

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

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:00 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present were Mayor Truex, Vice-Mayor Starkey, 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. Employee Recognition Awards

Mark Alan, Director of Human Resources Management, presented quarterly Employee Recognition Awards to Idalexus Canizares, Patricia Tribble, and Christi Encarnacion, and Tamecka McKay and Victoria Whatley, two staff members of the Technology and Information Management Department. All were congratulated for their hard work, enthusiasm and dedication to the Town.

3.2. Open Space Advisory Committee

Sandy Switzer, Chair, presented the Council with a summary of the Committee actions and accomplishments over the last year. Regarding trail monuments, Chair Switzer referred to a map which reflected the final installation of 29 Town monuments which highlighted parks and trail locations with mileage markers and directional arrows. She advised that the Committee would soon identify additional locations for monuments to be installed.

Chair Switzer advised that recreational and equestrian trail guides were complete and available for residents and guests. She thanked sponsors for their generous contributions and stated that the guides would be continually updated.

Regarding wetland mitigation, Chair Switzer advised that the Committee was working on wetland mitigation issues for open space parcels. She stated that the Committee was in favor of installing and funding mitigation sites on open space parcels in order to preserve the ecology and environment of the area.

Chair Switzer advised that the Committee was currently exploring avenues to include the Town's open space parcels and parks on the Town's website. She stated that the Committee wished to see pictures and descriptions of the Town's park locations and amenities reflected on the website.

Mayor Truex stated that he agreed with this suggestion from the Committee. Mr. Willi stated that currently, one could access the trails through the GIS.

Chair Switzer suggested that it would be helpful to have the trail information presented on the website in a format that could be downloaded and printed. She asked Councilmembers to share information on the Town's trail system, as she believed the Town's trail system could be a model to other cities.

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Regarding open space capital improvements, Chair Switzer advised that the Committee had discussed trail segments included in the five-year capital improvement budget approved by Council. She stated that the Committee wished to see the SW 148 Avenue trail completed.

Chair Switzer added that the Flamingo Road recreational trail was complete and that the first phase of the Flamingo Road equestrian trail would be completed this year.

Chair Switzer thanked Council for continuing to budget for trail maintenance. She pointed out that the long-term value of the Town's investment would be protected by ongoing maintenance of the community's trail resource.

Vice-Mayor Starkey stated that while the monuments looked beautiful, they were difficult to see at night. She wondered if there was a way to add reflective stripping to the bottom of the monuments which would illuminate them when headlights hit them. Chair Switzer pointed out that the Committee had already been offered the same suggestion and advised that this would be discussed at the next Committee meeting.

Mayor Truex advised that people complimented the Town on its open space and thanked the Open Space Advisory Committee for its efforts.

3.3. Airport Issues - Broward County Commissioner Lori Nance-Parrish

Commissioner Nance-Parrish advised that the Math Iglor Groves property would be included on the Land Preservation Advisory Board's meeting agenda for following morning. She asked Council to decide who would talk about the mitigation of various areas in the Town. Commissioner Nance-Parrish advised Council that she had met with the Turnpike authority staffers the previous week regarding the noise walls being installed along the Turnpike. She advised that the Turnpike Authority would not work on the Turnpike improvement if the County Commission continued to oppose the effort. Commissioner Nance-Parrish advised that the Commission would continue to oppose any widening or improvements along the Turnpike until all noise walls were considered for the Town and for the City of Plantation.

Regarding the airport expansion issue, Commissioner Nance-Parrish stated that Lee Fisher and Associates had issued its report. She stated that the County Administrator and the Aviation Director were briefing the County Commissioners on the issue. Commissioner Nance-Parrish stated that the Commission would meet on December 2nd and December 9th with a final vote being taken at the December 9th meeting. She advised that to her knowledge, there were three options being discussed. One option was to make a north parallel runway. Commissioner Nance-Parrish considered this plan unfair to residents of southwest Fort Lauderdale, eastern Plantation and Davie. In addition, this might take out fixed operators at the north end of the airport, which might prove to be costly. The second option was to make a diagonal runway. Commissioner Nance-Parrish felt this would require taking out several fixed base operators, and would also affect several homes in Dania, whose residents may not be able to find replacement housing of the same quality. The third option was to make a south runway - which may extend over Federal Highway. She stated that there were some concerns that this might make nearby roads seem more attractive to potential terrorists. However she pointed out that the cost of this effort, plus the expense related to burying Florida Power and Light's wiring, were her main concerns. Another concern was that since original environmental impact studies and proposals for a 9,000-foot runway were over 15 years old, they were out of date, as current and future technology did not require such long landing areas for planes.

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Commissioner Nance-Parrish believed the Town might be against its own self-interest. She felt that if the Town did nothing, growth would still occur. Commissioner Nance-Parrish felt that as more growth occurred, more flights would be added to the already overcrowded system, which meant the Town would bear almost 90% of the traffic as more planes landed on the North runway. She stated that with the expansion of the South runway, the traffic would be better distributed. Commissioner Nance-Parrish also spoke about noise event contours which mostly existed west of Hiatus Road. She believed that in the Town's self-interest, doing nothing was unacceptable as the increased traffic would affect the Town in a negative way.

Vice-Mayor Starkey indicated that the Town, along with Dania and Hollywood, had requested an update of the master plan proposed over 15 years earlier. She clarified that the Town took the position to oppose the expansion of the South runway until the master plan was updated, only because they wanted to make a decision based on current information. Vice-Mayor Starkey was concerned about the 33,000 people who lived in the noise contour areas. She advised that mitigation allowed for windows to be upgraded in some areas, whereas mobile home communities which were in the extreme noise contour could not be mitigated.

Commissioner Nance-Parrish asked Vice-Mayor Starkey which scenario she was referring to. Vice-Mayor Starkey indicated that the Town used a scenario based on the original study and then reported the findings in the Environmental Impact Statement (EIS). She stated that the only counter in Davie that measured noise contour was on the Turnpike between Griffin Road and State Road 84. She referred to maps prepared by the Town which were submitted to the FAA. Vice-Mayor Starkey indicated that one map showed that almost 33,000 residences would be impacted by noise.

Commissioner Nance-Parrish stated that the map being viewed was not a noise contour map. Vice-Mayor Starkey pointed out that if the noise contour map was laid over the residence map, it reflected an area where 33,000 residences would be affected by noise impact. Commissioner Nance-Parrish stated that the area numbers did not reflect 33,000 residences.

Vice-Mayor Starkey asserted that mobile home communities could not be mitigated. She advised that the Town was hoping to work with the Commission on a plan.

Mayor Truex asked if the plan that went across the railroad track and east highway was still on the table. Commissioner Nance-Parrish explained that the FAA controlled who conducted the EIS study, even though the County had paid for it. She stated that the FAA had "lowballed" their financial proposal to prepare the EIS, which resulted in an unclear final report which was difficult to understand. She indicated that the Commission had decided to go ahead with the 9,000 feet, but had simultaneously hired two new consultants, to amend and improve the EIS, along with hiring Lee Fisher and Associates, to study runway alternatives.

Mayor Truex asked about the three choices that were described. Commissioner Nance-Parrish explained the choices and stated that the Commission was divided on the issue but wanted to expand the airport in the most neighborly and environmentally sound manner.

Mayor Truex advised that he and Vice-Mayor Starkey had attended different meetings on this issue and restated Vice-Mayor Starkey's correction that the Town was not against expansion. He felt that in certain parts of Davie, current airport noise was intolerable and the giant runway being discussed would increase the noise impact.

Commissioner Nance-Parrish stated that the issues of Dania Beach and Hollywood were different from the Town's. Mayor Truex felt that the large runway would make matters

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unbearable, and expensive. Commissioner Nance-Parrish agreed that it would be very expensive. She did not believe that a 9,000-foot south runway expansion would pass.

Vice-Mayor Starkey stated that the Town had received large quantities of petitions from residents voicing their concerns and requests for an update to the master plan. She felt the Town should consider what it wanted to look like and that grandiose ideas for expansion presented a problem with cost, management and efficiency of the economy. Commissioner Nance-Parrish pointed out that cargo provided billions of dollars to Broward's economy. Vice-Mayor Starkey pointed out that the Opa-Locka airport was underused and could be utilized in order to take some of the cargo burden of the Fort Lauderdale airport. Commissioner Nance-Parrish explained that Fort Lauderdale did not have the land mass of Miami's airport to handle that volume of cargo. She stated that the Fort Lauderdale airport hoped to be competitive with its neighbors in the future.

Vice-Mayor Starkey stated that the Town did not want the bulk of the traffic to come over Davie. Commissioner Nance-Parrish explained that with the expansion there would be arrivals only on the North runway and Davie was bearing the brunt of traffic, whereas a South runway would provide the Town with at least 50% relief.

Vice-Mayor Starkey referred to the DNL's on the County's map and asked Commissioner Nance-Parrish to compare it with the residence map. Commissioner Nance-Parrish explained that the map reflected single event noise contours.

Mayor Truex asked if it was unlikely that the long runway would be approved and what would be the most likely outcome. Commissioner Nance-Parrish stated that she did not believe it would be approved and in her view, she felt doing nothing was unacceptable. She stated that at her guess, a 7,000 to 7,300-foot runway would probably be recommended.

Councilmember Paul asked if the 7,000-7,300-foot runway would still include the 1,000 foot section on either end of the EMAS system. Commissioner Nance-Parrish stated that the EMAS system would not be allowed unless a waiver was granted and several measures could be taken to control noise, including implementing a curfew.

Vice-Mayor Starkey asked if restrictions were possible to reduce late night noise, which several residents complained about. Commissioner Nance-Parrish explained that those restrictions were already in place.

Councilmember Paul asked about the 350-foot distance between the North and South runways for takeoffs and landings. Commissioner Nance-Parrish explained that this would save the current operators from being relocated at great expense.

Mayor Truex thanked Commissioner Nance-Parrish for attending the meeting. He felt her words were encouraging and showed a step in the right direction.

Mayor Truex advised that item 4.27 was requested to be tabled until December 3, 2003. Councilmember Paul stated that this item was being considered and that she would keep following up on this. Mayor Truex advised that items 4.32, 6.1, and 6.5 were requested to be tabled. Councilmember Crowley asked for discussion on item 6.1.

Vice-Mayor Starkey made a motion, seconded by Councilmember Paul, to table items 4.27, 4.32 and 6.5 until December 3, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

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4.17 Mayor Truex advised that Budget and Finance Director William Underwood would explain to Council why this item was to be tabled.

Mr. Underwood explained that the Town had been negotiating with the City of Plantation on this issue. He stated that in an earlier conversation regarding significant changes requested by Plantation, the decision was made to table this item until December 3, 2003.

Councilmember Paul reminded Mr. Underwood that Council had a specific timeframe set out for this issue. Mr. Underwood stated that if the language was worked out, then December 3rd would still be within that timeframe.

Mr. Kiar stated that the Town received a copy of the letter addressed to the JCC's attorneys earlier the same day. He advised that the provisions of the interlocal agreement would dramatically change. Councilmember Paul asked whether the Federation's attorneys had looked over the letter. Mr. Kiar stated that the Town had spoken with the Federation's attorney.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to table to December 3, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that items 4.21, 6.6, 6.7, and 6.8 were withdrawn from the agenda.

Mayor Truex advised that item 4.36 needed to be added.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to add item 4.36 to the agenda. In a voice vote, all voted in favor. (Motion carried 5-0)

4. APPROVAL OF CONSENT AGENDA

Minutes

- 4.1. August 26, 2003 - Workshop Meeting
- 4.2. October 15, 2003 - Regular Meeting

Proclamation

- 4.3. Farm City Week (November 21 - 27, 2003)

Parade Permits

- 4.4. Forest Ridge Holly Day Parade (December 6, 2003)
- 4.5. South Florida Trail Riders Jingle Bell Parade (December 7, 2003)

Resolutions

- 4.6. **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A BOUNDARY PLAT KNOWN AS SHERIDAN HOUSE NO. 3 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 8-1-01, 1400 Flamingo Road) (tabled from November 5, 2003)**
- R-2003-283

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- 4.7. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2003-284 THE BID FOR REPLACING BLEACHERS AT BERGERON RODEO GROUNDS
(Southeastern Seating, Inc. - \$89,975)
- 4.8. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2004-285 THE BIDS FOR LAWN MAINTENANCE SERVICES FOR TOWN HALL AND
ROADWAY CORRIDORS. (\$192,252.64/year)
- 4.9. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING
R-2003-286 THE BID AWARDED BY THE STATE OF FLORIDA, AGREEMENT NO. 650-001-
04-1 FOR SUPPLYING PLAYGROUND EQUIPMENT FOR "FALCONS LEA
PARK" TO CONTRACT CONNECTION, INC. (Contract Connection, Inc. -
\$16,713.04)
- 4.10. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING
R-2003-287 THE CAPITAL PROJECT BUDGET AND ACCEPTING THE BID FROM
MEDTRONIC/PHYSIO CONTROL TO PURCHASE TWENTY (20) LIFEPAK 12
EKG MONITOR/DEFIBRILLATORS WITH 12 LEAD EKG TRACING,
CARDIAC PACING, PULSE OXIMETRY AND END TITAL CO2 MONITORING,
NONINVASIVE BLOOD PRESSURE MONITORING AND INTEROPERABLE
COMMUNICATIONS PIGGYBACKING STATE CONTRACT NO. SNAPS II
4651957-2. (\$261,483.60)
- 4.11. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA
R-2003-288 APPROVING THE PURCHASE OF VARIOUS SOFTWARE APPLICATIONS
AND ENHANCEMENTS FROM SUNGARD HTE. (\$175,500)
- 4.12. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
AMENDING THE CAPITAL PROJECT BUDGET AND AUTHORIZING THE
MAYOR TO EXECUTE A CONTRACT WITH WIDELL, INC. TO
DESIGN/BUILD ON-SITE CHLORINE GENERATION SYSTEMS. (\$1,345,400)
- 4.13. **APPROPRIATIONS REVISION** - A RESOLUTION OF THE TOWN OF DAVIE,
R-2003-289 FLORIDA, AUTHORIZING A REVISION TO THE APPROPRIATIONS FOR THE
FISCAL YEAR 2004.
- 4.14. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA
R-2003-290 AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN
TDRS PROPERTIES A.K.A. GOLDSTAR PRODUCTS, INC. AND THE TOWN
OF DAVIE POLICE DEPARTMENT FOR TRAFFIC CONTROL.

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- 4.15. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN OF DAVIE FOR ILLUMINATION OF FLORIDA DEPARTMENT OF TRANSPORTATION BRIDGE NO. 860581 OVER THE C-11 CANAL IN BROWARD COUNTY, FLORIDA. (not budgeted - \$432/year)
R-2003-291
- 4.16. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA APPROVING AN EASEMENT AGREEMENT BETWEEN THE EAST DAVIE COMPANY, THE TOWN OF DAVIE AND THE DAVIE COMMUNITY REDEVELOPMENT AGENCY AND APPROVING AN AGREEMENT AMONG THE SAME PARTIES SUPPLEMENTING THE TERMS OF THE EASEMENT AGREEMENT; AUTHORIZING EXECUTION OF SAME BY THE APPROPRIATE OFFICIALS OF THE TOWN; AND PROVIDING FOR AN EFFECTIVE DATE.
R-2003-292
- 4.17. **AGREEMENT** - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA (THE "TOWN"), APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERLOCAL AGREEMENT WITH CITY OF PLANTATION, FLORIDA IN CONNECTION WITH THE ISSUANCE BY THE TOWN ON BEHALF OF UNITED JEWISH COMMUNITY OF BROWARD COUNTY, INC. (THE "BORROWER") OF THE TOWN'S NOT TO EXCEED \$25,000,000 REVENUE BONDS (UNITED JEWISH COMMUNITY OF BROWARD COUNTY, INC. PROJECT), SERIES 2003, FOR THE PURPOSE OF FINANCING AND REFINANCING THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION AND EQUIPPING OF CERTAIN EDUCATIONAL FACILITIES AND SOCIAL SERVICE FACILITIES LOCATED IN THE TOWN AND IN THE CITY OF PLANTATION, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.
- 4.18. **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPLICATION, APPROVAL AND EXECUTION OF A GRANT FOR FUNDING FOR THE 2004/2005 CULTURAL YOUNG AT ART PROGRAM ADMINISTERED BY THE BROWARD CULTURAL COUNCIL, EDUCATION AND COMMUNITY DEVELOPMENT PROGRAM IN THE AMOUNT OF \$60,000. (50% cash match - \$30,000)
R-2003-293
- 4.19. **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE APPLICATION FOR A GRANT FROM FLORIDA EMS COUNTY GRANT PROGRAM FOR AUTOMATIC ELECTRIC DEFIBRILLATORS (AEDs); AUTHORIZING GRANT ACCEPTANCE AND EXECUTION IF AWARDED; AUTHORIZING AMENDMENT TO THE TOWN OF DAVIE OPERATING BUDGET TO RECOGNIZED GRANT REVENUE AND EXPENDITURES IF AWARDED. (No matching funds required)
R-2003-294

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- 4.20. **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-295 AUTHORIZING THE APPLICATION, ACCEPTANCE AND IMPLEMENTATION OF A GRANT FOR HISTORIC PRESERVATION FOR THE CREATION OF AN HISTORIC PRESERVATION ORDINANCE AND MASTER SURVEY OF HISTORIC SITES AND DISTRICTS FROM THE FLORIDA DEPARTMENT OF STATE, DIVISION OF HISTORICAL RESOURCES, IN THE AMOUNT OF \$15,000 (WITH \$7,500 MATCHING FUNDS AND \$7,500 IN-KIND). (2004-2005 fiscal year)
- 4.21. **QUIT CLAIM DEED** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO EXECUTE A QUIT CLAIM DEED FOR 25' OF RIGHT-OF-WAY FROM VERONICA MIELE; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. (generally located on the southwest corner of SW 20 Street and SW 127 Avenue)
- 4.22. **CHANGE ORDER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA
R-2003-296 AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER NUMBER 1 BETWEEN THE TOWN AND WEEKLEY ASPHALT PAVING COMPANY, INC. FOR MEDIAN BEAUTIFICATION ON PINE ISLAND ROAD. (increase of \$34,635)
- 4.23. **DEVELOPER'S AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,
R-2003-297 FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND THE MAJESTIC GROVES HOMEOWNERS BEAUTIFICATION COMMITTEE FOR THE PLACEMENT OF AN ENTRANCE SIGN, LIGHTING AND LANDSCAPING WITHIN THE TOWN'S RIGHT-OF-WAY; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 9-2-03, 11602 SW 26 Street)
- 4.24. **DEVELOPER'S AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,
R-2003-298 FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO AGREE WITH BROWARD COUNTY, RACHEL SPEAR AND CYNTHIA VARAT THAT THE SPEAR AND VARAT PLAT SHALL PROCEED AS ONE PLAT THROUGH THE DEVELOPMENT REVIEW PROCESS OF BOTH THE TOWN OF DAVIE AND BROWARD COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 9-3-03, 8550 Stirling Road)
- 4.25. **DELEGATION REQUEST** - A RESOLUTION OF THE TOWN OF DAVIE,
R-2003-299 FLORIDA, APPROVING A DELEGATION REQUEST TO AUTHORIZE A CHANGE TO THE RESTRICTIVE NOTE ON THE SUBDIVISION PLAT KNOWN AS THE STERLING VILLAS PLAT; AND PROVIDING AN EFFECTIVE DATE. (DG 4-2-03, Sterling Townhomes, 3875 NW 76 Avenue)

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- 4.26. **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING**
R-2003-300 **THE PLAT KNOWN AS NOB HILL PARK OF COMMERCE AND**
AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE
APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN
SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 12-2-02,
10350 State Road 84)

Site Plans

- 4.27. **STAFF REQUESTING A TABLING TO DECEMBER 3, 2003**
SP 10-7-02, Warren Henry/Regency Square, 4801-4991 SW 148 Avenue (PUD)
(tabled from November 5, 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.*
- 4.28. SP 3-1-03, Country Western Store, 7500 and 7550 Griffin Road (B-2) (tabled from November 5, 2003) *Site Plan Committee recommended approval based on the applicant revising the townhouse plans to match the elevations as presented and coming back before this committee before permits; that the dumpster be moved from the parking area to somewhere near the office building; redesign the west parking to allow only one access point into that parking area (the southern most driveway); change the color of the hardy board on the office building to a darker color; on the office building, stagger the flat front canopy to allow for the palms and planters as shown; put in a crosswalk hatching from the west parking to the office building, across the entrance; evaluate the landscape berm plantings on the south property line; and evaluate the Royal Palms in front of the commercial building*
- 4.29. SP 5-1-01, Nob Hill Park of Commerce, 10350 State Road 84 (CC) *Site Plan Committee recommended approval subject to the planning report and the following conditions: 1) the architectural questions on buildings 11, 12, 6 and 7, that the applicant add the architectural elements to the rear of those buildings similar to what is on the front; 2) on buildings 4, 5, 8, 9, 10 and 13, to add canvas canopies over the rear doors and raise the rear concrete panels to periodically have arched tops, similar to the front; 3) to restudy the site plan and add dumpsters near the office buildings; 4) to redesign and install a median for traffic control at the northeast access to State Road 84; 5) to add an access point off of Commerce Drive for the neighbor to the west, aligning with the first or second drive into the office building; 6) and have the Town Arborist review the existing trees abutting the State Road 84 corridor so that the applicant could redesign the tree canopies along that corridor to match the renderings as displayed, and if Royal Palms are used (with the Town's approval), they should consist of ten-foot grey wood*
- 4.30. SP 7-1-02, Diamond Creek, 15700 SW 28 Street (A-1) *Site Plan Committee recommended approval subject to staff's recommendations and revisiting the landscape buffer along I-75*

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- 4.31. SP 4-7-03, Stirling Villas, 3875 NW 76 Avenue (RM-8) *Site Plan Committee recommended approval subject to the following conditions: 1) the addition of columns and railings on the front porches as outlined; 2) a revised rendering showing roof breaks and staggering to match the elevations and plans; 3) and review by staff and engineering of the driveway of the building facing 76 Avenue to see if it is infringing on the "site triangle"; and 4) that the wall extensions be a "wing wall" design verses a structural, and that it be a six-foot high wall as opposed to an eight-foot high wall*

Site Plan Modification

- 4.32. MSP 7-1-02, Millcreek Ranches, 3011 SW 148 Avenue (A-1) *Site Plan Committee recommended approval subject to the planning report*

Temporary Use Permits

- 4.33. TU 10-4-03, Home Depot, 5801 South University Drive (Christmas tree sales)
4.34. TU 10-5-03, Home Depot, 2300 North University Drive (Christmas tree sales)
4.35. TU 10-6-03, Home Depot, 15835 Rick Case Honda Way (Christmas tree sales)
- 4.36. A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REQUESTING THAT
R-2003-301 THE BROWARD COUNTY COMMISSION CONDUCT A MEETING TO DISCUSS AIRPORT RUNWAY ALTERNATIVES WITH LEIGH-FISHER ASSOCIATES AND THE CLEAN AIR PARTNERSHIP AT THE BROWARD COUNTY CONVENTION CENTER TO ACCOMMODATE THE LARGE NUMBER OF RESIDENTS EXPECTED FROM THE CITY OF DANIA BEACH, TOWN OF DAVIE, CITY OF FORT LAUDERDALE, AND THE CITY OF HOLLYWOOD.

Vice-Mayor Starkey requested that item 4.1, 4.2, and 4.29 be removed from the Consent Agenda. Councilmember Hubert requested that items 4.6, 4.33, 4.34, and 4.35 be removed. Councilmember Paul requested that items 4.3, 4.26, 4.28 and 4.30 be removed. Mayor Truex requested that item 4.16 be removed. Mr. Kiar requested that item 4.12 be removed.

Vice-Mayor Starkey made a motion, seconded by Councilmember Hubert, to approve the Consent Agenda minus items 4.1, 4.2, 4.3, 4.6, 4.12, 4.16, 4.26, 4.28, 4.29, 4.30, 4.33, 4.34, and 4.35. In a voice vote, all voted in favor. (Motion carried 5-0)

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.1 Vice-Mayor Starkey indicated that the language on the August 26th minutes needed to be amended pertaining to her vote. She indicated that she voted in favor and requested that the words "except for" should be struck out.

Mayor Truex clarified the language should be all were in favor.

Vice-Mayor Starkey made a motion, seconded by Councilmember Crowley, to approve subject to amending the language on the last page. In a voice vote, all voted in favor. (Motion carried 5-0)

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4.2 Vice-Mayor Starkey pointed out that on page 2 of the Minutes of October 15th, the language should be amended to reflect that "asked" not "stated" regarding the EMAS construction safety feature.

Mayor Truex suggested tabling this item until the next meeting.

Vice-Mayor Starkey made a motion, seconded by Councilmember Hubert, to table to December 3, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

4.3 Councilmember Paul advised that the proclamation recognized the farmers and ranchers who had improved the Town's well-being.

Fred Siegel from the Farm Bureau thanked the Town for all the support it had given to agriculture. He advised that the 4-H program had begun a horse breeding program which would be based in Davie.

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

4.6 Councilmember Hubert asked a representative from Sheridan House about the lawsuit against the Town. She pointed out that if the Town lost, then Sheridan House would also lose. Councilmember Hubert asked how the issue could go forward when the Town was in litigation on this issue. Mr. Kiar advised that the Town had been named in the lawsuit but there had been no order of injunction or prohibition to proceed with the requests. He indicated that Sheridan House had signed an acknowledgement stating that it was proceeding at its own risk and that the owners had no vested rights if the courts ruled against their position.

Councilmember Hubert asked whether Sheridan House could come after the Town again after that point. Mr. Kiar responded in the negative. Councilmember Hubert advised that she wanted to make sure the Town was not liable.

An unidentified man stated that Sheridan House had a goal in mind and was moving forward at its own risk.

Vice-Mayor Starkey stated that she had recently read an article stating that 29 residents in the community did not want to proceed with the lawsuit and 15 residents had voted to proceed. Vice-Mayor Starkey asked whether the Town's attorneys could look into possibly exempting those residents who did not wish to be involved or burdened with the expense of litigation. Mayor Truex stated that this had to be sorted out in court as everybody had lawyers. Vice-Mayor Starkey felt that this issue divided that community unfairly. Mr. Kiar stated that the residents' own attorneys would have to address their concerns.

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

4.16 Mayor Truex turned this item over to Vice-Mayor Starkey and indicated that he had a conflict on this issue.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to approve. In a voice vote, with Mayor Truex abstaining, all voted in favor. (Motion carried 4-1)

4.12 Mr. Kiar stated that page 36 of the contract referred to liquidated damages, but that no sum of money was specified for these damages.

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Vice-Mayor Starkey pointed out that she did not recall seeing waste treatment plants in the capital budget. She asked whether this was originally part of the capital budget. Mr. Willi indicated that there was cost savings involved with the system described. Vice-Mayor Starkey asked whether the north water treatment plant was budgeted for. Mr. Willi indicated that this item was on the utility section of the capital budget.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to table to December 3, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

4.26 Mayor Truex asked why one member of the Planning and Zoning Board was against this item. Councilmember Paul stated that she was told the reason was the proximity of warehouses to residential areas without adequate buffering.

Mike Ulrich, representing the petitioner, was present.

Councilmember Paul questioned the need for so many warehouses in proximity to residential areas and asked whether any buffering could be added. Sam Jazayri, also representing the petitioner, stated that they were providing more buffering than what the Code required.

Vice-Mayor Starkey advised that there had been a community meeting at Indian Ridge Middle School where the Town had asked the developer to provide an access road around the perimeter of the property to provide drop off and pick up areas for parents. She stated that a bicycle path from the east to west side of the project was also requested and advised that the developer had provided this path. Vice-Mayor Starkey indicated that the Town had been told that the project needed to be more in compliance with the "CC" zoning requirements to look more campus-like at points of ingress and egress.

Councilmember Paul asked if Vice-Mayor Starkey had met with Park City and Park View Estates residents. Vice-Mayor Starkey indicated that Park View Estates was not there because they were originally buffered. She referred to the dual access road and pointed out that there was 50 feet of road plus a buffer and lake. Vice-Mayor Starkey stated that Park City West's only concern was that they did not get that access road.

Mr. Jazayri advised that DOT would not provide access to the petitioner's property if there was access from Bright Road.

Vice-Mayor thanked Mr. Jazayri for working with the Town and residents to try to work on this issue. She felt the end result was a quality facility.

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

4.29 Councilmember Paul voiced concern for the residents who would be affected by the reduction of buffering for Ridge View Estates residents. Mr. Jazayri stated that the site plan was changed because of staff recommendations.

Vice-Mayor Starkey asked if the proper notification had been mailed. Mr. Kutney advised that the process for the notification had not been finalized. Mayor Truex asked if the property was posted. Mr. Jazayri indicated no. Vice-Mayor Starkey thought the Town's recommendation was to mail notices on a trial basis to see what kind of notification would come in from the community. Mr. Kutney advised that it would not be fair to hold a new process to older standards.

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Vice-Mayor Starkey asked why there could not have been buffering and why the lake had to be in the front of the property. Mr. Jazayri stated that this was because of the request to create a campus-looking project.

Councilmember Crowley referred to the landscaping page on the site plan and asked if there was room to put some trees. Council looked over and discussed the site plan diagrams at more length.

Councilmember Paul asked if the developer would work with the Urban Forester to add thicker landscaping to protect the residents' quality of life issues. Mr. Jazayri responded in the affirmative and indicated that he would add more landscaping.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to approve this item, subject to the Site Plan Committee's recommendations with the exception of No. 5, and with the condition of adding additional buffering along the South portions of the property, and meeting with the Town's Urban Forester. In a voice vote, all voted in favor. (Motion carried 5-0)

4.28 Vice-Mayor Starkey asked Mr. Kutney if corrections could be struck out or underscored when Council received its packets. Mr. Kutney responded in the affirmative.

Mayor Truex asked what previous application had been approved by the Town. Robert Siegel, representing the petitioner, advised that the Town had approved a rezoning of the property. Mayor Truex asked if everything agreed to at the previous meeting was included on the site plan. Mr. Siegel indicated in the affirmative. Mayor Truex asked if there were any issues discussed at the previous meeting which were not included on the site plan. Mr. Siegel indicated no.

Councilmember Paul disclosed that she had received some e-mails from residents on this item. She went over the changes made by the developer which helped satisfy residents' concerns.

Councilmember Paul advised that four additional concerns were brought up by Valerie Bamford-Herschel. Councilmember Paul asked who would maintain the new sign area. Mr. Siegel pointed out that at the previous meeting, Council had concerns about installing a sidewalk along 74th Terrace. He asked Council for some direction on this.

Mayor Truex asked if a sidewalk was required. Planning and Zoning Manager Fernando Leiva stated that a sidewalk was required.

A resident stated that to his knowledge there was a short piece of sidewalk interconnected to the townhomes which was to be removed. Vice-Mayor Starkey said this was also her understanding. Mr. Siegel stated that he would take out the stretch of sidewalk. He also reminded Council that fencing beginning at a resident's home was previously discussed.

Mr. Siegel advised that the resident had requested extending the fencing to Griffin Road and asked Council for direction on that. Mayor Truex asked how tall the fence was. Mr. Siegel indicated five or six feet. He indicated that the homeowner wanted a fence along the property line. Mr. Siegel advised that he had told her that the buffer, landscaping, hedge and trees were sufficient.

Mr. Siegel also referred to an earlier meeting where Council had advised him to come up with signage. He asked who would be responsible to maintain the signage. Mayor Truex asked

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if the residents had an association to handle this. Mr. Siegel indicated no and felt that if anything happened, the burden would fall on his association to maintain the signage.

Ms. Bamford-Herschel, 4701 SW 74th Terrace, stated that her community did not have a homeowner's association.

Mr. Siegel stated that if his company had to scale down the signage to something that would be easier to maintain, he would be amenable to doing so.

Ms. Bamford-Herschel complimented the design of the sign depicted.

Mayor Truex asked if staff had any suggestions on handling this issue. Mr. Willi stated that the Town would have liability issues if it went on the property for maintenance. He was in favor of putting in a low maintenance structure without heavy lighting, which could be the responsibility of the community to maintain.

Mr. Siegel stated that he would continue to work with Ms. Bamford-Herschel and the other neighbors.

Mayor Truex asked if the signage was in the right-of-way and the neighborhood did not have an association, would the responsibility fall on the Town. Mr. Willi indicated in the affirmative.

Councilmember Hubert asked if the Town could take care of the signage and bill back the residents equally. Mayor Truex stated he did not think the Town wanted to get into that because of taxing issues.

Vice-Mayor Starkey asked who would maintain the swales along 74th Terrace. Mr. Siegel indicated that the developer would do this even though technically it was not their responsibility. Mr. Willi advised that maintenance of the adjoining swale areas was in fact the developer's responsibility.

Mayor Truex suggested putting the sign in, maintaining it for five years after which it could be discarded. Mr. Siegel agreed to do this and asked about liability on this. Mayor Truex advised Mr. Siegel to keep insurance on the signage. Mr. Siegel agreed to be responsible.

Vice-Mayor Starkey suggested getting grants from Broward Beautiful. Mayor Truex asked how most people felt about fencing at the last meeting on this item.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to approve subject to the developer making concessions discussed with the homeowners and Council, and with the exception of the fencing, which would be eliminated. In a voice vote, all voted in favor. (Motion carried 5-0)

4.30 Mr. Peters summarized the planning report.

Councilmember Paul asked if Mr. Laystrom had shared her questions and concerns.

Jon Voight, representing the petitioner, stated that Mr. Laystrom had spoken to the resident who was concerned about the design of the streets. Mr. Voight further explained the concept of the hammerhead turnaround. He asked that the petition be approved but with the idea that it be re-addressed and modified if Blackstone went forward.

Councilmember Paul asked about the size of the road being planned.

Carlos Ballbe advised that there was a 60-foot right-of-way platted for 28th Street, but that they were proposing a 50-foot road.

Councilmember Paul asked if there were any way to incorporate traffic calming. Mr. Ballbe stated that the applicant was really tight on areas.

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Councilmember Paul asked if there were any renderings to review the landscaping along the highway and advised that she was interested in tree density. Mr. Ballbe stated that the applicant had reviewed the landscaping with Committee member Jim Aucamp.

Councilmember Crowley pointed out the absence of lakes on the site plans and inquired about water retention.

Councilmember Paul made a motion, seconded by Councilmember Crowley, to approve subject to the Site Plan Committee's recommendation for filling out the landscaping buffer along the highway and for keeping the hammerhead turnaround. In a voice vote, all voted in favor. (Motion carried 5-0)

4.33, 4.34, 4.35 Lynn Lucas, representing Home Depot, was present.

Councilmember Hubert advised that she had spoken with Mitch Palermo from Home Depot earlier that day. She referred to the Code Chapter 17, 17.1 and 17.8 which stated there was a \$250 per day permit fee for profit companies such as Home Depot. Ms. Lucas indicated that as part of their donation program, \$6,600 in excess funds would be available for the charities involved. She indicated that she would need each charity to provide her with copies of their 501(c) certificates, along with letters requesting the funds.

Mayor Truex asked how much would be given to HOPE and to PAL. Councilmember Hubert responded \$4,650 to each organization and \$6,600 to EASE. Mayor Truex asked for the total figure. Councilmember Hubert indicated \$15,900 and explained how the permit fees were spread among the three charities, if Home Depot held the fundraiser at the store.

Councilmember Paul asked how Council would monitor this. Councilmember Hubert asserted that if any charity had a problem with Home Depot, they would call her and she would bring their concerns before Council.

Geri Clark, president of PAL, stated that she was astounded at Home Depot's request that the PAL furnish a copy of its 501(c) certificate, before it could receive the \$4,650 donation, in light of the PAL's relationship with Home Depot since 1997. She reminded Council of early ordinances set in place by the Town that related to fees for not-for-profit organizations. Ms. Clark advised that Home Depot was required to pay the full permit fee whether it went to PAL or to any other charitable organization. She felt that Home Depot had taken advantage of the Town's ordinance. Ms. Clark advised that her Police Chief John George had received a letter from Ms. Lucas which gave PAL 48 hours to decide to take a 74% decrease in donation. She felt the actions of Home Depot threatened PAL and lied to the Town.

Councilmember Crowley asked what the total permitting fees were. Ms. Clark stated that it was \$250 per day and estimated that this year's donation would have been \$22,500 or more.

Vice-Mayor Starkey believed this issue should go through Mr. Willi to be resolved. She felt it was not appropriate to bring these debates or disruptions before Council.

Mayor Truex asked Mr. Willi what the daily permit fee was, if no charity was involved. Mr. Willi indicated \$250 per day. He stated that the Town's ordinances were very specific and that the actual agency that applied was supposed to be the not-for-profit. Councilmember Hubert suggested allowing Home Depot to give the funds to the Town and then letting the Town give the money to the charities. Mr. Willi recommended that the Town collect permit fees from Home Depot, then disseminate the funds as it wished.

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Ms. Lucas wished to rebut Ms. Clark's comments and explained why Home Depot felt EASE was a good organization to affiliate itself with. She felt the issue involved was that the only time her office heard from PAL was usually at the end of October when the check was due. Ms. Lucas stated that Home Depot was not invited or recognized at any functions or activities of the PAL.

Mr. Willi suggested appropriating the \$22,500 at the present meeting.

Councilmember Hubert made a motion, seconded by Councilmember Crowley, to approve items 4.33, 4.34, and 4.35, subject to dividing the \$22,500 permit revenue equally among the PAL, HOPE and the EASE Foundation, and subject to the Town writing the checks to each charity prior to Christmas. 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 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. (tabled from November 5, 2003) {Approved on First Reading September 17, 2003 - 4-1, Councilmember Paul dissenting}**

Earlier in the meeting, Councilmember Crowley felt that the backup information on the billboard ordinance was inadequate.

Mayor Truex asked special counsel Michael Burke to address Council to explain why this item was being tabled again. Mr. Burke explained that he had addressed Council on this issue at the October 1st meeting where Council had questions regarding the criteria used to determine which applicants would get the additional three billboards. He reminded Council that his suggestion was to use a lottery during the application and selection process. Mr. Burke indicated that he had done further research on this item as Council requested. Mayor Truex asked Mr. Burke if he had submitted this information to the Town. Mr. Burke indicated that he had submitted the information to Development Services Director Mark Kutney, but that it was not available in the back up yet. Mr. Burke explained that the Town's options were to proceed with the ordinance approved on the first reading, not change the ordinance in a significant way, or consider the issue further at the next meeting.

Mayor Truex stated that there was a lot of confusion among companies or charities as to whether there was a policy in place for applicants requesting billboards. Councilmember Hubert reminded Mayor Truex that he had previously told Council that if there were more than three applicants, the billboard companies or charities had to apply for the billboard space.

Mr. Burke suggested that the Town establish a deadline for the submittal of applications and decide how Council would handle competing applications.

Vice-Mayor Starkey felt that the lottery suggested by Mr. Burke was capricious. She felt it was better to establish a firm, basic criteria and then decide on a fair process for all involved. Vice-Mayor Starkey thought Council would have explored the issue further in some kind of workshop, to review all the legal issues involved and to decide whether more vendors or charities would be included. She stated that she was confused as to why this item was put back

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in its original form on the agenda. Vice-Mayor Starkey felt the public might be concerned about seeing the same item on the agenda repeatedly, and that it should not be agendized when it was not a complete package.

Mr. Burke reminded Council that he thought he was only required to decide on criteria to choose between competing signs. Councilmember Paul felt that the Council should consider criteria, process, and a fair and equitable procedure. She felt that staff reports should change to reflect Council decisions and changes, from one reading to the next. Councilmember Paul pointed out that including the original ordinance on this item created further confusion.

Councilmember Hubert suggested that it would be fair to have all charities apply then have the billboards split among them. Vice-Mayor Starkey asked Councilmember Hubert whether she meant three or nine involved. She advised that there were other companies interested.

Councilmember Paul suggested that a workshop should probably not be held until after the new year. Mayor Truex asked if the majority of the Council would be interested in holding a workshop on this item in the new year. The majority of Councilmembers indicated yes.

Councilmember Hubert stated that she wanted the billboards to be split equally.

Mayor Truex asked Mr. Burke if he could present more options to the Council at the time of the workshop.

Vice-Mayor Starkey stated her concerns about the lottery were whether it would be legally defensible. She asked Mr. Burke if he could look into this. Councilmember Hubert stated again that a lottery system was fair.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to table to January 21, 2004. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Hubert asked when the workshop date would be for this item. Mayor Truex stated that the workshop date would be scheduled before the second Council meeting in January.

Councilmember Crowley asked if it was possible to set a deadline on any more submittals. Mr. Burke stated that he would try to provide draft ordinances that might address some of Councilmembers' concerns.

6.2. **PERMITTED USES - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LIST OF PERMITTED USES WITHIN THE B-2, COMMUNITY BUSINESS DISTRICT AND B-3, PLANNED BUSINESS CENTER DISTRICT TO INCLUDE "STORE FRONT HOUSES OF WORSHIP"; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading September 17, 2003 - 4-1, Councilmember Paul dissenting}**

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting.

Pastor Jay Carrero asked Council to approve this item and invited Council to his Church's Christmas play put on by the teenagers of the community. He reminded Council that offerings given to his ministry were distributed among services provided to the community.

Maria Carrero spoke in favor of the ordinance and requested that Council help them move into the plaza so they could continue to help children and families who needed help.

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Walter Swain, Pastor of Las Americas Baptist Church, spoke in favor of the ordinance and outlined various types of community and human interest service programs which the Church would impact the community with. He requested that Council approve this ordinance to help the church grow.

Virgilio Sierra spoke in favor of the ordinance and wished to add that many ministries within the Church positively helped several children and youth in distress. He requested help from Council in order to help the Church grow.

Will Allen, Redevelopment Administrator for the Davie Community Redevelopment Agency, talked about parking requirements to be considered due to the size of the Church. He advised that the Local Planning Agency had voted to approve the ordinance 3-1.

Mitch Topal, 12720 SW 13 Manor, spoke against the ordinance and felt that changes to the Town's Codes should be weighed carefully. He asked that Council not ignore the impact this decision would have on the viability of existing businesses. Mr. Topal was concerned about the continuous growth of storefront houses of worship and he was concerned that they could compete for retail space along with businesses. He asked that Council not pass this ordinance.

Claudia Prada, 1021 SW 127, stated that she could speak for both ends of the spectrum as she had a business in the same plaza. She asked Council to consider how important these issues were for the children of the community.

Linda Greck, 3121 SW 116 Avenue, questioned why the applicant had requested a change to another location in the same shopping center.

Cesar Asencio, 13222 NW 11 Street, Pembroke Pines, a member of the Church since 1985, spoke in favor of the ordinance.

Mayor Truex closed the public hearing on this item.

Councilmember Crowley indicated his support of the ordinance.

Councilmember Paul stated that she had read the Community Redevelopment Agency's letter and the letter from the Economic Development Council. She felt that a blanket ordinance was not appropriate for the entire Town but should be by special permit. Councilmember Paul asked Mr. Kutney how the application process would be affected since churches were allowed in every land use category. Development Services Director Mark Kutney indicated that churches were permitted in any land use category. He advised that with the Local Planning Agency recommendation, a special permit was at issue. Mr. Kutney stated that particular permit applications were reviewed on a case-by-case basis, based on merit.

Councilmember Paul asked if the Town used the special permit process and recommendations from the Local Planning Agency, would the churches have to ask for special permits with a waiver or variance. Mr. Kutney indicated that the Code referred to limitations of one storefront church per shopping center. He stated that a church would not be permitted to file for a second house of worship unless the Town made a provision or waiver. Councilmember Paul asked if this would be in addition to the quasi-judicial procedure.

Mr. Kutney explained how the waiver could be handled by virtue of variance. Andre Parke, Town counsel, outlined various restrictions involved.

Mr. Kiar spoke about the different restrictions which would have to be considered. He asked Mr. Parke about specific limitations related to religious entities vs. non-religious entities.

Mr. Kutney pointed out that Mr. Leiva had contacted other cities to obtain sample ordinances to present to Council. Mr. Leiva indicated that he had contacted Pembroke Pines,

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Margate, and Deerfield Beach to benchmark their practices with relation to storefront churches. He indicated the differences each city had in reference to the ordinance before Council.

Mayor Truex indicated that he was at the Local Planning Agency meeting on this issue. He stated that his original proposal was to approve the ordinance by special permit, but that the Town Attorney's Office had felt that this would be in opposition to the RLUPA. Mayor Truex felt that doing this by ordinance eliminated any possible discrimination. He felt that religious freedom was an important right to preserve and believed that all arguments and complaints against the ordinance had been sufficiently addressed. Mayor Truex spoke in favor of the church's right to be established as they contributed to the community. He saw no point to the objections other than people did not wish to have churches all over the community. Mayor Truex asked that Council approve this ordinance.

Vice-Mayor Starkey felt that many of Council's previous questions had been addressed. She reminded Council that the church was already in the shopping center and was paying taxes equally as other businesses. Vice-Mayor Starkey referred to an article published in the National League of Cities which described the growing trend of storefront houses of worship nationwide. She felt that storefront churches would be helpful in revitalizing shopping centers. Vice-Mayor Starkey spoke in support of the ordinance and hoped that staff would balance all sides of this issue.

Councilmember Hubert 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 - no. (Motion carried 4-1)

6.3. **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**
2003-47 **APPROVING REZONING PETITION ZB 3-5-03, CHANGING THE**
CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE
FROM AG, AGRICULTURAL DISTRICT TO A-1, AGRICULTURAL DISTRICT;
AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH;
PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE
DATE. (ZB 3-5-03, Home Dynamics Corporation/Nadeau Charitable Foundation,
Inc, 1900 Hiatus Road) {Approved on First Reading November 5, 2003 - 5-0}

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting.

Scott Bagman, representing the petitioner, stated that he had nothing new to add but would answer questions.

Mayor Truex closed the public hearing.

Vice-Mayor Starkey 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 - out of room. (Motion carried 4-0)

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Ordinance - First Reading (Second and Final Reading to be held December 3, 2003)

- 6.4. **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, AMENDING SECTION 26-24 ENTITLED "TREE REMOVAL PERMIT-EXCEPTIONS"; PROVIDING FOR CLARIFICATION OF PERMIT REQUIREMENTS; AMENDING SECTION 26-27, ENTITLED "TREE RELOCATION"; PROVIDING FOR REVISED AUTHORITATIVE REFERENCES; AMENDING SECTION 26-28, ENTITLED "TREE REPLACEMENT"; PROVIDING FOR REVISED REQUIREMENTS FOR REPLACEMENT TREES; AMENDING SECTION 26-32 ENTITLED "SPECIMEN TREES"; PROVIDING FOR REVISED AUTHORITATIVE REFERENCES; AMENDING SECTION 26-40 ENTITLED "DEFINITIONS"; PROVIDING FOR ADDITIONAL DEFINITIONS RELATING TO TREE ABUSE; AMENDING SECTION 26-41 ENTITLED "TREE TRIMMING SERVICE PROVIDERS"; PROVIDING FOR REQUIREMENTS FOR PROFESSIONAL CONDUCT AND STOP WORK ORDERS; AMENDING SECTION 26-42 ENTITLED "PROHIBITION OF TREE ABUSE; EXCEPTIONS; ADMINISTRATIVE APPEAL"; PROVIDING FOR NEW RESTRICTIONS AND ALLOWANCES; SECTION 26-43, ENTITLED "REMEDIAL ACTIONS REQUIRED FOR VIOLATORS"; PROVIDING FOR NEW REQUIREMENTS AND PERMITS; SECTION 26-44. ENTITLED "FEES AND VALUES"; PROVIDING FOR A REVISED TITLE AND CHANGES IN FEES AND TREE VALUATION"; AND AMENDING SECTION 26-55 ENTITLED "PERMIT-REQUIRED"; PROVIDING FOR NEW TREE SURVEY AND PERMIT REQUIREMENTS; 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 December 3, 2003.

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

Mayor Truex asked whether this ordinance would create extra expenses for residents who wished to trim their trees. Urban Forester Mike Orfanedes discussed key issues with regard to this ordinance. He stated that Code Section 26 required changes which would affect the diversity of the tree community. Mr. Orfanedes spoke about requests made by various residents with regard to removal of trees from their properties. He advised that there was also obsolete language in the Code which he wished to address.

Vice-Mayor Starkey asked Mr. Orfanedes if he foresaw fines being charged for some violators. Mr. Orfanedes indicated that there were no fines for violators. He advised that in a tree abuse situation, the Town sent out an investigator to see if mediation was possible. In situations where this was not possible, the property would be inspected and the tree would be replaced or removed. Mr. Orfanedes also outlined regulations with respect to licensing of tree trimmers.

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Councilmember Crowley asked about trees that were hat racked a few years earlier. Mr. Orfanedes stated that trees that were hat racked were not initially hazardous but that when the tree began to grow back, decay and safety hazards eventually became an issue.

Councilmember Paul spoke about contractual trimmers such as Asplundh and felt that when they trimmed, they often left unhealthy problems for the trees. She asked if Asplundh would have to adhere to the same restrictions as others in Broward County. Mr. Orfanedes indicated that any company that was not following the requirements should be reported.

Norm Blanco, 2080 SW 72nd Avenue, asked if a technique using plastic sleeves to cover power lines in trees which was used to reduce hat racking and L-cuts, might be a possibility for the Town. He also asked about whether it was allowed to remove non-native trees from one's property. Mr. Orfanedes indicated that he was not very qualified to answer the question on using protective sleeves. He felt that these sleeves were used to prevent conductivity with the power lines and people trimming the trees. Regarding removal of exotic trees, Mr. Orfanedes advised that the Town did not stand in the way of removing invasive trees. He also indicated that there currently was no permit required because they were not protected species.

Vice-Mayor Starkey suggested putting some kind of mitigation plan in place.

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

Items to be tabled or withdrawn

6.5. STAFF REQUESTING A TABLING TO DECEMBER 3, 2003

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, PLANNED BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 12-2-02, Town of Davie, 4703 SW 148 Avenue) (tabled from November 5, 2003) *Planning and Zoning Board recommended approval*

This item was tabled earlier in the meeting.

6.6. WITHDRAWN BY PETITIONER

COMPREHENSIVE PLAN AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING, FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS, APPLICATION LA 02-6, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE PLAN MAP DESIGNATION OF CERTAIN LANDS FROM "RESIDENTIAL 1 DU/AC" TO "COMMERCIAL"; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Laystrom/Spear and Varat, 8550 Stirling Road) *Local Planning Agency recommended denial*

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This item was withdrawn earlier in the meeting.

6.7. WITHDRAWN BY PETITIONER

LAND USE PLAN AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING APPLICATION LA 03-06, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE PLAN MAP DESIGNATION OF CERTAIN LANDS FROM "RESIDENTIAL 1 DU/AC" TO "UTILITY"; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (tabled from October 1, 2003) (LA 03-06, Florida Power and Light/ Archdioceses of Miami, 1401 Hiatus Road)

This item was withdrawn earlier in the meeting.

6.8. WITHDRAWN BY PETITIONER

REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 6-1-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO U, UTILITIES DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 6-1-03, Florida Power & Light Company/The Archdioceses of Miami, 1401 Hiatus Road) (tabled from October 1, 2003)

This item was withdrawn earlier in the meeting.

7. APPOINTMENTS

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

No appointments were made.

7.2. Community Relations Advisory Board (one exclusive appointment - Councilmember Hubert and Mayor Truex; terms expire April 2004)

Councilmember Hubert appointed Norm Blanco.

7.3. Parks and Recreation Advisory Board Agency (one exclusive appointment - Councilmember Hubert; term expires April 2004) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

7.4. School Advisory Board (one exclusive appointment - Mayor Truex; term expires April 2004) (insofar as possible, members shall have experience in educational matters, related occupations or other similar skills)

No appointment was made.

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7.5. Senior Citizen Advisory Board (two exclusive appointments - Mayor Truex; terms expire April 2004) (members shall be a minimum 60 years of age)

No appointments were made.

7.6. Water and Environmental Advisory Board (one exclusive appointment - Mayor Truex; term expires April 2004) (insofar as possible, one member of the board shall be a licensed engineer)

No appointment was made.

8. OLD BUSINESS

9. NEW BUSINESS

9.1. Forman Industrial Lands LLC, Code Compliance Case No. 03-2200

Mr. Willi advised Council about the ongoing situation with Mr. Forman's property and advised that a case was filed in Circuit Court to see what the impact of the Town's Code was on the property's annexation agreement. He advised that the issue was on the agenda before Council to request that Mr. Burke handle the case.

Mr. Kiar advised that he and Mr. Burke had met with Mr. Kutney to discuss the Code enforcement matter. He indicated that he had received correspondence on October 31st from Code Compliance Official Daniel Stallone, which led to the decision that it would be more cost effective to turn the matter over to Mr. Burke.

Councilmember Hubert asked if Forman Industries pulled a permit for the trailer on the property. Mr. Kutney indicated in the affirmative. Councilmember Hubert asked if the annexation agreement stated whether he could use the parking lot. Mr. Kutney stated that the annexation agreement permitted the usage. Councilmember Hubert asked if the annexation agreement went back to the existing Code at the time when Mr. Forman was annexed in. Mr. Kutney indicated that his agreement referenced the 1985 Broward County Code at the time.

Mr. Kiar advised that in light of the fact that this item was in litigation, the less conversation was recommended.

Mr. Kutney stated that he was willing to speak with Council privately on issues pertaining to this item. Mr. Kiar indicated that he was also willing to speak with Council privately on this item.

Vice-Mayor Starkey had a problem with the fact that outside counsel was being directed by staff. She questioned why this item did not go through the Town Attorney office initially when any legal opinion was needed. Mr. Kutney explained that Mr. Willi had asked that he and Mr. Stallone speak with Mr. Kiar. Mr. Kutney spoke about ongoing allegations that Mr. Kiar had a conflict with this issue and stated that there was no attempt to sidestep the Town Attorney's Office. Vice-Mayor Starkey felt it was inappropriate and against the Town's Charter to go to outside counsel or the Town Attorney's Office for a legal opinion based on allegations about any Councilmember.

Mr. Willi advised that Mr. Burke was the outside attorney specifically hired to address the ordinance that would require properties to rezone. He indicated that Mr. Burke had responded appropriately to direct questions on the case. Mr. Willi stated that the Town had

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come to an impasse with Mr. Forman's attorneys and that an agreement was made to file in the Circuit Court to end the issue. He indicated that the item was simply being brought before Council in accordance with a resolution that was passed for Council to approve outside legal services.

Mayor Truex asked for caution in the future and for an effort to be made to pass questions through the Town Attorney's Office. Mr. Kiar stated that he wrote a letter to Mr. Kutney and Mr. Stallone, where he made it clear that he did not have a conflict on this issue.

Vice-Mayor Starkey felt Council should call Mr. Burke's office to inform him that he should go through the Town. Mayor Truex indicated that it was sufficient to have Mr. Willi's agreement to be careful in the future about going through the Town Attorney on such issues. He asked if Council was in agreement with the decision that Mr. Burke could move forward on this issue. Council was in agreement that it would be appropriate for Mr. Burke to handle this issue.

10. MAYOR/COUNCILMEMBER'S COMMENTS

COUNCILMEMBER CROWLEY

WATER MATTERS DAY. Councilmember Crowley spoke about a letter announcing March 22nd as the Second Annual Water Matters Day. He hoped Council would consider being a sponsor for this countywide event and asked that Council agendaize this for the next meeting.

COUNCILMEMBER HUBERT

COMMUNITY TRUST FUNDS. Councilmember Hubert asked about the availability of funds from the community trust Vice-Mayor Starkey previously spoke about. Vice-Mayor Starkey advised that Council had to decide on this issue and indicated that she would bring some information back to Council. Mayor Truex felt it was a bad idea to have the community trust.

PUBLIC WORKS MEETING. Councilmember Crowley asked about the date set for a meeting on the Public Works meeting. Mayor Truex advised that the meeting was scheduled for December 9th at 6:00 p.m.

VICE-MAYOR STARKEY

BRIGHT ROAD. Vice-Mayor Starkey stated that it was difficult to discern Bright Road and asked for a sign to be placed at the intersection of Bright Road and State Road 84. She advised that residents had requested a sign as they kept missing the street.

MATH IGLER GROVE. Vice-Mayor Starkey requested a planning committee to work on the planning and design of the Math Iglar Grove based on the grant criteria.

DAVIE PANTHERS NIGHT. Vice-Mayor Starkey asked Council to mark their calendars for December 27th which would be Davie night at the Florida Panthers. She advised that 800 tickets had been put aside for the Town residents.

HOLLY DAY PARADE. Vice-Mayor Starkey also spoke about the Forest Ridge community Holly Day parade on December 6 at 1:00 p.m. and invited Council to attend.

WETLANDS PROJECT. Vice-Mayor Starkey indicated that she was excited about the wetland project and advised that at the previous environmental day at the Audubon, Davie was

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represented. She suggested that staff put together a better display for the Town for future displays as the Town had a trail system to be proud of.

COUNCILMEMBER PAUL

ACTOR'S COMMUNITY THEATER. Councilmember Paul congratulated the Davie Actor's Community Theater. She recommended that Council see the group's future performances.

TURNPIKE. Councilmember Paul advised that she had met with several staff from the Turnpike Authority who stated that they had recalculated and raised their numbers so that Lauderdale Little Ranches would qualify for a sound wall. However, other areas south of Griffin Road did not qualify. She advised that she told the Turnpike Authority that she would not offer support as long as other communities were excluded.

BROWARD DAYS. Councilmember Paul asked that Council add sponsorship of Broward Days to the next agenda.

LEAGUE OF CITIES CONFERENCE. Councilmember Paul also advised that she would be attending the League of Cities conference. She stated that she would like a package with trail guides and other materials about the Town's open space to take to the conference. Councilmember Paul felt the Town should have a display at the conference and asked Council to prepare for next year's League of Cities conference.

MAYOR TRUEX

CHARITIES. Mayor Truex clarified that he was in favor of supporting charities but was not in favor of the idea of a community trust. He advised that money the Town gave to charities did not come out of the Town's operating budget, but out of another trust. Mr. Willi advised that the Town had a separate account that was set up as a Community Trust Fund, which had earlier been established with funds from the Town's dissolved pension fund. He stated that the funds for charitable donations came from that particular trust fund.

Mayor Truex asked about differences in the way charitable donations were paid. Mr. Willi indicated that amounts over \$5,000 were paid quarterly and amounts under \$5,000 were paid in a lump sum.

11. TOWN ADMINISTRATOR'S COMMENTS

No comments were provided.

12. TOWN ATTORNEY'S COMMENTS

VAN KIRK PROPERTY. Mr. Kiar spoke about the Van Kirk property and indicated that he had received the title commitment and that the project was moving along. He advised that Mayor Truex had received a local bill from Representative Tim Ryan, regarding extending the corporate limits of the Town, Fort Lauderdale, and Plantation. Mr. Kiar read sections of the bill and stated that it did not appear that the Town was locked into this bill.

MIDDLE SCHOOL NN. Vice-Mayor Starkey advised that the Broward County School Board was holding a meeting on November 20th regarding Middle School NN which was up for site selection. She hoped that since she would be unavailable, another Councilmember would attend. Vice-Mayor Starkey advised that Council had been asked to write a letter to the School

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Board reflecting that Council had addressed concerns about the site at Imagination Farms, including concerns about ingress and egress, sound walls, and widening of the roads.

Mr. Willi asked if three alternate sites were originally suggested for the school. Vice-Mayor Starkey indicated in the affirmative. Mr. Willi advised that the current agenda showed six alternative suggestions for sites.

Vice-Mayor Starkey explained further concerns of the School Board about site location. She felt it was ridiculous to consider how residents would be affected if their children had to attend double sessions at school, based on the overcrowding problems. Vice-Mayor Starkey felt the School Board kept insisting that Imagination Farms site had environmental problems, when it did not and referred to a letter which asserted that the site was safe. She voiced her frustration on this issue and requested that Council send a letter to the School Board on this issue.

Councilmember Paul asked for a copy of the letter and advised that she would attend the meeting. She disclosed that she had spoken with some Imagination Farms residents who were in support of having the school built on the proposed site. She asked Vice-Mayor Starkey about the widening of the roads. Vice-Mayor Starkey advised that GL Homes had already made improvements to the road including adding a sidewalk, adding a traffic calming device, widening the road, and adding a berm.

13. ADJOURNMENT

There being no further business to discuss and no objections, the meeting adjourned at 12:00 midnight.

Approved _____

Mayor/Councilmember

Town Clerk