

**TOWN OF DAVIE
REGULAR MEETING
JUNE 18, 2003**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:36 p.m. and was followed by the Pledge of Allegiance which was lead by a Girl Scout Troop.

2. ROLL CALL

Present were Mayor Truex, Vice-Mayor Starkey (arrived at 6:49 p.m.), Councilmembers Crowley, Hubert, and Paul. Also present were Town Administrator Willi, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

3. PRESENTATIONS

3.1. Davie Women's Club - Martha Ziegler

Carol Hatten presented a plaque in honor of Special Projects Director Bonnie Stafiej.

3.2. Certificate of Recognition - Joe Cole

Mayor Truex presented Mr. Cole with a certificate of recognition for his life saving actions.

3.2A Mayor Truex read a certificate of recognition dedicated to Town Clerk Muniz who was a recipient of a Certified Municipal Clerk designation.

3.3. Academic Games League of America - Indian Ridge Middle School

Students from Indian Ridge Middle School spoke of the school's participation in the National Academic Games in West Virginia. Mayor Truex presented certificates of recognition to the students.

3.4. Community Redevelopment Agency

Joan Kovac, Chair of the Community Redevelopment Agency, provided an update on the operations of the Community Redevelopment Agency.

Mayor Truex asked when the deadline was for the PMG study. Ms. Kovac indicated that the original deadline was the end of June, but it was extended until the end of July so that the study could be complete.

Mayor Truex advised that item 4.13 was requested to be tabled by the applicant until July 8, 2003.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to table to July 8, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that item 6.5 was requested to be tabled by staff until July 2, 2003.

Councilmember Paul made a motion, seconded by Councilmember Crowley, to table to July 2, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

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Mayor Truex advised that item 6.6 was requested to be tabled by the applicant until July 8, 2003.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to table to July 8, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that item 6.8 was requested to be tabled by staff until July 2, 2003.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to table to July 2, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that item 9.1 was requested to be added.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to add item 9.1. In a voice vote, all voted in favor. (Motion carried 5-0)

4. APPROVAL OF CONSENT AGENDA

Minutes

4.1. May 7, 2003 - Regular Meeting

Home Occupational License

4.2. C.A. Johnson Construction, Inc., 1521 SW 120 Avenue

Resolutions

4.3. **PLAN/STRATEGY** - A RESOLUTION OF THE TOWN OF DAVIE, AMENDING AND RESTATING THE TOWN'S AFFORDABLE HOUSING INCENTIVE PLAN A/K/A AFFORDABLE HOUSING INCENTIVE STRATEGY; AND, PROVIDING FOR AN EFFECTIVE DATE. (tabled from April 15, 2003)

R-2003-147 4.4. **TELECOMMUNICATIONS MASTER PLAN** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, WHEREBY TOWN COUNCIL DESIRES TO APPROVE AND ADOPT A WIRELESS TELECOMMUNICATIONS MASTER PLAN; AND PROVIDING AN EFFECTIVE DATE. (tabled from June 4, 2003)

R-2003-148 4.5. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR CONSTRUCTION OF A FUEL ISLAND AT THE POLICE & FIRE/EMS SITE AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SUCH CONSTRUCTION SERVICES. (\$375,502 - MGI, Inc.)

R-2003-149 4.6. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE BID AWARDED BY BROWARD COMMUNITY COLLEGE FOR SOD AND SOD INSTALLATION, SOUTHEAST FLORIDA COOPERATIVE PURCHASING GROUP BID NO. 203-001. (\$80,000 - lowest bidder for each item)

4.7. **HORSE TRAIL** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AFFIRMING THE CURRENT LOCATION OF THE HORSE TRAIL ALONG THE FOREST RIDGE COMMUNITY.

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- 4.8. **OPERATING GUIDELINES** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROVAL OF THE REVISED ROBBINS OPEN SPACE PARK OPERATING GUIDELINES FOR USE OF THE ROBBINS LODGE AND OUTDOOR PATIO AREA AMENDING R-98-341 AND AUTHORIZING TOWN OFFICIALS TO EXECUTE SUCH AGREEMENT.
R-203-150
- 4.9. **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND/OR APPROPRIATE STAFF TO SUBMIT AN APPLICATION, AND IF AWARDED PERMISSION TO ACCEPT GRANT FUNDING UNDER THE NEW HOMELAND SECURITY OVERTIME PROGRAM (HSOP) ALLOCATING A COST OF APPROXIMATELY \$100,000 WITH A LOCAL CASH MATCH OF \$25,000.
R-2003-151
- 4.10. **PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A BOUNDARY PLAT KNOWN AS MILLCREEK RANCH 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 6-3-02, Millcreek Ranches, 2600 SW 148 Avenue)
R-2003-152
- 4.11. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING AND ACCEPTING THE FLORIDA STATE CONTRACT BID #425-001-01-1 FOR THE PURCHASE OF OFFICE FURNITURE AND EQUIPMENT. (non-budgeted; Designers Service Bureau - \$10,000)
R-2003-153
- 4.12. **CONTRACT RESTORATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA APPROVING THE RESTORATION OF INITIAL LANGUAGE TO TOWN ADMINISTRATOR'S CONTRACT TO REQUIRE A MAJORITY VOTE OF TOWN COUNCIL IN THE EVENT OF DISMISSAL WITHOUT CAUSE; INCLUDING A PROVISION FOR A TWELVE (12) MONTH SEVERANCE; AMENDING THE EXISTING CONTRACT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Site Plans

- 4.13. SP 10-7-02, Warren Henry/Regency Square, 4801-4991 SW 148 Avenue (PUD)(tabled from June 4, 2003)*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.*
- 4.14. SP 12-2-02, Muvico Theaters, 15601 Sheridan Street (PUD-5)*Site Plan Committee recommended approval*

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- 4.15. SP 12-3-02, Oak Hollow Estates, 3700 SW 136 Avenue (A-1) *Site Plan Committee recommended approval subject to staff's recommendations; subject to extending the south sidewalk all the way to the recreational trail; and subject to the addition of "valley curbs" across the fronts of all home sites and up to the project entranceway*

Site Plan Modification

- 4.16. MSP 2-3-02, Flamingo Plat, 12901 Orange Drive (A-1) *Site Plan Committee recommended approval subject to staff's recommendations and the following: 1) increase the height of the 11 Live Oaks at the main entrance to "20-foot overall"; 2) that no planting of landscape material be in the 20-foot lake maintenance easement; and 3) check into the location of trees within the horse trail, so that the horses could travel through it*

Temporary Use Permits

- 4.17. TU 4-5-03, Davie II Stor-All, Ltd., 12451 Orange Drive
4.18. TU 5-5-03, New Life Baptist Church, 2400 South Pine Island Road
4.19. TU 6-1-03, Nations Rent, 6580 State Road 84

Councilmember Paul requested that items 4.1, 4.10, 4.14, 4.15, and 4.16 be removed from the Consent Agenda. Vice-Mayor Starkey requested that items 4.7 and 4.12 be removed. Mayor Truex requested that items 4.3 and 4.4 be removed.

Vice-Mayor Starkey made a motion, seconded by Councilmember Paul, to approve the Consent Agenda without items 4.1, 4.3, 4.4, 4.7, 4.10, 4.12, 4.14, 4.15, and 4.16. In a voice vote, all voted in favor. (Motion carried 5-0)

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.1 Councilmember Paul made a motion, seconded by Councilmember Crowley, to approve subject to correcting the reference to the Local Planning Agency to Land Preservation Advisory Board. In a voice vote, all voted in favor. (Motion carried 5-0)

4.3 Mayor Truex asked if the Town still had discretion in granting bonus density units and referred to Broward County's Land Use Plan. Housing and Community Development Director Shirley Taylor-Prakelt indicated that the plan was a way to make homes affordable in today's economy. Mayor Truex asked if there was a deadline for approval by Council. Ms. Taylor-Prakelt indicated there was no deadline and indicated that the purpose was to update the plan. She indicated that tabling the resolution might prevent someone from getting the waivers they might need.

Mayor Truex expressed concern that this plan might be held over "Council's head" in the future and not allow Council the final say over what types of density would be utilized for these developments. Town counsel Andre Parke referred to State Statute 420.90.72, which was an incentive program where the State provided funding for municipalities for this type of program. He stated that there was no definitive answer as to the type of incentive the Town had to give to developers for affordable housing.

Vice-Mayor Starkey asked Ms. Taylor-Prakelt to clarify the definition of affordable housing. Ms. Taylor-Prakelt indicated that current programs were designed for working

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families. She indicated that a family of four would qualify if the total income did not exceed \$40,000.

Vice-Mayor Starkey made a motion, seconded by Councilmember Crowley, to table until July 2, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

4.3 Mayor Truex asked if the highlights of the changes to the resolution could be presented which Town Engineer Larry Peters provided.

Mayor Truex made a motion, seconded by Vice-Mayor Starkey, to approve. In a voice vote, with Councilmember Paul out of the room, all voted in favor. (Motion carried 4-0)

4.7 Vice-Mayor Starkey voiced her displeasure with this resolution. She distributed a memorandum which included a letter from Lorraine Yeomans. It also included a position paper and a map of the area in question.

Mayor Truex indicated that a workshop was held to get public input and some finality. He advised that the resolution on the agenda was not a new hearing, but rather a summation of the workshop. Mayor Truex felt the trail should be referred to as a "trail" rather than a "horse trail."

Vice-Mayor Starkey stated that there was never a determination by Mr. Kiar that the area in question was in fact a trail. She felt it was not fair to base this resolution on the recollection of a few residents.

Councilmember Paul indicated that she was in agreement with Mayor Truex and was in favor of the resolution. She felt that facts were represented on both sides and recollections could be considered as fact.

Councilmember Hubert questioned if the residents were ever told that there was an easement on their property. She indicated that easements were presented to buyers at closings. Vice-Mayor Starkey indicated that Ms. Yeomans showed that the easement would be a landscape buffer rather than a recreational trail.

Councilmember Crowley felt the resolution should be changed to omit South Florida Trailriders. It should only indicate that equestrians and residents had expressed a desire to preserve the trail in its current location.

Vice-Mayor Starkey asked if this item could be tabled until Mr. Kiar could give a legal opinion on this issue. Mayor Truex asked Council if they were willing to table. Councilmember Paul felt that a legal opinion would not change the outcome. Mayor Truex indicated it was important to seek a legal opinion if one was requested. Councilmember Crowley was also confident the easement was in place, but was willing to hear the legal opinion. Vice-Mayor Starkey indicated she was concerned that the Town was going to be sued, and she wanted researched documents from Mr. Kiar, which indicated whether or not the property in question was a recorded trail.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to table until August 6, 2003. In a voice vote, with Councilmember Paul dissenting, all voted in favor. (Motion carried 4-1)

4.10 Councilmember Paul expressed her concerns regarding the proposed easement drainage.

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Planning and Zoning Manager Leiva indicated that the Planning and Zoning Board voted to deny the project because of a question about legal documents for the lots on the south of this development. There were also questions regarding whether or not a horse trail was present.

Bill Laystrom, representing the applicant, indicated that because there was an issue with title, his client chose to address Council, rather than returning to the Planning and Zoning Board, and in the meantime, the title work was being done. He indicated that two easements were found outside of the plat in question and added that his client had provided a 20-foot canal maintenance easement, as required by the Central Broward Water District. Mr. Laystrom offered to provide information to the residents for clarification and he assured that all drainage water would be held on site. He referred to the horse trail and stated that it would not provide connectivity, but there were other recreational trails. Mr. Laystrom felt that his client met all the requirements for platting, both for the Town and for the County.

Raul Bosque, a resident, indicated that he had his property survey which did not show an easement. He was also concerned that he and his neighbors had not seen any plans for this property. Mr. Bosque stated that in order for the applicant to satisfy their water containment requirement, they would have to dig a lake, some of which would be part of his property. He asked that Council direct the developer to meet with the affected residents to resolve this issue.

Councilmember Crowley felt comfortable with the plat as long as everything was clarified for the residents and staff. He indicated that the site would need a minimum of 20 feet between the two water bodies.

Mayor Truex asked if approval of this plat could have repercussions if the site plan was not presented at this time. Mr. Laystrom replied in the affirmative. Mr. Kiar indicated that if the plat did not encroach on other properties there would be no problem. He recommended that the Town Engineer research this issue.

Councilmember Paul made a motion, seconded by Councilmember Hubert, to approve with the caveat that the developer will meet with the residents on SW 31 Court and come to some sort of agreement prior to site plan. In a voice vote, all voted in favor. (Motion carried 5-0)

4.12 Vice-Mayor Starkey asked who placed this item on the agenda to amend Mr. Willi's contract, and who prepared. Mayor Truex indicated that Council had agreed to bring this forward. Mr. Willi indicated the document was prepared by Human Resource Department.

Vice-Mayor Starkey questioned why there were more amendments to the contract, which allowed for protection for a Town Administrator who "did not perform." Councilmember Hubert understood that when the super-majority vote was voted down, the provisions in the contract would be increased. Vice-Mayor Starkey indicated that no direction was given by Council to amend the contract. She was not in favor of provisions in the contract that would allow Mr. Willi to continue to earn severance pay if he secured a position with another government but made less money than he made with the Town. Vice-Mayor Starkey felt this was "double dipping." Mr. Willi clarified that the amendments would go into effect if he was terminated without cause and the additional severance pay would be the penalty the Town would pay.

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Vice-Mayor Starkey wanted to set parameters for the term “misdemeanor” conviction because she felt it needed clarification. She pointed out that “without due cause” referred to a felony charge and a court case could be lengthy and the Town would be penalized by having to pay severance. Vice-Mayor Starkey suggested that language be included that clarified if the Town Administrator was indicted he would be terminated, but he could be rehired if he was found not guilty. Councilmember Paul reminded Vice-Mayor Starkey of due process. Councilmember Hubert felt that the phrase “without cause” should be removed and everything else should remain as in the original contract.

Councilmember Paul felt it was commendable that Mr. Willi offered this contract as a compromise for the “supermajority” issue. She did not have problems with the changes.

Councilmember Crowley did not feel that what Mr. Willi was asking for was unreasonable. He felt that the original contract should be in place with a total 12-month severance package.

Mayor Truex felt that a liquidated damages clause was a good idea because it would remove any uncertainty from the Council. He asked Mr. Willi if he was amenable to defining “cause” and setting up a procedure if he were terminated without cause.

Mr. Willi felt he was negotiating from a position of power and he was unwilling to give up without Council compromising. He was amenable to “tweaking” the language, but did not want to have Council spend a great deal of time on it.

After further discussion regarding the language in the contract, Mayor Truex asked if Council would agree to allow him to act as a point person and meet with Mr. Kiar to assist in refining the language in the contract.

Vice-Mayor Starkey made a motion to deny item 4.12. The motion died due to the lack of a second.

Councilmember Hubert made a motion, seconded by Mayor Truex, to table until August 6, 2003 with the understanding that Mayor Truex would work with Mr. Kiar to work on compromise language. In a voice vote, with Vice-Mayor Starkey dissenting, all voted in favor. (Motion carried 4-1)

4.14 Councilmember Paul asked for a waiver so that trees could be planted on the north side of the property for additional landscaping, as per the requests from Ivanhoe residents. She wanted to know if Council could approve this item with the caveat that the applicant would request a waiver for more trees from the Drainage District.

Dennis Mele, representing the applicant, explained that the theatre would create two new viewing rooms, new retail space, and three new outparcels. Councilmember Paul indicated she wanted the applicant to go above and beyond the current site plan and add more trees. Mr. Mele agreed to add the caveat to approval to add 26 additional trees unless staff felt that was too many.

Vice-Mayor Starkey referred to a security window on the backside of the building and asked that maintenance be done so that trees and landscaping did not cover up the window.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to approve, based on the agreement of an additional 26 trees based on staff’s recommendation if they feel it doesn’t fit and they need to lower it all, but a maximum of 26, and also the maintenance of the

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security window discussed by Vice-Mayor Starkey. In a voice vote, all voted in favor. (Motion carried 5-0)

4.15 Councilmember Paul wanted a buffer set up on the rear of the properties that backed up onto the ESL site to make sure there were no outbuildings or outparcels, including garages, except for barns, that might come in for variances to get closer to the park. Dennis Mele, representing the applicant, agreed.

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

4.16 Councilmember Paul indicated she had met with Mr. Laystrom regarding her concerns about the site plan. She advised of the changes Mr. Laystrom agreed to.

Bill Laystrom, representing the applicant, indicating the applicant's willingness to include three provisions to Council's approval.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to approve, subject to the letter from Mr. Laystrom and staff's recommendations. In a voice vote, all voted in favor. (Motion carried 5-0)

6. PUBLIC HEARING

Ordinances - Second and Final Reading

- 6.1. **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN; AMENDING CHAPTER 4 ENTITLED ANIMALS; PROVIDING FOR DEFINITIONS FOR WILD ANIMALS; AMENDING SECTION 12-32, ENTITLED "TABLE OF PERMITTED USES"; PROVIDING FOR APPROPRIATE ZONING CATEGORIES FOR KEEPING OF WILD ANIMALS; AMENDING SECTION 12-34(B) ENTITLED ANIMALS; PROVIDING FOR REGULATIONS FOR THE CARE AND MAINTENANCE OF WILD ANIMALS; AND AMENDING SECTION 12-503 DEFINITIONS PROVIDING FOR DEFINITIONS FOR WILD ANIMALS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading June 4, 2003 - all voted in favor}**

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting.

Jeffrey Harrod, 3000 SW 121 Avenue, voiced his objections to this ordinance and questioned why this was before Council as this ordinance conflicted with Florida Statutes. He asked that Council "kick it back" so that issues he had with it could be worked out.

Mr. Kutney spoke of the genesis of this issue and why it was before Council at this time. Planning and Zoning Manager Fernando Leiva spoke of directives from Council to add specific language to the ordinance and to amend the definition of wild animals.

Mr. Harrod wanted to know who would be doing the inspections. Mr. Kutney indicated that staff was consistent with State Statutes.

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Councilmember Paul indicated that she had spoken with Mr. Ruggeri from Flamingo Gardens, who had concerns because of the way the animals there were permitted.

Vice-Mayor Starkey understood that the intent of staff was to prevent single-family homeowners from "going beyond" the limits. She realized this ordinance was not intended to negatively impact legitimate businesses.

Mr. Harrod indicated that the Planning and Zoning Board advised the permit would cost \$1,000, whereas the state only charged \$25.00.

Michael Ruggeri, representing Flamingo Gardens, suggested that the Town consider both federal and State laws concerning this issue.

Mayor Truex closed public hearing.

Councilmember Hubert asked who set the fees. She was concerned with the disparity between the State fee and the proposed Town fee. Mayor Truex indicated the Town set the fees. Mr. Harrod indicated he was told the yearly fee was approximately \$950.

Mr. Kutney clarified that the Town would hire an expert to do inspections, as recommended by both Mr. Harrod and Mr. Ruggeri, and the fee was cost recovery for the inspector.

Councilmember Paul made a motion, seconded by Councilmember Crowley, to table until September 3, 2003.

Council was in agreement to have Mr. Kiar review the ordinance. Mr. Leiva asked if Council wanted staff to include an inspection fee, above and beyond the special permit fee. Mr. Kutney reiterated that an inspector would have to be hired and the Town would be collecting cost recovery fees.

Mr. Harrod questioned why the Town would want an inspector if the State already provided this service. Councilmember Paul clarified that the intent was to prevent illegal wildlife being held by homeowners in inappropriate conditions. Also, the Town wanted to create a database to monitor the wild animal population. Mr. Harrod advised that the State already had such a database and if an animal was not registered, the owner was in violation.

Mr. Kutney stated that Council had requested the annual inspection fee. Mayor Truex felt the actual cost should be recovered. He indicated that Mr. Harrod would have ample opportunity to further discuss this issue and offer input.

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

6.2. **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**
2003-22 APPROVING REZONING PETITION ZB 4-1-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM R-5, LOW MEDIUM DWELLING DISTRICT TO A-1, AGRICULTURAL DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 4-1-03, Town of Davie, 5241 SW 82 Avenue)*Planning and Zoning Board recommended approval* **{Approved on First Reading June 4, 2003 - all voted in favor}**

Town Clerk Muniz read the ordinance by title.

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

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Ordinance - First Reading (Second and Final Reading to be held July 2, 2003)

- 6.3. **VACATION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING PETITION VA 4-2-03, VACATING DRAINAGE EASEMENTS WITHIN SECTION 33, TOWNSHIP 50 SOUTH, RANGE 41 EAST AND WITHIN THE MADISON LAKES PLAT (170-117); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 4-2-03, Higgins-Deni/FLR Company, 5050 SW 82 Avenue)*Planning and Zoning Board recommended approval*

Town Clerk Muniz read the ordinance by title. Mayor Truex advised that a public hearing would be held on July 2, 2003.

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

- 6.4. **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN; AMENDING SECTION 26-1 ENTITLED "REQUIREMENTS FOR WILDLIFE PROTECTION PRIOR TO LAND CLEARING"; ADDING SECTION 26-2 ENTITLED "RARE SPECIES"; PROVIDING A LISTING OF SPECIES IDENTIFIED IN BROWARD COUNTY AS RARE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Muniz read the ordinance by title. Mayor Truex advised that a public hearing would be held on July 2, 2003.

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

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

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Ordinances - First Reading/Quasi Judicial Item (Second and Final Reading to be held July 2, 2003)

- 6.5. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1 (COUNTY), AGRICULTURAL DISTRICT TO B-3, PLANNING BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Town of Davie, 8100 Stirling Road)(tabled from May 21, 2003)*Planning and Zoning Board recommended denial with the recommendation of rezoning to the least intensive commercial zoning to retain more control over the uses as there was not a conceptual site plan presented with this B-3 rezoning request*

This item was tabled earlier in the meeting.

- 6.6. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-2-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM P.U.D. (COUNTY), PLANNED UNIT DEVELOPMENT DISTRICT TO B-3, PLANNING BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Town of Davie, 4703 SW 148 Avenue)(tabled from June 4, 2003)*Planning and Zoning Board recommended approval*

This item was tabled earlier in the meeting.

Quasi Judicial Item

- 6.7. **VARIANCE** - V 3-2-03, Miller Legg & Associates/GL Homes of Davie Associated II, Ltd., 10445 Canterbury Court (E)(to reduce the lot frontage of 100 feet measured at the front setback line for the lots on cul-de-sac to 95 feet)*Planning and Zoning Board recommended approval*

Mr. Kiar read the rules of evidence and swore in the witnesses. Mr. Leiva summarized the planning report.

Gladys DiGeronimo, representing the applicant, explained that the request would allow for proper alignment of this lot.

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

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

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Item to be Tabled

6.8. PLANNING AND ZONING BOARD TABLED TO JUNE 25, 2003; COUNCIL CAN TABLE TO JULY 2, 2003

CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN; ADDING SECTION 26-58 ENTITLED "ENFORCEMENT" RELATING TO CLEARING AND GRUBBING PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was tabled earlier in the meeting.

7. APPOINTMENTS

All appointments were deferred.

7.1. Child Safety Board (one exclusive appointment - Vice-Mayor Starkey and Councilmember Hubert; 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)

7.2. Open Space Advisory Committee (one exclusive appointment - Mayor Truex and Vice-Mayor Starkey; term expires April 2004)

7.3. Unsafe Structures Board (non-exclusive appointments; terms expire April 2006 (appointment of Plumbing Contractor and General Building Contractor)

7.4. Water and Environmental Advisory Board (two exclusive appointments - Mayor Truex; terms expire April 2004)(insofar as possible, one member of the board shall be a licensed engineer)

8. OLD BUSINESS

8.1. Charter Language for Town Attorney Services

Mr. Kiar read from his agenda report regarding a resolution that would clarify the role and duties of the Town Attorney and the hiring of outside legal counsel. He also referred to the Town Charter.

Vice-Mayor Starkey agreed with Mr. Kiar's proposal.

Councilmember Crowley had concerns regarding having to go through the Town Attorney's office for search and seizures when there was already a process in place. Mr. Kiar clarified that he meant all contracts should go through his office. Councilmember Crowley agreed but indicated that he wanted language that would allow the Town to make exceptions to the Task Force without having to go through the Town Attorney's office. Mr. Kiar clarified that he had no objections and Council was permitted to seek outside legal counsel.

Fire Chief Don DiPetrillo questioned if approval was needed from the Town Attorney's Office if expert counsel was needed. Mr. Parke clarified that the Town still had the authority to

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hire outside legal counsel. Chief DiPetrillo felt that language regarding exclusivity should be clarified so that the Town Administrator and management would have the flexibility to make decisions without going through the Town Attorney's Office.

Councilmember Paul agreed with Chief DiPetrillo in that language needed to be clarified for the future. She asked Mr. Kiar if he read the ordinances for correctness when he reviewed the Council agenda. Mr. Kiar indicated that he reviewed the agenda, but not as specifically as he would an item sent to him for a legal opinion.

Councilmember Paul wanted to make sure that Council was not giving up any authority in making decisions regarding outside legal counsel. Councilmember Crowley agreed with Councilmember Paul and felt language should be changed where it stated that all legal matters pertaining to the Town should go through the Town Attorney. He felt that language should be added to the resolution to clarify.

Sylvia Clemens, 4751 SW 30 Street, referred to page 15 under Town Attorney, indicated that it should state "in good standing." She questioned if Mr. Kiar was bonded and indicated that there was nothing that addressed conflicts of interest. Mr. Kiar indicated that he was a member in good standing of the Florida Bar Association.

Mayor Truex felt it would be a good idea for Council to pass an ordinance such as this. He felt that every ordinance should be sent to the Town Attorney's Office for correctness. Mr. Willi referred to the Town's charter and stated there was nothing in it regarding exclusivity. He also felt that Council should not consider "picking and choosing" parts of the Charter that best served them. Mr. Willi recommended that Council stick with the Charter as written, and cited as an example the language regarding the retainer, whereas Mr. Kiar currently had an hourly contract. Mr. Willi was concerned with the increase in legal costs due to the duplication of review from outside attorneys. He stated that this money was not part of the budget.

Councilmember Paul felt that if Council was reaffirming what was in the Charter, it should be done by ordinance rather than resolution. Mr. Kiar indicated that there was no requirement that this be done by ordinance.

After some discussion, Council directed Mr. Kiar to revise the language in the resolution and for the resolution to be placed on the Consent Agenda on July 2, 2003.

8.2. College Living Experience

Earlier in the evening, Development Services Director Mark Kutney indicated that staff had visited the Sunforest Apartment community and examined the operations of the College Living Experience. He indicated that although most of his fears were allayed, he noticed that some of the space used was an office, which would require that a number of life/safety issues be resolved. Mr. Kutney indicated that the operators of the College Living Experience were pursuing securing office space.

Neal Kalis, representing College Living Experience, thanked staff on behalf of his client and reiterated that the operators of the College Living Experience would seek retail office space.

Code Enforcement Official Danny Stallone, indicated that he was pleased with the progress of this issue. Mayor Truex asked that an update be given to Council at the next meeting.

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9. NEW BUSINESS

9.1 A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE
R-2003-154 MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO A SECOND
AMENDMENT TO TRAFFIC CONCURRENCY AGREEMENT BETWEEN THE
TOWN OF DAVIE, BROWARD COUNTY, THE CITY OF WESTON, AND
WILLOW ACQUISITIONS, LLC FOR TRAFFIC CONCURRENCY RELATING
TO THE ICW NORTH PLAT AND THE ICW SOUTH PLAT; PROVIDING FOR
RESTRICTIONS TO SATISFY CONCURRENCY REQUIREMENTS; TO
ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO
SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Bill Laystrom, representing the applicant, indicated that this resolution was for traffic concurrency for the Rick Case Honda garage.

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

10. MAYOR/COUNCILMEMBER'S COMMENTS

MAYOR TRUEX

ANNEXATION. Mayor Truex indicated that he, Mr. Willi, Mr. Kiar, and Assistant Town Administrator Ken Cohen had met informally with representatives from Pine Island Ridge and he advised of what was discussed. He indicated that the representatives would like a future meeting with Council.

WALDREP DAIRY. Mayor Truex spoke of the desire of the owners of the Waldrep Dairy property to obtain information on the land use supermajority issue in the form of a developer's agreement. Mr. Willi felt that the issue had not yet been resolved, but that the Town could provide in writing the developer's agreement they were seeking. He stated that annexation was also being considered for this property and added that there were a number of related issues that were out of Council's control.

Councilmember Paul indicated that she would be in favor of land use changes as long as they were consistent with the Town's.

NOVA SCHOOL'S BOUNDARY. Mayor Truex felt this would be good for the Town and wondered if a resolution could be created in support of the Nova Schools becoming boundary schools. After some discussion, Council gave information they wanted included in the "whereas" clauses. Mayor Truex asked that the resolution be written and voted on at this meeting.

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

E-MAILS. Mayor Truex asked about the status of e-mails. Town Clerk Muniz indicated that staff was in the process of completing this task. Mayor Truex felt the process was taking too long and expressed his concerns regarding the use of Town's e-mail. He asked Council to give support to Vice-Mayor Starkey's request to investigate the use of e-mail. Mayor Truex questioned what the Town's e-mail was being used for, what policies were in place, and whether adjustments needed to be made.

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Vice-Mayor Starkey indicated that this issue had to do with performance and professionalism in the use of Town property. She felt that e-mail should be available for public review as per the Sunshine Laws.

Mayor Truex asked Council to agree with Vice-Mayor Starkey to direct staff to expedite the investigation she proposed. Town Clerk Muniz explained the process by which the records were reviewed and stated that it was the Town's responsibility to review the records properly to protect the privacy of employees.

Mr. Willi indicated that State regulations were very clear on this issue. He indicated that the use of e-mail for personal matters regarding family should be allowed, but were not to be abused and there was a policy in place that addressed this. He stated there was no Attorney General's decision, which stated how long such a process should take, except that it should be done in a reasonable amount of time. Mr. Willi indicated that there were restrictions to expediting because of staffing and staff was taking extraordinary measures to complete this process.

Vice-Mayor Starkey indicated that all e-mails were considered public record, even if there were personal, and they were not to be deleted. Town Clerk Muniz advised that no e-mails had been deleted.

COUNCILMEMBER HUBERT

THANKS. Councilmember Hubert thanked residents of her district and Police Chief John George for bringing children together from Palma Nova to Potters Park.

COUNCILMEMBER CROWLEY.

PARK CITY MEDIAN. Councilmember Crowley wanted to know who was responsible for the maintenance of this median. He requested that this be placed on the next agenda under New Business for discussion.

DAVIE MERCHANTS ASSOCIATION MEETING. Councilmember Crowley reported that there were residents and business owners with concerns regarding vandalism and graffiti. He stated that Chief George was present as well and provided contact names and numbers so that residents could report problems.

VICE-MAYOR STARKEY

AIRPORT ADVISORY TASK FORCE MEETING. Vice-Mayor Starkey advised that she could not attend the meeting and asked Mayor Truex if he could attend the meeting on June 25th.

THANKS Vice-Mayor Starkey thanked the Hollywood Fire Department and the Davie Fire Department for the joint exercises held at the Fire Academy.

SHERIDAN HOUSE MEETING. Vice-Mayor Starkey indicated there was a meeting at Robbins Lodge for community members regarding this issue.

COUNCILMEMBER PAUL

SOUND WALLS. Councilmember Paul asked that a resolution be created reiterating the Mayor's concerns regarding the sound wall.

CENTRAL BROWARD EAST-WEST TRANSIT ANALYSIS. Councilmember Paul reported that a meeting was scheduled regarding this issue on June 26th at Plantation High School.

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11. TOWN ADMINISTRATOR’S COMMENTS

Mr. Willi provided no comments.

12. TOWN ATTORNEY’S COMMENTS

CITRUS CANKER. Mayor Truex asked about the citrus canker issue with Mr. Kiar indicating that this issue was being vigorously appealed. Mr. Kiar stated that the current issue was regarding the warrants to remove unaffected trees within 1900 feet of an affected tree.

13. ADJOURNMENT

There being no further business to discuss, and no objections, Mayor Truex adjourned the meeting at 11:37 p.m.

Approved _____

Mayor/Councilmember

Town Clerk