

**TOWN COUNCIL  
REGULAR MEETING  
APRIL 18, 2000**

**1. PLEDGE OF ALLEGIANCE**

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

**2. ROLL CALL**

Present were Mayor Venis, Vice-Mayor Weiner and Councilmembers Clark, Cox and Paul. Also present were Town Administrator Middaugh, Assistant Town Attorney Hinden, and Town Clerk Reinfeld recording the meeting. Town Attorney Webber was absent.

**3. PRESENTATIONS**

**3.1 National Safety Council Award - Child Safety Board**

Councilmember Paul advised that she had accepted the Safe City Award from the National Safety Council. She indicated that the Child Safety Board had done a commendable job and was a hard working group of individuals. Councilmember Paul presented a Certificate of Appreciation to: Lil Olfern, Joy Yoder, Kathleen Bleier, Joseph Brill, Ron Adderly, Mary Haas, Rosemary Lanchee, Doreen Hixon and Lorraine Hoffman.

Councilmember Paul presented Ms. Hixon, Board Chair, with the award. Ms. Hixon presented the award to Assistant Police Chief Robert McDaniel. Assistant Chief McDaniel stated that the Police Department was proud to work with the Child Safety Board and the Department was looking forward to working on the upcoming Safety Summit.

**3.2 National Community Development Week**

Shirley Taylor-Prekalt, Housing and Community Development Coordinator, advised that the National Community Development Week was April 24th to April 30th. She advised that in 1997, the Town became an entitlement recipient of federal funds from the Community Development Block GRANT Program. Ms. Taylor-Prekalt indicated that since that time, the Town had been working to redevelop three targeted areas and to provide an enhanced level of infrastructure, housing, social services, job creation and enhancement and park and recreation facilities to serve them.

**3.3 Fair Housing Month**

Ms. Taylor-Prekalt stated that another great importance to the Town was fair housing and for the last two years, the Town had an extensive Fair Housing Education and Outreach Program. The Town's partner was Housing Opportunities for Project Excellence and advised that April 2000 had been declared as National Fair Housing month.

Ms. Taylor-Prekalt stated that staff looked forward to continued outreach and education programs until every resident, regardless of their income, financial status, or race, would have an opportunity to become a home buyer. She indicated that in the last two years, 27 single family homes had been renovated for low income families, 7 homes were currently under construction and 8 more were ready to begin construction. Ms. Taylor-Prekalt indicated that staff had also helped three renters become first-time homeowners in Davie and a new program would provide down payment assistance to help anyone that had not had an opportunity to obtain private financing elsewhere.

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3.4 Davie/Cooper City Chamber of Commerce  
A representative was not present.

3.5 Upcoming Special Events - Sharon Pierce-Kent and Bonnie Stafiej  
Sharon Pierce-Kent, Parks and Recreation Director, announced that upcoming events included: Summer Days Drop-In Program; Pine Island Adventure Camp; Indian Ridge Extreme Teen Program; and Junior Lifeguard Training Camp.

Bonnie Stafiej, Special Projects Coordinator, advised that upcoming events included: Five Star Rodeo (April 21st - 22nd); 20th Annual Spring Egg Hunt (April 27th); Second Annual Family Bike Rally and Family Festival (May 13th); and Take A Kid Fishing Rodeo (June 3rd).

Mayor Venis advised that items 7.12 and 7.13 had been withdrawn.

Mayor Venis announced that item 8.9 needed to be tabled to June 7, 2000.

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

Mayor Venis announced that item 8.10 needed to be tabled to May 3, 2000.

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

Mayor Venis advised that the Parks and Recreation Advisory Board discussed Waverly Park at their April 10th meeting. He indicated that the Board had requested that Council solicit additional input from the community which staff was currently pursuing.

Mayor Venis questioned if an item was going to be added to the agenda. Mr. Middaugh responded affirmatively and indicated that the resolution was supporting House Bill 591, which he explained. He indicated that Vice-Mayor Weiner had suggested that the first sentence in Section 2 be amended to read "The Town approves the passage of House Bill 591 as presently drafted."

Mayor Venis requested a motion to add the resolution to the agenda as item 11.8.

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

11.8 A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SUPPORTING  
R-2000-83 HOUSE BILL 591 IN CONNECTION WITH EXPANDING MUNICIPAL RIGHTS TO PROVIDE AND REGULATE EMERGENCY MEDICAL AND ADVANCED LIFE SUPPORT SERVICES; REQUESTING THE FLORIDA LEGISLATURE PASS HOUSE BILL 591 WITH AMENDMENT PROVIDING THAT A COPY OF THIS RESOLUTION BE FORWARDED TO THE MEMBERS OF THE BROWARD COUNTY LEGISLATIVE DELEGATION; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE

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

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**4. MAYOR/COUNCILMEMBERS COMMENTS**

**CONGRATULATIONS.** Mayor Venis congratulated his daughter for making the high school honor roll.

**U-TURNS.** Mayor Venis indicated that he had received a letter from Broward County regarding U-turns on Dykes Road, just south of Griffin Road. He advised that the County was going to install flex post delineators to correct the problem.

**SOUND BARRIER WALLS.** Assistant Town Administrator Robert Rawls advised that he had completed a request to the Department of Transportation (DOT) regarding sound barrier walls in the Silver Lakes and Ivanhoe communities because of noise from I-75. He advised that he would be reporting on the efforts to Council in upcoming meetings and he would try to schedule a meeting with DOT and the residents.

**AL TYLER.** Mayor Venis indicated that a tree planing ceremony would be held on May 13th in honor of Al Tyler. Mr. Rawls indicated that the planting would take place at Robbins Lodge during the Family Fun Day.

Mayor Venis questioned the status of renaming the road by Mr. Tyler's home. Mr. Rawls responded that this road was a private road and the Town had made the request to the association.

**CAREER DAY.** Mayor Venis advised that he attended Career Day at Hawkes Bluff Elementary School. He added that the School would be holding a festival and Council was invited. Mayor Venis indicated that the School had requested that the Town loan them a stage, however, the stage was being used for a concert being held in the arena. He asked staff to contact the County on a stage.

**STATE PRINCIPAL OF THE YEAR.** Mayor Venis indicated that Douglas Iscovitz, Indian Ridge Middle School principal, was named Florida State Principal of the Year. He indicated that he would like to have Mr. Iscovitz attend a Council meeting so he could be honored by the Town

**FUNDRAISER.** Mayor Venis announced that a wrestling fundraiser was being held on May 20th to benefit Indian Ridge Middle School. He indicated that the fundraiser would help defray costs for the children's field trips and part of the proceeds would go to the family whose child had recently passed away of brain cancer.

**COUNCILMEMBER CLARK**

**EVERGLADES MOBILE HOME PARK.** Councilmember Clark indicated that she had met with the Everglades Mobile Home Park community who had a number of concerns which she had passed on to Mr. Middaugh. The concerns were with noise ordinance violations and serious dust emissions from cement factories along the Turnpike.

**TREE TOPS PARK.** Councilmember Clark advised that during her campaign, a man had called her about the fence behind Tree Tops Park. The man had advised that he was use to getting entry to Tree Tops Park from this area, however, he was now unable to because of the fence. Councilmember Clark indicated that she had asked Mr. Middaugh to look into this matter.

**SCHOOL CROSSING GUARD.** Councilmember Clark advised that a very young school age child was crossing Griffin Road and Orange Drive on Davie Road and there was no crossing guard. She asked Mr. Middaugh to provide direction.

**AGRARIAN ISSUE.** Councilmember Clark indicated that she supported the agrarian issue and she did not feel that the Town needed to change its ordinance.

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**CODE VIOLATIONS.** Councilmember Clark indicated that she had requested a report on the Code violations for businesses in District 1 and she was particularly interested in a case from March 1995 on International Demolition and Salvage. She asked that Development Services Director Mark Kutney review this case.

Councilmember Clark also asked for a more detailed report on Davie Auto Sales as the only violation to date was overgrowth on the swale. She questioned the number of cars that were on the lot and indicated that she was advised that there were cars parked in the empty lot behind the business that did not believe belong to the business.

**COUNCILMEMBER COX**

**TAKE A KID FISHING.** Councilmember Cox thanked Ms. Stafiej for coordinating the Take a Kid Fishing Tournament and she also thanked Bass Pro Shops for providing sponsorship.

**STOP LIGHT.** Councilmember Cox advised of the upcoming bike rally and asked that a study for a stop light at the crossing at Nob Hill and the entrance to Forest Ridge be included in Mr. Rawls' request for stop lights. She asked that a resolution requesting the light be prepared for the next agenda.

**HURRICANE CLEAN-UP.** Councilmember Cox indicated that the upcoming hurricane clean-up was scheduled for June 3rd and 4th at the rodeo grounds, the Ivanhoe Fire Station and the Flamingo Road Fire Station. She added that proof of residency would be required.

**OLDDAVIESCHOOL.** Councilmember Cox advised that the demolition of the Old Davie School had begun. She indicated that Mary Delborella could be contacted if anyone was interested in volunteering at the School or with the Old Davie School Foundation.

**COWBOY GOLF TOURNAMENT.** Councilmember Cox thanked the sponsors of the tournament which occurred on May 14th. She indicated that the golfers had brought their raincoats, cowboy boots, rubber galoshes and barn boots but it did not make any difference because of the rain.

**VICE-MAYOR WEINER**

**APPOINTMENT.** Vice-Mayor Weiner questioned if he was able to replace Ron Adderly on the Child Safety Board as he had been trying to reach him for three weeks. If so, he indicated that Mr. Adderly would be replaced with Doug Iscovitz.

**EMS PAPERWORK.** Vice-Mayor Weiner commended Midge Mills who been assisting EMS Coordinator Jose Rivero in getting the paper work to ADP, the Town's processing center for insurance claims and collections on EMS transports.

**FOX TRAIL ELEMENTARY SCHOOL.** Vice-Mayor Weiner indicated that there were a number of eight year olds who were planning on running for a Council seat in ten years.

**EARL MORRALL PASS.** Vice-Mayor Weiner indicated that a portion of Nova Drive had been renamed Earl Morrall Pass and when the new lights had been installed, the sign was not reinstalled. He asked Mr. Rawls to contact DOT to determine what had happened to the sign.

**FILL.** Vice-Mayor Weiner mentioned that he had received a number of calls on the fill that was being trucked in. He indicated that Mr. Cruck had a permit pending and questioned if this was resolved. Mr. Rawls advised that he had met with Mr. Cruck who was going to provide additional elevation information so that everyone knew exactly what was going to be done. He indicated that an order to stop and decrease work had been issued until this had been accomplished. Mayor Venis stated that he had been advised that a permit had been issued. Mr. Rawls responded that he would investigate the matter.

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**SUNRISE LITIGATION.** Vice-Mayor Weiner advised that a special meeting had been held with Weiss, Serota regarding the litigation. He stated that the Town had received a letter advising that Weiss, Serota was not going to perform any work for Sunrise pending this litigation. Vice-Mayor Weiner asked if this was a lawyer's way of saying that they were not divesting themselves of any contractual relationship with Sunrise and that they were just not going to perform until the lawsuit was over. Mr. Middaugh indicated that prior to receiving the letter, Joseph Serota had called to indicate that he had separated their relationship with Sunrise but had not gone into any detail. He advised that he could contact Mr. Serota for an interpretation of the letter. Vice-Mayor Weiner indicated that if Weiss, Serota had severed its relationship with Sunrise, that was fine; however, if there was still a relationship, the question would always linger if Weiss, Serota would really go for the "jugular" for the Town. He stated that he wanted a clarification because if they had not divested themselves of the contact, then they had not complied with Council's motion.

**ETHICS CODE.** Vice-Mayor Weiner indicated that Tom Truex had previously discussed an ethics code, however, at that time he had been opposed because there were laws that dealt with this issue. He stated that at this time, he would be willing to discuss the matter with Mr. Truex as he thought Council needed to look at an affirmation from public officials who were elected, appointed and employed.

**COUNCILMEMBER PAUL**

**OLD DAVIESCHOOL.** Councilmember Paul displayed a piece of the Old Davie School which was built in 1946. She indicated that the building would start coming down on April 19th and after completion, the School would be able to be seen from Griffin Road.

**PRINCIPAL OF THE YEAR.** Councilmember Paul congratulated Indian Ridge Middle School Principal Doug Iscovitz on being Principal of the Year for the State of Florida. She added that Mr. Iscovitz was currently in the running for National Principal of the Year.

**SAFETY SUMMIT.** Councilmember Paul indicated that the Summit was currently being planned and brain-storming sessions would be held with student representatives on May 11th. She announced that the Summit would be held on September 23rd at Indian Ridge Middle School.

**ACCIDENT.** Councilmember Paul sent her regards to Police Officer Chad Burgs who was involved in a bad accident while was responding to a burglary early this morning. She advised that she had spoken with Officer Burgs who had been hurt but was well enough to be home.

**EARTH DAY.** Councilmember Paul announced that Earth Day would be held on April 22nd. Residents should give thought on what they were doing to keep the earth safe and to conserve our air and water quality, the green space, and the wild life.

**ETHICSCODE.** Councilmember Paul thanked Vice-Mayor Weiner on re-addressing the ethics code as she had also been very interested in this topic.

**RESTRICTIONS REGARDING FORMER EMPLOYEES.** Councilmember Paul stated that she would like to revisit the ordinance that she had previously presented which would restrict a former employee from doing business with the Town for a year or two after their separation.

**NATIONAL MOVING VIETNAM WALL.** Councilmember Paul announced that the Wall would be at the Seminole First Baptist Church for approximately one week beginning April 20th.

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**ADDITIONAL PERSONNEL.** Councilmember Paul reiterated the need for additional police and Code compliance personnel as the needs of the community needed to be met. She stated that Code compliance personnel were needed because calls were received throughout the weekend and evening and weekend shifts were needed to deal with the problems.

**TOWN ADMINISTRATOR REVIEW.** Councilmember Paul indicated that she thought that Mr. Middaugh's review was due in April and questioned if there was going to be a discussion at the budget workshop. Mr. Middaugh indicated that he had not anticipated his review to be held at the same meeting. Town Clerk Reinfeld indicated that Mr. Middaugh's contract called for his review to be held in June.

**WESTFAIR.** Councilmember Paul asked for a report on Westfair and advised that she had seen a newspaper article that indicated that \$30,000 had been made on the event. She questioned if this was a true figure and asked what the Town had spent on support services.

**5. TOWN ADMINISTRATOR'S COMMENTS**

**SUNRISE LITIGATION.** Mr. Middaugh advised that the Town was scheduled for a mediation session regarding the Sunrise litigation on April 27th. He indicated that a report would be provided to Council if anything should happen. Mayor Venis questioned if Council could attend the mediation with Mr. Middaugh responding that Mr. Webber opined that Council's attendance would jeopardize the status of the mediation. Mr. Middaugh added that the opinion did not prohibit one Councilmember from attending.

**5.1 Senior Transportation**

Mr. Middaugh advised that he was working on a Town transit system and indicated that staff had visited several municipalities which currently provided a transit system. He stated that staff was actively working with Broward County Transit on designs and routes so that Council could review several different levels of service. He anticipated that the service would be discussed at the May 17th meeting.

**5.2 Garbage Franchise Enforcement**

Mr. Middaugh stated that staff had held a number of meetings with Waste Management regarding the franchise. He indicated that the firm was currently in compliance in terms of monetary items and with some other contractual issues. Mr. Middaugh added that Waste Management was still working on complying with a few other issues that were recently brought to their attention. He indicated that one area that staff was consistently emphasizing was that Waste Management had to be friendly to the residents.

Mr. Middaugh advised that Waste Management had a number of delinquent accounts that they were trying to get on a paying schedule and the Town was trying to help them with public relations or public information. He indicated that Waste Management had changed the commercial services to a point that was not anticipated in the contract and which people had come to rely on; however, Waste Management was getting ready to change it back. Mr. Middaugh stated that staff would be providing information that Council could formalize such as pick-up schedules, rates, recognizing smaller businesses, volumes of garbage, etc. He indicated that information on the Pilot Cart Program would also be provided which was not something that had been formalized in the contract.

**AQUACULTURE FACILITY.** Mr. Middaugh stated that a proposal regarding the aquaculture facility from Nova Southeastern University would be provided at the May 3rd meeting.

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**FIRE INVESTIGATION.** Vice-Mayor Weiner questioned the status of the investigation in the Fire Department with Mr. Middaugh responding that 99% of the work was completed. He advised that he would be reviewing this information on his vacation and he hoped to have the report when he came back. Mr. Middaugh stated that he was due back in the office on May 2nd and he would be scheduling individual appointments with Council to review the report.

Vice-Mayor Weiner advised that the employees had certain rights under Florida's Bill of Rights, so they were entitled to a predetermination hearing if there was any discipline involved, including termination. He indicated that he did not want the process jeopardized.

**FIRE NEGOTIATIONS.** Vice-Mayor Weiner advised that an executive session was held on the fire union contract and he had not heard the status of this under Mr. Middaugh's comments. Mr. Middaugh responded that staff was transmitting the contract language to the fire union for its review and approval.

**6. TOWN ATTORNEY'S COMMENTS**

Vice-Mayor Weiner questioned the status of the Chapter 175/185 issue. Mr. Hinden indicated that the Town Attorney's Office was not directly involved in this litigation but he understood there was a hearing scheduling for June 16th.

**7. CONSENT AGENDA**

*Minutes*

7.1 March 1, 2000 (Regular Meeting)

*Proclamation*

7.2 Day of Reflection (May 2, 2000)

*Home Occupational License*

7.3 Troche Property Maintenance, Inc., 2101 SW 136 Avenue (tabled from April 5, 2000)

*Resolutions*

R-2000-73 7.4 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN BOYS AND GIRLS CLUB OF BROWARD COUNTY AND THE TOWN OF DAVIE AND WAIVER OF FEES. (Ranch Roam - May 13, 2000; waiver of \$1,000)**

R-2000-74 7.5 **USE PERMIT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO A USE PERMIT WITH THE BROWARD COUNTY, PARKS AND RECREATION DIVISION. (Take A Kid Fishing; June 3, 2000)**

R-2000-75 7.6 **GRANT AWARD - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING A GRANT AWARD FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE DAVIE CHILD PASSENGER SAFETY SEAT PROGRAM. (grant amount - \$22,540)**

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- 7.7  
R-2000-76      **FIRE RESCUE ASSESSMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE FIRM OF GOVERNMENT SERVICES GROUP, INC., A SUBSIDIARY OF NABORS, GIBLIN & NICKERSON, P.A., TO PERFORM SERVICES RELATING TO THE FIRE RESCUE ASSESSMENT FOR FISCAL YEAR 2001. (expected cost \$21,000)**
- 7.8  
R-2000-77      **SUMMER FOOD PROGRAM GRANT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING APPLICATION, APPROVAL AND EXECUTION FOR A GRANT UNDER THE STATE OF FLORIDA DEPARTMENT OF EDUCATION SUMMER FOOD SERVICE PROGRAM FOR CHILDREN. (\$2,000)**
- 7.9  
R-2000-78      **PLAT REVISION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING A REVISION TO THE ACCESS OPENINGS OF THE "DAVIE TROPICANA REPLAT", AND PROVIDING AN EFFECTIVE DATE. (DG 9-1-99, 5950 Orange Drive)**
- 7.10  
R-2000-79      **LIEN SUBORDINATION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SUBORDINATING THE LIEN OF THE TOWN OF DAVIE ON PROPERTY OWNED BY JOLMY ENTERPRISES, INC. WITH RESPECT TO CERTAIN MORTGAGE INDEBTEDNESS AND PROVIDING AN EFFECTIVE DATE.**
- 7.11  
R-2000-80      **EMS COALITION - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, SUPPORTING THE GROUP CITY EMERGENCY MEDICAL SERVICE COALITION OF BROWARD COUNTY, INC. AND THE COMPLAINT FILED BY THREE ELECTED OFFICIALS AND THE COALITION CHALLENGING THE CONSTITUTIONALITY AND VALIDITY OF CERTAIN AGREEMENTS AND ACTIONS BY BROWARD COUNTY THAT PURPORT TO GIVE THREE PRIVATE AMBULANCE COMPANIES THE EXCLUSIVE RIGHT TO PROVIDE INTERFACILITY TRANSFERS THROUGHOUT THE COUNTY; PROVIDING FOR AN EFFECTIVE DATE.**
- 7.12      **SUBDIVISION PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A SUBDIVISION 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 7-1-99, The Edjeslan Plat, 10200 State Road 84) *Planning and Zoning Division recommended approved subject to the planning report; Planning and Zoning Board recommended approved subject to the planning report***

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7.13 **SUBDIVISION PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A SUBDIVISION 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 2-3-00, Davie-Berman Plat, 5801 Stirling Road)** *Planning and Zoning Division recommended approved subject to the planning report; Planning and Zoning Board recommended approved subject to the planning report*

7.14 **THIRD AMENDMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE THIRD AMENDMENT TO THE LOCAL HOUSING ASSISTANCE PLAN (LHAP) FOR 1999-2001 UNDER THE STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) PROGRAM, AND RATIFYING THE TOWN'S HOUSING DELIVERY GOALS AND LOCAL SHIP BUDGET STRATEGY FOR 2000/01; AND PROVIDING FOR AN EFFECTIVE DATE.**

R-2000-81

7.15 **EMINENT DOMAIN - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN ADMINISTRATOR TO TAKE ALL ACTIONS NECESSARY TO COMMENCE AN EMINENT DOMAIN ACTION PURSUANT TO CHAPTER 73 OF THE FLORIDA STATUTES AND ANY OTHER APPLICABLE LAWS, TO ACQUIRE WATER UTILITY FACILITIES NECESSARY TO CREATE UNIFIED DELIVERY OF WATER UTILITY SERVICES WITHIN THE CORPORATE LIMITS OF THE TOWN OF DAVIE; AND PROVIDING AN EFFECTIVE DATE.**

*Site Plans*

7.16 **SP 12-7-99, Value Dining of Davie, 4184 South University Drive (B-2)** *Planning and Zoning Division recommended approved subject to the planning report; Site Plan Committee recommended approved subject to the planning report adding that the plans for the office building would be submitted at a later date; that the roll-up door on the office building would be aligned with the loading area; that the dumpster site be relocated as indicated during the meeting; that the dumpster gate enclosure for the restaurant be metal with metal slats.*

7.17 **SP 2-1-00, Boys & Girls Club of Davie, 1130 SW 133 Avenue (CF)** *Planning and Zoning Division recommended approved subject to the planning report; Site Plan Committee recommended approved subject to the planning report which contained an additional condition from Engineering; that the patio sizes be consistent on all the plans; that the west side sign be removed from the plans; that the bottom band of the building be painted a darker shade; and to revisit the location of the monument sign at a later time.*

Councilmember Paul asked that items 7.2 and 7.3 be removed from the Consent Agenda. Vice-Mayor Weiner asked that item 7.15 be removed. Councilmember Cox asked that item 7.17 be removed. Councilmember Clark asked that item 7.8 be removed.

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Councilmember Paul made a motion, seconded by Vice-Mayor Weiner, to approve the Consent Agenda without items 7.2, 7.3, 7.15, and 7.17. In a voice vote, all voted in favor. (Motion carried 5-0)

7.2 Councilmember Paul advised that the Broward County School Board had recently passed a resolution that May 2nd be the universal Day of Reflection. She explained that this day was to remember the holocaust and it called for people to reflect and to participate in the renunciation of acts against humanity and against human tragedies brought on by prejudice, bigotry and hatred.

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

7.3 Councilmember Paul apologized to the Pfeiffer family because she had requested that this item be tabled from the last meeting. She indicated that her concern about the pool business was a mute point since the Pfeiffers were new owners.

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

7.8 Councilmember Clark read a portion of the resolution and indicated that she thought the program was important.

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

7.15 Vice-Mayor Weiner indicated that direction had been given to staff and Mr. Webber to meet with Utilities Director Daniel Colabella and Mr. Cohen, the Town's apparent utilities expert in terms of the surcharge litigation. He stated that this resolution did not seem specific enough and his concern was that he did not want the Town in the endeavor of suing another municipality with regard to the necessity of providing a water system for all the residents and have them challenge it at the forefront of the litigation with a motion to dismiss saying that the resolution was insufficient. Vice-Mayor Weiner indicated that he had contacted several attorneys who had similar concerns.

Mr. Hinden indicated that this was not the resolution for the lawsuit because that resolution would require specific findings by the Town, including what exactly it was the Town was seeking to condemn. He advised that this resolution provided the Town Administrator with direction to begin the process. Mr. Hinden stated that he did not think it was proper for his office to do the work at this point in time since it was doubtful that his firm was going to be providing that legal expertise.

Vice-Mayor Weiner indicated that at the last meeting, he was very specific that a resolution be prepared so that eminent domain proceedings could be instituted. He stated that an attorney still had an obligation to a client to go forward while they were being retained and he was disappointed that that might have been an influence here. Mr. Hinden responded that his office had done the best of their ability for the past 21 years and indicated that the resolution that Vice-Mayor Weiner wanted could not be prepared in two weeks. He stated that for the resolution that Vice-Mayor Weiner was requesting, the Town had to make very specific findings and Mr. Middaugh needed to be directed to make those findings which

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included what it was to be condemned. Mr. Hinden added that the Town needed to devote substantial time, effort and expertise to prepare a document that was not going to be thrown out in court at the first hearing.

Vice-Mayor Weiner read a portion of the resolution which he interpreted to mean that Mr. Middaugh was authorized to take whatever steps were necessary and to prepare and file a lawsuit in condemnation. Mr. Hinden disagreed and indicated that the resolution authorized Mr. Middaugh to take the necessary steps to determine what further action was required by Council to authorize that lawsuit. He added that Mr. Middaugh had not yet received this direction.

Ivan Reich, representing Becker and Poliakoff, agreed with Mr. Hinden to the extent that the resolution did not do what was necessary to authorize eminent domain proceedings. He indicated that the resolution needed specificity which should be provided by a legal firm with background in eminent domain. Mr. Reich added that before the document was drafted, preliminary issues including municipalities suing other municipalities, needed to be researched and decided upon.

Councilmember Paul indicated that once she had asked questions, she was more comfortable with the resolution as it was just giving Mr. Middaugh direction to move forward to research. She said that Council previously had discussed that a large amount of money would be involved with the eminent domain procedure which would probably have to go before the public in the form of a bond issue, possibly a referendum on a bond.

Mayor Venis indicated that it would be a good idea to begin speaking with eminent domain attorneys.

Councilmember Cox agreed with Councilmember Paul and because of the volume of work required, she did not think it was realistic to expect Mr. Webber or Mr. Hinden to have the required paperwork prepared in two weeks. She thought that this resolution directed Mr. Middaugh to hire a firm or to suggest firms to Council that might be able to perform this body of work and suggested that a special meeting be scheduled if needed.

Vice-Mayor Weiner made a motion that in place of item 7.15, Council authorize Mr. Middaugh to contact and inquire as to firm's interest in representing the Town in connection with an eminent domain action against the City of Sunrise for the taking of physical assets of the City of Sunrise necessary for the Town to provide our unified water system.

Mr. Hinden reiterated Councilmember Cox's statement regarding a special meeting due to the July 1st deadline.

Vice-Mayor Weiner indicated that the motion included a special meeting being held on April 26th. Councilmember Cox seconded the motion. In a voice vote, all voted in favor. (Motion carried 5-0)

7.17 Councilmember Cox indicated that this item was the site plan for the Boys and Girls Club at the Flamingo Elementary School.

David Hughes, representing the Boys and Girls Club, extended an invitation to the public to attend the ground breaking ceremony on May 10th and explained the Club's plan.

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

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**8. PUBLIC HEARINGS**

- 8.1 *Ordinance - First Reading (Second Public Hearing to be held May 3, 2000)*  
**CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING CODE AMENDMENT APPLICATION ZB(TXT)03-03-00, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, SECTION 12-32, ENTITLED "TABLE OF PERMITTED USES," TO PROVIDE FOR THE USE OF YACHT MANUFACTURING AND REPAIR; AMENDING SECTION 12-33, ENTITLED "GENERAL REGULATIONS," (W) "OUTDOOR ACTIVITIES RESTRICTED," TO ALLOW FOR OUTDOOR SALE AND STORAGE FOR YACHT MANUFACTURING AND REPAIR; AMENDING SECTION 12-34, ENTITLED "DETAILED USE REGULATIONS," BY CREATING SUBSECTION (EE) "YACHT MANUFACTURING AND REPAIR," TO ESTABLISH REGULATIONS FOR YACHT MANUFACTURING AND REPAIR; AMENDING SECTION 12-83, ENTITLED "COMMERCIAL CONSERVATION STANDARDS," TABLE 12-83 "CONVENTIONAL NONRESIDENTIAL STANDARDS," TO PROVIDE STANDARDS FOR YACHT MANUFACTURING AND REPAIR; AMENDING SECTION 12-208, ENTITLED "REQUIREMENTS FOR OFF-STREET PARKING," TO ESTABLISH PARKING REQUIREMENTS FOR YACHT MANUFACTURING AND REPAIR; AMENDING SECTION 12-503, ENTITLED "DEFINITIONS," TO PROVIDE DEFINITIONS FOR YACHT AND MARINA; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Venis advised that a second public hearing would be held on May 3, 2000. Town Clerk Reinfeld read the ordinance by title. Mayor Venis asked if anyone wished to speak for or against the ordinance.

Gary Starkweather, 2624 Key Largo Lane, stated that many of the residents in the Lauderdale Isles area had waterfront homes that directly faced this particular land and so the development of a ship yard would be highly incompatible. He indicated that several years ago, the Town had a land use change in the Hacienda Village area to change that zoning to industrial. Mr. Starkweather stated that the Lauderdale Isles's residents had communicated to the Town that they were highly opposed to this; however, the zoning had since changed to residential which was less intrusive. He advised that the residents wanted to stop industrial use across from their homes.

Mr. Starkweather mentioned that this property was next to a mitigation area and the land was currently used as somewhat of a buffer that separated Rosciolli and Bradford Marines from the mitigation land. He added that developing the property would further intrude upon, and would degrade, the mitigation land. Mr. Starkweather asked that Council consider not approving the ordinance.

Vice-Mayor Weiner clarified that the ordinance did not rezone any property but incorporated more current provisions into the Town's Code. He indicated that there was no guarantee that any rezoning would be subsequent and that Council would have to act upon it as a separate matter.

Mayor Venis closed the public hearing.

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Councilmember Paul stated that she was concerned with pollution prevention, the wetlands area, habitat, protecting the waterway from contamination. She asked that staff comment on the contamination, storage of petroleum and related products and the handling of oil, gasoline, and paints.

Jeff Katims, Planning and Zoning Manager, stated that questions of this nature would best be answered by the Department of Environmental Protection. He clarified that the Code amendment would facilitate a potential future rezoning to expand Rosciolli Marine; however, staff advocated the amendment irregardless of whether or not Council desired the rezoning. Mr. Katims explained that the proposed ordinance got rid of some of the old Hacienda Village zoning and County zonings. He indicated that one of staff's priorities was to begin rezoning some of these properties to the Town's zoning categories so that the Town could have more control. Mr. Katims explained that the difference was that the County's and Hacienda Village's zonings did allow Rosciolli to build boats quite as large as it wanted to. He added that the proposed amendment would impose hours of operation and a more restrictive height limit than the County and Hacienda Village's Codes did.

Vice-Mayor Weiner questioned how much larger a boat the Code would allow. Mr. Katims indicated that the size was currently limited to 100 feet on one parcel and 45 feet on another and staff was recommending that the size be increased to 180 feet which was the maximum that could be utilized in the waterway.

Councilmember Paul questioned the height that the County's Code allowed. Mr. Katims responded 100 feet, however, staff was proposing that the building's height be limited to 55 feet. He added that this building could not be an office building as it would have to be specifically related to the servicing or manufacturing of yachts. Councilmember Paul questioned the hours of operation that the County allowed with Mr. Katims responding that there were no restrictions. Councilmember Paul clarified that the proposed ordinance placed hours of restriction from 6:00 a.m. to 8:00 p.m. with Mr. Katims responding that any property zoned M-2 would have restricted hours of operation.

Vice-Mayor Weiner questioned staff's reasoning for increasing the limitations on the length of boat. Mr. Katims responded that boats had gotten bigger, and their maneuverability had increased, with time.

Councilmember Clark questioned how many acres the proposed amendment would incorporate. Mr. Katims responded that the actual expansion would be five acres. It was roughly six acres and a fraction thereof, and about one and a quarter acres would be devoted to preservation of wetlands. Councilmember Clark indicated that she did not understand how the ordinance would apply if the Town decreased the height of the building but increased the length of the boat being built. Mr. Katims responded that the ordinance would allow larger boats to use the facilities.

Councilmember Clark asked Mr. Katims to elaborate on Rosciolli's plan to move an operation here from another part of the State. Mr. Katims replied that he would have to defer this question to Mr. Rosciolli for details.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, to approve the proposed ordinance with the revision that the references to the 180 feet in length in Section 3(EE), as well as the definition of yacht in Section 6, be revised from 180 to 100 feet.

Councilmember Cox stated that she would like to visit the site and speak with Mr. Rosciolli. She added that she thought that the residents in Lauderdale Isles wanted to make a presentation. Vice-Mayor Weiner indicated that the proposed ordinance was to revise the

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Land Development Code not a petition to rezone property to M-2. Councilmember Cox agreed with Vice-Mayor Weiner but the residents were concerned with a 180 foot boat and she would like to be able to go over and look.

Councilmember Paul suggested that this item be tabled to have a representative from the Department of Natural Resource Protection be present or she could meet with the Department prior to the first reading. She stated that she had specific answers regarding conservation issues and wetlands and she wanted to make sure that this was protected. Councilmember Paul stated that she thought the ordinance would include information on the protection of the natural resources.

Mr. Middaugh agreed with Councilmember Paul's suggestion that more information would be helpful and thought it was appropriate for Council to hear from boat yard representatives, in particular those who would be affected. He also thought it would be appropriate for Council to hear the involvement the Town had in the economic development effort associated with the Rosciolli boat yard.

Mayor Venis asked Vice-Mayor Weiner if he wanted to rescind his motion. Vice-Mayor Weiner responded negatively but he would "input tabling."

Councilmember Paul felt that Council should have been provided with the information she was requesting and she was not comfortable voting on this ordinance. Councilmember Cox indicated that if a Councilmember wanted more information than what was presented by staff before the meeting, s/he could have asked staff or contacted Mr. Rosciolli to provide the information.

Vice-Mayor Weiner questioned what type of information Council wanted at the next meeting with Councilmember Paul responding that environmental information was needed. She indicated that she had spoken with staff on all these issues and was given a copy of the pollution prevention and best management practices. Councilmember Paul stated that she still had concerns after reading the material which she was uncomfortable with because of the dated material.

Councilmember Cox indicated that she thought it was appropriate to table the issue and she thought it would be productive for the residents to speak with staff and Mr. Rosciolli.

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

Councilmember Cox made a motion, seconded by Councilmember Paul, to table the first reading to May 3, 2000 and the second reading to May 17, 2000 and for staff to provide additional information on environmental issues and for Mr. Middaugh to provide a history of the Town's participation with Rosciolli and to ask that the Town look at the Planning Council's rules and Development Code from Broward County regarding environmental protections for boat yards and those types of issues. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - no; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 4-1)

*Ordinances - Second and Final Reading*

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2000-13      8.2      **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 12, ARTICLE X OF THE TOWN CODE ENTITLED "PLANNING AND DEVELOPMENT" BY AMENDING SECTION 12-304 CONCERNING THE PROCESSING OF AMENDMENTS TO THE TOWN'S COMPREHENSIVE PLAN BY ADDING A NEW SUBSECTION TO SECTION 12-304, REQUIRING NO LESS THAN FOUR AFFIRMATIVE VOTES OF MEMBERS OF THE TOWN COUNCIL FOR APPROVAL OF LAND USE PLAN AMENDMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Town Clerk Reinfeld read the ordinance by title.

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

Councilmember Paul made a motion, seconded by Vice-Mayor Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

2000-14      8.3      **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF THE NORTH 2.7 ACRES OF A CERTAIN 4.5 ACRE PARCEL WITHIN THE TOWN OF DAVIE FROM B-3, PLANNED BUSINESS CENTER DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT WITH AMENDED DEED RESTRICTIONS; AND THE SOUTH 1.8 ACRES OF A CERTAIN 4.5 ACRE PARCEL FROM B-3 TO B-3 WITH AMENDED DEED RESTRICTIONS; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 1-2-00, Value Dining, 4184 to 4190 University Drive)**

Town Clerk Reinfeld read the ordinance by title.

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

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

*Vacation/Abandonment*

8.4      VA 3-1-00, ROHO Flamingo, 12451 Orange Drive (B-3) (to vacate a portion of a 15 foot utility easement at the northwest corner of Flamingo Road and Orange Drive, approximately 150 feet west of Flamingo Road and 20 feet north of Orange Drive adjacent to the subdivision platted as "ICE") *Planning and Zoning Division recommended approval*

Mr. Katims summarized the planning report. He indicated that the Planning and Zoning Board had not yet heard this item as there was an advertising error which was causing the petition to go out of order. Mr. Katims advised that the petition would be heard

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by the Planning and Zoning Board on April 26th. He stated that staff was recommending that after the public hearing was closed, that Council defer action on the item until its May 3rd meeting.

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

Mayor Venis indicated that Council would defer its action to the May 3rd meeting after the Planning and Zoning Board had met.

*Quasi Judicial Hearings*

8.5 **REZONING** - ZB 12-2-99, Laystrom/95 WHSE, Inc., 7085 Nova Drive (from M-1, Old Code and R-4A to RM-16) (tabled from April 5, 2000) *Planning and Zoning Division recommended denial; Planning and Zoning Board recommended denial*

Mr. Hinden explained the rules concerning the presentation of evidence. Town Clerk Reinfeld swore in the witnesses. Mr. Kutney advised that his qualifications were on file in the Town Clerk's Office and indicated that the planning report would be provided to the Town Clerk. Mr. Kutney read the planning report.

Mayor Venis questioned how many acres the 105 units would be on and the total acreage of the site. Mr. Kutney responded that the 105 units would be on the front 7 acres with a total of 10.2 acres on site or 8 acres gross. Mayor Venis clarified that the petitioner was legally entitled to build the 105 units with Mr. Kutney responding in the affirmative.

Bill Laystrom, representing the petitioner, indicated that the petitioner was proposing to remove the industrial category and rezone the residential piece to RM-16. He provided a history of the request and advised that several meetings were held with the residents. Mr. Laystrom stated that the petitioner did not want 16 units per acre and was offering something that was very attractive to residents because the industrial was being removed. He discussed staff's report and believed that the RM-16 was the appropriate category. Mr. Laystrom introduced the staff report from Mr. Shapiro's project as part of the application.

Mr. Laystrom discussed the traffic issues and indicated that the major concern of the residents and staff was the traffic on Nova Drive which he could not do anything to solve. He indicated that he could only solve the problems that were associated with his project.

Mr. Laystrom advised that staff had indicated that the petitioner was not going to be making any improvements to Nova Drive which was not correct. He indicated that the petitioner had spoken with the residents on joining them to seek County funding to possibly three-lane the road. Mr. Laystrom indicated that the real problem with traffic did not come from the residents but from people traveling to the educational complex. He indicated that the petitioner would be providing a right turn in lane to get traffic off Nova Drive into the site and a right and left turn out lane. For the record, Mr. Laystrom submitted the traffic report dated January 19, 2000 that staff had originally prepared for this site when it recommended approval, before the residents voiced their concerns. He stated that the report did not discuss Nova Drive or the densities around it. Mr. Laystrom felt that the petitioner was being singled out for a review that was normally done at a different level of the process.

Mayor Venis questioned if the Planning and Zoning Board report was a tentative or a final report. Mr. Laystrom indicated that the report had been presented to the Board. Mr. Hinden indicated that Mr. Kutney had no objection to the reports that Mr. Laystrom had submitted. Mr. Kutney indicated that the report was prepared for the Board's January 26th

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meeting at which the petitioner had requested a tabling in order to attempt to work out some issues with the residents. He stated that this tabling afforded staff an opportunity to review the report and there were some questions relative to what the actual density was because of the two different designations. Mr. Kutney indicated that after extensive research, staff determined that 15 units was what was allowed by Code and this caused staff to begin looking at the impact from the standpoint of traffic. He advised that staff had questioned whether staff could change its report after being submitted to the Board and legal counsel had indicated that a change was allowed because the Board had not deliberated but tabled the matter.

Mr. Laystrom indicated that there would not be a difference in traffic volume on Nova Drive whether there were 15 or 16 units. He stated that the properties on either side were zoned R4-A and neither had been restricted to anything less than 15 units per acre. He added that the property across the street was zoned RM-16 and it also had no restrictions.

Tom Hall, representing the petitioner, discussed the traffic issues on Nova Drive that were identified by staff and the issue of trip generation for this project. He indicated that because of the ability to transfer trips, this project could resolve its transportation related concurrency requirements without making any roadway improvements. Mr. Hall advised that what constrained the capacity on a two-lane road was the intersections and what was currently impeding traffic flow on Nova Drive was people sitting in the middle of the through lane waiting to make a left turn into a development because there was no left turn lane.

Mr. Hall stated that this road had been destined for widening some time ago and the County had advised him that the Town had requested that the widening not occur. He thought his client was getting a "double whammy" because the road was suppose to have already been widened.

After providing a brief summary, Mr. Laystrom indicated that the petitioner would be creating a nice project and what was proposed was the best alternative for the development of this site.

Mr. Hinden asked if anyone wished to provide testimony in favor of the petition. No one spoke.

Mr. Hinden asked if anyone wished to provide testimony in opposition to the petition.

David Freeland, 1605 SW 73 Way, indicated that the original plan was for the property to be industrial and the residents wanted residential ten units to the acre. He stated that with ten units to the acre, only 630 trips would be generated instead of 1,000 which would make it easier to travel on Nova Drive.

Roberta Sabbato, 2656 SW 74 Terrace, thought Council should consider the density of the population presently on Nova Drive before it approved any further development. She stated that police presence and speed limits were needed on Nova Drive and added that the Town had become a fast food haven. Ms. Sabbato advised that there were no nice stores or parks where it was possible to walk to. She hoped that Council would begin thinking about building a community that considered its residents before commercialism which this project was. Ms. Sabbato asked that Council not approve the request and questioned why a park was not placed on this property.

An unidentified man indicated that he did not think that the density on Nova Drive should be considered but the density at the college should be considered.

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Norm Blanco, 2080 SW 72 Avenue, stated that the reality was that traffic on Nova Drive was not only impossible, it was dangerous and truck traffic should be discouraged. He indicated that the petitioner had previously indicated that the students were not his target area, however, the report showed differently. Mr. Blanco stated that the area surrounding the property had less units to the acre and indicated that the residents wanted to see ten units to the acre.

Elaine Wolf, 7175 Nova Drive, advised that the residents had had to ask the Broward County School Board to change the bus stops because of the traffic not stopping for a stopped bus. She added that the traffic problem was not the cars pulling off Nova Drive but trying to get onto Nova Drive. Ms. Wolf stated that the residents wanted the property to stay consistent with the current development. She asked Council to help the citizens.

Neil Starr, 2150 Nova Village Drive, discussed the meetings that were held with Mr. Laystrom and it seemed that he was less than forthright with some of the things that he was presenting tonight. Mr. Staff indicated that the major concern was with the traffic.

Mr. Starr posed a possible alternative of the Town owning the land. He stated that this would lead to having parks and perhaps a partial solution to the drainage problem which may allow that land to be used for that purpose. Mr. Starr indicated that this solution would not increase, but possibly reduce, traffic and would have less of an effect on the infrastructure.

Tom Truex, 4740 SW 72 Avenue, was sworn in. He stated that the staff report indicated that this petition was not the most appropriate designation to enhance the tax base and asked that this be considered in Council's deliberations. Mr. Truex indicated that the landowner had certain property rights and they were going to be able to do certain things with this property; however, what was being proposed was in the wrong direction as far as the Town's tax base.

Hertz Halpern, 7514 SW 28 Street, stated that when the property was purchased, the owner knew what the property was zoned so the hardship had been self-imposed. He indicated that the residents were asking that Council listen to the Board and staff and deny the petition.

Nick Williams, 2501 SW 71 Terrace, reiterated Mr. Blanco's statement regarding students and added that there would probably be more children riding buses. He stated that either way, there would be more traffic and there would also be more traffic with the expansion of the college. Mr. Williams said that what was sensible at the present time was for the safety, continued growth and preservation of the homeowners in the community. He indicated that the residents did not want to prevent the petitioner from using his land, but the residents needed something that was sensible not just what was allowed. Mr. Williams added that the residents wanted the impact to be minimal.

Mr. Laystrom responded that the developer knew what he was purchasing which was the whole issue. He advised that if Council did not agree with the proposed planning, the area would have something that may not look like what was proposed. Mr. Laystrom stated that residents were proposing 10 units per acre which was less than what the petitioner could currently have on the property. He indicated that there needed to be flexibility which was what the petitioner had tried to do with traffic improvements and the site design.

Mr. Laystrom indicated that the residents were trying to discourage truck traffic and had indicated that they wanted more enforcement. He explained that by proposing less units

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that what could be built, the truck traffic would be on overdrive because years ago the 71st Terrace was closed on the north side, so the only access for this property was to come down to Nova Drive.

Mr. Laystrom discussed the tax base mentioned by Mr. Truex because these were the standards that were applicable today. He indicated that staff's finding showed that the existing zoning district boundaries were logically drawn in relation to the existing conditions on the property proposed for change; however, he thought the boundaries was illogically drawn.

Mr. Laystrom stated that the petitioner believed that the same type of residents could be attracted whether it was to assist in school housing or if the Town wanted a more high end product. He indicated that Poinciana Homes had a very fine project that attracted single family ownership as part of their project. Mr. Laystrom stated that the issue was not whether we put traffic on Nova Drive, because no matter what was developed, some traffic would go on Nova Drive. The Town had not declared a moratorium on Nova Drive nor had it declared a moratorium on the expansion of the educational complex. He indicated that the petitioner had tried to show that under one calculation, the traffic would be decreased by 300 to 400 trips. Even on the staff's calculation, there would be seven to nine daily trips at the peak hour. And that was under the most conservative possible build out of the industrial and the petitioner believed that the standard had been met.

Mr. Laystrom stated that the proposed change would not adversely effect public safety because the rental project would be the exact same as the neighbors. He indicated that he also did not think that staff had indicated that the plan would effect public safety. Mr. Laystrom indicated that the proposed change may adversely effect other property values; however, the project would probably be the highest valued project in the entire neighborhood. The petitioner believed that the property values would actually increase as a result of the millions of dollars that would be spent on that project. Mr. Laystrom indicated that the petitioner believed that this change was almost identical to the existing zoning and certainly identical to the surrounding zoning districts. The Town's Code did not suggest that the petitioner was supposed to build to the densities that surrounded the property. He stated that certain issues would come forward at the site planning process but at this point, the Code was indicating that the zoning districts needed to be looked at.

Mr. Laystrom stated that Mr. Truex had indicated that the proposed zoning district was not the most appropriate designation to enhance the Town's tax base. Mr. Laystrom advised that a commercial apartment complex would have the highest possible tax rate and the larger the number of units would actually generate an increase in taxes. He said that he believed that the standard had been met even if the services that the Town provided was included. Mr. Laystrom added that there would be a net increase over what could be built with the zoning that was currently in place.

Regarding the Nova Drive design and improvement, Mr. Laystrom stated that the petitioner was willing to do what was needed. He advised that the petitioner believed a fair alternative on the zoning had been offered by removing the industrial zoning. Mr. Laystrom asked that the request be approved.

Mr. Kutney stated that staff was in total agreement with Mr. Laystrom from the standpoint that the parcel was an "in fill" which was why it was tough in reviewing this particular item. He indicated that a number of issues had to be weighed and the comprehensive plan had to be reviewed. Mr. Kutney advised that the petitioner did meet

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the land use and the intent of the land use element; however, the comprehensive plan was a series of nine elements and all those elements had to be met. He said that the one element that was not met was the the transportation element. Mr. Kutney indicated that staff recognized the applicant's right to develop from an in fill standpoint, but staff could not support the density as it related to the future effects.

Vice-Mayor Weiner questioned if there was any discussion at the Planning and Zoning Board meeting or with staff regarding the petitioner maintaining two separate zonings on this project. Mr. Kutney did not believe there was any discussion on the two different residential categories. He indicated that there was some discussion at the Board meeting relative to leaving the zoning as manufacturing versus the R4-A or the RM-16. Vice-Mayor Weiner questioned if the petitioner had ever considered keeping two separate zonings, RM-10 and RM-16, but flipping the intensity of the RM-16 was towards the other M-1 and the RM-10 was towards Nova Drive. Mr. Laystrom stated that there was internal discussions regarding alternate zonings and ultimate unit counts. He indicated that there had not been a discussion had on Vice-Mayor Weiner's suggestion.

Mr. Hinden stated that the hearing was concluded.

Regarding a statement made by a resident, Councilmember Paul commented that she wished the Town had the money to purchase all the vacant property for parks and wildlife habitats. She indicated that she was concerned with the traffic at all times on Nova Drive and it disturbed her that there was not any possibility of the road situation being cured for some time. Councilmember Paul advised that her other concern was with the tax base and thought there had been an indication that the higher the density was, the lower the revenue to the Town would be for services that would be required, which she thought the report would substantiate.

Vice-Mayor Weiner indicated that he understood the limitations of having M-1 in the R4-A zoning designation. He said that he had heard Mr. Laystrom say that they may build 15 or 16 units but would not know until the site plan process. Vice-Mayor Weiner stated that he would rather see the applicant ask for two different residential classifications which he thought was more consistent with the general area, other than the industrial properties immediately adjacent to them. He stated that something could be configured that would be consistent with the neighborhood and reduce the impact of the increase in traffic. Vice-Mayor Weiner indicated that he would like to see the petitioner return with something that was consistent with the neighborhood.

Mayor Venis advised that he, Mr. Middaugh and Mr. Kutney had met with the Nova Drive Homeowners' Association to discuss this issue. He indicated that the residents were concerned with the industrial property on the back portion of this development.

Mayor Venis questioned if the petitioner would be willing to build an average of 12 units to the acre and eliminate the industrial portion of the site. Mr. Laystrom responded that there had been discussions on alternatives, including 12 and 13 units, but this was not something the petitioner was willing to pursue. He appreciated the Town wanting to act as a mediator, but it was felt that what the petitioner was offering justified the cost. Mr. Laystrom added that enough units needed to be built to justify the on-site manager which was something the residents had asked for and if the number of units were lowered, it became difficult to provide the tennis courts, lights and the other issues that had been discussed for the quality of the site.

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Vice-Mayor Weiner made a motion to approve the rezoning so that the equivalent of the parcel that was currently zoned M-1 in equivalent size would be zoned as RM-10 and the currently zoned R4-A, a portion of the parcel would be zoned RM-16, but that they be flipped. Mr. Laystrom objected to the Town's ability to modify the application. He understood that no matter what the vote was, he would discuss alternatives for development of the site with the petitioner, but he wanted to place an objection on the record regarding the modification of the application.

Motion died due to the lack of a second.

Councilmember Cox made a motion, seconded by Councilmember Paul, to approve staff's recommendation [to deny]. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - no; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 4-1)

**8.6 REZONING - ZB 1-1-00, Synalovski Gutierrez Architects, Inc./Morris, Jaffe at 595, Inc., EDJ Enterprises, Inc., and Edjeslan Enterprises, Inc., 10200 State Road 84 (from A-1 to B-3) (tabled April 5, 2000) *Planning and Zoning Division recommended approval subject to the planning report; Planning and Zoning Board recommended approval subject to the planning report***

Town Clerk Reinfeld swore in the witnesses. Mr. Katims indicated that his qualifications were on record with the Town Clerk's Office and summarized the report. He indicated that the report was being made a part of the record.

Carlos Gonzalez, representing the petitioner, was present.

Mr. Hinden asked if anyone wished to provide testimony in favor of or opposition to the rezoning. No one spoke.

Mr. Hinden stated that the hearing was concluded.

Councilmember Cox made a motion, seconded by Vice-Mayor Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

**8.7 VARIANCE - V 3-1-00, Pillar Dev. Inc./Frazer, 12710 SW 34 Place (R-1) (to reduce the required setback from 25 feet to 21.6 feet at the northeast corner of the existing structure and 21.9 feet at the southeast corner of the existing structure) *Planning and Zoning Division recommended approval; Planning and Zoning Board recommended approval***

Town Clerk Reinfeld swore in the witnesses. Mr. Kutney summarized the planning report.

Mr. Kutney summarized the planning report.

Jay Evans, representing the petitioner, was present.

Mr. Hinden asked if anyone wished to provide testimony in favor of or opposition to the variance. No one spoke.

Mr. Hinden stated that the hearing was concluded.

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, to approve subject to the staff's and the Planning and Zoning Board's recommendation. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

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*Resolution*

**8.8 FEE SCHEDULE REVISION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REVISING THE FEE SCHEDULE FOR THE TACKLE FOOTBALL AND TACKLE CHEERLEADING PROGRAM FOR FY1999/2000 AND APPROVING AN ADDITIONAL \$30.00 FEE WHICH WOULD BE DEPOSITED IN THE PARKS AND RECREATION YOUTH SPORTS OPERATING ACCOUNT 001-0801-572-0513.**

Town Clerk Reinfeld read the resolution by title. Ms. Pierce-Kent explained the resolution.

Mayor Venis asked if anyone wished to speak for or against the resolution. As no one spoke, the public hearing was closed.

Vice-Mayor Weiner indicated that he had previously suggested that the Town look at a user fee instead of contingencies or the general fund.

Councilmember Clark indicated that she thought the costs were high and questioned how the Town would provide scholarship's for the children who could not afford the fee. Ms. Pierce-Kent indicated that there were scholarships remaining from last year and advised that there was approximately \$266 in the EASE Foundation Fund that was donated from the bond issue. She added that this year, the Town began a sponsorship program that allowed businesses to advertise and a portion of those fees went to scholarship funds. Ms. Pierce-Kent stated that staff actively recruited businesses to help pay for children that could not afford to participate. Mr. Middaugh thought that it would be appropriate for Council to undertake some kind of general appropriation to supplement that effort with the understanding that the Town was trying to get kids involved and their ability to pay should not be the determining factor that would keep them out of the sports programs.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

*Items to be tabled*

**8.9 STAFF REQUESTING A TABLING TO JUNE 7, 2000**  
REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO B-3, PLANNED BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 12-1-99, Imagination Farms Commercial, 12401 Orange Drive) (tabled from March 15, 2000)

This item was tabled earlier in the meeting.

**8.10 PETITIONER REQUESTING A TABLING TO MAY 3, 2000**  
LA 00-1A, Wal\*Mart/Wolf and Wolf Trusts, et al, located at the northeast corner of Stirling Road and University Drive (from Commerce Office to Commercial) (tabled from March 1, 2000)

This item was tabled earlier in the meeting.

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**9. APPOINTMENTS**

9.1 Youth Advisory Board (one exclusive appointment - Mayor Venis) (term expires March 2001)

Mayor Venis deferred his appointment and asked Town Clerk Reinfeld to continue to try to contact his previous appointment.

**10. OLD BUSINESS**

10.1 Helmet Ordinance (tabled from April 5, 2000)

Vice-Mayor Weiner explained the history of the ordinance and indicated that he thought it was time that the Town looked at providing safety helmets when kids were riding horses. He stated that the ordinance would be a statement of policy that the Town wanted our children to be safe.

Councilmember Paul indicated that Council had added a section that waived those requirements during competing or performing in a show or event as long as they had insurance. Vice-Mayor Weiner asked Councilmember Paul if she would be willing to consider one amendment to that section, by changing the word "may" on the last line to "shall."

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, to approve with that one modification, changing the word "may" in Subsection H on the last line, to the word "shall. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

10.2 142nd Avenue Litigation

Councilmember Clark indicated that she had spoken to a number of people on this issue and indicated that she felt it had not been the right decision in bringing new litigation against those homeowners for this trail. She indicated that because of the options that had been offered, she did not feel that Council had received the best advice. Councilmember Clark stated that the Town needed to know who owned the rights-of-way but did not need to sue a resident. She believed Council "jumped the gun" as it could have determined if there was a basis to the lawsuit. Councilmember Clark stated that Council should "go back" to where it was as it was close to a decision. She thought this litigation had caused animosity and neighbors were not speaking to each other.

Mr. Hinden indicated that the only way to get an opinion from a judge was to file a lawsuit. He stated that the Town Attorney's Office had opined that the Town could install a trail and the homeowner's attorney had opined that the Town could not. Mr. Hinden advised that the Town had an agreement with the homeowner's attorney for the Town to file a lawsuit to let the judge decide which caused a problem because it had been determined that the homeowner's attorney only represented a portion of the homeowners. He said that the judge would make a decision about legal questions that would be binding on any subsequent lawsuit and the problem was that each homeowner might have facts that were unique to their lot, the method by which they purchased and they might advance what was called certain affirmative defenses that were particularized to their facts. Mr. Hinden stated that Council's options were: 1) to drop the lawsuit; 2) to move forward; or 3) to bring in a third party complaint.

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Vice-Mayor Weiner questioned why the Town did not get a title opinion and a legal opinion and if this was not agreed to, then go to court. He indicated that he would rather see the issue go to court because there would be some kind of finality. Vice-Mayor Weiner stated that one of the options was to move forward with Mrs. Kuegler's lawsuit and if Judge Moriarty ruled in favor of the Town, then the Town could either contact the other homeowners to discuss the issue and if this did turn out satisfactorily, the Town could sue the residents. He indicated that he would like to see the Town pursue the Kuegler case and not the homeowners which would let the Town decide any future action. Councilmember Clark agreed.

Councilmember Cox thought the Town had a right to the lawsuit and what Mr. Webber was trying to accomplish was that when the lawsuit was completed, everyone would know whether or not a trail would have been provided. She indicated that if the Town pursued Ms. Kuegler's case and won, it would have to then sue everyone else. Councilmember Cox indicated that she had requested that a title search be done but she thought everybody had to agree with it because the Town wanted a friendly type of resolution.

Vice-Mayor Weiner questioned if it would be sufficient if a motion was made to direct the Town not to proceed with suing the rest of the residents with regard to the trail. Mr. Hinden responded in the affirmative.

Councilmember Paul provided a history of the issue which was to find a safe route for individuals in Oak Hill to ride their horses due to the increase in traffic. She stated that there had been animosity from the beginning and threats had been made to riders. Councilmember Paul indicated that a number of individuals referred to the land as a canal easement which it was not, but it was road right-of-way which offered a tremendous difference in utilization of land. She advised that an extensive survey showed an approximate 50 foot road right-of-way which included the canal and added that the cross section and road right-of way belonged to the public. Councilmember Paul advised that there was a possibility of a trail along 148th Avenue which would be an additional trail that would handle the far western area of Oak Hill to get to the back part of the spine trail. She indicated that this still created a problem in relationship to the crossing to the Imagination Farms trail or the Kapok trail. Councilmember Paul stated that it would have been great if this problem would have been mediated but as long as some of the residents felt that this was their land, there would never be a consensus of opinion. She stated that she felt that she it owed it to the horse community and indicated that with the development of million dollar homes, the developers did not want horse trails or horses. Councilmember Paul added that she wanted to do whatever she could to maintain the equestrian lifestyle. She felt that her actions were ultimately in the best interest of each resident because they would know the legality of it once and for all.

Bruce McGee stated that a quick resolution was needed 22 months ago and he had provided a 1997 title opinion which had been prepared by Ruden, McCluskey. He indicated that there was no question on the ownership of the land and he had provided a number of deeds along with all the transfers of the deeds between 64 and 68. Mr. McGee indicated that the moral side of the issue needed to be looked at and indicated that the residents had a ruling from the Town Administrator which Council had said that it would not honor. He advised that all the residents had signed the stipulation with the exception of one individual who did not want to take sides against the equestrian community. Mr. McGee indicated that

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this individual could have been sued. Seventeen months ago, a judge had ruled that Ms. Kuegler had a right as an individual and the rest of the people were not indispensable parties. Mr. McGee indicated that the Town was dragging its feet and no one had been served. He questioned how much money had already been spent on this issue and how much more would be spent for this one mile of trail. Mr. McGee asked that Council be prudent, thrifty, respectful of the residents, and honor the words of the past Town Administrator.

Joy Yoder, 12610 SW 13 Manor, believed that the letter Mr. McGee referred to stated that it would not be a recreational trail. She stated that the letter did not say anything about a horse trail, so the Town was still living up to its word. Ms. Yoder advised that there were a number of residents who thought it was well spent money and wanted to use the land because it was public property. She indicated that there was a definite need for this trail and did not think that anyone could put a price on a child's life.

Councilmember Clark stated that the first letter dated November 9th said that the Town had initiated a project to construct a recreational pathway within public right-of-way identified as SW 142nd Avenue. This trail would support equestrian, bicycle and pedestrian users and would be restricted from vehicle use. Councilmember Clark agreed with Councilmember Paul that it would be enough if one person could prove that they owned that land and Ms. Kuegler was just one person.

Councilmember Clark summarized a letter that indicated that Councilmember Paul had previously requested a summary of the claims made by the plaintiff in the litigation action. Ms. Kuegler had filed a complaint of declaratory and other relief and sought the entry of declaratory judgment prohibiting the County and the Town from asserting any claim in and to the easement that was the subject of the lawsuit. Ms. Kuegler additionally sought the entry of a judgment quieting title in and to the easement in her favor and all the other persons in the subdivision whose real property was encumbered by this easement. Councilmember Clark asked for a clarification. Mr. Hinden explained that this was what Ms. Kuegler had requested which the court could not do as the court could not adjudicate rights to property for people that were not parties to a lawsuit. He indicated that Ms. Kuegler would have lost the lawsuit.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, for the Town to await the results of Kuegler vs. Broward County and Town of Davie lawsuit, and if it was in the positive in the terms that the Town had the right to proceed with the trail, then Council discuss it at that point, and if it was in the negative, then Council take that up at that point too. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - no; Councilmember Paul - no. (Motion carried 3-2)

**11. NEW BUSINESS**

**11.1 Mrs. Davie Sponsor - Mrs. Florida America Pageant (Mayor Venis)**

Mayor Venis indicated that the Town had been asked to place an advertisement as a sponsor for the Mrs. Florida Pageant and advised that Mrs. Davie was competing for that title.

Vice-Mayor Weiner thought that the Town was going to create a special fund for these types of matters.

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Councilmember Paul recommended that criteria be established for these types of requests along with maximum amounts because Council was constantly being asked for donations and scholarships. She said that requests continued to occur and guidelines should be established.

Vice-Mayor Weiner thought that the concept of each Councilmember having a special account had been discussed at the goal setting workshop. This way, if a Councilmember wanted to make a donation, it could be taken from this account.

Mayor Venis recommended that \$300 be donated. Councilmember Cox thought that this was an inappropriate expenditure and did not think this was something the taxpayers should be funding. She added that this was an advertisement in a journal and not money to help defray Mrs. Davie's expenses.

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

**11.2 Miss Davie Sponsor - Miss Teen Florida USA Pageant (Mayor Venis)**

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, to deny the request. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

**11.3 Agenda Report Format to Combine Merits and First Reading of Ordinances**

Mr. Middaugh stated that this proposal was suggested as a possible way to expedite the merits hearing, first reading and second reading. He indicated that the Town was sometimes criticized for its lengthy process. Councilmember Paul responded that she thought it was important to retain the current format and would rather give the public every opportunity to speak.

Councilmember Paul made a motion, seconded by Councilmember Clark, to deny. [There was no vote by Council.]

**11.4 Development Services Department Work Program**

Mr. Middaugh indicated that because of the late hour, it was not appropriate for this item to be discussed because staff needed to provide additional information.

**11.5 Proposed Shelter at Davie Elementary School (Mayor Venis)**

Mayor Venis indicated that the Town had been involved with fund raising at the Davie Elementary School for a number of years. He stated that the School was looking to build a shelter and a request was made that the Town provide \$25,000. He mentioned that the facility would be near the Gessner Sports Complex so all residents would be able to use it during the baseball and softball season.

Vice-Mayor Weiner questioned why the Town was subsidizing programs for the Broward County School Board whose budget was bigger than the Town's budget.

Councilmember Cox questioned where the remaining funds would come if the Town was to put up \$25,000 and asked how often the Town could use the facility. Mayor Venis believed that the facility would be accessible at all times. Vice-Mayor Weiner suggested that

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the Town obtain a written proposal on the times that the facility would be available for the Town's use because he would like to see what the guarantees were. Councilmember Cox agreed.

Mr. Middaugh stated that the School Board did not have a history of sharing and if Council wanted to move forward, he suggested that the expense be conditioned upon the development of an agreement. He indicated that monies could be taken from contingency or the bond funding. Mr. Middaugh questioned if Council was interested in this issue. Vice-Mayor Weiner indicated that he had a fundamental problem with it and advised that Councilmember Clark was trying to get existing parks completed. He added that the Town needed to address the existing parks and indicated that it might be worthwhile to try and do both.

Councilmember Paul indicated that she would like to see what the feasibility was but keeping in mind that there were other areas requesting monies. She thought Mr. Middaugh should speak with the School Board and then return to Council.

Mayor Venis said that if the Town was being requested to provide \$25,000, the School Board should make a presentation as the onus should not be on Mr. Middaugh. He indicated that this was not a guarantee that the money would be provided because he also had some reservations.

**11.6 Agrarian Policy Direction (Councilmember Paul)**

Councilmember Paul stated that there seemed to be some question as to the exact direction that was given to staff. She said that the building permits, signs, permitted uses, and nuisances had been discussed. Councilmember Paul thought that Council was going to be supportive of the agrarian community and move forward on some of these items.

Vice-Mayor Weiner indicated that he had made a promise to Ms. Aiken and Mr. Hurley and he was drafting a sample ordinance for discussion at the May 3rd meeting. Councilmember Paul thought that the issue of homes with horse facilities would be addressed.

Mayor Venis thought that Council had directed staff to contact the City of Homestead because it had been the consensus that Homestead had a number of ordinances that worked well for the farmers. Mr. Middaugh indicated that he thought it had been indicated that staff would contact Homestead to supplement what was being prepared, however, he did not think that direction had been given. Vice-Mayor Weiner suggested that New Jersey also be contacted because it was probably the best in the country in relationship to dealing with horse farms.

**11.7 Interim Legal Counsel**

Mr. Hinden stated that the Town had made certain decisions and his office was happy to abide by those decisions. He indicated that it was in the best interest of Council to have somebody new as legal counsel.

Vice-Mayor Weiner questioned if there was an error in the fee for services as he thought Mr. Webber had previously indicated that the fee would be \$135. Mr. Hinden responded that the \$135 quote was if the firm was to submit a bid along with a monthly retainer. He indicated that the fee of \$165 quoted was correct.

Councilmember Paul clarified that the Town would be hiring an interim Town Attorney until a decision was made on an in-house attorney. Mr. Hinden responded in the

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affirmative. Councilmember Paul stated that even though she had discussed hiring one firm with expertise in different areas, she thought the Town would be better off hiring individuals with different expertise. Mayor Venis agreed that a specialty type of law firm was needed.

Monroe Kiar stated that a suggestion had been made that an interim Town Attorney be hired immediately. He offered his services and believed that he could serve the Town well. Mr. Kiar provided his background and indicated that he was familiar with the needs of the residents and Council. He advised that his hourly rate would be \$125 which he thought was fair and added that his opinion may or may not be what Council wanted to hear but it would be an objective opinion. Mr. Kiar stated that it would benefit the Town to have a Town Attorney who was local.

Ivan Reich, Becker and Poliakoff, indicated his support in retaining Mr. Kiar as interim Town Attorney. He discussed the eminent domain issue.

Councilmember Paul indicated that she had previously asked Mr. Kiar if he would be interested in the position as she felt that Mr. Kiar knew the Town well. She added that Mr. Kiar would be the best choice for interim Town Attorney.

Councilmember Cox requested a list of the individuals who were interested in the position be provided by April 26th. Councilmember Paul thought that the decision needed to be made at tonight's meeting. Mayor Venis responded that tonight's decision was for an interim Town Attorney and Council could formalize it at a later date by "going out" with a list.

Vice-Mayor Weiner advised that he had provided Mr. Middaugh with a packet on the firm of Becker and Poliakoff. Regarding Mr. Kiar's services at \$125 hour, Vice-Mayor Weiner indicated that professional services could not be put out to bid because there were no "apples to apples" in terms of dollars. He indicated that the question was if Council was comfortable with the service provider. Vice-Mayor Weiner advised that he would be comfortable with Mr. Kiar as the interim Town Attorney.

Mayor Venis advised that he was comfortable with the services that Mr. Kiar would provide and he believed that the rate was extremely fair.

Mayor Venis requested a motion. Councilmember Paul so moved. Vice-Mayor Weiner questioned if Council was hiring Mr. Kiar or was Council waiting until May 26th. Councilmember Paul responded "just even for the week." Mayor Venis replied that Council was hiring him at tonight's meeting on an interim basis. Vice-Mayor Weiner seconded the motion and confirmed that the motion was at \$125 per hour with Councilmember Paul responding in the affirmative. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - no; Councilmember Paul - yes. (Motion carried 4-1)

**12. ADJOURNMENT**

There being no objections or further business, the meeting was adjourned at 12:51 p.m.

APPROVED \_\_\_\_\_

\_\_\_\_\_  
Mayor/Councilmember

\_\_\_\_\_  
Town Clerk