

**TOWN OF DAVIE
REGULAR MEETING
JUNE 16, 2004**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:33 p.m. and was followed by the Pledge of Allegiance led by Girl Scout Troop 1102.

2. NATIONAL ANTHEM - CristalAnn McCave

The national anthem led by Ms. McCave.

3. ROLL CALL

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

4. PRESENTATIONS

4.1. Results of Legislative Session - Representative Nan Rich

Later in the meeting, Representative Rich gave an update of the legislative session. She spoke of various difficult and ongoing issues, some of which had disappointing results, such as teacher salaries and the lack of families enrolling in the KidCare program. Representative Rich also spoke of improved legislation with regard to protecting children from being arbitrarily removed from foster homes.

4.2. FCAT Certificate of Achievement - Ellen Truex

Vice-Mayor Paul acknowledged Ellen Truex with a Certificate of Achievement for her achievement of 100% on all her FCAT scores.

4.3. Nova High School Valedictorian - Vice-Mayor Paul

Vice-Mayor Paul acknowledged four class valedictorians from Nova High School: Jai Krishnan, Ilan Epstein, Jonathan Reinstein and Jed Cairo.

4.4. Western High School Valedictorian and Salutatorian - Vice-Mayor Paul

Vice-Mayor Paul acknowledged valedictorian Polly Greenberg and salutatorian Ryan Harvey.

4.5. Nova High School Baseball Team - Councilmember Crowley

Councilmember Crowley acknowledged Coach McQuaid and the Nova High School Baseball Team for its State championship. Coach McQuaid thanked Council and introduced members of the team.

4.6. "Love to Read, Love to Achieve" Volunteer Recognition - Housing and Community Development Director Shirley Taylor-Prakelt

Ms. Taylor-Prakelt spoke of the Town's involvement with Head Start and the *Love to Read, Love to Achieve* program. Julia Ellen Davis spoke of Head Start's successful efforts to encourage reading through this program. She thanked the Town, Davie Elementary and Flamingo Elementary for their efforts with this program. Ms. Davis presented Mayor Truex with an award acknowledging his participation with the program. She presented additional awards to other Town employees, residents, teachers, teacher's aides, and school principals involved.

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4.7. Fire Department Recognition - Fire Chief Donald DiPetrillo

Chief DiPetrillo welcomed Fire Marshall Bob Madge and gave a brief background of his qualifications. Mr. Madge thanked the Chief, the Town and the Davie Fire Department for the welcome he had received.

Chief DiPetrillo recognized Firefighter/Paramedic Oral Lawrence and Lieutenant Jim Ross for their outstanding service.

Mayor Truex announced that item 5.3 was withdrawn.

Mayor Truex advised that item 7.5 needed to be tabled to August 18, 2004.

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

Mayor Truex announced that items 7.6, 7.7, and 7.8 were withdrawn.

Mayor Truex announced that item 5.18 needed to be added to the agenda.

Town Administrator Willi explained the timeline concerns with this annexation bill and the financial impact of annexing this area. Mayor Truex objected to considering this matter in such a short period and felt too much data was left out to consider annexing this area at the current time. Vice-Mayor Paul and Councilmember Starkey concurred. Councilmember Hubert asked if the residents of this area wanted to be annexed into the Town. Mayor Truex indicated that some wished to come into the Town while others wished to join the City of Plantation.

Council did not add this item.

Mayor Truex announced that item 5.19 [renumbered to 5.18] needed to be added to the agenda.

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

5. APPROVAL OF CONSENT AGENDA

Minutes

5.1. April 2, 2004 (Goal Setting Session)

Home Occupational License

5.2. Acme Investigation Agency, Inc., 14171 SW 37 Court

Resolutions

5.3. **SUBLET - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE BOYS AND GIRLS CLUBS OF BROWARD COUNTY TO SUBLET A PORTION OF THE FLAMINGO ELEMENTARY SITE SUBLEASED AS THE FLORENCE DEGEORGE BOYS AND GIRLS CLUB TO ACCOMMODATE A CHARTER MIDDLE SCHOOL TO BE OPERATED BY THE TOUCHDOWNS4LIFE, INC. (tabled from June 2, 2004)**

5.4. **COMPLIANCE AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A STIPULATED COMPLIANCE AND AGREEMENT FOR MITIGATION OF A CODE COMPLIANCE FINE IN CASE NO. 02-1026 FROM \$6,500 IN AMOUNT TO \$969.19; AND PROVIDING AN EFFECTIVE DATE.**
R-2004-139

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- 5.5. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2004-140 AUTHORIZING THE TOWN ADMINISTRATOR OR DESIGNEE TO EXECUTE AN AGREEMENT WITH ROCKY RODRIGUEZ AS BROWARD COUNTY PROPERTY APPRAISER FOR CREATING AND MAINTAINING A NON-AD VALOREM ASSESSMENT ROLL FOR FIRE RESCUE SERVICES; AND PROVIDING AN EFFECTIVE DATE. (\$9,000/first year; \$4,500 thereafter)
- 5.6. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2004-141 AUTHORIZING THE TOWN OF DAVIE TO PREPARE AN AGREEMENT WITH NOB HILL PARTNERS, LLC., FOR THE PURCHASE OF APPROXIMATELY 32,426 SQUARE FEET OF CONDOMINIUM OFFICE SPACE AT THE PROJECT KNOWN AS "DOWNTOWN DAVIE" TO BE CONSTRUCTED AT THE SOUTHEAST CORNER OF GRIFFIN ROAD AND DAVIE ROAD, DAVIE, FLORIDA, TO BE PRESENTED TO THE TOWN COUNCIL FOR APPROVAL AT A LATER DATE.
- 5.7. **FEE REVISION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2004-142 REVISING THE FIRE RESCUE DEPARTMENT FEE SCHEDULE FOR EMS TRANSPORTATION.
- 5.8. **REVOCATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA
R-2004-143 AUTHORIZING THE REVOCATION OF THE DECLARATION OF RESTRICTIONS TO THE "YOUNG AT ART" PROPERTY, REMOVING THE RESTRICTION THAT THE PROPERTY MUST BE USED FOR LIBRARY AND EDUCATIONAL USES, AND PROVIDING FOR EFFECTIVE DATE.
- 5.9. **AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2004-144 AUTHORIZING AN AMENDMENT TO THE NON-VEHICULAR ACCESS LINE ALONG STIRLING ROAD OF THE WOLF FAMILY PLAT, AND PROVIDING AN EFFECTIVE DATE. (DG 3-1-04, 5700 University Drive)
- 5.10. **AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2004-145 APPROVING A DELEGATION REQUEST TO CHANGE THE RESTRICTIVE NOTE ON THE SUBDIVISION PLAT KNOWN AS THE NOVA UNIVERSITY NO. I PLAT, AND PROVIDING AN EFFECTIVE DATE. (DG 4-1-04, 3301 College Avenue)
- 5.11. **SETTLEMENT AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR TO EXECUTE A STIPULATED SETTLEMENT AGREEMENT WITH FORMAN INDUSTRIAL LAND, LLC PERTAINING TO CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT CASE NUMBER 03-020380(02); AND PROVIDING FOR AN EFFECTIVE DATE.
- 5.12. **LAND TRUST** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2004-146 SUPPORTING, ACKNOWLEDGING AND AUTHORIZING THE FORMATION OF A LAND TRUST WITHIN THE MUNICIPAL BOUNDARIES OF THE TOWN AND PROVIDING STAFF RESOURCES AS NECESSARY. (not budgeted - \$5,000)

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- 5.13. **JOB CLASSIFICATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING A JOB CLASSIFICATION SPECIFICATION FOR FIRE DIVISION CHIEF; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.
- R-2004-147

Site Plans

- 5.14. MSP 2-3-04, Nova Southeastern University Center, 3301 College Avenue (RAC-AV) *Site Plan Committee recommended approval subject to the planning report and to look at the pool area as it was being designed*
- 5.15. SP 4-1-04, Oakes Road Fire Station, 4491 Oakes Road (CF) *Site Plan Committee recommended approval subject to the planning report; that the west buffer line have Bahia sod with no irrigation; to substitute the three Alexandra Palms on the south side by the main entrance with one 20-foot Paurotis Palm; and coordinate the acceptability and placement of the palms with the gas company*

Temporary Use Permits

- 5.16. TU 5-4-04, Stirling Plaza, 6770 Stirling Road (seasonal sales)
- 5.17. TU 5-6-04, MS & S Toyota, Inc., 3650 Weston Road (outdoor vehicle storage)
- 5.18. A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN ADMINISTRATOR TO EXECUTE THE CONTRACT FOR SALE AND PURCHASE FOR THE PARCELS KNOWN AS SUNNY LAKE; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Starkey requested that item 5.5 be removed. Vice-Mayor Paul pulled item 5.1, and 5.19 [renumbered to 5.18]. Mayor Truex requested that items 5.10 and 5.11 be removed

Vice-Mayor Paul made a motion, seconded by Mayor Truex, to approve the Consent Agenda minus items 5.1, 5.4, 5.5, 5.6, 5.10, 5.11, 5.12, 5.16, and 5.19 [renumbered to 5.18]. In a voice vote, all voted in favor. (Motion carried 5-0)

6. DISCUSSION OF CONSENT AGENDA ITEMS

5.1 Vice-Mayor Paul requested a correction on page 5, the last sentence in the second paragraph. She asked that staff speak with her and asked that the item be tabled.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to table to July 7, 2004. In a voice vote, all voted in favor. (Motion carried 5-0)

5.4 Councilmember Crowley asked where this location was. Mr. Kiar explained the history of this issue concerning an unlicensed waste hauler who was fined by the special master. He explained that as part of the litigation, the fine would possibly be reduced to \$969.19.

Councilmember Starkey asked if the \$6,500 fine included the Town Attorney's Office's litigation fees. Mr. Kiar indicated that he was not clear on this. Councilmember Starkey asked Mr. Willi if he felt reducing the fine was acceptable. Mayor Truex felt this issue centered on settling and resolving an active lawsuit. Councilmember Starkey inquired if this item should be heard before or after Council discussed the waste hauling contract. Mr. Willi stated that this issue was really about a negotiated fee to be paid to resolve the issue. He felt the monetary value of the case was insignificant compared with the case's future impact on the Town's franchise fees and collections. He added that the outcome of the case far outweighed the monetary penalty.

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Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve, based on Mr. Willi's and Mr. Kiar's comments. In a voice vote, all voted in favor. (Motion carried 5-0)

5.5 Councilmember Starkey asked if the mayor needed to execute the contract in this instance, as the Charter usually required. Mr. Willi indicated that the Charter did not stipulate that the Mayor had to execute contracts.

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

5.6 Councilmember Hubert questioned the financial arrangement for the lease for office space. Mr. Willi explained that this item concerned only the authorization for the negotiation of the lease. He indicated that the funding for purchasing the space was coming from the Building Division's reserves. Mr. Willi stated that this project would be the impetus for expanding the Community Redevelopment area and increasing the Town's tax base. He advised there would be no interest debt or long-term debt, which created a win-win situation for the Town and the developer. Mayor Truex felt this was a good investment for the Town. Mr. Willi advised that the Town was restricted in how it spent the reserve funds.

Councilmember Starkey concurred with Councilmember Hubert's concerns. She felt the agreement sounded too good to be true and wanted more backup on the role of the Community Redevelopment Agency (CRA) and the per-square-foot pricing. Councilmember Starkey also wanted to see a breakdown of the budgetary impact. Mr. Willi advised that some factors were unknown at this stage of discussion. He stated that decisions on designing interior space and pricing were awaiting Council's direction for staff to move forward. Councilmember Starkey asked how much the project would cost. Mr. Willi indicated the project would cost \$5.2 million.

Vice-Mayor Paul indicated that she had spoken with the developer of the project and felt the price was fair based on early negotiations and advised it may also be adjusted again. She felt the difference between renting and purchasing pointed to the purchase as a value investment over a lease. Vice-Mayor Paul advised that Development Services badly needed the space for its operations and to make the department more efficient. She indicated that the CRA had played a role in providing incentives to move this project along. Councilmember Starkey felt uncomfortable moving ahead on this item without sufficient backup documentation. Vice-Mayor Paul pointed out that Council was simply providing staff with direction at this stage and added that some pricing for the project had been reduced from earlier figures. Councilmember Starkey wanted to see some comparison with rentals in the area and wanted Redevelopment Administrator Will Allen to address Council on this issue. Councilmember Hubert wanted assurance that approval of this item would not lock the Town in.

Councilmember Hubert made a motion, seconded by Vice-Mayor Paul, to approve with the understanding that Council could say no in the future. In a voice vote, all voted in favor. (Motion carried 5-0)

5.10 Mayor Truex asked about the difference in the plan since it was originally proposed. John Santulli, representing Nova Southeastern University, explained the nature of the request with regard to adjustments to the project. He advised that more residence halls would be needed in anticipation of the expanded undergraduate student population.

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

5.11 Special legal counsel Mike Burke explained the nature of the litigation.

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Mayor Truex asked about environmental hazard at the area. Mr. Burke indicated that no assessment had been done to his knowledge.

Councilmember Starkey asked if Broward County's code was still enforceable on the property with Mr. Burke responding in the affirmative. Councilmember Starkey asked if the landscaping plan included a silt barrier. Mr. Burke was not sure but advised the landscaping plan was acceptable to the Development Services Department.

Councilmember Hubert inquired about the silt barrier that was agreed to and asked why it was not included in the settlement agreement. Mr. Burke indicated that Mr. Forman did not agree to it but felt that if Council wished, they could include a provision that the silt barrier was required to drop the notice of violation. Councilmember Crowley was concerned about runoff from the lake which Mr. Forman agreed to address.

Councilmember Starkey asked what would be the downside of not approving this item at this time. Mr. Burke indicated there was no downside and that provisions could be made to offer a counterproposal. Mayor Truex felt that Council could approve the landscape plan and asked that that provision be added. Councilmember Starkey asked how long the cars would be temporarily on the property. Mr. Burke advised that zoning allowed the use so this could theoretically continue indefinitely.

Vice-Mayor Paul made a motion, seconded by Mayor Truex, to table to July 14, 2004. In a voice vote, with Councilmember Crowley dissenting, all voted in favor. (Motion carried 4-1)

5.12 Councilmember Hubert asked how Council would pick the individuals to be involved in the land trust board. Vice-Mayor Paul stated that previous discussions determined that people outside the political realm had an opportunity to participate.

Planning Supervisor Marcie Nolan announced that two meetings would be held on June 29th and July 6th at the Old Davie School for anyone interested in the land trust discussion. She advised that the purposes of the land trust included: 1) purchasing land outright; 2) putting funds toward conservation easements; or 3) purchasing development rights. Ms. Nolan indicated that the board would use a grass roots effort to create the not-for-profit land trust. Ms. Nolan advised that the deadline for turning in applications to Development Services was August 1st.

Councilmember Starkey thought Council would have held a separate workshop to discuss the start up costs for the land trust. Ms. Nolan indicated that the cost was \$5,000 to incorporate the land trust, while the \$500,000 was the land trust's fundraising goal. Councilmember Starkey asked if staff foresaw whether Council would have to appropriate some of the Town's funds toward land acquisition. Ms. Nolan responded that the money would come from private citizens and private donations. She advised that the primary focus at the time was first to select the land trust's board of directors.

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

5.16 Councilmember Hubert asked if permit fees could be waived for Harvest Fellowship, as it was a not-for-profit entity. Mr. Willi advised that there was no Code section specific to waiving temporary use fees, but advised that there was a section applicable to 501(C)(3) entities to have building permit fees waived. Mayor Truex was not in favor of approving, in the event a private concern was making a profit. Councilmember Hubert indicated that she had been informed that the applicant was requesting the temporary use.

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

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5.19 (renumbered to item 5.18) Vice-Mayor Paul objected to receiving this item right before the meeting. She voiced her concern about having a dollar amount stipulated when the contract should have been based on an appraisal report. Vice-Mayor Paul felt this locked the Town into a difficult position. Councilmember Starkey voiced her preference to see the appraisal process done first, which could later be updated to reflect changing market values.

Bill Laystrom, representing the applicant, asked that the appraisals be done because he did not want to wait until October or November as he had heard Mr. Willi wanted to do. He stated that his client had been waiting since May and felt that if the appraisal came back at less than \$3.4 million, then the Town could back out of the deal.

Mayor Truex asked how much the appraisals would cost. Mr. Willi indicated that the two appraisals and the environmental study totaled approximately \$40,000. Councilmember Starkey felt that the \$40,000 was not indicative of the true costs as it included the environmental and indicated that the appraisals should cost about \$15,000. She stated that it was basic business sense to first do the appraisal to know upfront if the Town was in the ballpark. Councilmember Starkey also felt that mirroring what was done on the Van Kirk Groves purchase was a good approach. Mr. Willi indicated that Van Kirk was one parcel but that the Sunny Lakes property included four parcels. Programs Administrator Chris Kovanes felt the Town should follow the normal process and obtain two appraisals as well as do a phase one and phase two environmental study.

Vice-Mayor Paul voiced her concern about how potential environmental concerns would impact the grant process. Mr. Kovanes stated that if any environmental concern surfaced in the report, it would have to be corrected within a 90-day minimum.

Councilmember Starkey expressed concern over the liability for site cleanup and wanted assurance that the Town would not have to bear this cost. Mr. Kiar indicated that this provision was included in the contract. Councilmember Starkey wanted the Town to have the opportunity to opt out from the grant.

Councilmember Crowley asked if Mr. Kovanes had an idea what the environmental studies would cost. Mr. Kovanes indicated that he was requesting \$20,000 for both.

Mayor Truex asked Mr. Laystrom if the applicant would go along if Council directed staff to get the contract out and ascertain the cost of the environmental studies for Council to vote on. Councilmember Starkey stated that staff was already directed to get appraisals.

Mr. Willi disagreed with the process that Council was initiating at the time. He stated that normal procedure required that an appraisal be done after a binding contract was signed. He stated that without grant assistance, the Town would not be able to purchase the property, which would result in wasted funds spent on appraisals. Mr. Willi stated that if it was Council's direction to have appraisals and environmental studies done at the time, then staff would comply.

Barry Lethbridge, representing the petitioner, felt that some of the processes were different because Council had made pledges in relation to acquiring this property. He indicated that if the Town did not want to purchase the property, then he needed to know so the property owner could move forward.

Councilmember Starkey asked about the status of the grant application with FCT. She also asked that language be added to include the County's Land Preservation Advisory Board and commission open space funds as well. Mr. Kovanes requested that Council give direction for him to add this item to the Land Preservation Board's agenda and put pressure on the County to receive monies for open space. Vice-Mayor Paul asked about using open space funds. Mr. Willi responded that he was not sure open space funds could be used for this purpose.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to move forward with both appraisals, phase one and phase two, and to have the contract placed on the July 14, 2004 agenda with the addendum to include that when the update expired, it would be updated at the seller's expense. In a voice vote, all voted in favor. (Motion carried 5-0)

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7. PUBLIC HEARING

Ordinances - Second and Final Reading

- 2004-20 7.1. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-1-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM CC, COMMERCE CENTER DISTRICT TO UC, URBAN COMMERCIAL DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 12-1-03, Stiles Development Co./Wolf, 5700 University Drive) (tabled from June 2, 2004)
Planning and Zoning Board recommended approval {Approved on First Reading May 19, 2004 subject to voluntary deed restrictions - all voted in favor with Councilmember Crowley being absent}

Town Clerk Muniz read the ordinance by title.

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

- 7.2. **AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING APPLICATION LA(TXT) 04-1, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE ELEMENT TEXT TO INCREASE THE MAXIMUM HEIGHT LIMIT FOR INDIVIDUAL STRUCTURES WITHIN THE REGIONAL ACTIVITY CENTER; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading June 2, 2004 all voted in favor with Mayor Truex dissenting}

Town Clerk Muniz read the ordinance by title.

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

Development Services Director Mark Kutney asked that this item be tabled.

Councilmember Crowley made a motion to table this item to July 7, 2004.

Mr. Laystrom, representing the petitioner, explained the nature of the request.

Mr. Kutney voiced his concern with the proliferation on the height. Vice-Mayor Paul stated that she felt some height along appropriate corridors and at appropriate distances from residents was acceptable and added that this project provided an opportunity for the Town to have a clean, corporate partner.

Mr. Laystrom indicated that he was asking Council to direct his client to sit with Dennis Mele and staff to discuss creative options. Mr. Kutney stated that this item had to be approved by July 7th or the project would not go forward. Mr. Laystrom asked for a chance to meet with staff.

Mayor Truex indicating the concept was appalling at 150 feet plus. He felt that permitting tall buildings did not preserve other areas of the Town and created a different measuring stick for such structures and for future applicants. He stated Council should not have to jump through hoops to encourage such requests.

Vice-Mayor Paul felt that considering the tax base was important and this project provided more opportunities for the Town in this area. Councilmember Crowley stated that he had originally been in

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favor of the RAC approval for educational purposes, but he was never in favor of approving such large structures for non-educational purposes or for areas outside the zone.

Councilmember Starkey asked Mr. Laystrom if this request had previously been submitted. Mr. Laystrom indicated the request was first submitted when the project was purchased almost eight years earlier, then another request was made with staff in February of this year, when it was discovered there was a height cap. Councilmember Starkey stated that some height might be needed as she wanted to see some height as a buffer along State Road 84 and I-595 corridors. Mayor Truex felt buffering would be needed for the buildings themselves.

Councilmember Starkey asked what the harm would be in allowing Mr. Laystrom to speak to Mr. Kutney and staff, as the item would probably be tabled.

Mr. Kutney asked what height Mr. Laystrom was seeking. Mr. Laystrom indicated that he was seeking 100 feet. Mr. Kutney outlined two additional ways wherein more height could be achieved without a RAC amendment - either by a rezoning to BP or a rezoning to UC.

John Santulli, representing Nova Southeastern University, urged Council not to tack something onto their amendment as it would further delay the project. Councilmember Starkey asked how this would compromise moving the project forward. Mr. Santulli indicated that the Department of Community Affairs was considering the item as presented, but if it were altered, the process would have to start from scratch.

Councilmember Crowley made a motion, seconded by Mayor Truex, to table to July 7, 2004. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - no; Councilmember Crowley - yes; Councilmember Hubert - no; Councilmember Starkey - yes. (Motion carried 3-2)

Resolution

7.3. **FRANCHISE - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**
R-2004-148 **GRANTING A FRANCHISE FOR SOLID WASTE, BULK WASTE, RECYCLING AND CONSTRUCTION AND DEMOLITION DEBRIS DISPOSAL AND COLLECTION SERVICES, AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE AGREEMENT, AND SETTING FORTH AN EFFECTIVE DATE.**

Town Clerk Muniz read the resolution by title.

Mayor Truex opened the public hearing portion of the meeting.

Arthur Joseph, 13700 SW 18 Court, was in favor of the waste collection work done by Waste Management. He spoke of his fears that based on billing, some scams were going on. He felt that the Town was improperly profiting from a portion of the recycling program fees and indicated that the recycling fee should be removed from residents' bills.

Joe Cammisa, owner of Char-Hut restaurant, felt that a 25% fee increase to small businesses would be too much to overcome. He asked if a 25% increase was definite for commercial waste hauling. Councilmember Starkey and Vice-Mayor Paul explained that this would depend on which hauler was selected.

Judy Cammisa felt there were discrepancies in the bills she received for the businesses and her residences.

Kim Johnson, listing agent for local businesses, indicated that her small business clients would be adversely affected by a fee increase.

Mark Stelnik, owner of the Shoppes of Arrowhead, felt the exclusive franchise awarded by the Town created an unfair advantage to the haulers. He gave a comparison between the Town's rates and the rates of unincorporated Broward County. Mr. Stelnik felt it was unfair for one group to pay less than their fair share while other groups subsidized those who paid less. He urged Council to foster more competition.

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Rich Kane, owner of Bagelmania, spoke of a past instance where he felt Waste Management had taken advantage of his bill by arbitrarily charging his business rollout fees. He asked Council to open this up to competitive billing.

Hertz Halperin, 7514 SW 28 Street, asked Council to have twice-a-month bulk pickup no matter which firm was chosen.

Norm Blanco, 28 SW 72 Avenue, spoke of a past instance where he had received e-mail from Waste Management indicating that he would receive a 25% fee increase, which later turned out to be incorrect. He stated that even though he had had earlier problems with Waste Management, he now supported the service the firm provided.

Dan Leeds, president of University Park, wanted the terms of the contract to be lessened.

Mayor Truex closed the public hearing.

Louis Divita, representing the Florida Recyclers Coalition, described the history of the Coalition and its activities. He discussed materials that were recyclable and spoke of the merits of recycling. Mr. Divita pointed out that there was a poor response to the Town's Request for Proposal for this franchise and explained that competition was diminishing in this area. He outlined the Coalition's goals for providing services for Davie.

Tony Spadaccia, representing Waste Management, gave a brief presentation summarizing the firm's service record with the Town. He pointed out that the firm offered an equitable balance in its schedule, and stated that residents would save over \$5.6 million. Mr. Spadaccia advised that Davie residents would save \$8.3 million by using the rollout cart option service.

John Ferguson, representing All Services, gave a brief presentation summarizing the firm's service record and competencies.

Councilmember Crowley asked Mr. Spadaccia to address the concerns raised by Char-Hut owners regarding discrepancies in fees. Mr. Spadaccia explained where extra fees related to maintenance.

Councilmember Hubert asked if the firm would educate businesses on how to save money by recycling. Mr. Spadaccia indicated that his firm would be willing to assist residents in this effort even if they used a different recycler.

Mayor Truex asked for an explanation on whether the 25% increase was accurate. Mr. Spadaccia advised that fees were higher in other neighboring municipalities. Mr. Ferguson explained why rates for multi-family and commercial could go up.

Councilmember Starkey expressed that some of the residents in her district desired to have the automated rollout carts. She felt this service provided a cleaner, more streamlined curbside pick-up process. Councilmember Starkey stated her preference for a Town-wide uniform pick-up system no matter who was chosen. She asked that consideration be given to once a week bulk pick-up being maintained in the special districts.

Councilmember Hubert questioned if the Town could select one hauler each for the commercial, residential, and construction groups. Mayor Truex advised with this approach, the item would have to be re-bid.

Vice-Mayor Paul indicated that once-a-month bulk pickup might be substantial Town-wide, including equestrian or farm-related bulk pickup. She also felt that homeowner's associations could stipulate how often their residents placed bulk trash outside. Vice-Mayor Paul expressed concern about the difference in the numbers of both firms. Public Relations Coordinator Susan Dean indicated the figures were obtained through the GIS system and stated that staff had arrived at basically the same figure. She stated she was not sure where the 14,000 figure came from. Assistant Town Administrator Ken Cohen indicated that staff was not sure how All Services arrived at its figures. He stated that if they had miscounted the residential units, the Town was locked into the price given. Mayor Truex pointed out

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this would benefit the hauler as the residential rate would be higher. Councilmember Starkey pointed out the Town was not comparing apples to apples.

Vice-Mayor Paul asked for clarification on the selection criteria. Mr. Cohen felt this was a non-issue and felt that both haulers met the criteria as best they could. Vice-Mayor Paul felt that if both haulers met the criteria, they should have both shown similar residential savings. Mayor Truex pointed out the numbers were subjective.

Vice-Mayor Paul asked when All Services would be ready to start. Mr. Ferguson indicated October 1, 2004.

Councilmember Hubert asked if the residents would be responsible for the cost of the cart. Mr. Ferguson indicated the carts would be free initially.

Mayor Truex stated he was not in favor of re-bidding the contract and felt that Waste Management had won the bid and should be selected. Councilmember Crowley agreed with Mayor Truex that a vendor should be selected that night. He felt that the cart system would not work throughout the entire Town, and felt that the fee discrepancy issues with Waste Management needed to be resolved.

Councilmember Starkey stated that both companies had equally good service records and she wanted the best price for the residents. She pointed out that the residential savings were higher than most neighboring municipalities and the commercial rates were lower than most neighboring municipalities. Councilmember Starkey again voiced her preference for the automated rollout carts and did not feel once-a-week bulk pickup was necessary.

Councilmember Hubert asked if Nova Southeastern University could be exempt from the franchise agreement since they were a "city within a city". Mayor Truex responded in the negative, because the contract had not been bid that way.

Vice-Mayor Paul point out that there had been a tremendous improvement in Waste Management's service over the past two years. She felt this raised the bar for the firm and advised that the Town would expect this level of service.

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

Councilmember Starkey wanted staff to come up with different options of service and fees for bulk pick-up in special districts. She felt that in areas such as Forest Ridge would not want once-a-week bulk pickup. Council and Mr. Cohen discussed equipment and billing options for weekly versus monthly bulk pick-up service.

Councilmember Crowley asked Mr. Spadaccia if he was okay with the tax collector doing the billing. Mr. Spadaccia indicated yes. Councilmember Crowley spoke of residential areas south of Stirling Road that he understood were paying Hollywood fees; he asked that Mr. Spadaccia look into this.

Councilmember Starkey asked if additional items such as cans could be added to the list of recyclables. Mr. Spadaccia agreed.

Mr. Halperin asked if a resident had to pay for an additional cart if they needed one. Mayor Truex advised that residents did not have to buy carts, but had to pay \$1.00 extra for the additional cart pick-up. Mr. Halperin asked if the billing would be yearly, as he was concerned about having the burden of paying a large bill once a year. Mayor Truex responded in the affirmative and suggested that residents save up throughout the year for the bill. Mayor Truex wanted to look at individual issues more closely when this item came back as he did not want residents to be unduly burdened.

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Quasi-Judicial Item

- 7.4. **VARIANCE** - V 3-2-04, Town of Davie, 4491 Oakes Road (CF) (to increase the size of a building height from 35 feet to 39.9 feet; to decrease the dimension of a landscape area for 10 feet to 8.33 feet along the northern portion of the property; to decrease the landscape buffer adjacent to existing public rights-of-way for industrial and commercial districts from 20 feet wide for arterial and collector streets to 5.48 feet buffer area along State Road 7/441; to decrease the dimension of the landscape area from 10 feet to 5.0 feet along the southern portion of the property) *Planning and Zoning Board recommended approval*

Mr. Kiar read the rules of evidence and swore in the witnesses. Ms. Nolan explained the nature of the variance requests.

Mr. Kiar opened the public hearing. As no one spoke, Mr. Kiar closed the public hearing. Mayor Truex asked Council for their disclosures.

Councilmember Hubert advised that she had spoken with Ms. Nolan and Chief DiPetrillo. Councilmember Starkey disclosed she had spoken with Chief DiPetrillo and Mr. Willi.

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

Items to be Tabled or Withdrawn

- 7.5. **STAFF REQUESTING A TABLING TO AUGUST 18, 2004**
AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, REZONING CERTAIN REAL PROPERTY IN THE TOWN OF DAVIE AS SHOWN IN THE ATTACHED MAP FROM THE FOLLOWING ZONING DISTRICTS: HACIENDA VILLAGE (M-1, M-2, M-3, M-4, C-1, B-3, RM-5), BROWARD COUNTY (M-1, M-3, M-4, A-1, A-5, B-3), AND TOWN OF DAVIE (OLD CODE - RC-3, RC-8) TO VALID TOWN OF DAVIE ZONING DISTRICTS (B-3, M-1, M-2, M-3, RM-5, RM-8, RS, T) IN ACCORDANCE WITH TOWN OF DAVIE ORDINANCE NO. 2003-21; ADOPTING THE OFFICIAL ZONING MAP FOR ZONING CONFORMANCE AREA 1 MORE SPECIFICALLY DEFINED AS EAST OF FLORIDA'S TURNPIKE, NORTH OF ORANGE DRIVE TO THE NORTHERN AND EASTERN LIMITS OF THE TOWN AND ZONING CONFORMANCE AREA 2 MORE SPECIFICALLY DEFINED AS EAST OF UNIVERSITY DRIVE, SOUTH OF GRIFFIN ROAD, WEST OF 76 AVENUE AND NORTH OF STIRLING ROAD; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was tabled earlier in the meeting.

- 7.6. **WITHDRAWN BY STAFF; TO BE READVERTISED**
AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE III, SECTION 12-32, "TABLE OF PERMITTED USES"; AMENDING JUNKYARDS AS AN EXISTING LEGAL USE IN THE M-3 ZONING DISTRICT WHEN THE UNDERLYING LAND USE CLASSIFICATION IS INDUSTRIAL AND THE EXISTING USE IS LEGALLY PERMITTED; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was withdrawn earlier in the meeting.

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7.7. WITHDRAWN - REZONING DENIED ON JUNE 2, 2004

V 3-1-04, Voight/B & R Real Estate Services, LLC, 6650 Nova Drive (tabled from June 2, 2004)

This item was withdrawn earlier in the meeting.

7.8. WITHDRAWN AT THE PLANNING AND ZONING BOARD MEETING

SE 2-1-04, Dominguez, 11501 SW 17 Street (tabled from May 19, 2004)

This item was withdrawn earlier in the meeting.

8. APPOINTMENTS

8.1. Agricultural Advisory Board (one exclusive appointment - Councilmember Starkey; term expires April 2006) (insofar as possible, members shall have experience in agricultural matters, related occupations or other similar skills)

No appointment was made.

8.2. Child Safety Board (two exclusive appointments - Councilmembers Crowley and Mayor Truex; one exclusive appointment - Councilmember Starkey; terms expire April 2006) (whenever possible, members shall have interest and expertise in law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood)

Mayor Truex appointed Larry Davis.

8.3. Open Space Advisory Committee Agency (one exclusive appointment - Mayor Truex; term expires April 2006)

No appointment was made.

8.4. Parks and Recreation Advisory Board Agency (two exclusive appointments - Councilmember Crowley; one exclusive appointment - Mayor Truex; terms expire April 2006) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

Mayor Truex appointed Doug Notman. Councilmember Crowley appointed Jason Chamberlain.

8.5. School Advisory Board (one exclusive appointment - Mayor Truex; term expires April 2006) (insofar as possible, members are to have experience in educational matters)

No appointment was made.

8.6. Senior Citizen Advisory Committee (one exclusive appointment - Councilmembers Crowley and Hubert and Mayor Truex; terms expire April 2006) (members shall be a minimum 60 years of age)

No appointments were made.

8.7. Site Plan Committee (one exclusive appointment per Councilmember (terms expire June 2005) (members must be residents of the Town and, whenever possible, should be an architect, landscape architect and an urban planner or designer)

Mayor Truex appointed Jeff Evans. Councilmember Crowley appointed James Aucamp. Councilmember Hubert appointed Sam Engel.

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8.8. Water and Environmental Advisory Board (one exclusive appointment - Mayor Truex; term expires April 2006) (insofar as possible, one member shall be a licensed engineer)
No appointment was made.

8.9. Affirmation of the Community Redevelopment Agency's Selection of Chair and Vice-Chair (Chair - Mark Engel; Vice-Chair - Neal Kalis)

Councilmember Hubert made a motion, seconded by Councilmember Starkey, to approve Mark Engel as Chair and Neal Kalis as Vice-Chair. In a voice vote, with Vice-Mayor Paul out of the room, all voted in favor. (Motion carried 4-0)

8.10. Florida League of Cities Voting Delegate

Vice-Mayor Paul made a motion, seconded by Mayor Truex, that Councilmember Starkey be the voting delegate. In a voice, vote, all voted in favor. (Motion carried 5-0)

9. OLD BUSINESS

9.1. 26th Street/Hiatus Road Intersection

Earlier in the meeting, Councilmember Starkey advised that she and Mayor Truex had attended a meeting with residents of the community regarding improvements for the 26th Street/Hiatus Road intersection. She advised of suggestions made by residents including installing a roundabout, having an engineer look at an overlay for the roundabout, along with other options to make the intersection safer. Councilmember Starkey stated that GL Homes had refused to pay for the roundabout. She advised that she had met with the homeowners association and residents to discuss improvements for Hiatus Road corners.

Vice-Mayor Paul felt roundabouts helped improve safety over time. She felt the main issue was making sure the roundabout was at least as big as the one on Shotgun Road. Councilmember Starkey requested to have an outside engineer or consultant engineer involved as it was a critical intersection.

Council discussed various options for improving the intersection. Mayor Truex asked that a representative of the community speak on this issue. Mr. Lockwood, representing the residents of the area, stated that the community wished to proceed immediately.

Mayor Truex advised that more meetings would be held with all parties interested in this issue. Councilmember Starkey advised that members of the Open Space Advisory Committee wished to be involved as they wanted to ensure the parks were aligned correctly and that the design would not conflict with pedestrian and equestrian trails.

9.2. Sector Planning

Mr. Kutney advised that based on a previous Council workshop, staff had been directed to research locations in the Town that were crucial to the sector planning process.

Mayor Truex asked if this item could be discussed at the next meeting as Council was just receiving staff's information. Councilmember Starkey spoke of her ongoing requests to place office/warehouse category in industrial. She felt putting facades on warehouses was like "putting a dress on a pig", which did not disguise the fact that they were an unattractive use. Mayor Truex and Councilmember Hubert did not agree 100%.

Vice-Mayor Paul was interested in expanding the node at Stirling Road and Davie Road, if the area of land that Councilmember Hubert had previously spoken of was still available. She was also interested in looking at the Griffin Road corridor and the west side of Orange Drive.

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9.3. Permitting Music Lessons as a Home Occupation

Vice-Mayor Paul thought that Council was also going to discuss tutoring in the home as a home occupation, along with music instruction. She was concerned about the hours and felt they should be adjusted. Mayor Truex agreed and felt the hours extended too late in the evening. Council discussed further the merits on this proposed ordinance.

Mr. Willi felt restricting the hours was over-regulation and pointed out it would be difficult to enforce specific hours. Councilmember Starkey felt students learning music in homes generally did not bother anyone.

Council gave staff direction to have this item on the agenda for first reading at a future meeting with the addition of tutoring as a home occupation. Mayor Truex stated that based on the way the ordinance was worded, the lessons had to be finished at 9:00 p.m.

9.4. State Road 7/441 Design Charette

Ms. Nolan indicated that the first meeting of the Steering Committee was scheduled for June 24th and the date of the charette would be July 17th.

Councilmember Hubert indicated that one person on the Steering Committee had asked her if businesses had the right to change the roads that went in and out of their businesses on 441. Mayor Truex stated that changes to turn lanes could be suggested but that there was no guarantee they would be granted.

EAR Coalition. Councilmember Starkey asked that Planning and Zoning Manager Fernando Leiva provide an update based on discussions held at the Broward League of Cities meetings. She stated that as the Town's designee at these meetings, she did not want to make decisions unilaterally but wanted Council to discuss certain issues which came up at the meetings that were important to the Town.

Mr. Leiva gave a brief summary of the main issues that the League was addressing as part of the County's EAR process. He spoke of issues such as population projections and expansion of existing RAC's. Mr. Leiva indicated that staff would continue to ask the County for flexibility to expand RAC's and to allow for viable tools to be able to evolve to meet future populations. He spoke of flexibility unit zones and indicated the Town wanted the county to make a decision on having one flexibility zone.

Councilmember Starkey felt Council might support transferring flexibility zones from one area to another within Davie because the Town would remain in control. Councilmember Starkey asked if Council supported the ability for one municipality to sell its flex units to other municipalities if they were not being used. Vice-Mayor Paul stated she was uncomfortable addressing this without enough time to absorb all the related information. Councilmember Starkey indicated that an answer on this was needed soon in order for her to incorporate Council's input on this issue at the next League discussion. Mr. Leiva briefly explained this concern further. He advised that the County was seeking to place restrictions on re-development of coastal cities and staff wished to ask the County for flexibility on this restriction where older properties were concerned. Mr. Leiva spoke of the compatibility review regarding usage of flex units. He advised that the county was seeking to add additional compatibility criteria.

Mayor Truex asked if Mr. Leiva needed input from Council on this issue at the time. Mr. Kutney indicated that it was important for Councilmember Starkey to get input from Council on the issues covered at the League of Cities meetings. He suggested that Council use a portion of Council meeting time to discuss these issues at an earlier hour in the future so Councilmember Starkey would be sure to have Council's input for these meetings.

10. NEW BUSINESS

There was no new business to discuss.

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**11. MAYOR/COUNCILMEMBER'S COMMENTS
COUNCILMEMBER HUBERT**

Needy Resident. Councilmember Hubert thanked Vicky for helping a resident in need.

VICE-MAYOR PAUL

Firewalls. Vice-Mayor Paul indicated that she had a letter from the MPO regarding mandated firewalls for protecting State transportation funds. She asked that an item be placed on the next agenda regarding mandated firewalls.

Greenways Project. Vice-Mayor Paul announced that on June 22nd, Broward County Greenways project would hold its next public workshop at Robbins Lodge.

Police Pension Fund. Vice-Mayor Paul referred to letters Council had received from Mr. Underwood regarding the police pension fund and asked that this be added to the next meeting's discussion.

Baseball Program. Vice-Mayor Paul stated that Alex Arrias was interested in setting up a baseball program for at-risk children.

Sound System. Vice-Mayor Paul also spoke of problems with the sound system.

Happy Birthday. Vice-Mayor Paul wished Councilmember Hubert a happy birthday.

COUNCILMEMBER CROWLEY

Congratulations. Councilmember Crowley congratulated Samantha Allen, Will Allen's daughter, for being named the Hollywood Hills Softball Player of the Year.

Park Naming. Councilmember Crowley asked that the naming of the 71st Avenue Terrace Park be added to the next meeting's Agenda.

COUNCILMEMBER STARKEY

Reconsideration. Councilmember Starkey wanted Council to reconsider the site plan approval for Ruby Tuesday at the next meeting. She suggested that Council discuss the related problem briefly or reconsider discussion on a future agenda. Mr. Kiar advised reconsidering this item at a future meeting. Mayor Truex asked if this item had been pulled from the Consent Agenda at the previous meeting. Councilmember Starkey replied that she had pulled the item but had not understood that three feet parapet was anything beyond the norm. She stated that she wanted to show consideration to the applicant which was why she asked Council to reconsider. A man spoke on behalf of the applicant and indicated that they needed to move quickly on this item.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to reconsider this item. In a voice vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Paul - no; Councilmember Hubert - out of room; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion tied 2-2; the item was automatically tabled to June 2, 2004)

Councilmember Starkey asked if the applicant could meet with staff for recommendations on the parapet. Mayor Truex felt the Mr. Kiar's advice stood.

Councilmember Starkey pointed out that many site plan modifications had been reconsidered by Council before. She asked that staff have the opportunity to research this, as it was the first time this had ever been considered. Mayor Truex did not know what staff could do as the issue had already been voted on.

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12. TOWN ADMINISTRATOR'S COMMENTS

Mediation Conference. Mr. Willi sought approval for Mr. Kiar to attend a mandatory mediation conference with full authority to settle the issue, as the dollar amount was minimal. Council gave approval for this.

13. TOWN ATTORNEY'S COMMENTS

No comments were made.

14. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 1:01 a.m.

Approved _____

Mayor/Councilmember

Town Clerk

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