

**TOWN COUNCIL
REGULAR MEETING
JUNE 7, 2000**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:00 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, Interim Town Attorney Kiar, and Town Clerk Reinfeld recording the meeting.

3. OPEN PUBLIC MEETING

Mayor Venis advised the speakers of the Open Public Meeting procedures.

Mike Bender, 14800 SW 31 Court, thanked Mayor Venis and Councilmember Paul for intervening on behalf of the residents and allowing them to speak at the May 24th Planning and Zoning Board meeting. He indicated that at that meeting, he witnessed the most embarrassing, inept, unprofessional, and unprepared display of government he had ever seen; in addition to a total undermining of Council, the Board was put in a terrible position, and this was a disgusting attempt to silence the voice of the people.

Mr. Bender stated that the tone of Mr. Middaugh's e-mails to Mr. Bender's neighbor put the blame of the evening on Mr. Kiar, even though hours before Mr. Kiar gave his interpretation, residents who called Town Hall were told by staff that it was an informational meeting only with no public input allowed. He stated that Mr. Kiar was placed in an awkward position and the residents understood that he was not in the current position on April 5th. Mr. Bender expressed concern that staff was given clear cut direction on April 5th, but it was not followed. He added that if there was a legal problem with returning the matter to the Planning and Zoning Board, Mr. Middaugh had two months to advise Council, but it was not done. Mr. Bender stated that the issue of preferential treatment for the petitioner was made by a staff member, not a resident, and that the Board indicated that its vote would have been completely different had it been given the opportunity to hear the residents' input when the issue came before them. He felt that staff and Mr. Middaugh were more worried about the petitioner's legal rights than the resident's legal rights, even though the residents paid their salaries.

Mr. Bender indicated that he would like to see Council discuss the issue of an "executive mayor" again, because the present system had failed the residents and the firefighters miserably. He stated that it was up to Council to show courage, vision, and leadership to remedy the current situation. Mr. Bender stated that Council's policies and direction were being undermined by a renegade Town staff who was making Council look like fools. He asked Council to do whatever it took to put the ship back on course.

Mayor Venis asked who gave direction not to allow the public to speak at the May 24th meeting. Mark Kutney, Director of Development Services, replied that every staff member had been asked and no one had informed the residents that they would not be able to speak. He added that when he spoke to a gentleman earlier that day, he urged him to be at the meeting by 7:30 to make sure the item was not missed. Mr. Kutney explained that this item was inappropriately listed on the agenda as a public hearing to review the rezoning petitions, however, the petition had already been approved by the Planning and Zoning Board on March 22nd and could not be reconsidered.

Mr. Kutney stated that as to the issue of Council's direction on April 5th, the idea for a more comprehensive traffic study came from he and Mr. Middaugh they were reviewing the

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agenda for that meeting. He said that it had always been staff's intention to make certain the residents, the Planning and Zoning Board, and Council were given a comprehensive view of the traffic situation.

Mr. Kutney explained that he and Councilmember Cox were at another meeting on May 24th discussing State Road 7 which caused him to be late to the Planning and Zoning Board meeting. He admitted that staff dropped the ball due to miscommunication with the Planning and Zoning Board's staff liaison, who did not include the traffic study in the Board's packet; however, in his absence, Jeff Katims, Planning and Zoning Manager, explained the purpose of the meeting and Mr. Kiar answered questions from the Board. Mr. Kutney stated that there was every intent to let the residents review a more comprehensive review of the traffic analysis and there was no conspiracy of staff to scuttle or suppress input.

Mayor Venis stated that he had reviewed the minutes of the Planning and Zoning Board and it was stated repeatedly that it was not a public hearing, which caused confusion. He stated that on April 5th, Council gave specific direction of what it wanted accomplished at the Board meeting - public input and the Board rendering a vote to give Council a recommendation on the proposal. Mr. Kutney stated that he had reviewed the tape and this direction was not clear to him.

Councilmember Paul stated that she listened to the tape and agreed with Mayor Venis that the direction was very clear - to look at the full project, to get resident input, and to repost the meeting dates so the public would be aware. She added that she was livid when she received a frantic call from a resident saying people who called Town Hall were being told they would not be allowed to speak. Councilmember Paul stated that she was upset to find out that mere common sense and common courtesy did not prevail when so many residents showed up due to an agenda that stated it was a public hearing, even if it was a mistake. She expressed concern that Mr. Middaugh knew that more than 80 residents were expected to attend to discuss the Imagination Farms commercial piece, but he never indicated that it would not be a public hearing even though she had repeatedly asked him to keep her posted. Councilmember Paul questioned why the item had been sent back to the Planning and Zoning Board if Council was not expecting additional input based on new information. She stated that perception was 98% of an issue, and whether the perception was real or not, what the public saw was an unprofessional, embarrassing, and questionable event which eroded the public's confidence in the Town's receptiveness to the concerns of the residents. Councilmember Paul apologized to the residents for the embarrassing situation. She stated that she wanted to know exactly what happened, how it happened, and what would be done to make sure it never happened again.

Mayor Venis stated that in the future, if a number of residents attended a Planning and Zoning Board meeting, they were to be given every opportunity to speak. He asked Mr. Middaugh to be prepared to give a full report on this issue at the next meeting. Mr. Middaugh stated that e-mails he had sent to Mr. Bosque after listening to the tapes and talking to staff and Mr. Kiar were a full account of the issue. He added that Council probably had not had a chance to review them, but they had been provided to Council. Mr. Middaugh stated that there was no direction or intention to not allow the residents to speak, even though it was not a public hearing. Councilmember Paul questioned what would have happened if Mayor Venis had not intervened, even though she knew that George Greb, the Planning and Zoning Board Chair, probably would have made the right decision to allow the people to speak.

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Mr. Kiar stated that when he arrived at 7:25 p.m., the Board and himself were presented with a revised agenda which removed the item from the public hearing and moved it to public business. He stated that it was very confusing, so staff was asked to advise what would transpire and they repeatedly advised it was not a public hearing. Mr. Kiar stated that he was asked by Planning and Zoning Board member Larry Davis if the Board had discretion, to which he answered yes. Mr. Kiar stated that a resident handed him a note suggesting that Mayor Venis be contacted, which he agreed to do since he was not Town Attorney on April 5th and did not know what had transpired. He advised that Mayor Venis indicated that the public should be allowed to speak. He thanked Raul Bosque for sending him the e-mails, as his name was referenced many times by Mr. Middaugh but he was not given copies of the e-mails, and for clarifying that it was staff, not Mr. Kiar, who stated it was not a public hearing. Mr. Kiar stated that Mr. Middaugh was not at the meeting and did not have personal knowledge of what happened, and he was disappointed by the inaccuracy in the e-mails. Mr. Middaugh explained that he sent the e-mail to everyone from Mr. Bosque's e-mail and that the problem was that Mr. Kiar was not yet connected to the Town's e-mail system. Mr. Kiar stated that he could have been faxed a copy, sent a copy interoffice or sent a copy by regular mail. Mr. Middaugh stated that he listened to the tape to be able to give an accurate report and staff had did not said that public comment was not allowed.

Vice-Mayor Weiner stated that he was extremely distressed over the e-mail because Mr. Middaugh appeared to be throwing the Mr. Kiar under the bus. He felt that it would have been very easy to provide Mr. Kiar with a copy and this was not a good indication of the quality of the customer service training.

Mr. Kutney stated that Mr. Katims' comments were an attempt to clarify the confusion as to whether it was a public hearing, not to say public input was not allowed. Mayor Venis stated that even though Mr. Katims did not specifically say "you're not allowed to speak," he did say repeatedly that it was not a public hearing which gave the impression the residents would not be allowed to speak. Mayor Venis stated that he believed the intent of staff was not to allow the residents to speak. Councilmember Paul asked who gave the clerk the information she told people on the phone that the public would not be allowed to speak. Councilmember Clark asked who gave the clerk direction to move the item from the public hearing section to old business. Mr. Kutney replied that a memo was sent to the Town Clerk's Office indicating that the item was a discussion item, however, it was placed on the agenda under public hearings. He stated that he did not know why the clerk thought it was a public hearing and deferred Councilmember Clark's question to Ms. Reinfeld. Ms. Reinfeld replied that it was a result of their conversation where Mr. Kutney asked for it to be taken off the public hearing.

Raul Bosque played a six and a half minute portion of the April 5th Council meeting, pertaining to tabling items 10.2 and 10.3 to May 17th and directing the applicant to undertake a comprehensive traffic analysis. After playing the tape, Mr. Bosque stated that the 1995 settlement agreement was problematic, flawed, and would continue to give the Town problems. He was confident that the current Council would not have voted in favor of the agreement, and noted that Mayor Venis had seen the pitfalls and voted against it.

Mike Bennett, 1425 SW 87 Terrace, stated that he had a conflict with 7-11, it being a commercial site clashing with a residential site. He stated that because of the growth in the area, a wall or barrier was needed due to the unbearable noise coming from this gas station. Mr. Bennett stated that the Town had not given him any respect, as he had complained to

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Code Compliance a year ago and it took three months to write a violation for the night deliveries. He indicated that the Special Master heard this matter on June 6th, however, a continuance was granted on the dumpster enclosures because of a technical error of staff telling the 7-11 attorneys their presence was not necessary. Mr. Bennett stated that he vacated his house after 7-11 employees told the truck drivers he was the reason they could not make deliveries at night. He expressed concern that the Town was not cooperating because it was considered to be an inherited problem that came with the annexation of Park City. Mr. Bennett stated that he could not live in the house at times due to the noise that came from a convenience store that was not convenient to him. He stated that he had a no trespassing order because they slandered his name, saying he made threats, so when he met Town inspectors on the site, a police escort was provided which made him appear to be a menace to society. Mr. Bennett stated that he was a citizen trying to get his rights protected, but staff would not help until he complained to Council. He felt the Town should have fined the company and built a wall from the proceeds. Mr. Bennett stated that he would like to hear from an attorney that would like the case because he felt that the Town and the 7-11 corporation were squatting on his rights.

Mr. Middaugh responded that staff had spent numerous hours trying to solve Mr. Bennett's problem and had the Town had done all it could do by citing every violation available to cite and taking 7-11 through the Special Master process. He indicated that Mr. Bennett wanted a wall constructed on his property, but the Town could not force 7-11 to build one although it had been suggested. Mr. Middaugh emphasized that the Town had done everything it could within the law and it was inappropriate for the Town to be an agent on Mr. Bennett's behalf. Mr. Bennett stated that the Town created the inherited flaw by allowing a commercial business to be constructed without a wall where a residential area first existed. Vice-Mayor Weiner asked Mr. Bennett if it would appease him to have Mr. Kiar investigate the issue. Mr. Bennett responded affirmatively even though it would postpone things another month and added that he had even offered to donate land to build the wall.

Rosemary Anderson, 4950 SW 111 Terrace, indicated that she considered herself part of Town because she had lived in Davie from 1950 to 1968, her husband lived in Davie from 1929 to 1968, and her husband had been in business in Davie his whole adult life. She stated that she cared about Davie and its history and wanted to see it preserved. Ms. Anderson stated that the Council who had approved renaming the rodeo grounds to the Bergeron Rodeo Grounds was not aware that doing so would bury the history of the arena. She expressed concern that since the resolution was passed, people were under the impression that the arena and grounds were owned by Bergeron. She added that one brochure printed by the Town indicated that the arena would be demolished and replaced by a ballpark. Ms. Anderson expressed concern that the resolution did not even provide for renegotiation of the contract even though it was owned by the Town; therefore, it was owned by the taxpayers. She agreed that the money donated by Ron Bergeron was a lot and should be remembered; however, so was the money donated 60 years ago by the founders who had no surname connected to the arena. Ms. Anderson stated that many had donated time and materials at the entrance, and it was not possible to erect a sign large enough to list all the names of all the generous people though the years. She wondered if some day the name might be changed at the Old Davie School or Davie Road. Ms. Anderson asked that Council reverse the resolution to take back the history and call it Davie Rodeo Arena. She presented 395 letters, many from pioneers of Davie, asking the same.

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Cindy Osborne, 4311 SW 63 Avenue, stated that the arena had been saved many times by many people, herself included, prior to Mr. Bergeron coming on the scene. She stated that this was not just a piece of property, it was an event dear to the hearts of many, particularly the pioneer families even if their descendants did not choose to participate in its perpetuation. Ms. Osborne added that Mr. Bergeron said he did not want his name on the property, however he was given lifetime advertisement rights to dictate the usage of the property. She expressed concern that Mr. Bergeron gave \$150,000 for these rights; however, the taxpayers paid the purchase price of \$1.25 million, which exceeded the assessed value, but the taxpayers had no rights to use the property as they saw fit. Ms. Osborne felt that the property was underutilized, and plans should be drawn up to help alleviate the downtown problems of 1,347 children in a four square mile area while still supporting rodeos and festivals. She suggested that Mr. Bergeron be refunded his \$150,000 and the contract be nullified to allow the citizens to take control of the grounds with no single individual ever being given control of what belonged to the residents, and no surname ever again attached.

Jay Stahl stated that there had been a problem at the entrance to Hawkes Bluff when the church had dug up the road to install sewer lines stopped work. He stated that the problem had been rectified by the Town; however, a left turn lane was required on Dykes Road which meant the right turn lane had to be extended into Hawkes Bluff. Mr. Stahl stated that the church tore up the entrance to Hawkes Bluff three and a half months ago, and again stopped work before completing the project. He asked the Town to again intervene on the residents' behalf. Mayor Venis said it would be done.

Mr. Stahl reminded that Council in office two or three years ago made a commitment to the residents to maintain the rural life style of certain roads in the Town. He asked this Council to remember this commitment when considering an item later in the agenda.

Dean Alexander, 13820 SW 16 Street, commended Mayor Venis and Assistant Town Administrator Robert Rawls for making the Town a safer by rectifying various unsafe driving situations on many streets throughout the Town due to dangerous sight lines and lack of signage, signals, and guard rails.

Arthur Hurley, Bar B Ranch and Agrarian Committee, stated that the Broward County Property Appraiser was an elected office and the incumbent had been in position for 31 years. He felt that it was time to place term limits on the Property Appraiser's position, therefore, he had opened a campaign fund and would try to qualify for this office.

Jason Curtis, 3801 Flamingo Road, asked how many times an item could be tabled. Mayor Venis replied that there was already a mechanism in place.

Arthur Joseph, 13700 SW 18 Court, advised that one of the ethics charges, relating to conflict of interest, that had been filed against Vice-Mayor Weiner had been dropped by the State Commission on Ethics.

Terry Rand, 11330 SW 17 Street, stated that there was a lot of fill being brought into her neighborhood and it was causing the area to flood. She stated that a large pot hole in the middle of Hiatus Road caused the front end of her van after the Town took two weeks to fix it. Mayor Venis asked Mr. Rawls to visit the area and provide a report to Council regarding the properties being filled.

Jim Goodman stated that he had moved to his neighborhood in Imagination Farms for its serenity, tranquility, and safety. He felt that the streets in and around the neighborhood were safe for his children and others to ride their bikes, but that they would not be safe if something like a super Walmart was allowed on the parcel west of Imagination

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Farms. Mr. Goodman stated that when people thought of Davie, they thought of animals like horses and cows on big pieces of open land. He urged Council to keep the area farm oriented, not meaning there should be no retail, but retail in keeping with the rural setting.

Michael Williams, Pasadena Estates at Imagination Farms, spoke against the super Walmart. Vice-Mayor Weiner reminded the residents that discussion on Walmart should be made when the agenda item was announced. Mayor Venis stated that he would take items Imagination Farms [item 10.5] and the rodeo [item 14.2] out of order.

Maria Shelton stated that she was running for the Broward County School Board. She stated that she had spent her life as a passionate, professional educator - as a teacher, a counselor, and a principal. Ms. Shelton asked that the residents consider her credentials and qualifications.

Bruce McGee stated that he had read a letter from Bonnie Miskel of Ruden McClosky Smith Schuster & Russell P.A. at an April meeting, however, he had received it by fax just before that meeting and did not know if it was inadvertently unauthorized by Ms. Miskel. He read the finalized letter.

Jim Bunce, President of the Davie Professional Firefighters, stated that it was unfortunate that the reason for the full house was due to the residents being upset about various issues. He stated that Mr. Middaugh had instituted customer service training, however, training needed to start at the top and it had not, which was why so many unhappy people were present.

Mr. Bunce stated that he had recently talked to Council about the investigation in the Fire Department, and as of Friday, Council had been told that the information was not yet available; however, 15 minutes after he put in a public records request on Monday, e-mails were sent to Council indicating that the information was now complete. He stated that he received a call from Administration informing him of the price and length, but indicating that it was not known when he would be able to have a copy. Mr. Bunce expressed concern that it had been 10 months since the investigation started and asked when it would come to an end so the Fire Department could heal and move forward. Vice-Mayor Weiner gave Mr. Bunce his copy of the report. Mr. Bunce asked if any meetings were planned to discuss this item. Mr. Middaugh replied that the information given to Council was incomplete as his comments and recommended actions were being finished. He stated that a meeting would be held on Tuesday at 5:00 p.m. for anyone interested, at which time the entire report should be available. He added that he would first be meeting with the two parties involved and Council.

Mayor Venis announced that the Imagination Farms and rodeo issues would be heard after presentations.

4. PRESENTATIONS

4.1 Davie Police Explorers

Police Officer Barry Dodge, Explorer Advisor, thanked Council for its support of the Explorer Program. He stated that the Explorers had attended a 12-week Explorer Academy and three of the top 20 graduates were from the Davie post. Officer Dodge stated that first place was Tamara Rogue for Academics; second place was Todd Yoder for Academics; and Most Improved in the academy was Tim Parisi. Councilmember Paul presented certificates to the three Explorers.

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4.2 Davie/Cooper City Chamber of Commerce
This item was rescheduled to June 21, 2000.

4.3 Cowboy Golf Tournament - Donation to the EASE Foundation and the Old Davie School

Councilmember Cox thanked the sponsors and participants for their help in raising \$4,000 which would be split between the EASE Foundation and the Old Davie School. She presented checks to Mary Delborello, representing the Old Davie School, and Linda Owens, representing the EASE Foundation

4.4 Pine Island Park Update

Mayor Venis stated that this item would be considered at the next meeting.

4.5 Upcoming Special Events - Sharon Pierce-Kent and Bonnie Stafiej

Sharon Pierce-Kent, Parks and Recreation Director, announced that upcoming events included: a pot luck for seniors and adults (June 26th); an after-the-fact Independence Day Cook Out (July 7th); and registrations were being accepted for cheerleader and tackle football programs. Ms. Kent reminded those present of the three children who recently drowned in the County lakes and urged parents to obtain swim lessons for their children from the agency of their choice.

Bonnie Stafiej, Special Projects Coordinator, advised that upcoming events included: bull riding (June 10th); 5-Star Rodeo (June 24th); and the Independence Day Festival and Fireworks (July 4th).

10.5 Mr. Kiar explained the rules concerning the presentation of evidence. Town Clerk Reinfeld swore in the witnesses.

Mr. Middaugh stated that he hoped this meeting would inform the community of what was planned for the entire parcel which consisted of approximately 400 acres. He added that he had advised Mr. Zimmerman that if a corporate park was to be considered, such a land use would necessitate stopping the current process for at least three months to discuss the ramifications with the community. Mr. Middaugh stated that Mr. Zimmerman had indicated that he would move forward with the current plan of residential and commercial.

Mr. Middaugh stated that another concern of the residents was whether the Town was following the terms of a 1995 court stipulated agreement. He assured the public that the proposed development proposal was precisely as was anticipated in the agreement.

Mr. Kutney advised that his qualifications were on file in the Town Clerk's Office and entered the planning report into the record. He explained in detail the process of how staff developed the planning report and read a supplemental staff analysis. Mr. Kutney reminded Council that this item related solely to the 61+ commercial acres and the residential was provided only to better assess the impact.

Mr. Kutney stated that page 14 of the 1995 agreement indicated that "in the event that the Town denies some or all of the Town applications, this agreement shall be voidable at the sole discretion of the owners upon their ending written notice of the same to the Town Administrator with a copy to the Town Attorney. Moreover, in such event, the Town agrees that by entering into this agreement and voluntarily submitting the subject property to the limited jurisdiction of the Town described above, the owners will not have waived or

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otherwise compromised their position in the 1995 lawsuit, and the owners may raise any and all claims, positions, and arguments that may otherwise have been raised in the 1995 lawsuit, including but not limited to the argument that as a result of the 1979 final judgment, the subject property is not within the municipal boundaries of the Town." He explained that if Council denied either of the applications, the owner had the opportunity to annex out of the Town into the County. Mr. Kutney stated that the same development considerations would be in place, however, the Town would have no say in the final decision. Mr. Kiar clarified that it would not necessarily allow the owner to annex out of the Town, but would put the case back in litigation.

Mr. Kutney stated that the agreement also took into consideration the concept plan. He indicated that the master plan would be submitted in connection with rezoning of the commercial property and it was not required to contain the detail required in a site plan.

Mr. Kutney stated that the petitioner was in the process of developing the residential portion of the property, and was currently at the County level of approval for platting. He stated that the School Board had indicated that a middle school site may be needed and wished to discuss the matter with the petitioner.

Mr. Kutney summarized the planning report. He added that the petitioner had agreed to enter into a developer's agreement to insure that all concurrency levels were met and that improvements were made in the best interest of both the Town and the surrounding area. Mr. Kutney listed the restrictions listed in the developer's agreement as follows: adult facilities; bars and lounges; bingo establishments; boat yards; dance halls and clubs; game room arcades; mobile home sales; mortuaries; night clubs; parking lot rentals; pawn shops; private clubs; truck/auto/trailer/utility rentals; vehicle/boat/truck sales; and watchman's apartment.

Vice-Mayor Weiner stated that the County was considering buying land, much of which was in the Town, including this site. He wondered if the Town might be being used as a tool in terms of negotiating a purchase price down the road if the County was to go forward and a bond referendum was passed. Although he did not believe the applicant was trying to put the Town in this position, he asked if the rights of eminent domain may affect this issue since the higher the commercial usage of the property, the more advantageous it may be to an eminent domain proceeding. Mr. Kiar replied that he had no facts to make a determination.

Howard Zimmerman, representing the petitioner, stated that the idea of developing a corporate park on the adjacent residential property was decided against last year due to public objection, therefore, the plat was filed as single family and had been reviewed by staff and was in the review process with the County. He added that a concept plan for the single family project was included in Council's packet. Mr. Zimmerman explained that the settlement agreement addressed four pieces of commercial land - the corner of Flamingo Road and Orange Drive; the land west of I-75; and the two parcels being discussed tonight. He stated that when the rezoning was done for the corner of Flamingo Road and Orange Drive and the land west of I-75, a similar type concept plan was attached to the applications.

Mr. Zimmerman stated that he was not aware that the County was interested in purchasing the land, and implied that since it was predetermined that the B-3 zoning district would be appropriate when the settlement agreement was done in 1995, Council could be assured that any such interest had no influence in the request.

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Mr. Zimmerman stated that after close review by staff, it was agreed that the zoning was in compliance with the land use, the Development Code, and was the appropriate zoning category for this parcel. He added that this land use had been in place for 20 years. Mr. Zimmerman stated that the settlement agreement encompassed months of understanding between Council and people of the community and the end result was being presented at this time. He stated that the applicant had followed every rule and step properly and orderly, and therefore asked Council to grant the request.

Dennis Mele, representing the applicant, stated that when the agreement was approved, Cleve Herring gave a status of the property over a period of years. He added that when a land use plan amendment was proposed in 1995, many residents came requesting that the request be denied and the current designations remain in place, which the applicant agreed to do which was described in the settlement agreement. Mr. Mele stated that the current request was consistent with the intent of the settlement agreement.

Councilmember Paul asked if it was known what business would be in the 250,000 square foot building. Mr. Zimmerman replied that the applicant had received inquiries from six to eight large department type users, such as Target, Walmart, and food operations; however, no commitment had been made. Councilmember Paul asked if the 250,000 square foot building was retail. Mr. Zimmerman replied affirmatively and added that it may not necessarily be one tenant or building.

Mr. Kiar explained that there would be two separate hearings for items 10.5 and 10.6, however, if someone wanted to speak for both requests at once they could. He asked if anyone wished to provide testimony in favor of or opposition to the rezoning. No one spoke in favor of the rezoning.

Mike Bender, 14800 SW 31 Court, stated that he had attended the first workshop relating to Imagination Farms in April 1988, and from the very beginning, it was nothing more than a testing of the waters to see how much opposition there would be to allow this developer to reap the benefits of a large scale commercial development. Mr. Bender stated that even though almost every resident present saw through the charade, they took it upon themselves to come up with a compromise to give the developer what he wanted within limits, to give the Town the extra tax base it was seeking, but most of all to protect the current residents of the Oak Hill area and the future residents of Imagination Farms. He expressed concern that not once in over two years of dealing with this issue had staff come up with anything other than to tell the residents what rights Mr. Zimmerman had. Mr. Bender stated that a committee of residents formulated a brilliant plan in which everyone would have won, however, the petitioner refused to deed restrict the property. He explained that the residents made a commitment to the Town to pay taxes, maintain their property, and be good citizens in return for protection against intrusive commercial development and losing their way of life. Mr. Bender stated that the enemy was greed and mindless development and if this request was approved, it would destroy all the residents held dear. He indicated that if the petitioner refused to put a non-intrusive commercial development on the property, it was Council's duty to go back to court and fight. He urged Council to stand with the residents, friends, and neighbors by denying the rezoning. Mr. Kiar asked Mr. Bender if he was opposed to both items 10.5 and 10.6. Mr. Bender replied affirmatively.

Raul Bosque stated that he was a firefighter, not an attorney, so he was at a disadvantage trying to fight those whose professions related to development. He stated that when he saw smoke, he suspected fire...and when he suspected fire, he did not leave until it

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was extinguished or proven not to be a fire and the smoke could be cleared. Mr. Bosque stated that he saw a lot of smoke here, in representation of only one side of the story by staff. He stated that page 8(f) of the settlement agreement stated that "except as expressly provided herein, nothing in this agreement is intended to or shall be construed to deviate from the technical requirements of the Town Code or to relieve the owners of the obligation to apply for and process any development approval applications required by the Town Code." Mr. Bosque felt that this meant that the applicant must meet the review for rezoning requirements from the Town's Land Development Code Section 12-307, even if the zoning was B-3. He read the Section 12-307 and asked how staff had arrived at its finding of facts which included the following misrepresentations: the proposed change will not adversely affect living conditions in the neighborhood based on the information provided; the proposed change will not create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation or otherwise affect public safety based on the information provided; the proposed change will not adversely affect other property values; the proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations; the proposed change does not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.

Linda Bosque, 14801 SW 31 Court, expressed concern that Mr. Zimmerman's latest plan had no intention of limiting the way the traffic flowed into the residential area from Shotgun Road or Orange Drive. She stated that this was an extreme hazard to the residents and their children. Ms. Bosque stated that working in communications in law enforcement had made her a bit of an expert on this issue, having had to dispatch calls for death that likely could have been avoided had things been done properly, and this was not one of them. She stated that although B-3 was a designated land use and was desirable due to the proximity to Griffin Road and I-75, many of its uses were not appropriate in a residential area. Ms. Bosque stated that she was opposed to both items 10.5 and 10.6. Vice-Mayor Weiner asked Ms. Bosque to clarify her statement that this was not one of the ways to do things different or better. Ms. Bosque explained that the traffic pattern proposed was not safe as there were no limitations between the four-lane Orange Drive expansion project, there were no restrictions on traffic that would come through or go north on Shotgun Road which had immediate access to several roads of residential neighborhoods, and large commercial trucks would utilize Griffin Road.

Jose Poljo, 4076 SW 132 Avenue, stated that staff's report indicated that the two rezonings might increase traffic between 10,000 to 13,000 trips per day for each rezoning. He added that the petitioner had proposed a bridge connecting Orange Drive to Griffin Road, but specific information on the amount of capacity this would create had not been provided. Mr. Poljo expressed concern that traffic studies were not usually accurate and that more traffic could be expected. He stated that the report indicated that specific information regarding the types of uses to occupy the buildings, square footage, and access points were not provided on the conceptual master plan although it was contrary to the intent of Land Development Code section 12-34(aa)(1). Mr. Poljo stated that staff's report indicated that four of the five building would be located away from the adjacent residential land to the east, along with a South Florida Water Management tower, with access limited to Orange Drive. He stated that this was not acceptable as it would severely impact the existing land uses of single-family

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residential at a density of one dwelling unit per acre, the County land fill site which would become a park, and the Boy Scout camp which was used for recreational purposes. Mr. Poljo asked how commercial development could be compatible with residential homes, parks, and recreational areas. He stated that many of the findings of fact were contrary to logic, contrary to the Town's ordinances, and many were blanket statements with no corroborating or underlying facts. Mr. Poljo indicated that he thought the finding of fact in staff's report, relating to the proposed zoning designation being the most appropriate to enhance the Town's tax base, was the real reason this issue had been permitted to come so far. Mr. Poljo stated that Mr. Zimmerman was entitled to build on his land; however, the proposed changes left the residents wondering what was going on with the process and how the quality of their lives would be affected. He advised that he was opposed to both items 10.5 and 10.6 and asked Council to deny the request. Mr. Poljo added that if the land was developed as commercial, it should be developed in an isolated, island-type manner whereby the only access to the commercial development was by a bridge connecting Griffin Road to the development site so Orange Drive and Shotgun Road could remain rural. He expressed concern that if the commercial land was not isolated, a petition could be made to have the remaining 340 acres rezoned commercial. Mr. Poljo stated that the residents did not want or need another shopping center.

Dean Alexander, 13820 SW 16 Street, stated that although he was not adjacent to the property, he was concerned that 142nd Avenue terminated at 26th Street, so it would be very tempting to take 136th Avenue, which was already very congested at least three times a day and did not need more traffic. He stated that he was opposed to both items 10.5 and 10.6.

Mark Kendall, 3200 SW 148 Avenue, stated that he was opposed to both items 10.5 and 10.6 for several reasons, not just the monetary investment of his property, but also the investment of his wife and children. He expressed concern that this development would add traffic on Boy Scout Road, possibly leading to tragic consequences. Mr. Kendall felt that there must be other alternatives to establishing a tax base as he would prefer to pay more taxes.

Lou Friedman, 14250 SW 24 Street, stated that he had lived in Coral Springs in the 70s when it was touted as the city within the country. He asked if anyone had seen any country in Coral Springs and expressed concern that the same thing could happen in Davie.

Mr. Weiss, 13281 SW 42 Street, stated that since he did not live in Davie in 1995, he did not have a vote in the settlement agreement, so he voted now to redo it. He stated that he did not want a four lane highway in place of a quiet, rural street. Mr. Weiss expressed concern that the only traffic consideration at this time was for 60 acres, but how much would traffic increase when the remaining 340 acres were developed. He stated that he was opposed to both items 10.5 and 10.6.

Jefferson Weaver, 13182 SW 42 Street, stated that he was opposed to both items 10.5 and 10.6. He explained that the residents of Imagination Farms had received a brochure with horses galloping through a meadow giving the impression of a rural lifestyle, not wandering through a Walmart parking lot. Mr. Weaver agreed that Mr. Zimmerman had property rights, however, Council had a certain degree of power to regulate the extent to which the property rights could be used and to mitigate the excesses of his development. He agreed with the mitigation suggestion to dead-end Orange Drive beyond Boy Scout Road and require access from Griffin Road, thereby keeping the semi-rural character of the community. Councilmember Paul asked Mr. Weaver if he had any knowledge of property values. Mr.

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Weaver replied that it would be based only on observation of what typically happened to residential areas when impacted by intense commercial development as he was not a qualified appraiser.

Michael Williams, 13342 SW 40 Street, stated that he was opposed to both items 10.5 and 10.6. He asked if it was required that the Town allow the widening of the road and the addition of a bridge in conjunction with the development. Mr. Williams explained that without these two improvements, access would be limited and it would not be a good business decision for Mr. Zimmerman. Mr. Kiar replied that the petitioner must meet certain County requirements relating to concurrency and roads, however, he added that if the request was denied, certain aspects of the settlement agreement may be triggered. Mr. Williams stated that as a taxpayer, he authorized Council to spend his money accordingly - to fight the petitioner by denying the request and going to court if necessary. Councilmember Paul stated that she did not recall any recommended improvements to Orange Drive, just Griffin Road.

Israel Sanchez, 13282 SW 41 Street, stated that he was opposed to both items 10.5 and 10.6. He stated that he had lived in Davie for 12 years and wanted to keep the rural lifestyle. Mr. Sanchez felt that staff was incorrect in reporting that a commercial rezoning would not have an impact on a rural community, would not increase traffic in an already congested area, or would not adversely affect property values.

Charles Freeman, 13232 SW 42 Street, stated that he was opposed to both items 10.5 and 10.6 as he and his wife had worked very hard to live in this neighborhood. He wondered how Mr. Zimmerman could plan to build a copy of Imagination Farms on the west side with a commercial site adjacent.

Carlos Lopez, 13960 SW 42 Street, stated that he was opposed to both items 10.5 and 10.6. He stated that it was ironic that the rezoning was being considered after almost all the lots at Imagination Farms had been sold. Mr. Lopez felt that no one would have purchased the lots if the commercial zoning was already in place. He stated that Mr. Zimmerman may have the right to build a commercial site, however, he did not have the right to build whatever he wanted.

Carey Walding, 13450 SW 40 Street, stated that he was opposed to both items 10.5 and 10.6 and if Council must allow the rezoning, he hoped the commercial property would be isolated from the residential property. He expressed concern that such development would keep people from being able to utilize the surrounding roads for recreational purposes as people would always try to find a shortcut. Mr. Walding asked Council to protect the residents and their lifestyle.

Kevin Codswell, 4343 SW 134 Avenue, stated that he was opposed to both items 10.5 and 10.6. He asked Mr. Zimmerman to listen to the community, to do the right thing, and to be accountable. Mr. Codswell stated that the "current" always followed the path of least resistance, and so would people - they would use Boy Scout Road, Shotgun Road, and Orange Drive to stay away from traffic on Griffin Road. He stated that Mayor Venis came to him when he moved to Davie, shook his hand, and stated that he loved the community and what Imagination Farms was; therefore, he asked Mayor Venis to do the right thing.

Jim Annin, 15280 SW 31 Court, agreed that if the rezoning was approved, the future residential area would not be built and the commercial would continue. He stated that a church had been denied due to traffic problems, but that was nothing compared to a commercial site. Mr. Annin said that Council needed to do whatever was necessary to keep

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the property within the Town's boundaries to under control, but also felt that the project must be isolated to keep traffic away from the residential area. He suggested that the land be used for something that would serve the residents, such as a water plant or school.

Curt Colberg, 14881 SW 31 Court, stated that he was opposed to both items 10.5 and 10.6. He suggested that the Town purchase the property and raise taxes to do so, or, if Mr. Zimmerman wanted to show good faith, he could donate it to the Town as a park. Mr. Colberg stated that the way of life in Davie included horses, kids, cyclists, trees, and open space and asked that Council keep it that way.

An unidentified man who spoke earlier stated that someone had mentioned at the Planning and Zoning Board meeting that Orange Drive could never be widened pursuant to past Council direction and asked someone to investigate.

Jay Stahl, 5801 Surrey Circle West, stated that Council made a commitment that certain rural roads would never be expanded. He reminded Council that years ago, a petitioner had tried to construct a truck stop, and Mr. Kiar, then serving as a councilmember was the only one to vote against it. Mr. Stahl stated that after a very long fight, the residents eventually won.

Mr. Kiar stated that the hearing was concluded.

Mr. Zimmerman stated that Orange Drive was a County designated trafficway, with developers having to dedicate adequate right-of-way for an 80 foot corridor, which would ultimately allow widening to a four-lane highway. He stated that he fought the County with the Town to attempt to have Orange Drive removed from the trafficways plan, to no avail. Mr. Zimmerman added that he was meeting with the County's Engineering Department to attempt to remove Orange Drive from the trafficways plan from Flamingo Road to Boy Scout Road and to reduce the right-of-way. He stated that the only proposed widening was for Orange Drive between the new bridge and Post Road, not even to the northern end of the property.

Mr. Zimmerman stated that the traffic study presented was for the entire 400 acres, not just the commercial properties.

Mr. Zimmerman felt that the issue of property values could be very subjective. He stated that the 300 acres adjacent to the commercial site would be developed residential, therefore, he was at as much risk as the residents. Mr. Zimmerman stated that buffers between the two uses, including set-backs, landscaping, yard screening, etc., would be discussed by the Site Plan Committee and Council at the proper time.

Mr. Zimmerman stated that the rezoning was being brought now, and not months ago for two reasons: he acquired the property approximately one year ago and the Town asked him to consider a corporate park instead of the intended single-family and commercial development.

Mr. Zimmerman stated that the bridge would be helpful to the residents even if the commercial site was not constructed as it would divert traffic from the eastern portion of Orange Drive.

Mr. Mele felt that the residents were speaking against a commercial land use plan map designation, however, this land use had been in place for some 20 years. He stated that the zoning district did not distinguish between whether it was one 250,000 square foot building or five 50,000 square foot buildings each; therefore, arguments as to the size of the building were not germane to the discussion. Mr. Mele stated that in the case of Snyder vs. Brevard County, the court case that set the rules in effect for rezonings, made it clear that the

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property owner was entitled to a zoning district consistent with the land use designation, with some exceptions that did not apply here. He added that no evidence had been presented indicating that B-3 was the wrong zoning district.

Mr. Mele explained that two separate shopping centers totaling 75,000 square feet would generate more traffic than one shopping center of the same size; therefore, one large building would generate less traffic than several small ones.

Mr. Mele stated that the County had jurisdiction over Orange Drive. He explained that the section of the agreement dealing with Griffin Road spoke of the Town supporting the Department of Transportation (DOT) in the traffic improvement plan, not that it would be the only road widened, but so that DOT would pay for the improvement. Mayor Venis asked if the traffic study included the possibility of a middle school being built. Mr. Zimmerman replied negatively and explained that if a school was built, either the number of houses or the commercial square footage would be reduced. Mr. Mele added that if the County required a school, the School Board would have to address the concurrency requirements. Councilmember Paul asked who decided if the acreage for a school would be taken from the commercial or residential parcel. Mr. Mele replied that the School Board did not have the jurisdiction to request a dedication of commercial land, so it must come from the residential section.

Vice-Mayor Weiner asked if the traffic engineer was present to give expert testimony. Mr. Mele replied negatively and explained that traffic was usually dealt with at the time of platting, and had been provided only as a courtesy.

Councilmember Paul stated that page nine of the agreement stated that "in the event Pasadena develops the Pasadena property with 416 dwelling units and exercises the option and develops the Pownall residential property with 349 dwelling units, Pasadena will not develop the Pownall commercial property as a retail development." She asked why the retail property was being planned if both residential properties were also being planned. Mr. Mele replied that this paragraph related to DRI regulations and meant that Pasadena would not develop the commercial property, but would sell it to a commercial developer. Councilmember Paul asked why the two new companies had the same address and representative as Pasadena. Mr. Mele replied that Pasadena was not a commercial development company and Mr. Zimmerman intended to sell the commercial site. Mr. Zimmerman confirmed that he was only doing the zoning, not the development. Mr. Mele explained that it was not unusual for a property owner to obtain certain governmental approvals and then sell the property to the person who would ultimately develop it.

Councilmember Paul expressed concern that once the property was sold, this process would have to be repeated. Mr. Mele explained that the zoning ran with the land, so the zoning would not have to be reconsidered. Mr. Zimmerman stated that this was identical to what was accomplished on the west side. Mayor Venis disagreed and stated that it was not so close to residential communities. He added that for the majority of rezonings Council considered, it was known what tenant would be on the property. Councilmember Paul stated that Flamingo Road/Orange Drive retail businesses were small compared to this one and would service the local residents. Mr. Zimmerman stated that those issues were resolved at the time of site plan, not at the time of a rezoning. He stated that when the rezoning was submitted, it was for one building of 250,000 square feet, just like the current request. Mr. Mele added that at that time, it was not known who the tenants would be.

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Mr. Kiar stated that as to Vice-Mayor's comment of no expert testimony, hearsay evidence may be used for the purposes of supplementing or explaining other evidence, but was not sufficient in itself to support a finding unless it was admissible over objection in civil actions.

Councilmember Cox stated that the B-3 zoning required a site plan and asked if that was not fundamentally like a rezoning process as a more defined version of the conceptual plan. Mr. Kutney replied that it came as a concept plan per Code requirements, but it did not specify the content of the concept plan. He stated that this was why staff asked for the zoning in progress, to attempt to come up with master plan type considerations that would be what a concept was planned to be. Mr. Kutney explained that the B-3 district was intended to be an implementation district by providing for a business area to meet the shopping and service needs of large sections of the Town, such businesses generally require considerable ground area, do not cater directly to pedestrians, and needs a conspicuous and accessible location convenient for motorists. He stated that this was why a requirement was needed for a concept plan which would give more specifics than what was presented here, but not as specific as a full blown site plan. Councilmember Cox asked if the developer's next step would be site plan approval if the rezoning was approved and a buyer was found. Mr. Kutney replied affirmatively. Councilmember Cox asked if the entire 27 acres would be considered in conceptual form before the site plans were approved or piece-by-piece. Mr. Kutney replied that there would be a concept plan, but there had to be some flexibility for Code requirements. Councilmember Cox asked if dividing the acreage into separate parcels would be a problem. Mr. Kutney replied affirmatively as the concept plan was a unified site. Councilmember Cox asked if the applicant, being somewhat aware of the desires of the neighborhood, could incorporate those changes. Mr. Kutney replied affirmatively.

Councilmember Paul expressed concern that if changes were not made until the site plan process, the new owner would have spent a great deal of money and if the Site Plan Committee wanted to make changes, the owner would say it was too much of a hardship. Mr. Kutney replied that he saw nothing in the agreement that allowed the applicant to not follow Town Code.

Vice-Mayor Weiner asked if the rezoning was approved, would the rights become vested, and if the rezoning was not approved, would the rights not become vested. Messrs. Kiar and Kutney agreed. Vice-Mayor Weiner stated that if the rights were vested in terms of zoning, then site plan became the norm - setbacks, colors, vegetation, building height, etc. Mr. Mele stated that the concept of vested rights, or equitable estoppel, came down to the facts of any case. He explained that in the vested rights cases throughout Florida, there were occasions where the zoning was not enough to vest rights, and something less was enough depending on government action taken, reliance on the government action by the property owner, and the amount of money spent. Vice-Mayor Weiner stated that if the rezoning was approved, a judge would have one more factor to consider as opposed to at site plan.

Councilmember Clark asked if it was customary to approve zoning changes without knowing what the petitioner planned to do with the property. Mr. Kutney replied that speculative rezonings were allowed in some places, but most wanted some idea of what would come in under the rezoning. He added that staff was working on the issue of having a concept plan type zoning to discourage speculative type rezonings in the future. Mr. Kiar stated that Palm Beach County required site plan approval along with a rezoning.

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Councilmember Paul stated that no one wanted to deny the petitioner the right to develop the property, but the level of commercial development was an issue. She felt that some information in staff's report was flawed, partly because the petitioner did not provide information that was requested. Councilmember Paul felt that the background report also had errors and asked staff to be more careful in making sure information was correct. She stated that something she had been committed to for many years was keeping Orange Drive a rural road. Councilmember Paul added that she questioned many of staff's findings of fact, such as items d, e, f, and g and whether the rezoning met all the criteria. She felt that a number of items in the agreement needed additional interpretation.

Councilmember Cox stated that Council had two choices - pass the rezoning and "duke it out" at site plan or deny the rezoning, at which time it would either be considered County land or go to court. She stated that Council who adopted the agreement was not entirely happy with the agreement, but when they made it they were considering the County having jurisdiction over the property, blasting being allowed, the density, etc.

Vice-Mayor Weiner stated that he had problems with the proposal and would rather take a chance with a court case by explaining to the judge that the facts had changed because there were now property owners involved.

Mayor Venis stated that Council had worked very hard to maintain the integrity of this rural community; therefore, he wanted to see what would be built before he could vote in favor of a rezoning.

Councilmember Clark stated that staff's report that the proposed change would not adversely affect living conditions in the neighborhood was like getting married without meeting your husband. She felt that it was unfair to ask for a zoning change without showing what would be built.

Councilmember Paul made a motion, seconded by Vice-Mayor Weiner, to deny based upon the findings of fact as set forth with regard to the criteria and based upon the lack of an engineer being present to testify with regard to the traffic.

Councilmember Paul presented six pages of names of people she had talked to about this rezoning and approximately an inch of e-mails. Vice-Mayor Weiner stated that he had also answered e-mails and had talked to Mr. Bosque and Mr. Bender. Councilmember Clark stated that she had met with Raul Bosque and Michael Bender. Councilmember Cox presented e-mails. Mayor Venis stated that he had answered e-mails and had also talked to Mr. Bosque, Mr. Bender, and many residents whose names he could not recall.

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)

- 10.6 **REZONING** - ZB 1-4-00, Zimmerman/Seventy-Five East, Inc., 14901 Orange Drive (from A-1 to B-3) (tabled from April 5, 2000) *Planning and Zoning Division recommended approval subject to the planning report; Planning and Zoning Board recommended approval subject to the developer's agreement, the voluntary deed restrictions, and the conceptual master plan*

Mr. Mele stated that the remarks he made and exhibits submitted under 10.5 were to be included for the record on this item. He reiterated that there was no requirement in the Town Code to provide the perspective users with a site plan at this time. Mr. Mele stated that the traffic information was provided as a courtesy based on a request from staff, therefore it

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could not be deemed sufficient or insufficient. He stated that the Town's criteria for rezonings had to be considered along with the Statutes and case law. Mr. Mele stated that the applicant had met his burden under the Snyder case, therefore, the burden shifted to the Town to show why the applicant could not have the requested zoning category, as no evidence had been presented distinguishing between B-3 and other zoning categories that would be allowed for this commercial land use designated parcel.

Mr. Kutney stipulated that his prior comments applied to this item also.

Raul Bosque, 14801 SW 31 Court, thanked Council for its courage and vision, and for standing by the residents. He read from page nine of the settlement agreement relating to Pasadena not developing the Pownall commercial property as a retail development if they developed the residential property. Mr. Bosque stated that he thought this article was included because residential developer and commercial developers had different, competing interests. He felt that the residential builder ought to be defending the residents and his own interests in the homes that were not yet built, however, this company was trying to maximize its profits and did not care about the residents, which was a violation of the letter and the spirit of the settlement agreement.

Jose Poljo, 4076 SW 132 Avenue, stated that 30,000 car trips were too much, whether due to residential or due to commercial. He stated that the proposed development was incompatible with the predominant existing planned land use designation, which was single-family residential, park site, and recreational/open space. Mr. Poljo stated that the size of the building was germane because it was restricted in the settlement agreement to 300,000 square feet, and if there was already a 250,000 square foot building and four individual buildings, this could exceed that restriction. He stated that the property west of I-75, Silverado, was not subject to the agreement. Mr. Poljo felt that Pasadena and Mr. Zimmerman were somehow working together or the builder would not have sent a letter indicating that the project was "a done deal."

Mike Bender thanked Council for their action on this matter. He stated that he still thought the residents and the applicant could work out something acceptable to everyone involved.

Mr. Mele stated that the 300,000 square feet did not pertain to this site, but to the property on Orange Drive and Flamingo Road. He stated that the Silverado property was part of the subject property and subject to the agreement. Mr. Mele stated that there was no conflict or interest and that paragraph nine was designed to deal with the specific issue of DRI, not zoning or compatibility. He stated that staff report was discussing the land use designation on property near the site, but the Code criteria was that the zoning requested for the subject site must be consistent with the land use designation for the subject site.

Mr. Kiar stated that the hearing was concluded.

Councilmember Paul made a motion, seconded by Vice-Mayor Weiner, to deny based upon the findings of fact as set forth with regard to the criteria and based upon the lack of an engineer being present to testify with regard to the traffic.

Councilmember Paul presented 6 pages of names of people she had talked to about this rezoning and approximately an inch of e-mails. Vice-Mayor Weiner stated that he had also answered e-mails and had talked to Mr. Bosque and Mr. Bender. Councilmember Clark stated that she had met with Mr. Bosque and Mr. Bender. Councilmember Cox presented e-mails. Mayor Venis stated that he had answered e-mails and had talked to Mr. Bosque, Mr. Bender, and many residents whose names he could not recall.

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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)

At 12:00 a.m., Council broke for a three minute recess. Mayor Venis stated that item 14.2 would be heard next.

14.2 Rosemary Anderson reread her letter from the open public meeting.

Cindy Osborne reread her letter from the open public meeting.

Jane Ariola, 4441 SW 59 Court, stated that she was a direct descendent of the original Davie pioneers and grew up one block from a rodeo arena. She stated that it was bad enough when the Davie/Cooper City Chamber of Commerce stopped doing the Orange Blossom Festival, but it was a slap in the face when the arena was renamed to anything other than "The Davie Rodeo Arena." Mrs. Ariola added that this was nothing personal against Mr. Bergeron.

Bobby Gornto, 1921 Hiatus Road, stated that he was the president of the Davie Rodeo Association. He felt that the founders should be recognized, however, he also felt that Bergeron Rodeo Grounds was an appropriate name and presented approximately 650 signatures in support of the name.

Sherry Gornto, 1921 Hiatus Road, stated that no one wanted to discredit what the pioneers had done for the Davie Rodeo Association, however, Mr. Bergeron had gone above and beyond the call of duty in his support of the youth and should be commended.

Albert Gomez, 4159 SW 67 Avenue, stated that Mr. Bergeron was a regular guy who was nice to everyone and deserved his name on the arena.

Laverne Jones, 5610 SW 164 Terrace, stated that you could not tell the difference between Mr. Bergeron and any other cowboy because he treated everyone the same, so much so that she did not know who he was the first couple years she knew him. She stated that he supported the Junior Rodeo every time there was a need, not just adequately but so the prizes could be the very best. Ms. Jones felt that Mr. Bergeron's name should be left where it belonged.

LeeAnn Sullivan, 13851 SW 26 Street, stated that her grandfather and uncle were 2 of the original 17 men who started the rodeo in the 1940s. She stated that she supported Mr. Bergeron and could not understand the problem, as it was still the Davie Rodeo Arena at the Bergeron Rodeo Grounds. Ms. Sullivan stated that additional signage could be erected, history could be presented, or a plaque could be installed recognizing not only the past, but also the present contributors. She asked where the people against the new name were when the arena was going to be destroyed in 1977, and Davie for Horses, now the Davie Rodeo Association, was formed to save it. Ms. Sullivan asked where those people were when it was decided to cover the arena and funds had to be raised. She asked if they had thanked the people who saved and covered it. Ms. Sullivan stated that Mr. Bergeron had made it possible for the Town to buy the Huck Liles property. She stated that he competed in the monthly 5 Star Rodeo and attended the weekly Jack Pot Rodeos to support the rodeo way of life. Ms. Sullivan wondered who would support the rodeo if Mr. Bergeron had not.

David Hughes, Director of the Boys and Girls Clubs of the County, stated that he lived in Coral Springs but had an affinity toward the Town for the kindness it had shown the Club. He asked Council to honor its agreement with Mr. Bergeron. Mr. Hughes stated that when

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the Club decided to hold WestFair at the arena, it was noted that the Town not owning Huck Liles could prohibit the growth and success of the arena, as there was not adequate parking. He stated that Mr. Bergeron had helped purchase the land through a partnership, which ensured the future of the arena. Mr. Hughes stated that although WestFair was not as successful as was hoped, it birthed the Ranch Roam and the Cattlemen's Association, both of which raised money for the Club and the Town. He stated that Mr. Bergeron was a key person in both who cared about the culture of Davie.

Priscilla Tindall, 6529 SW 47 Street, stated that no one wanted to take credit from anyone in the past or future who helped with the arena, but it had always been the Davie Rodeo Arena since her father-in-law started the rodeo in the 1940s. She felt that a plaque was a good idea, but that the name should stay the Davie Rodeo Arena.

Councilmember Paul stated that her first local horse show was in the Davie Rodeo Arena, she was there in 1977 to save the arena, and she was there installing bleachers on the east side. She stated that the agreement saved ten acres in the downtown area from being paved and developed, plus it enhanced the arena for parking and events. Councilmember Paul stated that it would always be the Davie Rodeo Arena, it had just been decided to add "at the Bergeron Rodeo Grounds" which did not take away from what the arena was. She asked if the spirit of the agreement would be violated if "Welcome to the Davie Rodeo Arena at Bergeron Rodeo Grounds" was put on the southern facia board. Councilmember Paul suggested installing a plaque celebrating the 17 founders to recognize the historic importance of the arena and to save the history lesson for future generations. She also suggested a rodeo birthday celebration every few years and a permanent traveling display telling the story of the birth and growth of the rodeo in Davie. Councilmember Paul presented a check made out to the Old Davie School Historical Society in the amount of \$250 specifically for such a traveling display.

Councilmember Cox stated that before any action was taken, the agreement needed to be reviewed. She explained that in 1988, the Town decided not to purchase the Huck Liles property because it would cost \$2 million and in 1990, the residents voted against a bond issue for \$1.5 million. Councilmember Cox stated that without parking, no events were taking place and interest began to wane. She stated that in 1995, the Boys and Girls Club stepped in and hammered out an agreement for approximately \$1.24 million, but it was \$150,000 short of the appraised value so Mr. Bergeron paid the difference. Councilmember Cox stated that Mr. Bergeron wanted to preserve the history of the Town and the arena, and the agreement stipulated that the arena and the property would be named "The Bergeron Rodeo Grounds at Davie, Florida," so permission would have to be granted by Mr. Bergeron to call it "The Davie Arena." She advised that the agreement also stipulated that the primary use of the property would be for arena parking, because Mr. Bergeron knew that the CRA had the Davie Settlement Plan which suggested commercial uses for the property.

Mr. Kiar questioned if he should review the agreement. Councilmember Paul responded affirmatively and stated that the Town should ask Mr. Bergeron if he would mind calling the arena the Davie Arena. Vice-Mayor Weiner stated that the first step before legal research would be to meet with Mr. Bergeron, the residents, descendants of the founders, and various rodeo people. Councilmember Paul stated that Mr. Bergeron was interested in both the plaque and the traveling display.

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Mayor Venis stated that the remainder under the quasi judicial hearing would be heard next. Vice-Mayor Weiner asked if any items had been requested for tabling.

Mayor Venis announced that item 10.9 needed to be tabled to June 21, 2000.

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

Mayor Venis announced that item 10.10 could be withdrawn due to action taken on items 10.5 and 10.6.

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

Mayor Venis announced that item 10.11 needed to be tabled to July 5, 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)

10.7 Mr. Kiar explained the rules concerning the presentation of evidence. Town Clerk Reinfeld swore in the witnesses. Mr. Katims summarized the planning report.

Michael Poggi, representing the petitioner, stated that he just needed an extra two feet on his six-foot chain link fence so his wallaby could not jump the fence and indicated that this was required by the Fish and Wildlife Commission. He added that the wallaby was just a pet.

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

Mr. Kiar stated that the hearing was concluded.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, to approve the variance subject to the declaration of restrictions. 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)

10.8 Mr. Kiar explained the rules concerning the presentation of evidence. Town Clerk Reinfeld swore in the witnesses. Mr. Katims summarized the planning report.

Barbara Hall, representing the petitioner, explained that this variance was needed to reconfigure the site for the church and was related to a rezoning on this agenda.

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

Mr. Kiar stated that the hearing was concluded.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, 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)

Mr. Middaugh stated that Ms. Hall had a question about a County-imposed bond requirement and asked if it was for this project. Ms. Hall replied negatively. Mr. Middaugh suggested that Ms. Hall submit the change to Mr. Kiar for his review so he could issue a letter. Ms. Hall explained that off-site improvements were required on the Spielman-

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Margolis Plat. She indicated that a lien was placed against the property to cover the estimated \$314,000; however, when the plat was submitted, the County said that it forgot about an item which would require an additional \$8,000 for a total of \$322,000. Council did not object.

13.1 Councilmember Paul stated that she would like to see the ordinance placed on the next agenda for first reading. She stated that there was some question to a draft memo prepared by Mr. Kutney, however, she hoped that by placing the ordinance on the agenda it would induce staff to prepare the document so the issue could be resolved.

Councilmember Cox asked what a confined feeding operation and a specialty farm were. Mr. Middaugh replied that these definitions, in addition to others, were a potential problem with the ordinance until they were defined. Vice-Mayor Weiner asked if the terms were in the comprehensive land use plan. Councilmember Paul replied affirmatively. Mr. Middaugh explained that to the extent they were, they were not defined and they were not in the Code. Vice-Mayor Weiner suggested that definitions be ready to be approved at the first reading as the issue had gone on long enough.

Vice-Mayor Weiner stated that due to State legislation, the Town had no right to regulate non-residential structures on farms. He expressed concern that if there was a hurricane or wind storm, and a piece of a building struck a person, they could be seriously injured or killed. Vice-Mayor Weiner felt that the legislature must be lobbied for this issue, however, until that happened or the Governor vetoed it, Council had no right in this issue. Mr. Kiar stated that he would look into the matter. Councilmember Paul stated that he was to look for definition of terms in question on staff's May 17th memo. Vice-Mayor Weiner added that it should be in final format, with whatever concerns staff may have, by June 21st so it could be put on the agenda as an ordinance.

Mr. Middaugh stated that staff felt that the ordinance as presented went beyond the State recognized definition of a farm, particularly as it defined agricultural uses and broadened the application beyond what was permitted or anticipated. He explained that the concern was that this may have a ripple effect and may go beyond protecting agricultural interests to disadvantaging residential interests. Vice-Mayor Weiner stated that a farm location did not hinge upon the zoning. Mr. Middaugh disagreed and felt that the farm land use was subject to zoning. Mr. Kutney stated that it was not cut and dry, and the County would be issuing a report in July to present the information gathered on this issue. He stated that the proposed ordinance did not mention Code Section 12-34, which dealt with agricultural uses. Vice-Mayor Weiner stated that unless Mr. Kiar found the proposed ordinance to be illegal, it should be put on the agenda.

Councilmember Cox stated that she would like to know what would constitute service or entertainment relating to signage as shown in Section 12-238.

5. MAYOR/COUNCILMEMBERS COMMENTS

No comments were made.

6. TOWN ADMINISTRATOR'S COMMENTS

No comments were made.

7. TOWN ATTORNEY'S COMMENTS

No comments were made.

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8. CONSENT AGENDA

Minutes

- 8.1 March 22, 2000 - Special Meeting
- 8.2 April 5, 2000 - Regular Meeting
- 8.3 April 18, 2000 - Regular Meeting
- 8.4 April 26, 2000 - Special Meeting
- 8.5 May 22, 2000 - Special Executive Session

Home Occupational License

- 8.6 American Bobcat, Backhoe & Landscaping, Inc., 5201 SW 76 Avenue
- 8.7 No 1 Bobcat and Trucking, Inc., 2701 SW 154 Lane
- 8.8 PK Permitting, 11951 SW 18 Court
- 8.9 VMB Const. Inc., 4075 West Ridgeview Drive

Seasonal Sales - July 4th Fireworks - Waiver of Occupational License Fees

- 8.10 Cathedral of Pentecost, 5500 Pine Island Road (location: 4815 State Road 7; June 20 - July 4, 2000)

Resolutions

- R-2000-123 8.11 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR AUCTIONEERING SERVICES, the County CONTRACT #J9PUR5000 AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR SUCH SERVICES. (Fisher Auction, Inc.)**
- R-2000-124 8.12 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR RUGER CARBINE RIFLES AND ACCESSORIES. (Smyrna Police Distributors - \$39,310)**
- R-2000-125 8.13 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR PHOTOGRAPHIC FILM AND ACCESSORIES, BROWARD CO-OP BID H-35-00. (HPI International for Group I and Dixie Sales Company USA, Inc. for Group II)**
- R-2000-126 8.14 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE PROPOSALS FOR COACH BUS SERVICE, BROWARD CO-OP RFP 00-B-091. (primary vendor - Coach USA at \$39.75/hour; secondary vendor - Cherokee Taylor at \$48.50/hour)**
- R-2000-127 8.15 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR SOD AND SOD INSTALLATION, BROWARD CO-OP BID NO. 200-001. (lowest responsive and responsible bidder for each item)**

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- 8.16
R-2000-128 **WAIVING BIDDING - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, WAIVING FORMAL BIDDING AND ACCEPTING THE BIDS FOR CAR SEATS FOR THE DAVIE CHILD PASSENGER SAFETY SEAT PROGRAM. (Graham, Clouser, & Wright and Cosco) (\$18,738 - grant reimbursement)**
- 8.17
R-2000-129 **MITIGATION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF THE CODE COMPLIANCE LIEN IN CASE NO. 98-531 FROM \$27,750 IN AMOUNT TO \$3,345.44; AND PROVIDING AN EFFECTIVE DATE. (Weekley)**
- 8.18
R-2000-130 **DESIGN/BUILD - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF THE HASKELL COMPANY TO PROVIDE DESIGN/BUILD SERVICES FOR IMPROVEMENTS TO DRIFTWOOD ESTATES PARK AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES. (\$200,000)**
- 8.19
R-2000-131 **SUMMER MEAL PROGRAM - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING the County SCHOOL BOARD FOOD SERVICES TO PROVIDE THE SUMMER FOOD MEALS UNDER THE STATE OF FLORIDA DEPARTMENT OF EDUCATION SUMMER FOOD SERVICE PROGRAM FOR THE TOWN OF DAVIE. (\$2,000)**
- 8.20
R-2000-132 **MAINTENANCE CONTRACT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE TWO, CONCURRENT CONTRACTS TO PROVIDE MAINTENANCE SERVICES FOR THE VARIOUS COMPUTER EQUIPMENT AND ASSOCIATE SOFTWARE RECENTLY PURCHASED UNDER RESOLUTION R-99-376 VIA STATE OF FLORIDA CONTRACT 250-050-97-1. (IBM; \$170,000 over five years)**
- 8.21
R-2000-133 **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)**
- 8.22
R-2000-134 **PURCHASE - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE PURCHASE OF THE RANGE 2000 TRAINING SIMULATOR WITH THE EXPENDITURE TO BE TAKEN FROM THE LAW ENFORCEMENT TRUST FUND. (Electronics Industries USA, Inc.; not to exceed \$42,000)**

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8.23 R-2000-135 ARCHITECTURAL/LANDSCAPE DESIGN - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF R.M.P.K. GROUP TO PROVIDE ARCHITECTURAL AND LANDSCAPE DESIGN SERVICES FOR IMPROVEMENTS TO LINEAR PARK AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SUCH SERVICES. (\$35,000)

8.24 R-2000-136 STREET SIGN - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACKNOWLEDGING THE ACCOMPLISHMENTS OF WALTER NEAL, DEVELOPER OF PARK CITY MOBILE HOME PARK, BY RENAMING SW 86TH AVENUE FROM BERKLEY DRIVE TO SW 23RD PLACE AS SW 86TH AVENUE/WALTER NEAL WAY.

Site Plan

8.25 SP 9-1-99, Davie Town and Country Shopping Center, 1901 South University Drive (B-2) Planning and Zoning Division recommended subject to the planning report; Site Plan Committee recommended approval subject to the planning report based on the following stipulations being amended to the staff's recommendations: 1) that they (petitioner) will not have to change the colors; 2) that they will restripe the handicap spaces as per staff's recommendation; 3) that the petitioner will revisit this situation after the restriping is done and that they see Mr. McClure's concern that there be two-and-a-half feet of not just an empty space and that they would come to an amicable resolution; 4) that they agree, although they have no jurisdiction to mandate that K-Mart make specific changes, they will cooperate and certainly would like it to be compatible with the existing specified recommendations; 5) no; 6) no; 7) keep the loading area and the three landscape islands per the plan; 8) that they go over this with Engineering because they are making some changes to the curbs and will try to be consistent with what Engineering desires; 9) they will agree to "one-foot candles" [lighting term] on the perimeter [parking lot lighting], nothing to the existing interior [parking lot] lighting

Councilmember Paul asked that item 8.2 be removed from the Consent Agenda. Councilmember Clark asked that items 8.6 and 8.7 be removed. Vice-Mayor Weiner asked that item 8.18 and 8.23 be removed.

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, to approve the consent agenda minus items 8.2, 8.6, 8.7, 8.18, and 8.23. In a voice vote, all voted in favor. (Motion carried 5-0)

8.2 Councilmember Paul stated that she would like the discussion relating to items 10.2 and 10.3 transcribed verbatim.

Councilmember Paul made a motion, seconded by Vice-Mayor Weiner, to approve transcribing a portion of the April 5th meeting verbatim. In a voice vote, all voted in favor. (Motion carried 5-0)

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8.6 and 8.7 Councilmember Clark asked why 8.6 should be exempt and why 8.7 did not indicate a fee. Mayor Venis thought that is was because the fees were exempt for senior citizens. Councilmember Clark felt that an explanation should be included.

Councilmember Clark made a motion, seconded by Vice-Mayor Weiner, to table items 8.6 and 8.7 to the next meeting [June 21, 2000]. In a voice vote, all voted in favor. (Motion carried 5-0)

8.18 and 8.23 Vice-Mayor Weiner stated that he was concerned that money was being spent for parks and recreation, when it still was not known what was being done for Potter Park.

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, to approve items 8.18 and 8.23. In a voice vote, all voted in favor. (Motion carried 5-0)

9. PUBLIC COMMENTS

Ordinances - First Reading (Public Hearing to be held June 21, 2000)

9.1 CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN CODE BY ADDING TO CHAPTER 2, ARTICLE VI, DIVISION 1, A NEW SECTION NUMBERED 2-172, ENTITLED "RESTRICTIONS ON REPRESENTATION FOR COMPENSATION BEFORE THE TOWN BY FORMER OFFICERS OR EMPLOYEES"; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Venis advised that a public hearing would be held on June 21, 2000. Town Clerk Reinfeld read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance.

Tom Truex, 4740 SW 72 Avenue, felt that this was a good ordinance and looked forward to giving further comments at the second reading.

The public comments were closed.

Councilmember Cox stated that she objected to treating people differently and this ordinance stated that no former employees could represent an entity except in the case of collective bargaining. Vice-Mayor Weiner explained that the Public Employer Relations Act specifically provided that employees who decided to form a labor organization had a right to choose who represented them in terms of collective bargaining and grievances.

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 - no; Councilmember Paul - yes. (Motion carried 4-1)

9.2 AMENDING OCCUPATIONAL LICENSE RATE SCHEDULE - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN'S OCCUPATIONAL LICENSE RATE SCHEDULE IN ACCORDANCE WITH CHAPTER 205.0535(4) OF THE FLORIDA STATE STATUTES BY INCREASING THE RATE OF EACH CLASSIFICATION BY FIVE PERCENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Town Clerk Reinfeld read the ordinance by title. Mayor Venis advised that a public hearing would be held on June 21, 2000.

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

Councilmember Paul stated that some of the fees listed under horses may be exempt.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, to approve subject to the fees assessed against horses or any other item which pertained to use on a farm be exempted from the occupational license. 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)

9.3 REVISING/ESTABLISHING NEW OCCUPATIONAL LICENSE CLASSIFICATIONS - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN'S OCCUPATIONAL RATE SCHEDULE IN ACCORDANCE WITH CHAPTER 205 OF THE FLORIDA STATE STATUTES BY REVISING CLASSIFICATIONS AND ESTABLISHING NEW CLASSIFICATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Town Clerk Reinfeld read the ordinance by title. Mayor Venis advised that a public hearing would be held on June 21, 2000.

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

Vice-Mayor Weiner asked why real estate appraiser, a new category, was \$115.50 and if it was all that different from professional classifications with licenses, who paid \$228.50, or brokers listed in real estate, who paid \$121.27. Mr. Kutney did not know the history. Vice-Mayor Weiner felt that it would be better listed in the professional classifications if a license was required. Mr. Kutney stated that he would get the details if Council wished to table the schedule.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, to table this to the next meeting. Mayor Venis felt that it should just be approved. Vice-Mayor Weiner withdrew his motion. Councilmember Paul withdrew her second.

Vice-Mayor Weiner made a motion, seconded by Councilmember Paul, to approve after moving real estate appraiser, which was category 15603, to a more appropriate category of either 15100, 15101, 15102, or 15013. 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)

9.4 MODIFYING DISCHARGE LIMITS - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, MODIFYING THE ALLOWABLE DISCHARGE LIMITS FOR WASTEWATER WHICH WAS ADOPTED BY ORDINANCE 97-61; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Town Clerk Reinfeld read the ordinance by title. Mayor Venis advised that a public hearing would be held on June 21, 2000.

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

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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)

- 9.5 **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 RM-5, LOW MEDIUM DENSITY DWELLING DISTRICT, AND B-2, COMMUNITY BUSINESS DISTRICT, AND TO AMEND THE DECLARATION OF RESTRICTIONS; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 3-1-00, 5000 SW 82 Avenue)**

Town Clerk Reinfeld read the ordinance by title. Mayor Venis advised that a public hearing would be held on June 21, 2000.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were 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)

- 9.6 **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 CF, COMMUNITY FACILITIES DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 4-1-00, Alpha Baptist Church, 5230 Pine Island Road)**

Town Clerk Reinfeld read the ordinance by title. Mayor Venis advised that a public hearing would be held on June 21, 2000.

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

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, 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)

10. PUBLIC HEARINGS

Mayor Venis opened the public hearing portion of the meeting.

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Ordinances - Second and Final Reading

2000-18 **10.1A CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, PERTAINING TO THE RIDING OF EQUINE ANIMALS; PROVIDING FINDINGS; PROVIDING FOR AMENDMENTS TO CHAPTER 4, ARTICLE I OF THE CODE OF THE TOWN OF DAVIE, BY CREATING A NEW SECTION 4-5, ENTITLED "SAFETY HELMET REQUIRED FOR RIDING HORSES AND OTHER EQUINE ANIMALS"; REQUIRING THAT PERSONS UNDER SIXTEEN (16) YEARS OF AGE WEAR SAFETY HELMETS WHEN RIDING AN EQUINE ANIMAL IN DEFINED PUBLIC AREAS; CREATING PENALTIES FOR RIDERS THAT VIOLATE THE ORDINANCE, FOR PARENTS AND GUARDIANS OF PERSONS UNDER SIXTEEN (16) YEARS OF AGE FOR AUTHORIZING OR KNOWINGLY PERMITTING A VIOLATION OF THE ORDINANCE TO OCCUR AND FOR LESSORS OF EQUINE ANIMALS THAT KNOWINGLY RENT OR LEASE AN EQUINE ANIMAL TO BE RIDDEN BY A PERSON UNDER SIXTEEN (16) YEARS OF AGE UNLESS THE LESSOR HAS PROVIDED TO, OR OTHERWISE VERIFIES THAT THE RIDER HAS AND IS WEARING A SAFETY HELMET MEETING THE ORDINANCE'S SPECIFICATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from May 17, 2000)**

R-2000-137 **10.1B HELMET POLICY - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, EXPRESSING THE TOWN COUNCIL POLICY REGARDING SAFETY HELMETS FOR EQUESTRIAN PURPOSES; AND PROVIDING AN EFFECTIVE DATE.**

Town Clerk Reinfeld read the ordinance 10.1A by title. Mr. Middaugh stated that the resolution [item 10.1B] would establish the helmet issue as an educational policy, as opposed to the ordinance.

Councilmember Paul stated that she preferred education over punitive and would prefer a peer court over teen court as helmet offenders should not be considered with drug offenders and other types of misdemeanors. She stated that an ordinance could be passed after more details were worked out, but in the meantime the resolution would encourage all equestrians to wear a properly fitted helmet for safety. Councilmember Paul felt that education of children was best taught by example of their friends and family. She also suggested that the liability statute be posted at each trail head, that horse crossing signage be increased, and that an annual program relating to helmet safety for bikes, horses, and other sports be established.

Vice-Mayor Weiner felt that both could be approved as they were perfectly complimentary.

Mayor Venis asked if anyone wished to speak for or against this issue.

Joy Yoder, 12610 SW 13 Manor, stated that she surveyed many kids, some who already wore helmets, and 9 out of 10 said that they would not wear helmets if they were told they had to. She added that it made it even harder to enforce now that motorcyclists no longer had to wear helmets. Ms. Yoder expressed concern that all the success accomplished in getting kids to wear helmets would be nullified if these items were passed. Vice-Mayor Weiner stated that the motorcycle law dealt with adults aged 21 and older.

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Jason Curtis, 3801 Flamingo Road, stated that he was in the middle - on one hand it was not the thing to do at the rodeo, but on a trail ride, a horse could be spooked. He added that he was 29 and he wore a helmet. Mr. Curtis stated that he could see others' point of view, but would like to see it passed.

Shirley Munson, 2420 SW 88 Avenue, stated that she was in favor of child safety and asked if there would be exceptions for pony rides and rodeo participants, because if so, everyone had a right to ask for an exception. She cited the example of an old horse who would hardly walk being as safe as a pony. Vice-Mayor Weiner explained that the exception was not due to the pony, but due to the helmets not fitting or shared helmets causing lice. Ms. Munson felt this part of the ordinance was loose and difficult to enforce. She felt that education and safety was well-controlled by parents and guardians; therefore, the educational resolution was adequate.

Vice-Mayor Weiner felt that the ordinance should be passed at this time, then when the exemptions were worked out an amendment could be adopted. Councilmember Paul reiterated her suggestion that the resolution be passed first, with the ordinance following when the issues were worked out.

Councilmember Clark expressed concern that the exemption relating to show participants was addressed, but the exemption relating to pony rides was not. Vice-Mayor Weiner thought that Councilmember Paul, Ms. Yoder, or Ms. Munson would be providing the exemptions.

Councilmember Clark did not think kids who currently wore helmets would stop wearing them because of an ordinance. She added that if she caught her sons without their bike helmets, they did not get to ride their bikes. Councilmember Clark felt that the ordinance should be passed.

Vice-Mayor Weiner stated that he received an e-mail from Lisa Edmondson relating to bicycle helmet enforcement laws, and he understood that it was not the highest priority to police officers; however, the ordinance made a statement and was a good start.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, to approve items 10.1A and 10.1B. 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)

10.2 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**
2000-19 **CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE**
 TOWN OF DAVIE FROM A-1, AGRICULTURAL ESTATE DISTRICT
 (COUNTY), TO B-3, PLANNED BUSINESS CENTER DISTRICT, OF THE
 TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO
 COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND
 PROVIDING FOR AN EFFECTIVE DATE. (ZB 3-2-00, Synalovski Gutierrez
 Architects, Inc./Jaffe at 595, Inc., 10200 State Road 84)

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.

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Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, 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)

Resolution

10.3 **REVISING FEE SCHEDULE - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REVISING THE FEE SCHEDULE FOR DAVIE SELECT SOCCER PROGRAM FOR FY 1999/2000 AND APPROVING THE FEE INCREASE FROM \$75.00 FOR RESIDENTS OF DAVIE AND \$95.00 FOR RESIDENTS OF OTHER MUNICIPALITIES TO \$110.00 FOR RESIDENTS OF DAVIE AND \$150.00 FOR RESIDENTS OF OTHER MUNICIPALITIES.**

Town Clerk Reinfeld read the resolution by title.

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

Councilmember Cox asked if this was recommended by the sports council. Ms. Kent explained that parents, coaches, and assistant coaches wanted to expand the traveling program to continue it through the majority of the year, which would result in increased costs. She stated that some coaches and assistant coaches had volunteered as commissioners to choose uniforms, select teams to be played, etc. and they had agreed on this figure.

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)

Vacation/Abandonment

10.4 **VACATION/ABANDONMENT - VA 2-1-00, Danielle/U-Pull-It, McKenzie Tank Lines, Inc., Adler Development, Inc., Manchac's Paving, 4000 SW 47 Avenue (to vacate a portion of right-of-way known as SW 46 Avenue; approximately 2,000 feet in length) (tabled from May 17, 2000) Planning and Zoning Division recommended approval; Planning and Zoning Board recommended approval**

Mr. Katims summarized the planning report.

Larry Danielle, representing the petitioner, had no comments.

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 made a motion, seconded by Councilmember Cox, to approve subject to staff and Planning and Zoning Board recommendations. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - no; Councilmember Clark - yes; Councilmember Cox - no; Councilmember Paul - yes. (Motion carried 3-2)

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Quasi Judicial Hearings

10.5 **REZONING** - ZB 1-3-00, Zimmerman/Griffin-Orange North., 14501 Orange Drive (from A-1 to B-3) (tabled from April 5, 2000) *Planning and Zoning Division recommended approval subject to the planning report; Planning and Zoning Board recommended approval subject to the developer's agreement, the voluntary deed restrictions, and the conceptual master plan*

This item was discussed earlier in the meeting.

10.6 **REZONING** - ZB 1-4-00, Zimmerman/Seventy-Five East, Inc., 14901 Orange Drive (from A-1 to B-3) (tabled from April 5, 2000) *Planning and Zoning Division recommended approval subject to the planning report; Planning and Zoning Board recommended approval subject to the developer's agreement, the voluntary deed restrictions, and the conceptual master plan*

This item was discussed earlier in the meeting.

10.7 **VARIANCE** - V 4-1-00, Poggi, 11365 Earnest Boulevard (AG) (to construct an eight foot fence which exceeds the maximum six foot height permitted by Code) (tabled from May 17, 2000) *Planning and Zoning Division recommended denial; Planning and Zoning Board recommended approval subject to the voluntary declaration of restrictions offered by the applicant*

This item was discussed earlier in the meeting.

10.8 **VARIANCE** - V 4-2-00, Davie Builders L.L.C., 5230 Pine Island Road (A-1) (to reduce the minimum separation between houses of worship from 2,500 linear feet to 1,230 linear feet *Planning and Zoning Division recommended approval; Planning and Zoning Board recommended approval*

This item was discussed earlier in the meeting.

Items to be Tabled

10.9 **STAFF REQUESTING A TABLING TO JUNE 21, 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 AND CF, COMMUNITY FACILITIES DISTRICT, TO R-5, LOW MEDIUM DENSITY DWELLING DISTRICT, AND A-1, AGRICULTURAL DISTRICT TO CF, COMMUNITY FACILITIES DISTRICT, OF THE TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 7-1-99, Alpha Baptist Church, Inc., 5230 Pine Island Road) (tabled from April 5, 2000)

This item was tabled earlier in the meeting.

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10.10 STAFF REQUESTING A TABLING TO JULY 5, 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 April 18, 2000)

This item was withdrawn earlier in the meeting.

**10.11 PLANNING AND ZONING BOARD TABLED TO JUNE 28, 2000;
COUNCIL CAN TABLE TO JULY 5, 2000**

VARIANCE - V 5-1-00, Mellgren/AP Adler Oakes, Ltd., 4350 Oakes Road (M-1, County)

This item was tabled earlier in the meeting.

Mayor Venis stated that the public hearing was closed.

11. RECONSIDERATION OF VOTE

11.1 Davie Update (Councilmember Paul)

Councilmember Paul stated that she would like to reconsider action taken at the last meeting as she had received many calls from residents who liked how it was currently done, plus it was not fair to consider the issue without the Mayor being present.

Councilmember Paul made a motion, seconded by Vice-Mayor Weiner, to reconsider. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - no; Councilmember Clark - yes; Councilmember Cox - no; Councilmember Paul - yes. (Motion carried 3-2)

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, to keep the format the same. 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. APPOINTMENTS

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

Mayor Venis appointed Eric Erickson.

12.2 Site Plan Committee (one appointment - Councilmember Cox and Mayor Venis; terms expire June 2001) (members must be residents of the Town and, whenever possible, should be an architect, landscape architect and an urban planner or designer)

Councilmember Cox appointed Jim Aucamp. Mayor Venis reappointed Jeff Evans.

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12.3 Davie Water Advisory Board (exclusive appointment - Councilmember Clark; term expires December 2000)
Councilmember Clark deferred her appointment.

12.4 Education, Research and Training Authority (term expires September 30, 2000; appointment needs to be a citizen of the Town and should have an interest in promoting the education complex)

Vice-Mayor Weiner stated that he had received an extensive resume from Maria Shelton.

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

12.5 Florida Municipal Insurance Trust Nominations (term expires three years after appointment unless not re-elected)

Mayor Venis asked where the meetings took place. Ms. Reinfeld replied mostly in Tallahassee and some in Orlando. No one on Council was interested.

Vice-Mayor Weiner stated that he would like to add discussion regarding the continuation with the League of Cities to the next agenda.

Councilmember Paul stated that Cindy Osborne was resigning from the CRA and Mickey Maros was interested in being appointed.

Vice-Mayor Weiner stated that Mrs. McDaniel had advised him that Jean Messler resigned from the Open Space Advisory Committee and that he had someone in mind.

13. OLD BUSINESS

13.1 Agrarian Policy

This item was discussed earlier in the meeting.

13.2 Criteria for Town Donations to Organizations (Councilmember Paul)

This item was not discussed.

14. NEW BUSINESS

14.1 Waste Management (Vice-Mayor Weiner)

This item was not discussed.

14.2 Signage for Rodeo Grounds and Arena (Councilmember Paul)

This item was discussed earlier in the meeting.

14.3 Proposals on Aquaculture Facility

This item was not discussed.

14.4 Orange Drive and Shot Gun Road Trafficways Issue (Councilmember Paul)

This item was not discussed.

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14.5 Single Member Districts
This item was not discussed.

14.6 441 Corridor (Councilmember Cox)
This item was not discussed.

14.7 Schedule Special Meeting for Executive Session - Town of Davie vs. City of Sunrise, Case No. 98-018324 (14) - June 12, 2000 @ 4:30 p.m.

It was decided to schedule the meeting for 5:00 p.m.. Mr. Kiar stated that those present would include: himself, Joe Serota, Ivan Reich (if deemed allowed by Mr. Kiar), Council, Mr. Middaugh, Mitchell Bierman, and a court reporter. There was no objection.

15. ADJOURNMENT

There being no objections or further business, the meeting was adjourned at 2:08 a.m.

APPROVED _____

Mayor/Councilmember

Town Clerk