

**TOWN COUNCIL
REGULAR MEETING
JANUARY 5, 2000
7:00 P.M.**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:03 p.m. and was followed by the Pledge of Allegiance.

In the absence of the Mayor and Vice-Mayor, Councilmember Weiner made a motion, seconded by Councilmember Cox, to appoint Councilmember Paul to chair the meeting. In a voice vote, with Mayor Venis and Vice-Mayor Bush being absent, all voted in favor. (Motion carried 3-0)

Present were Vice-Mayor Bush (arrived at 7:06 p.m.) and Councilmembers Cox, Paul and Weiner. Also present were Town Administrator Middaugh, Town Attorney Webber, and Town Clerk Reinfeld recording the meeting. Mayor Venis was absent.

2. OPEN PUBLIC MEETING

Councilmember Paul advised the speakers of the Open Public Meeting procedures.

Councilmember Weiner made a motion, seconded by Councilmember Paul, to excuse Mayor Venis. In a voice vote, with Mayor Venis being absent, all voted in favor (Motion carried 4-0)

Ellen Christopher, 3666 West Valley Green Drive, provided a letter to Council and Mr. Middaugh which she read. She explained that she was personally attacked by Mr. Webber and felt it was very difficult for her to defend herself when the Town Administrator was slow to respond to public records requests. Ms. Christopher indicated that Mr. Webber was responding to a number of misstatements and misinformation that she had provided at that meeting and questioned what part of those statements were a misstatement or misinformation since the Town Attorney's Office had been paid thousands of dollars for plan and Code amendments since 1996 and the Code and plan had not been amended as of this date. She noted that she had never said that the Town Attorney's Office drafted the amendments, scheduled the amendments before Council, or decided to move the amendments forward. Ms. Christopher concurred with Mr. Webber in the fact that she did not contact his office to see whether his office participated in those decisions; however her questions had been directed to Mr. Middaugh since last October. She acknowledged that Town Clerk Reinfeld had attempted to obtain the records; however, she did not have those records.

Mr. Middaugh responded that Ms. Christopher was not being ignored and her requests were being addressed. He indicated that when the research was completed, the research would be shared. In terms of the historic information, he noted that much of the information predated his and Mr. Kutney's employment. Mr. Middaugh advised that he did not feel this information was relevant and noted that there was no public record that was responsive to all of the information that was being requested.

Ms. Christopher indicated that there were items that appeared on the agenda with backup and questioned why the amendments were repeatedly tabled and subsequently withdrawn with no paperwork explaining the tabling or withdrawal. She requested that

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someone acknowledge her request and inform her that there was no information. Mr. Middaugh indicated that he would provide a written reply indicating that no information was available.

Tom Truex, 4740 SW 72 Avenue, commented that the Town had recently endorsed a \$25,000 homestead exemption for senior citizens with little other assistance being provided to seniors. He felt that the law was a "shotgun" approach and would provide assistance to those individuals who did not need it. Mr. Truex stated that the Town did not seem to be able to address the transportation needs of seniors and requested that this issued be reviewed.

With regard to the water problems, Mr. Truex advised that there were several residents who had experienced flooding problems and the Town was continuing to increase density without addressing the long-term affect on the water supply. He noted that the drinking water was always a topic of discussion and felt that it was time to address the long-term water issues.

With regard to the ordinance pertaining to the planned business park, Mr. Truex believed that this was a good ordinance and encouraged staff to utilize all available issues to address the situation.

Mr. Middaugh advised that he had contacted Broward County Transit to address the immediate needs of Mrs. Tillinghast. In the next budget process, Council would be provided with information on a transit routing system that would supplement Broward County Transit. With regard to the water issues, Mr. Middaugh noted that a joint participation agreement was agreed to at the last Council meeting which provided for a comprehensive study to be conducted of drainage patterns throughout the Town.

John and Margaret Spain were present. Mr. Spain noted that staff was requesting a continuance with regard to the bed and breakfast issue and requested that Council grant the extension. He explained that the extension would provide additional time to address the land use interpretations being imposed by the County. Mr. Spain had found the bureaucracy imposed by the County daunting and expressed his appreciation to Development Services Director Mark Kutney and his staff for their efforts and support. He acknowledged concerns voiced by citizens and responded that he had requested two leading authorities in the industry to provide information to address these issues. Mr. Spain requested that Council consider imposing further restrictions rather than denying the ordinance.

Geri Clark, 4141 SW 56 Avenue, introduced herself as a candidate for District 1 and commented that she had attended Council meetings to share evidence of neglect and the lack of representation for a park in District 1 and its many residents. During the search for information regarding a resolution of those issues, she found additional unresolved issues. Ms. Clark felt these issues had plagued the Town for too long and that the Town should be proactive rather than reactive. She commented that too much time had been wasted and she expressed her desire to move forward and be a part of the Town.

Vice-Mayor Bush welcomed Ms. Clark as a candidate and commented that more people should become interested in their government and run for office.

Dan Barr, 11550 SW 37 Court, congratulated Ms. Clark on her candidacy and wished her the best of luck. He felt that single member districts had not been addressed and noted that a Council decision was required for this issue to be placed on the ballot. It was his

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belief that it was time for the residents to decide whether they wanted single member districts which would allow the opportunity for the electorate to run the government rather than the special interest groups.

Jim Bunce, President Davie Professional Firefighters, referenced the joint powers agreement which the Town had to make a decision to extend or terminate the agreement by March 30, 2000 and advised that Deputy Chief Leonard DePaola had been asking members what they were doing to eliminate the agreement. Mr. Bunce noted that the union had never been consulted by the Fire Administration on plans or presentations to Council nor did the union have the authority to hire personnel to complete the Fire Department's evolution. He questioned whether this was management using the union to open the political door or to antagonize the members which would not be tolerated. Mr. Bunce felt that if it was intended to open political doors, than the union would be happy to oblige. He believed that the Fire Administration would be reacting to crisis management on March 30th.

Mr. Bunce stated that the Town's negotiators had forced negotiations to an impasse situation over monetary issues of approximately 1% of bargaining unit payroll and unrealistic language demands. The Town's negotiating team opened no articles for negotiations and in many cases, their response to the union's proposals was irrelevant to the open issues and were retaliatory in nature. Mr. Bunce advised that the Town's negotiating team's self-serving proposals and actions had resulted in delaying negotiations, misrepresentations of facts and information and misleading Council which would have to ultimately vote on the issues at hand. In the past 26 years, the firefighters had never been forced to an impasse; however, the Town's bargaining team had left no option but to declare an impasse with the Public Employees Relations Commission.

Mr. Bunce stated that the firefighter's had voted no confidence in both the Fire and Deputy Chiefs. He advised that this vote had been upheld and endorsed by County, State, and National Professional Fire Rescue Associations. Even though Mr. Middaugh was investigating these issues, the Town's lack of action to date to resolve these issues continued to put the life and safety of firefighters and residents at risk.

Bruce Novack, 4216 SW 70 Avenue, concurred with Mr. Barr's comments regarding single member districts. He congratulated and endorsed Ms. Clark on her candidacy and felt a change was long overdue.

Dean Alexander, 13820 SW 16 Street, noted that the water issues had been addressed by the Davie Water Advisory Board, Council, and South Florida Water Management District for the past seven years. He added that these matters were being dealt with both legislatively and through litigation. Mr. Alexander referenced the judge's decision not to grant a summary judgment to the City of Sunrise and the significance of the action. He advised that Mr. Middaugh would be attending the next Water Advisory Board and invited Mr. Truex to also attend the meeting.

4. PRESENTATIONS

4.1 Davie/Cooper City Chamber of Commerce
No one was present.

4.2 Upcoming Special Events - Bonnie Stafiej and Sharon Pierce-Kent
Bonnie Stafiej, Special Projects Coordinator, was not present.

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Sharon Pierce-Kent, Parks and Recreation Director, announced that upcoming events included: second series of the Cultural Arts Program (applications); Festival Flea Market field trip (January 18th); Elvis night (February 8th); girls softball and youth baseball (registration); community garden plots; and community theater group (January 25th).

Councilmember Paul requested that items 11.3 and 11.5 be heard at this time. Councilmember Weiner seconded the motion to suspend the rules and move items 11.3 and 11.5. There were no objections to the motion.

11.3 Vice-Mayor Bush and Councilmember Cox deferred their appointments to the next meeting.

Councilmember Paul appointed Jeanette Davis. Councilmember Weiner appointed Marvin Simon.

11.5 Councilmember Paul appointed Deborah Clarke.

Vice-Mayor Bush announced that items 8.17 and 10.3 needed to be tabled.

Councilmember Cox made a motion, seconded by Councilmember Weiner, to table item 8.17 until January 19, 2000. In a voice vote, with Mayor Venis being absent, all voted in favor. (Motion carried 4-0).

Councilmember Weiner made a motion, seconded by Councilmember Cox, to table item 10.3 to February 2, 2000 and second reading to February 16, 2000. In a voice vote, with Mayor Venis being absent, all voted in favor. (Motion carried 4-0)

5. MAYOR/COUNCILMEMBERS COMMENTS

MAYOR VENIS

Mayor Venis was absent.

VICE-MAYOR BUSH

Vice-Mayor Bush had nothing to present.

COUNCILMEMBER COX

COMMENTS. Councilmember Cox hoped everyone had a great holiday season and advised that she did not as she had been publicly chastised, humiliated, denigrated, tried, convicted, and condemned by the Sun-Sentinel and Councilmember Weiner in the Sun-Sentinel, because she referred to the residents in Potter Park as "those people". She felt that the problem was not what was said, but because she referred to individuals in Potter Park as "those people". Councilmember Cox stated that there was no intentional racial remark or racial intention associated with the comment and indicated that she did not think of neighborhoods by race or ethnicity, but of how the people think and of their mindset. It was her belief that there was no opportunity for anybody to "pigeon hole" a neighborhood as to race or ethnicity in the Town. Councilmember Cox advised that she had apologized to the residents in Potter Park because they had taken offense to the spin that the Sun-Sentinel had placed on her remark. She noted that it was not her intention to offend the people and expressed her sincere sorrow. Councilmember Cox explained that she had made comments

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during the bond issue regarding how monies were to be spent and distributed amongst all the residents. She commented that Potter Park had received the third most monies in the Town and indicated that this might not pay for everything the residents wanted, but it would pay for some of the things that were needed.

Councilmember Cox referenced comments made by Messrs. Barr and Truex who had condemned her for the mistreatment of Potter Park and advised that these individuals had not supported the bond issue. She noted that the bond issue passed for all the Town's parks to be improved. The bond issue was for the parks to get what was needed; however, not necessarily everything that was desired for each park. Councilmember Cox expressed her desire for the Town to pull together for the benefit of the residents and not be distracted by certain individuals who were using the residents to fulfill their own political agendas. She noted that her focus was on the children of the community and those children were entitled to the best that the community could provide. Councilmember Cox pledged to continue to move forward in this way and would not be distracted by all the political smoke. She welcomed the residents in Potter Park to participate in the government and wished Ms. Clarke the best of luck.

COUNCILMEMBER WEINER

DAVIE TIGERS. Councilmember Weiner congratulated the Davie Tigers for winning a regional tournament.

WASTE MANAGEMENT. Councilmember Weiner noted that he had received Godiva chocolates from Waste Management and indicated that he would pass the gift to staff. He expressed his desire to move forward and obtain the larger receptacles for the Town. Councilmember Cox indicated that she had not received a gift from Waste Management.

PINE ISLAND RIDGE. Councilmember Weiner noted that the Pine Island Ridge community would like to move forward with its annexation issues. He expressed his desire for the Town to provide information in a timely fashion to assist in easing the resident's concerns with regard to becoming a part of the Town.

TELEPHONE FRANCHISE. Councilmember Weiner expressed his desire that see some progress with regard to these negotiations.

HIGH SPEED INTERNET ACCESS. Councilmember Weiner requested that Mr. Middaugh schedule a meeting with Comcast regarding high speed internet access.

JOINT POWERS AGREEMENT (JPA). Councilmember Weiner felt that this issue needed to be discussed by Council before the end of March and added that if the JPA was not going to be extended, Council needed to decide how additional personnel would be funded. He stated that he had supported the original JPA with Cooper City and Weston if these cities were to provide their own services. Councilmember Weiner indicated that he had looked at this as an opportunity to transform the Town's department into a single tier professional department or he hoped that the Town would enter into a regional fire/rescue service which made sense as an alternative. He requested that this issue be discussed at the next meeting.

TRAFFIC CONCERNS. Councilmember Weiner expressed concern with regard to traffic problems and a blind curve on Nob Hill Road. He requested a meeting with Assistant Town Administrator Robert Rawls and Mr. Middaugh in order to determine how the County could provide a traffic light near the park.

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TOWN ELECTIONS. Councilmember Weiner noted that the Broward County Supervisor of Elections was now providing candidate's personal information and campaign contributions and expenditures [on the County's web page]. He requested that the Town also provide this information.

OCCUPATIONAL LICENSES. Councilmember Weiner felt that the Town's occupational licenses should be listed on the Town's web page in order to provide individuals with names of local businesses. He noted that in speaking with staff, they felt it could be done with existing software; however, it would take some time to complete.

LEGAL FEES. Councilmember Weiner indicated that the Town Attorney's retainer was last reviewed in 1985 and added that the Town was paying approximately \$180,000 which was probably very well spent. He stated that this needed to be looked at to see if this was the best way "of doing it" and whether everything being paid for under the retainer was being covered. Councilmember Weiner advised that he would be meeting with Mr. Webber to go over fees and added that he would like to address legal fees in the future.

WATER ISSUES. Councilmember Weiner expressed his desire to move forward with the water issues. He felt this issue should be addressed by Council or at an executive session prior to an enormous amount of money being expended for litigation. Councilmember Weiner noted that there were several people talking about this issue; however, not publicly.

COUNCILMEMBER PAUL

SITE PLAN. Councilmember Paul noted her concern with regard to how drainage was being addressed on site plans. She indicated that at the next meeting, there would be an explanation as to the drainage on a subject property and how it would be addressed.

WASTE MANAGEMENT. Councilmember Paul acknowledged that she had also received a gift from Waste Management and was in the process of sending a letter to Waste Management explaining that she could not keep the gift. She indicated that a drawing had been held and a staff member had won the gift.

Councilmember Paul explained that the trash had not been picked up in almost half of the area in which she resided. She felt there were a number of issues that needed to be addressed.

KIDS VOTING. Councilmember Paul advised of a letter from Kids Voting thanking the Town for the Town's donation. She felt it was an important program for the children especially in light of the upcoming election. Councilmember Paul commented that statistics showed that if a child voted in this type of program, it encouraged parent participation.

6. TOWN ADMINISTRATOR'S COMMENTS

CITIZEN'S FORUM. Mr. Middaugh indicated that on the next agenda, Council would be requested to provide appointments for "non-homeowner citizens" who would be invited to participate in the upcoming forum. He asked that each Councilmember appoint a minimum of two members and that consideration be given to individuals who were not already serving on Boards. Mr. Middaugh provided a brief overview of the forum in which Town issues would be discussed prior to being presented to Council so that staff

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could have the benefit of citizen comments and to address concerns in a timely fashion. He anticipated that this group would meet on a quarterly basis depending on the issues being brought forward.

NEGOTIATIONS. Mr. Middaugh disagreed with Mr. Bunce's perception of the negotiations and felt that this was a "two-way" street. He stated that there were other forums to resolve an impasse and noted that he had in no way misled Council nor would he allow staff to do so. It was his belief that staff had acted on behalf of Council and he would continue to report to Council appropriate information so that Council could make an informed decision.

7. TOWN ATTORNEY'S COMMENTS

SUNRISE LITIGATION. Special Counsel Joseph Serrota provided an overview of the decision regarding the Sunrise litigation and noted that specific questions regarding strategies would be handled on an individual basis. He explained that the case revolved around the issue of whether Sunrise could justify its present rates through the Cost Service Study. The key document and issues had to do with the enforceability and the ability of Sunrise to support the Study. Based on a number of depositions and the Town's analysis, it was the Town's position that the Study was erroneous for numerous reasons.

Mr. Serrota stated that on November 16, 1999, a hearing was held on cross motions for summary judgment which he explained. Judge Streitfeld ruled that as a matter of law, the agreement prohibited the City of Sunrise from charging rates to the Town's residents that exceeded Davie's rates. The agreement did not preclude Davie from lowering its rates and requiring Sunrise to commission a Cost of Service Study to support a rate that was not excessive at the time that it was initially adopted. The Court further ruled with regard to the questions of fact, since the agreement did not specify when the Study must be commissioned and completed as a matter of law, it must be done within a reasonable amount of time. The judge explained that he would listen, however, the issue would be what amount of time was considered reasonable. Mr. Serrota felt this was positive since Sunrise was arguing that the Town should not receive any relief at all. Secondly, the Judge concurred with the Town in that it may challenge whether the Study was done "in accordance with generally accepted legal, engineering, and accounting standards as required by the agreement." Mr. Serrota explained that Judge Streitfeld allowed the Town 20 days to provide a response as to when the Town would be prepared for trial. At this point, he had begun the process for taking depositions and had contacted Sunrise's attorney with regard to a trial date which was anticipated to take place in the late spring.

LITIGATION. Mr. Webber provided an update on litigation in which the Town was involved: Bar-B Ranch, Orendello, SW 142 Avenue, homestead determination, 175/185 funds, Coastal Carting, LDG/DOT, Rowars, Cummings and Laurel Oaks/MVP Property.

Councilmember Weiner questioned whether the proposed amendment to be adopted for 175/185 funds would resolve the issue with regard to the withheld monies. Mr. Webber responded that the amendment partially resolved the issue and added that the settlement agreement would resolve all the issues. He indicated that the 175 funds would not have to be amended by ordinance and would be resolved by agreement. Mr. Webber advised that the agreements were being drafted.

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Due to the standing motion to direct the Mr. Webber to sue the pension boards, Councilmember Weiner thought it was appropriate to revoke the motion based on Mr. Webber's representation.

Councilmember Weiner made a motion, seconded by Councilmember Paul, to revoke the standing motion to sue the pension boards based upon the representations made by the Town Attorney presented tonight. Councilmember Weiner questioned if Vice-Mayor Bush could vote on this motion. Vice-Mayor Bush advised that he was no longer on the Police Pension Board. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

Mr. Middaugh asked that an ordinance that would provide technical amendments to the police pension be added as item 9.3. He explained that this ordinance allowed staff to start the process of complying with the State's requirements to recapture funds.

Town Clerk Reinfeld read the ordinance by title.

Councilmember Weiner made a motion, seconded by Councilmember Cox, to add item 9.3. In a voice vote, with Mayor Venis being absent, all voted in favor. (Motion carried 4-0)

8. CONSENT AGENDA

Minutes

- 8.1 October 6, 1999 - Regular Meeting (tabled from December 15, 1999)
- 8.2 October 20, 1999 - Regular Meeting (tabled from December 15, 1999)
- 8.3 October 25, 1999 - Large Joint Meeting
- 8.4 November 3, 1999 - Regular Meeting

Home Occupational Licenses

- 8.5 Best Concrete Inc., 2055 SW 139 Avenue
- 8.6 Rodolfo T. Gomez, 14401 SW 23 Street

Resolutions

- R-2000-1 8.7 **CONTRACT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH PRO-TELE SYSTEMS, INC. TO PROVIDE COIN OPERATED TELEPHONES IN LOCATIONS DESIGNATED BY THE TOWN. (Town to receive a 20% commission on net revenues/per phone) (tabled from December 15, 1999)**

- R-2000-2 8.8 **WAIVING FEES - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO WAIVE THE BALLFIELD PERMIT FEES FOR THE NOVA SOUTHEASTERN UNIVERSITY SCHOOL BASEBALL TEAM FOR VARIOUS DATES FROM JANUARY - APRIL, 2000. (approximately \$3,300)**

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8.9 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**
R-2000-3 **THE BID FOR LAWN MAINTENANCE AT UTILITY PLANT LOCATIONS.**
(EDJ Lawn Service, Inc.; \$11,600)

8.10 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**
R-2000-4 **THE BID FOR REESE ROAD REALIGNMENT AND AUTHORIZING THE**
MAYOR TO EXECUTE A CONTRACT FOR SUCH SERVICES. (M. Vila &
Associates, Inc. - \$239,722.30)

8.11 **BOUNDARY PLAT - A RESOLUTION OF THE TOWN OF DAVIE,**
R-2000-5 **FLORIDA, APPROVING A BOUNDARY PLAT 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 12-1-98, Pointe West
Center North Plat, 3550 Weston Road) Planning and Zoning Division
recommended approval subject to the planning report; Planning and Zoning
Division recommended approval subject to the planning report

8.12 **LANDSCAPE ARCHITECTURAL SERVICES - A RESOLUTION OF THE**
R-2000-6 **TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF GLATTING**
JACKSON KERCHER ANGLIN LOPEZ RINEHART TO PROVIDE
LANDSCAPE ARCHITECTURAL SERVICES FOR IMPROVEMENTS TO
LINEAR PARK AND AUTHORIZING THE TOWN ADMINISTRATOR OR
HIS DESIGNEE TO NEGOTIATE A CONTRACT FOR SUCH SERVICES.
(\$45,000)

8.13 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**
R-2000-6 **AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN**
HAMILTON C. FORMAN AND MILES AUSTIN FORMAN, AS TRUSTEES
UNDER THAT CERTAIN UNRECORDED LAND TRUST DATED AS OF
APRIL 15, 1987, AND THE TOWN OF DAVIE, AS PART OF THE
IMPLEMENTATION OF THE RELOCATION OF REESE ROAD; PROVIDING
FOR TRANSFERS OF PROPERTY; AND PROVIDING AN EFFECTIVE
DATE.

Site Plan

8.14 **SP 11-5-99, Broward Motorsport, 4101 Davie Road Extension (B-3)** *Planning*
and Zoning Division recommended approval; Site Plan Committee
recommended approval

Site Plan Modifications

8.15 **SP 11-1-99, University Commerce Center, 4601 SW 30 Street (B-2)** *Planning*
and Zoning Division recommended approval subject to the planning report;
Site Plan Committee recommended approval subject to the planning report
items 1 through 13

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- 8.16 SP 11-4-99, Courtesy Computers, 6700 Griffin Road (B-1) Planning and Zoning Division recommended approval; Site Plan Committee recommended approval with the following recommendations: that the chain-link fence dumpster enclosure be replaced with a six-foot CBS masonry wall enclosure; that the dumpster enclosure be a distance of five-feet from the nearest parking stall; that the landscaping in front of the building be done in conjunction and contemporaneously with the parking lot; that the landscaping on the west side be completed within 18 months; and that the landscaping on the south side be completed within 24 months
- 8.17 SP 11-6-99, Davie Plaza, 11486 State Road 84 (B-2) Planning and Zoning Division recommended approval subject to the planning report; Site Plan Committee recommended approval subject to the planning report items 1 through 7
- 8.18 SP 11-7-99, Belmont Lakes at Davie, 15260 SW 14 Street (R-1) Planning and Zoning Division recommended approval; Site Plan Committee recommended approval

Councilmember Cox asked that item 8.15 be removed from the Consent Agenda. Councilmember Paul asked that items 8.1 through 8.4, 8.11 and 8.12 be removed.

Councilmember Weiner made a motion, seconded by Councilmember Paul, to approve the Consent Agenda without those items that were removed. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

8.1 through 8.4 Councilmember Paul questioned whether Councilmember Weiner's concerns were addressed with regard to 8.1 and 8.2. She noted that she had some corrections to items 8.3 and 8.4.

Councilmember Weiner made a motion, seconded by Councilmember Paul, to table items 8.3 and 8.4 to January 19, 2000. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

With regard to items 8.1 and 8.2, Councilmember Weiner indicated that he had a disagreement relative to the manner in which the meetings were being taped. He advised of a suggestion by Pastor Coleman as well as information received from the City of Hollywood which he would like to discuss at the next goal setting session. Councilmember Weiner stated that he would also like to look at transferring the taped information to CD and having an action agenda which he felt would address his concerns.

Councilmember Paul made a motion, seconded by Councilmember Weiner, to approve items 8.1 and 8.2. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

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8.11 Councilmember Paul questioned the reason why there was a change in the boundary on this particular plat. Development Services Director Mark Kutney responded that one of the issues incorporated all parcels that had previously been presented to Council with regard to the various rezonings. He added that there was a change in the access in parcel "A".

Councilmember Paul questioned if the access point was where the mitigation point was to be located. Mr. Kutney explained that the mitigation piece was located at the top. The 80-foot opening would be located in the northwest corner and the remainder was a non-vehicular access.

Councilmember Paul indicated that at the time of the rezoning, she did not have the impression there would be a car dealership. She questioned if a conceptual master plan would be required at rezoning and if the car dealership had been disclosed at that point. Mr. Kutney noted that staff was not aware of the car dealership until after the fact; however, a conceptual plan would provide more detail as to what was currently being submitted in a rezoning and the uses would be made available.

If she was opposed to the use of the property, Councilmember Paul questioned if voting against the plat had any bearing or was the plat to be dealt with separately. Mr. Webber explained that they were two separate considerations.

Councilmember Weiner made a motion, seconded by Councilmember Cox, to approve. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - no; Councilmember Weiner - yes. (Motion carried 3-1)

8.12 Councilmember Paul questioned whether consideration was being given to drip irrigation, xeriscape, and drought resistance materials being used as part of the landscaping along the linear park. Mr. Rawls explained that staff would be providing direction as to the type of irrigation to be used and noted that staff had tried non-traditional methods of irrigation with very limited success. He felt that most public agencies had made a concerted effort to attempt those without a great measure of success. Mr. Rawls pledged to attempt those concepts, if possible.

Councilmember Weiner questioned whether the monies would be charged against the park bond issue and expressed concern with regard to resident comments that the parks were being neglected. It was his desire to try to conserve the expenditures and to negotiate the contract price so that monies were available at the end of the contract. Mr. Rawls clarified that the issue being presented was not to expend the \$400,000 in construction funds, but to expend an amount of up to \$45,000 for design fees only. He felt that Council needed to make a decision as to whether the priority for the bond issue monies should be reviewed prior to moving forward with the design. Councilmember Weiner noted that he was not against spending the monies; however, there was interest in finishing Potter Park. Mr. Rawls felt Council would have the option to finish Potter Park if certain aspects of the other improvements were not made, such as not building the gazebos. Mr. Middaugh commented that it would be harder to determine what would be needed at a certain facility and the associated costs absent the information that would be provided from the design.

Councilmember Paul felt that if this issue moved forward, she would like to see the options that were available with regard to the irrigation and the types of plants.

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Councilmember Weiner made a motion to approve 8.12 with the understanding that the Town would review the options with regard to completing Potter Park. The motion died due to the lack of a second.

Councilmember Cox made a motion, seconded by Vice-Mayor Bush who passed the gavel, to approve. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - no. (Motion carried 3-1)

Councilmember Paul commented that there had been several discussions including obtaining grants to complete Potter Park and she felt that it was not necessary to tie the two items together.

8.15 Councilmember Cox advised of a problem with the lighting plan. She felt that the site plan could be approved with the caveat that staff review the lighting plan to ensure compliance.

Councilmember Cox made a motion, seconded by Councilmember Weiner, to approve with the caveat that the lighting plan be reviewed and approved by Engineering. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

9. PUBLIC COMMENTS

Ordinances - First Reading (Public Hearing to be held January 19, 2000)

9.1 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM CF, COMMUNITY FACILITIES DISTRICT TO CF, COMMUNITY FACILITIES DISTRICT, AMENDING THE DECLARATION OF RESTRICTIONS; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 10-2-99, Calvary Chapel, 1775 South Flamingo Road)**

Town Clerk Reinfeld read the ordinance by title. Vice-Mayor Bush advised that a public hearing would be held on January 19, 2000.

Vice-Mayor Bush asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Cox made a motion, seconded by Councilmember Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - out of room; Councilmember Weiner - yes. (Motion carried 3-0)

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- 9.2 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM AG, AGRICULTURAL DISTRICT TO RS, RECREATION AND OPEN SPACE DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 11-1-99, Pine Island Park, 3800 SW 92 Avenue)**

Town Clerk Reinfeld read the ordinance by title. Vice-Mayor Bush advised that a public hearing would be held on January 19, 2000.

Vice-Mayor Bush asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Cox made a motion, seconded by Councilmember Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - out of room; Councilmember Weiner - yes. (Motion carried 3-0)

- 9.3 **AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA AMENDING ORDINANCE 99-20, CONCERNING THE POLICE OFFICERS' RETIREMENT SYSTEM; AMENDING SECTION 4.4 CONCERNING THE PAYMENT OF OPTIONAL FORMS OF BENEFITS PROVIDING THAT DROP DISTRIBUTIONS CANNOT EXCEED THE ACCRUED ACCOUNT BALANCE; AMENDING SECTION 4.6 CREATING SUBSECTION (D) CONCERNING CASH-OUTS PROVIDING THAT NO DISTRIBUTION FROM THE DROP SHALL EXCEED THE ACCOUNT BALANCE INCLUSIVE OF EARNINGS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

Town Clerk Reinfeld read the ordinance by title. Mayor Venis advised that a public hearing would be held on January 19, 2000.

Vice-Mayor Bush asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Weiner questioned whether the ordinance changed the payment to monthly. Mr. Webber recalled that there were two different types of payments and it did not change any other terms of the DROP other than the way it was paid. He added that this was a technical correction.

Councilmember Cox questioned what the account balance referred to under Section D. Mr. Middaugh stated that he assumed that it was from the DROP account balance and he would confirm this prior to the next meeting. He noted that this was one of the changes that was mandated by the State.

Councilmember Weiner made a motion, seconded by Councilmember Cox, to approve subject to the account balance in Section 2 referring to the DROP account balance. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

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10. PUBLIC HEARINGS

Vice-Mayor Bush opened the public hearing portion of the meeting.

Ordinances - Second and Final Reading

10.1 CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, ARTICLE III, BY ADDING SECTIONS 12-32.300 THROUGH 12-32.399 TO CREATE THE GRIFFIN CORRIDOR DISTRICT; PROVIDING FOR DISTRICT BOUNDARIES, DISTRICT INTENT, MASTER PLANS, PERMITTED, RESTRICTED, PROHIBITED AND ACCESSORY USES, ARCHITECTURE, DEVELOPMENT STANDARDS, AND, INCENTIVES AND WAIVERS; AMENDING ARTICLE XIII, SECTION 12-386 TO REMOVE THAT PORTION OF THE WESTERN THEME OVERLAY DISTRICT LYING SOUTH OF THE C-11 CANAL FROM THE WESTERN THEME OVERLAY DISTRICT BOUNDARY DESCRIPTION; AMENDING SECTION 12-503 TO PROVIDE DEFINITIONS; AMENDING THE ZONING MAP OF THE TOWN OF DAVIE BY REZONING LAND FROM A-1, R-5, RM-10, RM-16, MH-10, B-1, B-2, B-2 WESTERN THEME OVERLAY DISTRICT, B-3, C-1, U, AND CF, TO GRIFFIN CORRIDOR DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Reinfeld read the ordinance by title.

Vice-Mayor Bush asked if anyone wished to speak for or against the ordinance.

Joe Cosner, 4451 SW 77 Avenue, questioned what would be placed in the overlay district and whether information was available. He questioned the changes to the ordinance and the western section uses. Mr. Cosner expressed concern with regard to the high-density uses in that area and noted traffic concerns due to the Eckerds. He indicated that the residents did not oppose the business traffic; however, they did not wish to see a fast food restaurant type use.

Mr. Kutney explained that the ordinance provided for legislation and an amendment that divided the corridor into four separate districts in addition to the zones. Additionally, the ordinance rezoned the property from University Drive to State Road 7 as it related to the Griffin Road corridor. The ordinance further dealt with the architectural theme and the use groups as it related to the four land use concepts. Mr. Kutney pledged to provide a copy of the ordinance that provided for various use groups that were permitted. With regard to the fast food issue, he noted that the process was changed to a public hearing type process. Therefore, any development along the corridor would be noticed and a public hearing would be held. Mr. Kutney indicated that the process was intended to help ensure that the affect on the residential process was minimal.

Councilmember Weiner questioned whether Mr. Cosner objected to a hotel use. Mr. Cosner indicated that it was a concern of the residents. He did not believe a bed and breakfast use would be objectionable; however, he felt the hotel/motel use might be.

Alice Delpurscio, 4650 SW 47 Terrace, expressed concern with regard to whether the trailer park would be permitted to remain and noted traffic concerns regarding the ingress/egress along Griffin Road. Mr. Kutney explained that this was not a rezoning and pledged to work with Ms. Delpurscio. He indicated that the entire parcel of land would be rezoned tonight.

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Councilmember Paul questioned whether the existing properties would be grandfathered in. Mr. Kutney responded affirmatively.

Councilmember Cox requested clarification as to the required notification to a resident for the mobile home park to be sold. Vice-Mayor Bush indicated that there was a one-year notification requirement.

Maria Porta, 4651 SW 70 Terrace, advised of a letter sent to Council which listed her concerns. She felt the majority of residents seemed to only want two-story buildings and she did not understand the reasoning for permitting a hotel. Ms. Porta expressed her belief that there was no need for a hotel, however, she did not object to the bed and breakfast concept which was more compatible with the resident's lifestyle. She questioned why Council wanted residents to participate in meetings, but then voted opposite what the resident's desires were.

Mr. Kutney noted that in the downtown area, the hotel size was limited to 48 feet and three stories for the remaining areas. Councilmember Cox commented that the hotels were being required to provide architectural features and she felt those features would limit the hotels to three stories.

Councilmember Weiner noted that the west gateway was limited to 45 feet, the downtown area was limited to 48 feet, the east gateway was limited to 45 feet and the Griffin Commerce zones and the remaining nodes were limited to 60 feet.

Diane Cosner, 4451 SW 77 Avenue, stated that no one on the "committee" was aware that this would be the final meeting. She questioned why the west gateway was permitted to have fast food restaurants. Councilmember Weiner noted that fast food restaurants were permitted only in the nodes. Councilmember Cox added that convenience stores were also prohibited.

Councilmember Weiner suggested that this item be tabled and reopened after the residents had a chance to review the non-permitted uses.

Councilmember Weiner made a motion, seconded by Councilmember Paul, to postpone the hearing for one-half hour to allow the residents an opportunity to review the list of permitted, restricted, and non-permitted uses. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

Mr. Kutney suggested that Planning and Zoning Manager Jeff Katims make a brief presentation and then allow the residents an opportunity to review the information.

Mr. Katims advised that a few items had been revised. Council had expressed a desire to subject the master plan process to public notification requirements. Drive-thru's were previously limited to banks; however, now all drive-thru's would be subject to the same limitations as a bank. The watchman's apartment was deleted since it was provided in the mixed-residential and non-residential uses.

Councilmember Cox questioned what course of action would be taken if an objectionable use was presented and noted that site plans did not receive any notification. Furthermore, the residents did not have total control over the site; however, the residents were afforded more of an opportunity to provide input than in other processes. Mr. Kutney indicated that the master plan process would be used to make modifications to make the use more acceptable to someone who might have a concern.

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Councilmember Weiner noted that he had received a letter from Ms. Porta and acknowledged that he spoken with her and her husband. He expressed concern with regard to hotels being placed along the district as a permitted use. Mr. Kutney concurred, however, the district was planned and there would be some flexibility when a master plan was presented. He noted that Mr. Katims would meet with the residents in the conference room to discuss their concerns.

2000-1 10.2(a) **SIDEWALK EASEMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING AN EASEMENT FROM CYNTHIA MARIE LAWSON, AN UNMARRIED WOMAN, CONVEYING INTEREST IN CERTAIN PROPERTY FOR USE AS A NON-EXCLUSIVE SIDEWALK EASEMENT AND PROVIDING AN EFFECTIVE DATE.**

Town Clerk Reinfeld read the ordinance by title.

Vice-Mayor Bush asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Cox made a motion, seconded by Councilmember Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

2000-2 (b) **UTILITY EASEMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING AN EASEMENT FROM CYNTHIA MARIE LAWSON, AN UNMARRIED WOMAN, CONVEYING INTEREST IN CERTAIN PROPERTY FOR USE AS A UTILITY EASEMENT AND PROVIDING AN EFFECTIVE DATE.**

Town Clerk Reinfeld read the ordinance by title.

Vice-Mayor Bush asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Cox made a motion, seconded by Councilmember Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

2000-3 (c) **WARRANTY DEED - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING A WARRANTY DEED FROM CYNTHIA MARIE LAWSON, AN UNMARRIED WOMAN, CONVEYING CERTAIN PROPERTY FOR USE AS A PUBLIC RIGHT-OF-WAY; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.**

Town Clerk Reinfeld read the ordinance by title.

Vice-Mayor Bush asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Cox made a motion, seconded by Councilmember Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

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Item to be Tabled

**10.3 1) STAFF REQUESTING A TABLING OF THE ORDINANCE -
FIRST READING TO FEBRUARY 2, 2000**

**2) STAFF REQUESTING A TABLING OF THE ORDINANCE -
SECOND READING TO FEBRUARY 16, 2000**

CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, SECTION 12-32 ENTITLED "TABLE OF PERMITTED USES, SUBSECTION (A) "RESIDENTIAL DISTRICTS," AND (B) "COMMERCIAL OFFICE AND BUSINESS DISTRICTS," TO PROVIDE FOR BED AND BREAKFAST ACCOMMODATIONS AS A PERMITTED, CONDITIONAL OR PROHIBITED USE; AMENDING SECTION 12-34 ENTITLED, "DETAILED USE REGULATIONS" BY CREATING NEW SUBSECTION (EE) ENTITLED, "BED AND BREAKFAST ACCOMMODATIONS," ESTABLISHING REGULATIONS GOVERNING THE APPROVAL, LOCATION, SIZE, OPERATION, ON-SITE FACILITIES, APPEARANCE, AND OTHER CHARACTERISTICS OF BED AND BREAKFAST ACCOMMODATIONS; AMENDING SECTION 503 ENTITLED, "DEFINITIONS" PROVIDING A DEFINITION OF "BED AND BREAKFAST ACCOMMODATION"; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from December 1, 1999)

This item was tabled earlier in the meeting.

11. APPOINTMENTS

11.1 Budget Advisory Committee (one exclusive appointment - Councilmember Cox) (insofar as possible, members shall have experience in financial related occupations or similar skills; term of January to December 2000)

Councilmember Cox deferred her appointment.

11.2 Davie Water Advisory Board (one exclusive appointment - Vice-Mayor Bush) (insofar as possible, one member of the Board shall be a licensed engineer; term of January to December 2000)

Vice-Mayor Bush deferred his appointment.

11.3 Senior Citizen Advisory Committee (two exclusive appointments - Vice-Mayor Bush and Councilmember Cox; one exclusive appointment - Councilmember Weiner and Paul) (appointments for a one year term and two year term) (terms expire December 2000)

Appointments were made earlier in the meeting.

11.4 Police Employees' Pension Board (two non-exclusive appointments; appointing authority should select, from the best qualified persons, minority representation to accurately reflect that population of the area represented by the Board) (terms expire December 2000)

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Councilmember Weiner nominated Monroe Kiar and Ivan Reich. Councilmember Cox nominated Jack Mackie. Councilmember Paul nominated John Croes.

In a roll call vote on Mr. Kiar's nomination, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - no; Councilmember Cox - no; Councilmember Paul - no; Councilmember Weiner - yes. (Motion failed 1-3)

In a roll call vote on Mr. Reich's nomination, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - no; Councilmember Paul - no; Councilmember Weiner - yes. (Motion tied 2-2; nomination automatically tabled to January 19, 2000)

In a roll call vote on Mr. Mackie's nomination, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - no. (Motion carried 3-1)

In a roll call vote on Mr. Croes nomination, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - no; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - no. (Motion tied 2-2; nomination automatically tabled to January 19, 2000)

Councilmember Cox asked that Mr. Reich's resume be provided.

11.5 Parks and Recreation Advisory Board (exclusive appointment - Councilmember Paul) (members shall have a concern with or an interest in the park facilities and recreational needs of the citizens) (term expires August 2000)

Appointments were made earlier in the meeting.

12. NEW BUSINESS

12.1 Review of District Boundaries

Town Clerk Reinfeld stated that the District Boundaries Review Committee had met and reviewed three options that were developed by Florida Atlantic University (FAU). She indicated that the Committee had developed and selected a fourth option which had a small variation from the third option. Town Clerk Reinfeld stated that Council was being requested to provide direction as to what option it would like to consider so that an ordinance could be drafted. She explained that should Council decide to keep the current boundaries, a motion would be needed to retain the current boundaries based on reasonably equal areas of population and geographic size.

Vice-Mayor Bush questioned if there was information as to what major changes would take place that would affect the Town's population within the next two years. Town Clerk Reinfeld noted that the intent was to review the districts with the current population and not to project the future. Vice-Mayor Bush felt that if something should occur within one year, it might behoove the Town to wait. Councilmember Weiner stated that the Charter did not preclude Council from revisiting this issue; however, the triggering events were specified by the Charter.

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Mr. Webber advised that the triggering events had occurred and Council had to select one of the options. He noted that Council could revisit and change the districts at any time.

Councilmember Paul noted that the schools were currently educating the students with regard to the Census. She indicated that it was the opinion that the Town was undercounted in the last Census and every effort was being made to ensure that everyone completed the information regarding the Census.

Councilmember Weiner questioned whether there was a population difference in Options 3 and 4 for Districts 1 and 2. Councilmember Cox indicated that those areas consisted of the golf course and the pyramid. She felt that the homes that would eventually be built near the golf course area would make a difference.

Councilmember Paul expressed her belief that the fourth option was a non-substantial change and the populations were more evenly distributed in Options 3 and 4.

Councilmember Paul made a motion, seconded by Councilmember Weiner, to proceed with Option 4. In a roll call vote, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

Town Clerk Reinfeld stated that an ordinance would be presented at the next Council meeting with Option 4. She advised that the Committee had suggested that Council consider using the same triggering source for future reviews as well as the same source for actually doing the reviews. Town Clerk Reinfeld explained that FAU used different data than the University of Florida. Councilmember Cox stated that if FAU was going to be preparing the study, then their numbers should be used. No objections were noted.

12.2 Safety Helmet Ordinance (Councilmember Weiner)

Councilmember Weiner advised that he had drafted an ordinance for Council's consideration and noted that State law required a child under 16 years old to wear a helmet on a bicycle as a safety measure. He referenced a fatality that occurred in which a child fell off a horse and another accident that occurred approximately two weeks later in which a child who was saved by wearing his helmet. Councilmember Weiner noted that part of the Safety Summit's mission was to emphasize the benefits of wearing helmets while riding bicycles and horses. He would like to see provisions for fines which could be waived if the child proved that a helmet was obtained. Councilmember Weiner suggested that some of the monies from the fines could be used to purchase helmets for those who could not afford a helmet.

Vice-Mayor Bush advised of a law that was passed in New York in which helmets were required for children; however, he was unsure whether this was for equestrian riders.

Councilmember Paul expressed concern with regard to the safety of children and provided a brochure as an example of educational material that could be distributed. She noted that the school resource officers were also incorporating the equestrian safety helmet program, as well as the other safety programs, as part of their education. Councilmember Paul stated that any helmet law was only as good as the parent taking the responsibility to ensure that the child was wearing the helmet when engaging in an activity. It was her belief that the educational process was more important than the law and suggested that the educational program be reviewed. Councilmember Paul requested that staff contact the City of Plantation for a copy of its ordinance and to obtain the number of citations that had

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been issued. She indicated that since the educational program had been implemented, she had noticed more individuals wearing helmets and questioned what would be regulated in terms of safety and whether or not this law could be enforced. Councilmember Paul indicated that she would like to review a few changes and questioned if it would be possible to bring this ordinance back under Old Business. She expressed her desire to have waivers considered due to the type of activity.

Police Chief John George indicated that the school resource officers were asked to stress horse safety and noted that the "community based posse" would be reinstated. He reiterated that safety must start at home and if the parents did not compel the children to be safe, the Town was wasting its energy.

Councilmember Paul questioned how this ordinance would be enforced. Chief George noted that this was a municipal ordinance and if this issue was to the point of prosecution, than municipal prosecution would occur which was not cost effective. He stated that the intent was to obtain compliance and suggested the possibility of obtaining sponsorships for bicycle helmets.

Councilmember Paul questioned if a strong educational program would be as effective as an ordinance. Chief George explained that an ordinance made a statement and provided the authority to write tickets.

Councilmember Cox questioned the Police Department's jurisdiction in Tree Tops Park. Chief George replied that the Police Department would support any boundaries within the Town.

Councilmember Weiner noted that the ordinance was dated effective April 1, 2000 and welcomed additional comments, suggestions, and information. He concurred that education must begin at home; however, if Council took a stand, the police would be able to use their own discretion with regard to enforcement. Councilmember Weiner suggested education through the school resource officers and the schools. He felt this would send a message that the Town cared about its children and that they should remain safe.

Councilmember Cox questioned the meaning of Section 8. Councilmember Weiner explained that there may be an emergency situation at home and if the horse was used to obtain help, that child should not be penalized for not wearing a helmet. Vice-Mayor Bush noted that an emergency situation was viewed differently from a child versus an adult.

Mr. Middaugh suggested consideration be given to a "special master" process versus prosecution of a child. Chief George advised that a hearing officer reviewed traffic tickets and added that a parent might wish the opportunity to choose a path of training or a punitive message.

It was the consensus to place this item on the next agenda under Old Business and staff would obtain the aforementioned information requested by Councilmember Paul.

10.1 After resuming the hearing, Mr. Katims reported that some of the residents were still uncomfortable with the issues which were not resolved. He felt the issues regarding the mobile home park were understood; however, the residents closer to University Drive had concerns regarding fast food restaurants and three-story buildings.

Mr. Kutney noted that in all the public discussions, it was disclosed that there was a planning and zoning in progress and a deadline to finish by December 15th. He explained that it was not staff's intention to try to proceed through the process and not allow the residents an opportunity to review the ordinance. Mr. Kutney advised that staff was

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recommending that the public hearing be closed and that Council table the second reading of the ordinance to allow the residents to be notified. He stated that a third public hearing could be conducted which would ensure that the residents had the ability to voice their concerns.

Mr. Cosner indicated that the major objections from the residents was the node on the west end and all of the permitted uses in the node. At the workshop meetings, he indicated that a petition could have been brought forward stating that the residents did not wish to have these uses, however, he was advised that this was unnecessary. Mr. Cosner noted that there was an Amoco with a convenience store located in the area and expressed his belief that this type of business did not need to intrude on the neighborhood

Mr. Kutney explained that in the west end, there were B-1 and B-2 zonings which would prevent a use that was more intrusive on the neighborhood. He indicated that changes could not be made that would take away an individual's property rights by virtue of the existing zoning. Mr. Kutney noted that the uses that were objectionable could not be precluded.

Mr. Cosner felt that if the uses were being restricted in the downtown area, the uses could also be restricted in the western node areas. Mr. Kutney explained that serious consideration was given to the impact on the land use.

Mr. Cosner advised that he objected to video arcades. Councilmember Cox commented that arcades were permitted as an ancillary use only. She felt there was some value of a hotel in certain areas and suggested reviewing the hotel use in these areas. Councilmember Cox questioned whether the University Drive area would be a beneficial site for a hotel due to its traffic congestion. Mr. Cosner noted that the residents were in favor of the bed and breakfast.

Mr. Truex noted that the Griffin Road area had always been under consideration for improvements by both the Town and the Florida Department of Transportation. He expressed his appreciation for the resources and effort for the planning process and felt that Council provided the attention the corridor deserved. Mr. Truex expressed concern with regard to the feeling that things need to be rushed and commented that staff did not have the resources to complete the project in a reasonable amount of time. Throughout the process, it was the mindset that a city would be developed along Griffin Road and he felt rural planners were needed rather than urban planners. Mr. Truex stated that it was his belief that the proposed ordinance was better than no ordinance. He was in favor of the fact that there would be revisions; however, he expressed concern with regard to the amount of projects that staff must address. Mr. Truex objected to the hotel and the 60-foot buildings in a node. He indicated that in the original staff report, there was one amendment that was approved by Council in which the Town was to acquire nonviable parcels. It was his belief there were a number of parcels that were too small for any type of development.

Vice-Mayor Bush closed the public hearing.

Councilmember Paul reiterated her previous comments in which she expressed her desire to delete the fast food restaurants and added that the University Drive node was too intensive. She noted that she had discussed purchasing parcels for park areas. Mr. Kutney noted that he was aware of the idea to purchase parcels and would obtain a study from the consultants in which recommendations would be made relative to grants and financing options.

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Councilmember Cox questioned the legal ramifications of removing the fast food restaurants from the University Drive node. Mr. Webber responded that the general laws with regard to vested rights would apply; therefore, the Town would have the authority to change allowable uses of property. At the same time, if someone relied on the current Code and met the requirements for acquiring vested rights, they could make an argument that the Town had estopped them from enforcing the revised ordinance to their property. This would be a vested rights determination in which the Town had a procedure to follow. There was no inherent problem in the Town for appropriate purposes to change the zoning.

Councilmember Paul questioned whether there had been any applications with that type of use. Mr. Kutney indicated that there had been no applications and noted that the zoning in progress was no longer in effect. He suggested that Council consider tabling this item until February 2, 2000 rather than January 19, 2000.

Councilmember Paul questioned whether the zoning in progress could be extended. Mr. Kutney noted that the ordinance was tightly constructed and would have to be amended.

Councilmember Weiner made a motion, seconded by Councilmember Paul, to table the second reading until the February 2, 2000 meeting in which there would be another second reading and public hearing. In the meantime, staff could try to address some of the concerns. In a roll call vote on, the vote was as follows: Mayor Venis - absent; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

**12.3 Amending Davie Water Advisory Board Scope of Responsibilities
(Councilmember Paul)**

Councilmember Paul advised that the proposed resolution repealed past resolutions and made the Board a citizen's advisory board. The resolution increased a Board member's terms to two years and was under the responsibility of Council. The scope of the Board would allow it to deal with issues concerning conservation and ground water quality. The quality of the water being delivered by the City of Sunrise was another important issue. Councilmember Paul referenced phone conversations in which residents suggested that the Board be expanded to include topics such as restoration of the Everglades and drainage. She felt the Board could be expanded at a later date, if Council so desired.

Councilmember Weiner commended Councilmember Paul but expressed concern with regard to the direction given to the Board such as the provision to provide advice to other Town boards. He felt the Board was enacted to serve a particular purpose. Councilmember Weiner did not object to a board providing input on an individual basis or to suggest considerations to Council; however, he would not like to impose the Board to provide advice on a regular basis. Councilmember Paul felt this would provide the opportunity for the Board to research and to provide advice to Council. Councilmember Weiner noted that several agencies would be able to provide advice, such as the Town's Utility Department, the Department of Natural Resources, and the Environmental Protection Agency. He suggested that the wording be changed to reflect that the Board shall be empowered to review, discuss, and make recommendations. Councilmember Paul did not object to his recommendation.

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Councilmember Paul noted that there were numerous individuals who would like to be a part of several important issues and this Board would allow those individuals the opportunity to raise and discuss the issues. She felt the appropriate local forum needed to be formed to address local issues and it was her belief that agendaizing the issues would encourage participation from the residents.

Councilmember Weiner reiterated his previous concern that the Board should discuss issues rather than conducting studies without consulting Council. Mr. Middaugh explained that a staff person would be working with the Board and they would have no authority to expend monies or incur expenses without staff taking some action.

Vice-Mayor Bush felt this was the same resolution as before. Councilmember Paul was of the belief that there were some "housekeeping" issues. She indicated that she did not feel anyone would object to water conservation and water quality.

Dean Alexander felt that it was inappropriate for the Board to report to the Town Administrator as the Board use to report directly to Council. He explained that the meetings dealt with conservation and noted a list of conservation issues that was to have been placed in the Davie Update. Mr. Alexander explained that the Board members were not experts; however, they were charged with educating the public. He felt the meetings were broad based and informal and added that it was his belief that the Board was already doing what was being suggested. Mr. Middaugh concurred that the Board should report to Council.

Dave Brown explained that the basic issues that started the Board were that residents did not know who provided their water and where to go to make a complaint. Now that this system was benefiting the residents, the Board had expanded its reach to improve the community. He felt that it was positive that the Board wanted to have a direct relationship with Council to address the resident's concerns and encouraged Council to take the steps to update the resolution.

Councilmember Weiner summarized the changes as follows: 1) to change the duties of the Board to empower them to discuss and agree on additional items; 2) eliminate Town Board's from items 4 and 5; and 3) to add Town Administration. Vice-Mayor Bush questioned whether the language "at the discretion of Council" should be added and whether Council wished to have some control over the Board. Councilmember Paul questioned the authority of other Boards.

Councilmember Paul made a motion to place this item on the next agenda with the recommended changes made by Councilmember Weiner in relationship to other Board and duties.

Vice-Mayor Bush felt that other Boards had a more limited basis. Councilmember Weiner noted that it was not the intent to allow the Board to incur any expenditure on behalf of the Town and questioned the powers that the Board should receive. Councilmember Paul suggested adding the wording "and to provide advice to Town Council". Vice-Mayor Bush indicated that Council currently had the ability to direct the Board to review anything dealing with water. Councilmember Weiner stated that he did not object to the Board discussing issues; however, he expressed concern with regard to the lawsuit and the Board being used as a forum to discuss whether to continue using the specific vendor or to continue with the litigation without the benefit of an executive session. Councilmember Weiner felt that more parameters were needed.

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Councilmember Paul stated that it was a good opportunity to allow the Board to review other areas and that other issues were being read into the resolution which was not her intention. It was her belief that the resolution was putting in writing what the Board was already doing.

Mr. Middaugh explained that if the resolution was adopted, the Board was charged to work with staff. He noted that staff could not do anything without direction from Council.

Vice-Mayor Bush questioned whether the Board should get involved in making phone calls to different people. He noted that to invite people for a discussion would not be an expenditure of monies; however, it could very easily upset what staff was trying to accomplish. Mr. Middaugh felt that it was staff's obligation to ensure that the efforts were not being put forth as cross-purposes. He suggested prior to coming to a public hearing, the Board might be an appropriate forum to see how the citizen experts reacted and then bring that information back to Council.

Vice-Mayor Bush questioned whether Council would have the ability to direct the Board to cease review of an issue. Mr. Middaugh noted that the Board was always accountable to Council.

Councilmember Weiner explained that one reason he mentioned the Sunrise litigation was due to his Board appointee questioning why Councilmember Weiner had refused to come to a meeting to address how the surcharge issue would be resolved. He indicated that he would not answer to the Board; however, he would discuss individually at the appropriate time. In speaking with his appointee, his appointee demanded that Councilmember Weiner attend a meeting and it was actually said in the minutes that he refused to be there to address the resolution of the surcharge litigation. He expressed concern with regard to the Board overstepping Council. Councilmember Weiner concurred with the idea to empower the Boards to discuss ideas, but the concern was the end of their authority.

Mr. Alexander believed that if the Board was to expand, there should be some limitations. In recent meetings, there had been heated discussions in which he had been directed to order Mr. Webber to provide a report to the Board on the Sunrise litigation. During the last meeting, he was also directed to order Mr. Middaugh to appear before the Board. Mr. Alexander advised that he had reminded the Board that it was an advisory board and the Board did not order anyone; however, it could request appearances. He indicated that Mr. Middaugh had agreed to meet with the Board and Mr. Webber was not able to attend since he was in the middle of the litigation. Mr. Alexander noted that some of the members were lay people who became passionate.

Councilmember Weiner suggested that this issue come back with revisions to be considered. He did not object to giving the Board the authority to review and discuss matters, but it should have some limitations.

Councilmember Paul rescinded her motion and recommended that it be brought back to Council under Old Business at the next meeting.

**12.4 Results of Agrarian Committee's Meetings with Development Services
(Councilmember Paul)**

Councilmember Paul explained that there had been a series of meetings between the Development Services Department and the Agrarian Committee on issues that concerned people with agricultural properties and individuals who engaged in agricultural activities

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on their property. She requested that Mr. Kutney explain the outcome of the meetings and requested that Council provide direction as to how to move forward.

Mr. Kutney explained that it was his belief that the Agrarian Committee and staff were very close to agreeing on several issues and during the meetings, it was felt that a "white paper" philosophy statement should be developed. A comprehensive document was prepared in which an overview of the Comprehensive Plan, land use, zoning, building inspections, permits, and Code compliance issues were viewed. He had expressed concern to Councilmember Paul and the Committee that it was about to make a policy decision and he felt Council should provide direction. Staff could implement some internal procedures as it related to applications, but the issues were broader and crossed all aspects of the Development Services Department as it related to Florida Statute rulings and issues with agricultural type uses. Mr. Kutney recommended that Council review the issue at either a workshop or regular meeting.

Councilmember Weiner commented that some of the items listed in Mr. Kutney's memo discussed legal restrictions on farming. He expressed concern that the Committee was acting as an agrarian economic development board and that the Committee might be better served seeking legal counsel. Subsequently, the Committee was requesting legal opinions and expending money. This was not a Council request, but a Committee request and it may cost the Town to have a legal opinion researched and generated. He felt that this may be something that some sort of non-profit board outside the Town or a business owner should be asking their lawyer. It was his belief that this was another situation in which individuals should be discussing ideas rather than expending monies. Councilmember Paul emphasized that the Agrarian Committee was not looking for the opinion.

Mr. Middaugh noted the range of issues as to what constituted a farm and how the Town applied its existing regulations. He felt that staff was seeking direction on the definition of a farm and how to apply the regulations.

Councilmember Weiner questioned the potential impact of discussing this matter on any pending litigation. Mr. Webber responded that there were pending matters with Bar B Ranch and disputes with the Florida Farm Act. He felt that if there was a discussion regarding the Statute, it might pose an impact on the litigation.

Mr. Middaugh felt that the Town would be in a position to resolve the Bar B Ranch matter in advance of something that would come through the process. It was his belief that some of the discussions regarding the Bar B Ranch matter would be helpful in other applications.

Councilmember Paul felt continuing this discussion was important in terms of reiterating the Town's commitment to maintaining agricultural properties in the Town. It was her belief that there was an understanding with some of the issues that had come before Development Services prior to Mr. Kutney's employment. Part of the issue dealt with how Development Services reacted to individuals with questions regarding what uses were permitted on a particular property and whether the Town's actions were consistent with State law. Councilmember Paul felt there needed to be a consensus and to allow Council the opportunity to review the issues to provide direction.

Councilmember Weiner expressed concern with regard to the implication that the Town was being asked to pass legal judgment on an individual property owner's rights. He

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felt lawyers could be hired to find out what their rights were under the Town's regulations, County ordinances, and State and Federal Statutes. Councilmember Weiner expressed his displeasure with the Town passing policy on every single inquiry legal rights.

Vice-Mayor Bush questioned whether the agricultural exemption was going to be addressed. He further questioned whether Council was trying to develop a farm definition which was already defined by State Statute. Councilmember Paul responded negatively.

Arthur Hurley explained that the Committee was not asking the Town to advise what an individual's legal rights were. The Committee had made a presentation to Mr. Kutney and staff and noted that certain State Statutes seemed to be contrary to the policies and the ordinances in the Town. Staff researched that information and found that it may be in conflict; however, they would like direction from Council. It was his understanding that this information had been presented to Mr. Webber who said that the items brought forward were contrary to State law and those items need to be corrected. Mr. Hurley explained that the Committee was requesting that Council correct the policy and make it consistent with the State Statutes.

Mr. Webber advised that he had not rendered any opinion such as was indicated. Mr. Kutney explained that it was his belief that Mr. Hurley was referring to a meeting in which Mr. Webber was provided with information from the Committee. Mr. Kutney indicated the results of what was discussed at a subsequent meeting with Mr. Webber, but there was no formal opinion.

Councilmember Weiner questioned whether the State Statutes could be contrary in terms of policy with the Town's policy. Mr. Webber responded affirmatively and noted this could not be done unless it was an area that was preempted by the State.

Mr. Hurley noted that one issue that was being discussed was the Town's requirement for building permits for non-residential structures on a farm. He noted that there was an impasse; however it appeared that staff agreed with the Committee. Mr. Hurley indicated that the Committee had come to an agreement with staff on most issues, but staff could not move forward without Council direction. He questioned whether Councilmember Weiner did not want to be involved in this matter. Councilmember Weiner responded negatively. He questioned whether it would be possible to review the requests that were given to Mr. Kutney and if there was anything that would be preempted by State law to move forward for Council to amend the Code. Councilmember Weiner felt that if the issue was not preempted, than Council should review the item. He suggested that the Committee provide suggestions as long as it did not interfere with any pending litigation.

Mr. Kutney did not want Council to believe that staff was referring to small, specific issues and noted that one of the issues being discussed was comprehensive planning and land use matters. He advised that Mr. Hurley was of the belief that the Town did not have the authority regulate agricultural uses from the standpoint of land development regulations. Mr. Kutney explained that he could not agree with Mr. Hurley without direction from Council.

Mr. Hurley indicated that on July 1, 1998, the Town Attorney was directed to research the matter and provide a report. He felt that the basic fact was that anyone who had been involved in agriculture in the Town could not get a definite answer. Mr. Hurley referenced the litigation of Schultz vs. Love PGI which stated that when the Comprehensive Plan

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issue was put forth and the legislature passed it, agriculture was removed from the Comprehensive Planning "totally". He noted that this was what the law said and that the Town had to do something.

Councilmember Weiner reiterated that he had asked Mr. Webber to provide guidance as to what was in compliance with State law and noted that he was objecting to a portion of the request. He would like to know if there were policies that violated County ordinances, State or Federal law.

Councilmember Paul questioned whether this issue would be brought back at the time Mr. Webber provided the information. Councilmember Weiner responded affirmatively. Mr. Webber explained that a memorandum would be sent by Mr. Kutney in which he would provide a response.

Councilmember Cox questioned the position of the Committee on agricultural exemptions. Mr. Kutney explained that staff was of the opinion that if the principal use, even in an agricultural area, pursuant to zoning was residential with some accessory farm or "ag-related" uses, the use was residential and not a farm use, which was a difference from the Committee. Councilmember Cox felt there should be some accommodations for grandfathering. Mr. Kutney explained that the Building Official had made the argument that in some cases, it would actually be productive for someone with an agricultural use, to not have to worry about a permit. They would have the benefit of having Town staff provide the guidance they need from a public consumer standpoint.

Councilmember Paul stated that after Mr. Webber provided a report, she would like to open this item to the public for discussion.

12.5 Super Majority Vote on Land Use Changes (Councilmember Paul)

Councilmember Paul explained that when Council addressed land use changes, a minimum of four consenting votes would be required to approve a change. She stated that there was not much land remaining in the Town and she felt the land should be dealt with in an appropriate manner. One of the issues that had been discussed was when she had indicated that the super majority vote possibly be required for some rezonings as well, the issue was made that it should only be land use changes. There were some rezonings that occurred where the zoning was considered to be compatible with either residential or agricultural land use; therefore, a land use change was not needed and the rezoning could be voted on. It was her belief that the important thing would be to give this a greater weight in consideration. Councilmember Paul expressed her desire to give staff direction to develop an ordinance and noted that there had been some legal question as to whether or not this would be done by ordinance or by a Charter amendment. She noted that this could be continued under Old Business on the next agenda with those questions being answered and possibly having a draft ordinance being available for discussion.

Vice-Mayor Bush indicated that he thought there was some conclusion at the goal setting session that this was not Council's desire. Councilmember Paul responded that she did not have that impression. Councilmember Weiner commented that this was the tone of the discussion; however, no definitive answer had been given. Mr. Middaugh concurred.

Councilmember Cox commented that if this matter was provided by ordinance, a vote of three could reverse the decision. She felt that a majority vote had worked for a long time and disagreed that a super majority vote should be imposed on a rezoning.

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Councilmember Weiner expressed his belief that the voters could decide if a Charter amendment was required and added that he was undecided as to his belief. Vice-Mayor Bush concurred.

It was decided that this issue would be deferred until all Councilmembers were present.

13. ADJOURNMENT

There being no objections or further business, the meeting was adjourned at 11:13 p.m.

APPROVED _____

Mayor/Councilmember

Town Clerk