that Mr. Stacker represented an adjacent property owner and he felt that Mr. Stacker was trying "to get some leverage on this deal." He stated that his client was in full compliance and felt this item should be addressed at this meeting. Mr. Coker clarified that Council's approval of the site plan would not allow the developer to move forward until the DRI agreement was approved. He also clarified that Council's approval would not be creating any vested rights that would override DCA's approval. Mr. Coker stated that he would waive any claim to a vested right.

Mayor Venis asked Mr. Kiar for his opinion. Mr. Kiar questioned when the Town would receive word regarding the DCA approval. Mr. Willi indicated that Mr. Stacker would be in attendance to address this issue. Mr. Coker reiterated that Mr. Stacker represented an opposing business.

Councilmember Truex made a motion, seconded by Vice-Mayor Clark, to reconsider the tabling [of items 7.18 and 7.19]. In a voice vote, with Councilmember Paul dissenting, all voted in favor. (Motion carried 4-1)

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to table item 9.6 [to March 19, 2003]. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis advised that items 9.9, 9.10 and 9.11 were requested to be tabled until March 19, 2003.

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

Mayor Venis advised that item 9.12 was withdrawn by the applicant.

Vice-Mayor Clark made a motion, seconded by Councilmember Truex, to add item 11.2 to the agenda. In a voice vote, all voted in favor. (Motion carried 5-0)

3. PRESENTATIONS

3.1. Trail Guides - Public Works/Capital Projects Director Bruce Bernard

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Director of Public Works/Capital Projects Bruce Bernard presented the guide to Council. He thanked the Open Space advisory Committee, Councilmember Paul, former Councilmember Kathy Cox, and Miller Legg and Associates for their hard work. Mr. Bernard stated that Council approval was being requested to solicit sponsors to offset the cost of the printing, which would cost in excess of \$8,000. Each advertisement would cost \$1,000.

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

Mr. Bernard advised that four sponsors had already indicated their interest. He suggested that a minimal fee of \$1.00 be charged for the Guides.

3.2. Upcoming Special Events - Bonnie Stafiej and Dennis Andresky

Special Projects Director Bonnie Stafiej advised of upcoming special events: Orange Blossom Parade and Festival (February 22-23); 7th Annual Waterway Cleanup and Splash Bash (March 15); and the Diversity Festival (April 5).

Parks and Recreation Director Dennis Andresky advised of upcoming events: Spring sports program opening days (March 1 and March 7-8); registration for tackle football and cheerleading for Davie Broncos (third week in March); senior country and western jamboree (February 27); St. Patrick's Day event (March 14); cooking classes (February 25); and an AARP 55-Alive defensive driving class (February 24-25).

Mr. Willi indicated that Julie Aitken was in attendance to present Council with the Davie Farmers Guide.

Ms. Aitken presented Council with the guide and thanked the Davie Agricultural Advisory Board for designing the guide. She also thanked Council for their efforts in protecting agriculture and preserving the rural character and equestrian lifestyle in the Town.

Councilmember Paul made a motion, seconded by Councilmember Truex, that the Council adopt the Davie Farmers guide as the official Town publication as presented, bearing the seal of the Town of Davie, and that the Town print and distribute it. In a voice vote, all voted in favor. (Motion carried 5-0)

4. MAYOR/COUNCILMEMBER'S COMMENTS (comments were provided at the end of the meeting)

VICE-MAYOR CLARK

BETTY BOOTH ROBERTS PARK. Vice-Mayor Clark advised that she had attended the ribbon cutting ceremony and advised that the event was most enjoyable.

DISTRICT 1. Vice-Mayor Clark spoke of the progress in District 1 and was pleased with the results.

COUNCILMEMBER TRUEX

ROAD CLOSURE POLICY. Councilmember Truex asked when the e-mail was expected regarding this issue. Mr. Willi indicated that this was on the agenda for discussion at the March meeting.

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PRO-BASS AND UNCLE AL'S SHOPPING CENTER. Councilmember Truex asked for an update. Mayor Venis stated that he had met with Senator Geller who was working on this issue. He asked Mr. Willi to follow up with Senator Geller and provide Council with information.

WESTRIDGE FENCING. Councilmember Truex asked what was being done about this issue. Councilmember Starkey indicated that the direction was for this issue to go back to the Open Space Committee for discussion with residents. Councilmember Truex felt it should be added under Old Business for a future agenda to be addressed immediately. He wondered why it was going before the Open Space Advisory Committee. Mr. Willi indicated that the issue was not clearly resolved and was not added to this agenda for that reason, but it was forthcoming.

GRIFFIN ROAD CORRIDOR PROJECTS. Councilmember Truex recommended a meeting regarding future projects so that residents could be informed about what was going on.

ADA COMPLIANCE. Councilmember Truex had concerns about compliance at Town Hall. Mr. Willi indicated that the building was in compliance.

COUNCILMEMBER STARKEY

PAVILLION DEDICATION. Councilmember Starkey recommended dedicating a pavilion to Terri Roth.

NOB HILL AREA. Councilmember Starkey indicated that meetings were being held to improve the area around State Road 84 and Nob Hill Road. She wanted this to be pursued so that issues could be resolved.

TRAFFIC ISSUES. Councilmember Starkey had concerns with the crossing area near Nova Blanche Forman Elementary School on Davie Road.

AIRPORT ADVISORY TASK FORCE. Councilmember Starkey stated that the Task Force wanted to prepare a brochure to explain the issues and the three cities involved would pay for the cost. Also, it was requested that a free bus be made available for the March 5, 2003 County Commissioners meeting.

PINE ISLAND CHARTER SCHOOL. Councilmember Starkey indicated that a public meeting regarding this issue was scheduled for February 24, 2003.

NO SMOKING. Councilmember Starkey suggested that an ordinance be developed to ban smoking in public parks within the Town. She indicated that the Parks and Recreation Advisory Board had also recommended this. Councilmember Starkey spoke of neighboring communities who had such an ordinance. Mr. Willi was concerned with who would be responsible for enforcing such an ordinance. Councilmember Truex felt that it should be done in areas around children and recommended that signs be posted. Mayor Venis agreed and felt this should be added to the next agenda.

Mr. Andresky indicated that the Board's March meeting was cancelled. He indicated that at the last meeting there was no consensus as to what areas of a park, or a whole park should be addressed. Councilmember Paul felt the Board should complete their study and then report to Council.

COUNCILMEMBER PAUL

BRIDGE LIGHT UPDATE. Councilmember Paul provided an update on the bridge light for Griffin Road and Orange Drive, west of Flamingo Road. She stated that this was in progress

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and was pleased the responsible entities were working together. Mr. Willi added that the Town would assume the responsibility for the bill.

REZONING. Councilmember Paul reported that the judge had ruled in favor of the Town on the 60 acres.

5. TOWN ADMINISTRATOR'S COMMENTS (comments were provided at the end of the meeting)

BOARD VACANCY. Mr. Willi indicated that Council needed to make arrangements to fill Mayor Venis' seat on the State Road 84 Collaborative. Mayor Venis asked that this be added to the next agenda.

6. TOWN ATTORNEY'S COMMENTS

No comments were provided.

7. CONSENT AGENDA

Minutes

- 7.1. July 10, 2002 - Workshop Meeting
- 7.2. January 2, 2003 - Regular Meeting
- 7.3. January 15, 2003 - Regular Meeting

Proclamations

- 7.4. National Engineers Week (February 17-23, 2003)
- 7.5. Florida Association of City Clerks

Occupational License

- 7.6. Valerie L. Moran Communications, Inc., 3201 SW 135 Terrace

Resolutions

- R-2003-39 7.7. **JOB CLASSIFICATION REASSIGNMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ADOPTING THE REASSIGNMENT OF THE BUDGETED EVENTS SPECIALIST JOB CLASSIFICATION FROM PAY GRADE 516 (\$39,982-\$53,579) TO PAY GRADE 514 (\$36,725-\$49,214) IN THE NON-REPRESENTED PAY AND CLASSIFICATION PLAN.
- R-2003-40 7.8. **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING APPLICATION, APPROVAL AND EXECUTION FOR A GRANT UNDER THE STATE OF FLORIDA DEPARTMENT OF EDUCATION SUMMER FOOD SERVICE PROGRAM FOR CHILDREN. (\$9,000)
- R-2003-41 7.9. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE EXPENDITURE OF LAW ENFORCEMENT TRUST FUNDS, NOT TO EXCEED \$6,000.00, FOR THE PURCHASE OF A NEW DOG FOR THE DAVIE POLICE DEPARTMENT K-9 UNIT. (not to exceed \$6,000)

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- 7.10. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, TO
R-2003-42 PURCHASE A MOBILE COMMAND CENTER TO CONDUCT COMMUNITY
EVENTS AND AFFORD EMERGENCY PERSONNEL THE EQUIPMENT TO
FACILITATE A CATASTROPHIC DISASTER. (Winnebago Industries - \$86,640)

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- 7.11. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-43 AUTHORIZING THE EXPENDITURE OF LAW ENFORCEMENT TRUST FUNDS, NOT TO EXCEED \$6,272.50 FOR THE PURCHASE OF NEW HK SUBMACHINE GUNS FOR THE DAVIE POLICE DEPARTMENT SPECIAL RESPONSE TEAM. (SRT Supply, Inc.)
- 7.12. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-44 AUTHORIZING THE EXPENDITURE OF LAW ENFORCEMENT TRUST FUNDS, NOT TO EXCEED \$25,745.00 FOR THE PURCHASE OF NEW S.R.T. TACTICAL VESTS FOR THE DAVIE POLICE DEPARTMENT SPECIAL RESPONSE TEAM. (SRT Supply, Inc.)
- 7.13. **SECOND AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF
R-2003-45 DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE SECOND AMENDMENT TO RECIPROCAL LEASE AGREEMENT WITH THE TOWN OF DAVIE PREPARED BY THE SCHOOL BOARD OF BROWARD COUNTY FOR THE CONSTRUCTION OF THE NOVA HIGH SCHOOL ATHLETIC FIELD STADIUM.
- 7.14. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-46 AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN SOUTH BROWARD JEWISH FEDERATION HOUSING II, INC. AND THE TOWN OF DAVIE POLICE DEPARTMENT FOR TRAFFIC CONTROL.
- 7.15. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-47 AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ENTER INTO AN AGREEMENT WITH GL HOMES FOR THE BERM AND LANDSCAPING CONSTRUCTION, PLANTING AND MAINTENANCE ON SW 36 STREET BETWEEN HIATUS ROAD AND SW 106 AVENUE.
- 7.16. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-48 RATIFYING A PERSONAL SERVICES AGREEMENT BETWEEN THE DAVIE COMMUNITY REDEVELOPMENT AGENCY AND PMG ASSOCIATES, INC. TO PROVIDE MARKETING SERVICES FOR DAVIE ROAD. (\$62,300)
- 7.17. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-49 AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND SHERIDAN HILLS BAPTIST CHURCH, INC., FOR REGIONAL ROAD CONCURRENCY RELATING TO THE NEW LIFE BAPTIST CHURCH PLAT; PROVIDING FOR RESTRICTIONS TO SATISFY CONCURRENCY REQUIREMENTS; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. (DA 1-1-03, 2400 South Pine Island Road)

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Site Plans

- 7.18. SP 9-3-02, The Villas of Rolling Hills, 3550 Rolling Hills Circle (PUD) *Site Plan Committee recommended approval subject to the planning report and the following conditions: 1) provide a "detail scope of work" for the large "grandfather" Oak trees from Brian Archer and a detail scope of work for tree relocation from Brian Archer, these details are to be submitted to the Town of Davie and approved by the landscape inspector, and the site be subject to periodic inspections as the job progresses with these details being enforced by the Town; 2) recess the front gates not to infringe on the front parking; 3) have staff review parking for the cabana "up and above" the guest parking spaces; 4) that there be a four-to-one slope, two foot high berm on the east side of the overflow parking lot to contain hedges which are to be determined with staff; 5) that there be hedges between garage driveways; and 6) that there be landscaping in the courtyards around the air conditioning units*
- 7.19. SP 9-4-02, The Villas of Rolling Hills, 3200 West Rolling Hills Circle (PUD) *Site Plan Committee recommended approval subject to staff's comments; based on adding landscaping in the courtyard to screen the air conditioning units; and that hedges be planted between driveways*
- 7.20. SP 10-8-02, Maroone Toyota Used Car Dealership, 4050 Weston Road (BP) *Site Plan Committee recommended approval*

Item to Be Tabled

- 7.21. **STAFF REQUESTING A TABLING TO MARCH 19, 2003**
SP 10-7-02, Warren Henry/Regency Square, 4801-4991 SW 148 Avenue (PUD, County) *Site Plan Committee recommended approval with the conditions that the applicant send a letter to the president of the homeowner's association [Chelsea Homeowners' Association] stating the date when this item was to be reviewed by the Town Council; and that the lighting levels on the east side of the buildings be at the lowest possible levels that the Police Department would allow after 9:00 p.m.*

Temporary Use Permit

- 7.22. TU 1-3-03, Saint David's Catholic Church, 3900 South University Drive
Councilmember Truex made a motion, seconded by Councilmember Paul, to approve the Consent Agenda minus items 7.18 and 7.19. In a voice vote, all voted in favor. (Motion carried 5-0)

7.18 and 7.19 Dick Coker, representing the applicant, opined that DCA had approved the first agreement. Development Services Director Mark Kutney indicated that there might have been a verbal agreement, but he did not believe there was a written agreement. Mr. Coker felt that the original agreement had expired and his client would waive any vested right based on any action by Council.

Councilmember Starkey divulged that she had spoken to Mr. Stacker and questioned why this issue could not be tabled until the next meeting. Mr. Coker indicated that the signoff

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by DCA had nothing to do with the site plan approval and felt that the applicant would have a monetary loss if this item were tabled. He reiterated that his client had fully complied with Code and staff recommendations.

Vice-Mayor Clark felt there was no reason to table this item. She asked Mr. Willi if he had not been contacted by Mr. Stacker, would the DCA approval on the agreement have been an issue. Mr. Willi indicated in the negative.

Councilmember Paul indicated that she had site plan questions, but if Mr. Coker would be willing to waive vested rights then she would be willing to go forward with this request. Mr. Kiar indicated that Mr. Coker's waiving of vested rights was "strong enough" to prevent any vested rights issues on this property in the future.

Councilmember Paul asked Mr. Coker about the parking because she felt there was not enough. Mr. Coker clarified that the parking issue had been addressed as recommended by the Site Plan Committee. He stated that there were some limitations with parking because of the oak tree preservation. Councilmember Paul also urged that the oak trees were preserved properly.

Vice-Mayor Clark made a motion, seconded by Councilmember Paul, to approve pending the DCA approval and the understanding that the applicant was waiving any claim to vested rights. In a voice vote, all voted in favor. (Motion carried 5-0)

8. OLD BUSINESS

8.1. Town Administrator's Evaluation (tabled from February 5, 2003)

Councilmember Starkey indicated that she did not have any criteria because she felt that no one else had submitted any. Councilmember Paul and Councilmember Truex indicated that they had submitted criteria.

Mayor Venis and Councilmember Paul advised that they had no further comments regarding Mr. Willi's contract.

Councilmember Starkey commended Mr. Willi for the improvement with the hiring practices, but felt that there was still room for improvement. She felt that she was not adequately informed about issues in her district and asked that this be improved.

Mr. Willi thanked Council for constructive criticism. He stated that his goal was to make constant improvements across the board.

Councilmember Starkey asked when the ordinance was advertised. Town Clerk Muniz advised that it would be advertised on February 20th upon passage of the first reading, which would meet statutory requirements. Councilmember Starkey asked Mr. Kiar if this was timely with the notification of an ordinance. Mr. Kiar indicated that there was a procedure regarding notification in the Charter. Mr. Willi indicated that the ordinance was advertised appropriately, and it was on this agenda for a public hearing.

Mayor Venis advised that Mr. Willi's raise would be discussed while Mr. Kiar was reviewing the charter. Mr. Willi requested a 5% raise. He clarified that he received his first raise in three years, six months prior to this meeting. Councilmember Truex felt it was too soon to give Mr. Willi another raise. Vice-Mayor Clark felt the pay increase should come simultaneously with the evaluation of the Town Administrator. Councilmember Truex asked if Mr. Willi was asking for a 3% cost of living plus a 5% raise. Mr. Willi replied affirmatively.

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Councilmember Paul asked what the 5% dollar figure would represent. Mr. Willi did not have the exact figure.

Councilmember Truex made a motion to approve the 3% cost of living raise without any step increase. The motion died for a lack of a second.

Vice-Mayor Clark made a motion, seconded by Councilmember Paul, to approve Mr. Willi's evaluation, which should include a 5% pay increase. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - no; Councilmember Truex - no. (Motion carried 3-2)

8.2. Vested Rights Determination (Zacco) (tabled from February 5, 2003)

Bill Laystrom, representing Mr. Zacco, indicated that Mr. Zacco was not in attendance and asked that this item could be heard after item 9.1.

Later in the meeting, Mr. Laystrom stated that his client had met Council's conditions and restated his client's position. He clarified that his client was willing to sponsor a charity if approved at an amount of \$10,000, which was \$2,000 more than what was being donated by other billboards. Mr. Laystrom felt that PAL, Project Stable, and the E.A.S.E. Foundation could benefit.

Councilmember Truex felt that as Mr. Kiar and Mr. Burke had previously advised, this case did not warrant the granting of a vested right. He read statutory criteria that granted a vested right. Councilmember Truex felt that Council should take the three pending billboard requests and evaluate them on their merits simultaneously. He also felt that not enough revenue was coming to the Town from the billboards, which generated a great deal of money.

Mayor Venis did not feel that lumping the three billboard issues together was appropriate. He felt that each issue should be evaluated separately as each issue had unique circumstances.

Mayor Venis strongly felt that Mr. Zacco had vested rights in this case. Councilmember Paul had concerns about billboards, but felt that under the circumstances Mr. Zacco had a vested right.

Mario Zacco, the petitioner, stated that when the permit was first acquired, the Florida Department of Transportation was the sole permit issuance source.

Vice-Mayor Clark agreed that Mr. Zacco had a vested right. Councilmember Starkey felt that Mr. Zacco had paid the fees over the years and after looking at all of the evidence she believed that Mr. Zacco had a vested right.

Vice-Mayor Clark made a motion, seconded by Councilmember Paul, 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 - no. (Motion carried 4-1)

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9. PUBLIC HEARING

Ordinance - Second and Final Reading

- 2003-4 9.1. **LAND USE PLAN AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING, APPLICATION LA 02-9, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE PLAN MAP DESIGNATION OF CERTAIN LANDS FROM "COMMERCIAL TO "RESIDENTIAL 10 DU/AC"; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (requires supermajority vote for approval) {Passed on 1st Reading February 5, 2003, Motion to approve, Vote: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - yes}**

Town Clerk Muniz read the ordinance by title.

Mayor Venis opened the public hearing portion of the meeting.

Dennis Mele, representing the applicant, reiterated their position and stated that they met the conditions recommended by Council.

Lloyd Procton, representing the homeowners, asked that this item be approved conditioned upon the January 22, 2003 agreement between the developer and the homeowner's association, as well as the Site Plan that was referenced in that agreement.

Mayor Venis closed the public hearing.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to approve with the amendments from the agreement from the January 22, 2003 meeting. 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)

Ordinance - First Reading/Quasi Judicial Item (Second and Final Reading to be held March 5, 2003)

- 9.2. **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM AG, AGRICULTURAL DISTRICT TO CF, COMMUNITY FACILITIES DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 2-1-02, Voigt/Hanmi Baptist Church, 2150 Flamingo Road) (tabled from February 5, 2003) *Planning and Zoning Board recommended denial***

Mayor Venis advised that the second and final reading would be held on March 5, 2003. Town Clerk Muniz read the ordinance by title.

Mayor Venis swore in the witnesses and opened the public hearing portion of the meeting.

Mr. Voight advised that the homeowner's association was informed of changes made and had held a meeting with the residents regarding the concessions. He spoke about the concessions made and the agreed upon language. Mr. Voight also summarized his letter of understanding.

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Councilmember Starkey disclosed that she had spoken to Mr. Voight, Ethan, and Dr. Miranda. Councilmember Starkey praised the community, the developer and staff for working together on this project. She asked Mr. Kutney to address any possible objectionable uses that might go into this property. Mr. Voight advised that he would voluntarily add to the deed restrictions to restrict objectionable uses.

Mayor Venis closed the public hearing.

Councilmember Starkey made a motion, seconded by Councilmember Truex, to approve the conditions, the letter of understanding, and the recommendations "you have before you" to be incorporated into a deed, as well as deed restrictions. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - no; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 4-1)

- 9.3. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT AND RO, RESIDENTIAL/OFFICE DISTRICT TO RM-5, LOW MEDIUM DENSITY DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 12-1-02, Rodriguez/Averbuj, 5150 SW 64 Avenue) *Planning and Zoning Board recommended approval*

Town Clerk Muniz read the ordinance by title.

Mayor Venis advised that the second and final reading would be held at the March 5, 2003 Council meeting.

Mayor Venis swore in the witnesses and opened the public hearing.

Christina Rodriguez, representing the petitioner, explained her position.

Planning and Zoning Manager Fernando Leiva stated the nature of the request. He indicated that the area was compatible with the surrounding area and the compatibility tests were met.

Mayor Venis closed the public hearing.

Councilmember Truex made a motion, seconded by Vice-Mayor Clark, 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)

- 9.4. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-5-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM M-4 (COUNTY), LIMITED HEAVY INDUSTRIAL DISTRICT TO M-3, PLANNED INDUSTRIAL PARK DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 12-5-02, Town of Davie, 4751 SW 30 Street) *Planning and Zoning Board recommended denial*

Town Clerk Muniz read the ordinance by title.

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Mayor Venis swore in the witnesses.

Mr. Kutney outlined the request and indicated there was no bona fide reason why this rezoning could not be approved. He referred to Florida Statute 171, which supported the Town's right to rezone this property if the property in question was within the Town's Comprehensive Plan.

Dick Coker, representing the applicant, provided maps that displayed the subject area. He indicated that his client had purchased the property specifically for the M-4 zoning designation.

Mayor Venis opened the public hearing.

John Coyne, 2801 SW 46 Avenue, representing the property owner to the north of the property in question. He opposed the request on behalf of MASTEC and stated that MASTEC might be interested in purchasing this property.

Mayor Venis closed the public hearing.

Councilmember Truex asked Mr. Kutney which rezonings were in progress in this area. Mr. Kutney indicated there were the Zimmerman and the Regency Square rezonings.

Mr. Kiar stated Mr. Burke was addressing this issue. He indicated that the Planning and Zoning Board had questioned the intended use of the property, but Planner Marcie Nolan had indicated that the uses were allowed under either zoning.

Mr. Coker indicated that a concrete plant was permitted, but there was an issue with setbacks. He felt that the Town could rezone any property within the Town as long as it was consistent with the land use plan. Mr. Coker indicated that the Burt-Harris Act applied in support of his client.

Councilmember Truex felt that since this was before Council as a second reading, Mr. Burke should address this issue.

Mr. Kutney indicated that staff could provide information relative to the Burt-Harris Act and if it applied to this case. He clarified that the property had been designated industrial since 1985.

Councilmember Truex made a motion, seconded by Vice-Mayor Clark, 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)

Ordinance - First Reading (Second and Final Reading to be held March 5, 2003)

9.5. **CONTRACT REVISION - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE REVISION TO TOWN ADMINISTRATOR'S CONTRACT IN COMPLIANCE WITH FS 166.041(6) TO REQUIRE AN AFFIRMATIVE VOTE OF FOUR MEMBERS OF TOWN COUNCIL IN THE EVENT OF DISMISSAL WITHOUT CAUSE; AMENDING THE EXISTING CONTRACT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Clerk Muniz read the ordinance by title.

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

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Mr. Kiar spoke of the inconsistency between the Town's Charter and Florida Statute 161, which held that ordinances must be advertised at least ten days prior to adoption.

Mr. Willi read a statement regarding why this ordinance should be approved and the benefits it would provide to the Town. He felt that the super majority vote for a Town Administrator termination would allow the Town Administrator to "stay away from the politics" and continue to treat all Councilmembers equally. Mr. Willi added that approval would show a reciprocal commitment from the Town.

Mr. Kiar distributed a memorandum that he prepared, which provided some suggested language as requested by Council at the last meeting. He indicated that a "liquidated damage provision" could be inserted into the contract.

Mr. Willi advised that he had not seen Mr. Kiar's memo prior to this meeting. He felt that any attempt to quell any claims on his part as a result of improper action by Council would limit his ability to market his skills once he decided to move on.

Councilmember Starkey was strongly opposed to this ordinance and felt it would cost the taxpayers of the Town. She felt this could result in the Town Administrator only having to "cater to" two Councilmembers, rather than all five.

Councilmember Truex felt troubled by the term "catering to" used by Councilmember Starkey. He felt that the position was not to cater to the majority, but to serve as support for Council. Councilmember Truex agreed with Councilmember Starkey regarding this ordinance and felt it was unnecessary. He also felt that Mr. Willi deserved job security, but he was concerned with mention of future marketing of his skills, as this was not relevant to this issue. Councilmember Truex added that Council's duty was to make sure that the best interest of the Town was pursued. Mr. Willi added that many employees within the Town had some measure of protection.

Mayor Venis indicated that at the last meeting, the liquidated damages issues was briefly addressed and asked Mr. Willi if he had considered any caps to damages. Mr. Willi indicated that he would agree to the language presented by Mr. Kiar.

Vice-Mayor Clark asked Mr. Willi if his desire was to require a supermajority to remove him and if so, wouldn't the agreement drafted by Mr. Kiar diminish his request. She clarified that Mr. Willi was asking for a severance package.

Councilmember Paul indicated that Mr. Willi was working on long range projects and it was important to have some measure of protection. She felt that if this gave Mr. Willi a level of confidence and security, it was important.

Mayor Venis reiterated that the language proposed by Town Attorney Kiar would only entitle Mr. Willi to what was currently in his contract.

Councilmember Truex made a motion, seconded by Councilmember Starkey, to deny. In a roll call vote, the vote was as follows: Mayor Venis - no; Vice-Mayor Clark - no; Councilmember Paul - no; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion denied 2-3)

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

Councilmember Starkey again spoke of her concerns stating that this would cost the taxpayers money as Mr. Willi could sue the Town. Mayor Venis and Vice-Mayor Clark clarified that Mr. Willi could sue the Town with or without this ordinance.

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In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - no; Councilmember Truex - no. (Motion carried 3-2)

- 9.6. **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE VIII, SECTION 12-238(J)(9) THEREOF RELATING TO BILLBOARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

This item was tabled earlier in the meeting.

Quasi Judicial Items

- 9.7. **VARIANCE - V 2-1-02, Voight/Hanmi Baptist Church, 2150 Flamingo Road (tabled from February 5, 2003) (to reduce the minimum separation of freestanding houses of worship from 2,500 feet to 2,300 feet) Planning and Zoning Board recommended denial**

Earlier in the meeting, Mayor Venis swore in the witnesses.

Mr. Voight, representing the petitioner, reiterated his position.

Mayor Venis closed the public hearing.

Councilmember Paul explained that she could not vote for the variance which was why she voted against the rezoning in item 9.2. She spoke of the criteria for a variance and was not convinced that this petition showed a hardship.

Councilmember Starkey made a motion, seconded by Vice-Mayor Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - no; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 4-1)

- 9.8. **VARIANCE - V 11-1-02, Garcia, 9060 Lake Park Circle (reduce the minimum rear setback from 5 feet to 3 feet) Planning and Zoning Board recommended denial**

As the applicant was not present, Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to table until March 5, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

Items to be tabled or withdrawn

- 9.9. **STAFF REQUESTING A TABLING TO MARCH 19, 2003
REZONING - ZB 12-2-02, Town of Davie, 4703 SW 148 Avenue**

This item was tabled earlier in the meeting.

- 9.10. **STAFF REQUESTING A TABLING TO MARCH 19, 2003
REZONING - ZB 12-3-02, Town of Davie, 14501 Orange Drive**

This item was tabled earlier in the meeting.

- 9.11. **STAFF REQUESTING A TABLING TO MARCH 19, 2003
REZONING - ZB 12-4-02, Town of Davie, 14901 Orange Drive**

This item was tabled earlier in the meeting.

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9.12. WITHDRAWN BY THE APPLICANT

VARIANCE - V 12-1-02, RHG/TKO Joint Venture, LLP, 3550 Rolling Hills Circle (to allow head-to-head parking bays) Planning and Zoning Board recommended denial

This item was withdrawn by the applicant.

Mayor Venis closed the public hearing portion of the meeting.

10. APPOINTMENTS

Council deferred all appointments.

10.1. 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)

10.2. Open Space Advisory Committee (one exclusive appointment - Councilmember Starkey and Mayor Venis; terms expire April 2004)

10.3. Parks and Recreation Advisory Board Agency (one exclusive appointment - Vice-Mayor Clark and Councilmember Paul; terms expire April 2004) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

10.4. School Advisory Board (one exclusive appointment - Vice-Mayor Clark and Councilmember Paul; terms expire April 2004) (insofar as possible, members shall have experience in educational matters, related occupations or other similar skills)

10.5. Review of Boards for Sunsetting Purposes

Mayor Venis indicated that he was not in favor of sunsetting any of the boards. Councilmember Truex spoke of previous discussion to consolidate boards.

Councilmember Paul felt that better direction needed to be given to the Boards from Council. She felt that staff should take the minutes for boards. Mayor Venis felt that boards should have minutes taken by staff immediately. Councilmember Starkey felt that a standardized form could be developed and used by boards for the purpose of taking action minutes.

11. NEW BUSINESS

11.1. Reschedule April 16, 2003 Town Council Meeting to April 15, 2003

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

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11.2 Mr. Kiar explained that he was seeking additional compensation and protection.

Councilmember Paul advised that she would like this issue to be reviewed once an evaluation was completed for Mr. Kiar. Mr. Kiar indicated that he had not had a raise in three years and the increase he was asking for was well below neighboring city's attorneys.

Councilmember Starkey asked if the previous Town Attorney had been reviewed. She realized the review of the Town Administrator was in the Charter, but was informed that a review of the Town Attorney was not in the charter. She felt it was very important to be consistent with the Charter. Councilmember Starkey felt that it was inappropriate for Council to review the Town Attorney as his performance needed to be exemplary at all times, and if it was not, it would be consistent to terminate without review. She felt that publicly evaluating the Town Attorney could be used against the Town in future litigations and that issues with Mr. Kiar's performance should be privately discussed with Mr. Kiar, rather than at a public hearing.

Mayor Venis felt this issue should be voted on at the next meeting. He also pointed out that every issue that came before Council was not in the Charter, as many issues were policy.

Vice-Mayor Clark thought it was important for this item to be added to this agenda for discussion so that it could be voted on at the next meeting by the current Council, for whom Mr. Kiar had served. She praised Mr. Kiar and clarified that this issue was completely separate from Mr. Willi's review.

Councilmember Truex indicated that this request was valid and reasonable, and if there were two other Councilmembers that were in favor, he was prepared to approve it at this meeting.

12. ADJOURNMENT

There being no further business to discuss and no objections, the meeting adjourned at 10:40 p.m.

Approved _____

Mayor/Councilmember

Town Clerk