

**TOWN OF DAVIE
REGULAR MEETING
JUNE 1, 2005**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:02 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

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

3. OPEN PUBLIC MEETING

Mayor Truex advised of the rules for the Open Public Meeting.

Vice-Mayor Hubert spoke on behalf of resident, Ms. Butler, who urgently needed home renovations. She spoke of fundraisers being held and requested that fees be waived for use of the PAL facility. Vice-Mayor Hubert asked the Town to waive permit fees for the renovations. She referred to the plat described as "colored" and asked that this be changed to the "Freedom Plat."

Mayor Truex asked that the fee waiver issue be placed on the next meeting as a resolution. Councilmember Starkey stated that she would be honored to recognize some of Davie's founding families in Black History Month. Vice-Mayor Hubert agreed and spoke of the Ware sisters who were founding slave families who helped build Davie. She asked that the Town be lenient on Codes and fees related to the property.

Paulette Butler spoke of the need to use the gym and park facilities for fundraising efforts to help renovate her mother's home.

Councilmember Paul felt it would be a good idea to include the family's history and photographs at the Old Davie School Museum.

Shay Montgomery, a resident of Davie, spoke of her family's history in the Town and thanked Council for their efforts on behalf of her family.

Kevin Milan felt it was unfair that he had been cited by his homeowner's association for his marked police vehicle. He stated that his vehicle was classified as an emergency vehicle by Florida State Statutes. Mr. Milan asked for a legal ruling from the Town Attorney regarding classification of a police vehicle. He added that he provided assistance to Davie residents when needed and spoke of the ramifications of not having access to his vehicle.

Bobby Jenkins, president of the Miami Beach Fraternal Order of Police, felt it was absurd to classify the vehicle as a commercial vehicle.

Kathy Bouchy, a resident of Davie, was in favor of having police officers reside in her community. She did not see anything negative about Mr. Milan's police car being in his driveway.

Councilmember Paul advised that she had spoken to the family via email and felt the interpretation of the law was more important than the beneficial effects of a police car presence in the community. She stated that the homeowner's association was using the Town's Code as the basis for their actions, which drew the Council into the conflict. Councilmember Paul felt that before going forward with Code amendments, Council should seek a legal opinion as to the interpretation of the Code.

Councilmember Starkey felt the Town's Code and Florida Statutes left no gray areas. She stated this was an issue of an attorney misinterpreting the Florida Statute. Councilmember Starkey indicated that she had submitted a letter to Mr. Kiar and Mr. Milan's attorney. She added that a police officer's vehicle was "unequivocally not a commercial nor an institutional vehicle, but rather an emergency response vehicle." Councilmember Starkey did not believe it was ever any Council's intent to classify a police vehicle as anything other than an emergency response vehicle. She spoke of the benefits of a police vehicle's presence and of the critical need for access to these vehicles. Councilmember Starkey felt it was "ridiculous" to fine Mr. Milan the \$350. She indicated that there should be no question that

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“the Council’s intent of the ordinance as written should be for commercial descriptions as vehicles described in the Code by definition - not to include emergency response vehicles.” Councilmember Starkey felt the Town’s Code should be consistent with Florida Statutes on authorized emergency vehicles. She added that this applied to marked and unmarked vehicles and to county, state and federal vehicles.

Councilmember Crowley voiced his support for public safety personnel who kept their vehicles in their neighborhoods. He felt that if the Code was not clear, Council should make an amendment in support of the police officers.

Mr. Kiar cited Town Code, Section 12-03 and read the definition of a commercial vehicle. He stated that no business or institutional purpose was being provided by the Town with regard to police vehicles. Mr. Kiar read the definition of an institutional vehicle and stated that a police vehicle did not fit any of these definitions.

Mayor Truex felt that if a person lived in a homeowner’s association, he or she must abide by the rules, with the exception being public safety vehicles. He was in favor of drafting a resolution to memorialize Council’s view that a police vehicle was not a commercial vehicle. Mayor Truex was also in favor of amending the Town’s Code in this regard.

Councilmember Paul advised she had requested a legal opinion the previous day and stated that the opinion rendered by Mr. Kiar at this meeting addressed her concerns. She agreed that it was important to memorialize the Town’s position in a resolution or Code amendment. She advised of two cases filed against the Florida Highway Patrol vehicles, which they had won. Councilmember Paul felt it would be helpful to add these cases as backup for the resolution.

Councilmember Starkey had sent a letter airing her views on this issue. She asked if the Town could also draft a letter to the Mr. Kiar and to Mr. Milan stating its intent regarding the Code and to show support for law enforcement and emergency vehicles.

Barbara Tilley, 1941 SW 87 Avenue, spoke of the recent installation of valve caps which Sunrise had placed in the well. She advised that older pipes had contained asbestos and was concerned about where the asbestos went when the pipes were cut. Ms. Tilley felt this was another reason to push Sunrise for new water lines. She gave a brief update on recent efforts of the joint task force on child safety in response to the sexual predator ordinance.

John Ladue, 2961 SW 111 Terrace, spoke of the commercial vehicle ordinance and of a Town resident who was forced to move his vehicle. He spoke of ongoing problems he had with GL Homes and other Code compliance issues. Councilmember Starkey advised that the berm issue would be addressed and stated that the project had to be completed. She added that the Town had not signed off on the project yet. Mayor Truex invited Mr. Ladue to speak with him further on this.

Norm Blanco, representing the Davie PAL, thanked staff and Mr. Kovanes for their support at the golf tournament. He advised that the Miami Dolphins would hold a Dolphins Training Camp at Potter Park on June 16th between 6:00 p.m. and 8:00 p.m. Mr. Blanco spoke of a spaghetti dinner fundraiser to be held on June 5th at 4:30 p.m. He stated that tickets cost \$10 and advised that funds would go toward paying medical bills for a Town employee with cancer.

Karen Stenzel-Nowicki, 5480 SW 55 Avenue, thanked the Florida Legislature for taking recent action that added to the anti-hazing law for colleges and high schools.

Mayor Truex advised that the petitioner requested that item 4.22 be tabled to June 15, 2005.

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

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Mayor Truex advised that the petitioner requested that item 6.1 be tabled to June 15, 2005.

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

Mayor Truex advised that Mr. Kovanes requested that item 6.3 be tabled to June 15, 2005.

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

Mayor Truex advised that item 6.6 needed to be tabled to June 15, 2005.

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

Mayor Truex advised that item 6.7 needed to be tabled to June 15, 2005.

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

Councilmember Starkey asked for the reason for tabling both these items. Mr. Kovanes advised that he was awaiting clarification from Mr. Kiar regarding appropriate language.

Mayor Truex advised that items 4.27, 6.4 and 6.9 were requested to be tabled to July 6, 2005.

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

Councilmember Crowley requested moving up the discussion on Item 6.8. Mayor Truex indicated this item would be discussed after the Consent Agenda.

4. APPROVAL OF CONSENT AGENDA

Minutes

- 4.1. April 19, 2005 (Workshop Meeting) (tabled from May 18, 2005)
- 4.2. April 20, 2005 (Regular Meeting) (tabled from May 18, 2005)
- 4.3. April 28, 2005 (Workshop Meeting)

Home Occupational License

- 4.4. Mastersound Builders, 13381 SW 29 Court

Proclamation

- 4.5. George Anderson Day (June 4, 2005)

Resolutions

- R-2005-151 4.6. **AIRPORT EXPENSES - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, CONCERNING THE FORT LAUDERDALE/HOLLYWOOD AIRPORT EXPANSION; ESTABLISHING EXPENSES FOR THE PROPOSED AIRPORT EXPANSION; PROVIDING FOR THE TOWN TO PAY FOR ONE-THIRD OF THE EXPENSES ALONG WITH THE CITY OF HOLLYWOOD AND THE CITY OF DANIA BEACH.** (tabled from May 18, 2005)

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- 4.7. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE
R-2005-152 BID AWARDED BY THE CITY OF CORAL SPRINGS FOR DIESEL FUEL #2, LOW SULFUR, SOUTHEAST FLORIDA COOPERATIVE PURCHASING GROUP BID NO. 05-A-120F. (BV Oil Company, Inc)
- 4.8. **EMERGENCY PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE,
R-2005-153 FLORIDA, ACCEPTING THE EMERGENCY PURCHASE OF SERVICES TO REPAIR A DAMAGED SEWER LINE. (not budgeted - \$27,500)
- 4.9. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-154 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH MILLER LEGG FOR CIVIL ENGINEERING AND SURVEYING SERVICES.
- 4.10. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-155 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CALVIN GIORDANO & ASSOCIATES, INC. FOR CIVIL ENGINEERING, ENVIRONMENTAL ENGINEERING, AND CIVIL ENGINEERING INSPECTION SERVICES.
- 4.11. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-156 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRAVEN THOMPSON & ASSOCIATES, INC. FOR CIVIL ENGINEERING AND CIVIL ENGINEERING INSPECTION SERVICES.
- 4.12. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-157 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CHEN AND ASSOCIATES FOR ENVIRONMENTAL ENGINEERING SERVICES.
- 4.13. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-158 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH R. J. BEHAR & COMPANY, INC. FOR TRAFFIC ENGINEERING SERVICES.
- 4.14. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-159 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH C3TS FOR ENVIRONMENTAL ENGINEERING, TRAFFIC ENGINEERING, AND CIVIL ENGINEERING INSPECTION SERVICES.
- 4.15. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-160 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH STONER & ASSOCIATES, INC. FOR SURVEYING SERVICES.
- 4.16. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-161 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE CORRADINO GROUP FOR TRAFFIC ENGINEERING SERVICES.

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- 4.17. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-162 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH MCLAUGHLIN
ENGINEERING CO. FOR SURVEYING SERVICES.
- 4.18. **GRANT APPLICATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-163 AUTHORIZING THE APPLICATION FOR A \$100,000 GRANT FROM THE STATE
THOROUGHFARE BEAUTIFICATION GRANT PROGRAM; AND AUTHORIZING
ACCEPTANCE AND EXECUTION OF THE GRANT, IF AWARDED (WITH
\$100,000 IN MATCHING FUNDS).
- 4.19. **GRANT ACCEPTANCE** - A RESOLUTION OF THE TOWN OF DAVIE
R-2005-164 AUTHORIZING THE ACCEPTANCE AND EXECUTION OF A GRANT
CONTRACT WITH THE FLORIDA COMMUNITIES TRUST FOR THE
ACQUISITION OF THE SUNNY LAKE SITE.
- 4.20. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, AUTHORIZING THE
R-2005-165 MAYOR TO EXECUTE A CONTRACT WITH IBM AS A SOLE SOURCE
PROVIDER FOR MAINTENANCE SERVICES FOR VARIOUS IBM COMPUTER
SYSTEMS, PERIPHERAL EQUIPMENT AND SOFTWARE. (\$200,654.72)
- 4.21. **PARTICIPATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-166 ACKNOWLEDGING THE TOWN'S PARTICIPATION IN THE BROWARD
EVERGLADES PROTECTION INITIATIVE AND AUTHORIZING THE
IMPLEMENTATION OF THE TOWN'S EVERGLADES PROTECTION ACTION
PLAN AS DEVELOPED THROUGH PARTICIPATION IN THIS COLLABORATIVE
EFFORT AND PROVIDING FOR AN EFFECTIVE DATE. (not budgeted -
\$25,000/year for a two year program)
- 4.22. **DELEGATION REQUEST** - A RESOLUTION OF THE TOWN OF DAVIE,
FLORIDA, APPROVING A DELEGATION REQUEST TO CHANGE THE
RESTRICTIVE NOTE ON THE PLAT KNOWN AS THE "WOLF FAMILY PLAT,"
AND PROVIDING AN EFFECTIVE DATE. (DG 10-3-04, Lakeside Town Shops, 5700
University Drive)
- 4.23. **GRANT APPLICATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2005-167 AUTHORIZING THE APPLICATION FOR A \$113,766 GRANT FROM THE
FLORIDA DEPARTMENT OF TRANSPORTATION FOR ROADWAY
IMPROVEMENTS ON ORANGE DRIVE; AND AUTHORIZING ACCEPTANCE
AND EXECUTION OF THE GRANT, IF AWARDED (With \$71,280 Matching Funds).
- 4.24. **EAST-WEST TRANSIT ALTERNATIVE** - A RESOLUTION OF THE TOWN OF
DAVIE, FLORIDA, AFFIRMING THE TOWN'S POSITION REGARDING TRANSIT
ALTERNATIVES PROPOSED AS A RESULT OF THE FLORIDA DEPARTMENT
OF TRANSPORTATION'S CENTRAL BROWARD EAST-WEST TRANSIT
ANALYSIS AND PROVIDING FOR AN EFFECTIVE DATE.

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- 4.25. **EASEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**
R-2005-168 **ACCEPTING A CONSERVATION EASEMENT FROM MR. CLIFFORD H. MACBROOM AND MS. LUCILLE M. SOLANA.**

Quasi-Judicial Consent Agenda

- 4.26. SP 1-3-05, Pine Island Park, 3801 Pine Island Road (RS) (tabled from May 4, 2005) *Site Plan Committee recommended approval subject to the planning report*
- 4.27. SP 2-4-03, Oak Scholar Academy Charter School, 3655 Shotgun Road (AG) *Site Plan Committee recommended approval subject to compliance with the staff report and in addition 1) that the petitioner will install pavers in the four crosswalks of the 24-foot bypass drop-off area; 2) that the left-turn at the traffic circle be manually controlled by school staff during peak drop-off and pickup times; 3) that the sidewalk at the main entrance on the north side of the school shall be widened to an eight-foot clearance and move the decorative circles in order to achieve that widening; 4) that the petitioner agrees to prohibit cafeteria deliveries during peak drop-off and pickup times; 5) that a can wash will be installed by the dumpsters; 6) that the Queen Palms in the courtyard areas will be changed to double Alexandra Palms 18-to 20-feet tall; 7) that the Bald Cypress on the south property line will be changed to Live Oaks; 8) that the Sabal Palms at the northeast and southeast corners of the buss drop-off entrance area will be changed to heights of 16-to 30-foot overall; 9) maintain lighting at 3.0 at the main entrance and drop-off and pickup lanes; and 10) that there shall be a real bell in the bell tower.*

Councilmember Crowley requested that item 4.5 be pulled from the Consent agenda. Councilmember Starkey pulled items 4.6 and 4.25. Councilmember Paul pulled items 4.24 and 4.26. Vice-Mayor Hubert pulled item 4.8.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to approve the Consent Agenda minus items 4.5, 4.6, 4.8, 4.24, 4.25, and 4.26. In a voice vote, all voted in favor. (Motion carried 5-0)

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.5 Councilmember Crowley apologized that he would not be present at the dedication of the *George Anderson Walkway Bridge* on June 4th.

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

Mayor Truex read the proclamation declaring June 4, 2005 as George Anderson Day. Ms. Anderson accepted the proclamation and thanked Council and staff.

Councilmember Crowley announced that the Pioneer Dinner would be held June 4th at the Old Davie School and announced the dedication would be held at 4:00 p.m.

4.6 Councilmember Starkey spoke of additional legal expenses the Town was incurring with regard to the ongoing airport expansion issue.

Public Information Officer Braulio Rosa reviewed the history of the Town's involvement with the attorneys and consultants working on the Town's behalf. He spoke of billing for White and Case that needed to be addressed.

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Assistant Town Administrator Ken Cohen stated that the Town could pay based on Council allocating funding. He felt Council needed to decide whether or not it wanted to continue with the partnership. Councilmember Paul asked if there was a short version of the benefits received from the partnership. She also asked if the Town needed to continue retaining Brenda Chalifour and remain in the partnership. Mr. Cohen responded that this depended on Council's evaluation and decision. Councilmember Paul asked how mitigation efforts would be done. Mr. Rosa advised that the main way this could be answered was to allow them to finish Part 150 study of existing and future conditions.

Vice-Mayor Hubert felt the Town was not getting any "bang for the buck." Mayor Truex stated that this issue would affect every District and had the potential of displacing many. Mr. Cohen pointed out that necessary steps needed for deeper studies were only recently being addressed. Councilmember Starkey spoke of individuals who were very active in various meetings with the FAA or BCAD. Regarding mitigation, Councilmember Starkey advised she and Mr. Kovanes had met with Broward County Administrator Roger Desjarlais to ensure that the Town was considered. She felt the Town's dollars were well spent and summarized benefits of the Town's partnership thus far.

Councilmember Crowley made a motion to approve.

Councilmember Paul agreed with Councilmember Starkey's views and stated that she would vote in favor, under the condition of cutting back on Ms. Chalifour's service and utilizing that money differently.

Councilmember Starkey felt staff was not up to par on this issue and she would second the motion, to approve the resolution for White and Case payment, then to direct staff to negotiate another contract with Ms. Chalifour so that we can earmark more dollar amounts toward the future assessments and litigation and attorney fees regarding possible litigation of White and Case.

Councilmember Crowley agreed to add these conditions to his motion. Councilmember Starkey seconded the motion.

Vice-Mayor Hubert questioned the higher billing. Mr. Cohen advised that the higher bill was for more issues related to Concourse A and the Part 150 study.

Councilmember Paul asked about the timeline of the Part 150 Study. Mr. Rosa advised there was approximately a one-year period to complete. Councilmember Paul asked Mr. Kovanes what figure he would use for the budget as the costs kept escalating. Mr. Kovanes indicated he would use "a figure of 20% percent over what the Town currently spent in one fiscal year." In a voice vote, all voted in favor. (Motion carried 5-0)

4.8 Vice-Mayor Hubert was unsure if she could vote on this because of her relationship with the company. Mr. Kiar advised that this would not be a conflict.

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

4.24 Councilmember Paul wanted to clarify that Council's consensus reflected in the draft should state that "Council supported a traffic alternative that would incorporate a light rail transit on an elevated guideway for areas east of University Drive, in the center median of I-595 and bus rapid transit at grade in the center for areas west of University Drive."

Councilmember Starkey wanted Mr. Braun to have an opportunity to speak to Council at a later time. She spoke of recent discussions she had with FDOT where additional issues had been raised regarding potential bottlenecks and burdens at University Drive. Councilmember Paul advised that the consensus of the MPO was to use light rail for the whole system. She stated that it had been unclear to her what the consensus of Council was when the previous discussion was held. Councilmember Starkey

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did not like the resolution and felt the FDOT had to give a presentation and conduct further outreach efforts to the Town.

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

Councilmember Starkey made a motion, seconded by Mayor Truex, to invite Mr. Braun to come to the next Council meeting on June 15, 2005, to discuss what would happen to the options past University Drive and to discuss issues about the north side as well as the central. In a voice vote, with Councilmember Crowley dissenting, all voted in favor. (Motion carried 4-1)

4.25 Councilmember Starkey spoke of efforts on the conservation easement to connect Robbins Lodge to Orange Drive via an equestrian trail on the west side of the canal. She advised that staff and Mr. Kiar had worked diligently on this effort and advised that Mr. MacBroom and his wife had approved this for the Town. Councilmember Starkey referred to a boilerplate document that could be used for future agreements.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve.

Councilmember Paul referred to Section 8 on page 5, and asked what impact this would have bearing in mind that Orange Drive and Hiatus Road were off the trafficways that the Town agreed not to widen. Counsel Andre Parke felt that Mr. MacBroom's concern was government potentially requesting the easement as a right-of-way if he were to re-plat his property. Councilmember Paul questioned whether a governmental entity had the right to make a road across a conservation easement that an individual had into perpetuity. Mr. Parke advised that the Town would be the government agency in charge of that road.

Councilmember Paul referred to Section 14 and asked if the condition of perpetuity was negated by the language. Mr. Parke advised that Section 14 did not negate the agreement.

Councilmember Crowley wanted to include Exhibit B and C in the backup. Councilmember Crowley wanted to confirm whether the berm illustrated would be on the west side of the 40 feet. Public Works/Capital Projects Director Bruce Bernard advised that the berm would be 32-foot wide from the canal.

In a voice vote, all voted in favor. (Motion carried 5-0)

4.26 Mr. Kiar advised that since this matter concerned the Town, a hearing was not necessary.

Councilmember Paul recalled her previous concern about retention issues. Mr. Bernard advised that the retention area had been modified and lengthened. He advised that the building would be raised to the same elevation as the adjacent building. Councilmember Paul asked if this had the same architectural design as the multipurpose building. Mr. Bernard responded in the affirmative.

Councilmember Paul made a motion, seconded by Vice-Mayor Hubert, to approve.

Mr. Kiar asked if the applicant waived its rights to the quasi-judicial hearing. Mr. Bernard agreed to waive his rights.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, Mr. Kiar closed the public hearing and turned this portion of the meeting over to Council for disclosures.

Councilmember Starkey advised that she had spoken with staff and Mr. Kovanes.

Councilmember Crowley asked about the buildout on the site. Mr. Bernard advised that only recreational items could be added at this point.

Councilmember Starkey asked why a two-story building had not been considered. Mr. Kovanes advised that a two-story building would increase overall costs and programming needs.

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

6. PUBLIC HEARING

Ordinances - Second and Final Reading

6.1. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 8-1-04 REGENCY SQUARE, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM: PUD (BROWARD COUNTY); 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 8-1-04, Regency Square, Regency Square at Broward Joint Venture/C. William Laystrom Jr., 4900 SW 148 Avenue) *Planning and Zoning Board recommended approval subject to the condition of an eight-foot wall as requested by the residents and that the developer look at some kind of added landscaping* **{Approved on First Reading May 18, 2005 - all voted in favor}**

This item was tabled earlier in the meeting.

2005-11 6.2. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 9-2-04 SCARBOROUGH II, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM: CF, COMMUNITY FACILITIES DISTRICT; TO: B-2, COMMUNITY BUSINESS DISTRICT AND ALLOCATING COMMERCIAL FLEXIBILITY; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 9-2-04, Scarborough Land Development, Inc., 10650 State Road 84) *Planning and Zoning Board recommended approval* **{Approved on First Reading May 18, 2005 - all voted in favor}**

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing. As no one spoke, Mayor Truex closed the public hearing.

Councilmember Starkey made a motion, seconded by Vice-Mayor Hubert, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Hubert - yes; Councilmember Crowley - yes; Councilmember Paul - out of room; Councilmember Starkey - yes. (Motion carried 4-0)

Resolution

6.3. **CAPITAL PROJECTS** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ADOPTING THE 5-YEAR CAPITAL PROJECTS PROGRAM FOR THE TOWN OF DAVIE FOR FISCAL YEARS 2006-2010.

This item was tabled earlier in the meeting.

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Ordinances - First Reading (Second and Final Reading to be held June 15, 2005)

6.4. **VACATION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 12-1-03, VACATING A PORTION OF THE 15 FOOT RIGHT-OF-WAY LYING SOUTH OF TRACT 40 AS SHOWN ON "FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO.1", SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 12-1-03, Oak Scholar Academy Charter School, 3655 Shotgun Road) *Planning and Zoning Board recommended approval*

This item was tabled earlier in the meeting.

6.5. **FRANCHISE** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE TOWN OF DAVIE, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

Later in the meeting, Town Clerk Muniz read the ordinance by title. Mayor Truex announced there would be a public hearing on the ordinance at the June 15, 2005 meeting.

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

Vice-Mayor Hubert questioned what the end of the month cost would be. Ben Wesley, representing FP&L, advised that the cost would be \$2,000.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve.

Councilmember Starkey wanted to ensure there would be review and sign off from the Finance Director, the Town Administrator and Town Attorney, along with review of any concurrences by the directors involved. She wanted the financial impact to be reflected on the agenda report in the future.

Mr. Parke advised that that provision for severability would be removed from the miscellaneous provisions and in the title. Mayor Truex asked the reason for this. Mr. Parke advised that in this case, FP&L wanted "all the provisions interrelated and dependent on one another." He stated that this was not considered a substantial change to the language.

Councilmember Paul recalled that her last FP&L bill indicated a basic rate increase and asked when this would take place. Mr. Wesley believed this would be in 2006 but stated this was "still up in the air." Councilmember Paul encouraged people to attend the hearing on June 30th. Mr. Wesley advised that there had been substantial impacts from hurricanes and creating new infrastructure. Councilmember Paul confirmed that all new lines would be underground. Mr. Wesley believed that the Town had an underground ordinance and FP&L considered this good policy. He stated that retroactive conversion from overhead to underground was very difficult and very expensive.

Councilmember Starkey questioned whether grant programs through the State were being considered for communities that had significant power outages. Mr. Wesley stated that to his knowledge, the legislature did not address any grant programs.

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

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- 6.6. **PENSION AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE POLICE PENSION PLAN AS PROVIDED BY THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWN AND THE FRATERNAL ORDER OF POLICE, LODGE 100; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was tabled earlier in the meeting.

- 6.7. **PENSION AMENDMENT** - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE FIREFIGHTERS PENSION TRUST FUND TO CODIFY THE COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BETWEEN THE TOWN AND THE IAFF; AMENDING SECTION FOUR OF THE PLAN TO PROVIDE FOR INCREASED EMPLOYEE CONTRIBUTIONS; AMENDING SECTION SIX OF THE PLAN TO INCREASE THE NORMAL RETIREMENT BENEFIT; AMENDING SECTION SIX OF THE PLAN TO PROVIDE AS THE NORMAL FORM OF RETIREMENT BENEFIT FOR A MARRIED PARTICIPANT A 60 PERCENT JOINT AND SURVIVOR ANNUITY OR AN UNREDUCED TEN YEAR CERTAIN AND LIFE ANNUITY; AMENDING SECTION FOURTEEN OF THE PLAN TO INCREASE THE MAXIMUM PERIOD OF DROP PARTICIPATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was tabled earlier in the meeting.

- 6.8. **PENSION AMENDMENT** - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA; AMENDING THE RETIREMENT PLAN AND TRUST FOR THE MANAGEMENT AND GENERAL EMPLOYEES OF THE TOWN OF DAVIE; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Earlier in the meeting, Town Clerk Muniz read the ordinance by title. Mayor Truex announced that a public hearing would be held on this item at the June 15, 2005 meeting.

Mayor Truex opened the public hearing portion of the meeting

Judy Nesbitt, a Town employee, voiced her concern about the pension ordinance and asked how employees could receive different benefits when they were members of the same bargaining unit. She felt there would be unfair labor violations at issue. Ms. Nesbitt referred to Exhibit 4 of documentation submitted to Council. She pointed out that some employees getting the enhancement were no longer considered representative.

Chris Henshaw spoke of feelings of inequity among employees regarding benefits for management versus general employees. He spoke of the rising cost of living that affected all people.

Stephanie Silber, a Town employee, voiced her distaste on this issue and wanted to be offered the same benefits as other Town employees.

Mayor Truex closed the public hearing.

William Underwood, Budget and Finance Director and Chair of the Pension Board, spoke of the two options being brought before Council. He advised that the Board had met four times since May 1st, to provide Council with direction. Mr. Underwood spoke of two ordinances presented for Council to choose and explained that "the difference was that one plan provided a slight multiplier increase to both

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general and management employees with the balance of the funds, while the other plan provided a credit associated to employees based on years of service beginning October 1, 2003.” He spoke of a “\$2,800 shortfall for the first plan and of a \$52,000 shortfall for the second plan, which was dependent entirely on the number of employees who chose to purchase one year.”

Mayor Truex asked about attendance at the Pension Board meetings. Mr. Underwood advised that there were always people in attendance at the meetings.

Councilmember Crowley asked for an explanation on the differing benefits for employees. Mr. Kovanes stated it was difficult to decide what was fair on this issue due to different variables and because of the sizeable amount of money involved.

Vice-Mayor Hubert asked if the employees present were in the 401(K) Plan prior to the defined benefit change. Some attendees present responded in the affirmative. Mr. Underwood stated that to his recollection, the blue and white-collar employees had bargained away the defined benefit plan in 1993 and were currently in a 401(K) Plan.

Vice-Mayor Hubert asked if these employees could buy back their 401(K) like the other employees. Mr. Underwood stated this was a negotiated item that Council would rule upon. He added that there were individuals in the bargaining unit who were also in the plan. Vice-Mayor Hubert questioned this when employees had to be in one or the other. He advised that the employees were currently accruing benefits and credits in this retirement based on where they were at the time of the vote on the new union.

Mayor Truex asked about the make-up of the Pension Board. Mr. Underwood advised that the members were himself, Town Clerk Muniz, Grace Hall, John Phillips, and Mr. Kovanes. Mayor Truex asked how membership on the Board was determined. Mr. Underwood advised that general employees elected two representatives, management employees elected two representatives, and the Town Administrator made the final choice.

Ms. Nesbitt gave a chronology of negotiations according to her recollection of the options offered to general employees. She argued that the Town was treating represented employees as non-represented. Ms. Nesbitt questioned how represented employees could receive a benefit and not the other employees. She asked if the two ordinances could be wrapped together in favor of all employees.

Vice-Mayor Hubert asked if the general employees could cash in their 401(K)s to put them into the defined benefit plan. Mr. Underwood advised that the general employees were currently not in a defined benefit and were not eligible for a defined benefit. He advised that the original body defined did not include blue or white-collar employees at the time. Ms. Nesbitt felt unwelcome at the Pension Board meetings because she was represented. She requested that actuarial studies be conducted for the benefit of everyone.

Mr. Kovanes stated that initially, he had received numerous calls pertaining to conflicts with 5:00 p.m. meetings. Councilmember Crowley asked Mr. Kovanes to explain the urgency on this ordinance. Mr. Kovanes advised that the urgency stemmed from actuarial studies that would expire at the end of the month, which would create a hardship for the Town and for employees.

Ms. Hall spoke on behalf of 39 employees who were not part of the collective bargaining unit and who were adversely affected by the defined benefit change. She felt if this ordinance would be held up, then they would be more severely affected.

Councilmember Paul was in favor of moving forward with one option but was taken aback by the magnitude of the documents submitted by Ms. Nesbitt. Vice-Mayor Hubert asked for clarification on Ms. Nesbitt’s stance. Ms. Nesbitt reiterated her view that all benefits given to represented employees who were in the defined benefit plan should be given to all represented employees.

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Councilmember Paul was concerned that some of the discussion might go beyond what was allowed in public, outside of the contract negotiations. Mr. Kiar felt that special legal counsel should review this issue. He advised that Council had two options: 1) to table this item or 2) approve on first reading, followed up by legal counsel before the second reading.

Councilmember Crowley asked if employees could meet with Council separately to discuss this. Mr. Kiar deferred to legal counsel.

Councilmember Paul made a motion, seconded by Mayor Truex, to approve Option B. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Hubert - yes; Councilmember Crowley - no; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 4-1)

Ordinance - First Reading/Quasi Judicial Item (Second and Final Reading to be held June 15, 2005)

6.9. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-4-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM AG, 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 2-4-03, Oak Scholar of Broward, LLC, 3655 Shotgun Road) *Planning and Zoning Board recommended denial*

This item was tabled earlier in the meeting.

Quasi Judicial Items

6.10. **SPECIAL PERMIT** - SE 3-1-05, Horse Gate Equestrian Center/Alpha Baptist Church, 5235 SW 82 Avenue (CF) (permit for an equestrian center) *Planning & Zoning Board recommended approval with the stipulation for the setbacks and subject to all recommendations made by staff*

Earlier in the meeting, Mr. Kiar read the rules of evidence and swore in the witnesses.

Development Services Director Mark Kutney summarized the staff report.

Councilmember Paul questioned if there was a typo with reference to the "five feet" on page 16 of the backup. Ron Waggoner, representing the petitioner, indicated that this was a typographical error.

Mayor Truex asked if the applicant had held citizen participation meetings. Mr. Kutney responded in the affirmative. Councilmember Crowley asked if Council could set a timeline for the special permit. Mr. Kutney responded in the affirmative.

Mr. Kiar asked Mr. Waggoner if he agreed with staff's recommendations. Mr. Waggoner responded in the affirmative.

Councilmember Paul asked Mr. Kutney if the CF designation would change the issue of the 50-foot setback. Mr. Kutney responded in the negative.

Mr. Waggoner gave a brief PowerPoint presentation on the project. Vice-Mayor Hubert asked what agencies the organization was working with. Mr. Waggoner advised they were working with His House.

Councilmember Crowley voiced his support for the project. Councilmember Paul spoke of the *Best Management Practices for Equestrians* document and asked that these be observed.

Mr. Kiar opened the public hearing portion of the meeting.

Jennifer Quillen, 5790 Stirling Road, spoke of her personal experiences with her child who benefited from the organization's work.

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Mr. Kiar closed the public hearing and turned this portion of the meeting over to Council for disclosures.

Councilmember Paul advised that she had received several e-mails. Councilmember Starkey advised that she had received numerous e-mails and was in support of the project. Mayor Truex advised that he had received e-mails and had spoken with directors and staff at Horse Gate. Councilmember Crowley advised that he had received e-mails. Vice-Mayor Hubert advised she had received e-mails and wanted to see the group work with other agencies.

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

- 6.11. **VARIANCE** - V 10-1-04, Home Dynamics Corporation, 4621 SW 58 Avenue (R) (to reduce the minimum lot area from 35,000 square feet to 20,000 square feet) (tabled from May 4, 2005) *Planning & Zoning Board recommended approval*

Mr. Kiar read the rules of evidence and swore in the witnesses.

Mr. Kutney advised that staff had no additional comments and advised that the applicant had complied with Council's conditions requested at the previous discussion.

[The following discussion is a verbatim transcript of the meeting.]

Mr. Mele: Thank you. Dennis Mele on behalf of the applicant. I just have two graphics to show you real quick. The first one is the plan we presented to you last time just for point of reference - the master plan I just put on the screen - that shows the 98 lots that we presented last time, and if you look at your staff report...

Mr. Kiar swore in the witnesses.

Mr. Mele: This is the plan from last time. The staff report that you have tonight is the same staff report from last time. So if you'll just kind of keep this in mind - the first page of your staff report was a breakdown of the 98 lots as were originally presented and you see that breakdown showing that two lots were between 35 and 40,000 square feet, seven lots were between 30 and 35, six lots between 25 and 30 and 83 of the 98 lots were between 20,000 and 25,000. Now what you asked us to do at the last meeting was to modify this and bring it back, which we've done, and this is the new site plan I'm putting up now. Can you hear me okay? What you see now, as you recall at the last meeting we said that we would make the lots along the northern property line and the western property line 35,000 square feet, which we've done. And just for comparison with the old plan -- I don't know of any better way to do it than this, I apologize - if you look along the northern property line we used to have 9 lots, 10 lots really; now there are 6. Along the western property line, we used to have, looks like 7 lots; now there are 4. I'm sorry 5, with this corner. So those are all 35,000. All the rest of the lots are now a minimum of 25,000. Under the old plan there was a minimum of 20,000. You also asked us to keep the open space areas the same. Now you'll see we did a little bit of redistribution down here. But the open space areas are actually the same, or even a little larger, slightly larger than they were. But the one thing we did different, as you remember down here we had this track that bordered the FPL power easement. As we worked through this we saw that the real thing needed next to the FPL power easement was a pedestrian and bicycle access point but we actually thought the recreation parcel would be perhaps better for the interior of the site. So between all these various tracks here, versus the ones there, same size, just that one little change that I pointed out here, versus what we had before. All the exterior buffers are still the same, just like they were last time. The wetland track is the same, the lakes the same, just like last time. You might have very small changes, like I think the lake is one-hundredth of an acre plus or minus what it was before. But basically, the bottom line is 81 lots instead of 98, minimum lot size of 25,000 instead of 20,000 and

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all the lots along the two perimeters that border homes in the area are now 35,000 instead of the smaller number we had before. As I've been talking to neighbors, I've gotten a better reaction to the new plan than the old plan of course, because it is fewer units, and I wanted to just point out that all of the commitments we made last time that are in your record, we'll still keep. And the discussions about the road improvements of course. We're accessing both 58th and 52nd, as we said we're doing the necessary improvements on 52nd to connect it to the current road going out to Griffin. We will be building the portion of 58th adjacent to our property as we were requested to do, including the traffic calming measures we were requested to include. At one point, one of the neighbors said to me, "Gee, the plan looks a little better but isn't this a precedential thing? Should we be worried that if this variance is granted then that means people that are on the west side of 58th are going to say, 'Well, you've got to give us one too.'" And I just want to point out for the record that variances are on a case by case basis. That's why they're set up the way they are. And a variance on one piece does not create a precedent for a variance on another piece, particularly when there are distinguishing factors. And that's what a variance adaptation is all about, is showing those distinguishing factors, those hardships, those unique circumstances that exist here that may not exist on the other sites. And I think, when you look at the history of this property, and all the prior proposals for non-residential use, for higher density residential use, when you look at the direction we were given by the neighborhood when we started that two units an acre would be fine, then it wasn't fine; we lowered it to 1.6; that wasn't fine; we lowered it to 1.0 and now we're at, I guess, a little bit more than 0.8. We think that this plan will accomplish what everybody has asked us to do. We think we have the right buffers; we think we have the right lot sizes. I'll say it again - I know I said it a few weeks ago: when you look at the people in the room for this item, and even though it is late I don't think anybody's left - I think the same people are here now that were here at 7:00 - when you look at the number of people left on this item, we've obviously done a good job in satisfying our neighbors because most everyone is now satisfied and of course what happens when they're satisfied, usually they stay home. And I think that's largely true tonight as well. Other than that I'd be happy to answer any questions you may have. My client's here with me and the engineer's here with me if you have any technical questions. Thank you, and at the end of the public comment, I'd like the opportunity to respond as appropriate.

Mr. Kiar: Thank you Mr. Mele. Are there any questions of Mr. Mele? Councilmember Crowley?

Councilmember Crowley: Mr. Mele, good evening. One thing we did talk about - I can't remember which Councilmember brought it up at the last meeting - was the sound wall from the Turnpike. Did you address that?

Mr. Mele: No I haven't, but if you'd give me one second.

Councilmember Crowley: Go right ahead please.

Mr. Mele: Yes we will commit to do the wall.

Councilmember Crowley: And it will be consistent with whatever DOT's proposal is from the other houses to the north?

Mr. Mele: What we've indicated we will do, and I'll just repeat it for the record, is we will go to DOT, we'll find out what their design is and we'll incorporate it in with this property so it's consistent with whatever's going on around it.

Councilmember Crowley: Thank you.

Mr. Mele: So it looks the same as what's north and south and so on.

Councilmember Crowley: Same height.

Mr. Mele: Same height, design, features, materials, whatever the case may be.

Councilmember Crowley: Thank you.

Mr. Kiar: Are there any other questions of the applicant?

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Mayor Truex: I don't follow with the hardship here. I heard you say that but I don't understand what you're talking about. Wouldn't they be the same issues anywhere? Where you'd have to come in and ask for commercial first and then you can follow up with this and then you automatically have a hardship?

Mr. Mele: No, I didn't say that. But what I will say is, first, a number of issues, some of them I laid out fairly well in the analysis in the report; it's just to pick a couple of things that I think are important - we've got a fairly substantial wetland area here on this site that you don't have generally in areas of Davie like this, this far east, simply because most of those other areas have been heavily impacted over time. The reason why this site has such a good surviving wetland is because it's largely nursery and the nursery stock was kept out of that area and the area around it wasn't filled, it was kept at a low level so the wetland could survive, the water could stay there. So when you look at aerial photos of the site when you look at the neighborhood, you will find this rather substantial wetland is unique. Secondly, unlike smaller sites, I think 10 acres is the breakpoint, there have to be 15% lakes, we have to be 25; now we're certainly not the only ones that have to do 25 but because we're a bigger site, we have to have 25%. Also, I think the fact that we're now doing two entrances, rather than one, and most communities of this size -- in fact I can't think of any community of this size, built recently that has more than one entrance -- we have two, that requires not only losing some area available for development, but most importantly, substantial construction costs additionally to put in those entrances, and also to rebuild 58th adjacent to our property. Remember that 58th is one of those roads built on an old spoil pile from a canal, so it doesn't have the right sub grade and it doesn't have the right construction. Basically it's going to have to be totally ripped out and redone; that's what I've been advised by the various engineers involved. So I think a lot of these things are applicable. Also, again we showed this last time but I have aerial photos tonight if you'd like to see it again, when you look at the properties around us, most of the properties around us are at a higher density than we are, with smaller lot sizes than we are, smaller lot sizes than we were at when we were at 20,000 square feet much less the current 25. So I think you take a lot of those things into context and into account here and I believe we do satisfy the requirements.

Mr. Kiar: Thank you Mr. Mele. Any other questions Council? Vice-Mayor?

Vice-Mayor Hubert: I have a comment. I believe that they have bent over backwards to do everything we've asked and go beyond the call for this community. And I'd make a motion to approve this.

Mayor Truex: Can't do it yet.

Vice-Mayor Hubert: I'm saying, I would make a motion to approve it.

Mayor Truex: This is your district?

Vice-Mayor Hubert: Yes it is.

Mr. Kiar: This is still a public meeting though Councilmember Paul?

Councilmember Paul: I had addressed you on this issue last time. I'm going to bring it up again. And that was asking you to do 58th Avenue to continue it past the Berman Park Preserve as an additional 350 linear feet. I understand that one of the greatest costs in doing a project like this is getting the equipment and having it there. So you got the equipment and it's there. Would you do the additional 350 feet, because you're going to have a trail there - you need to continue it and...

Mr. Mele: Is that to the south?

Councilmember Paul: Yes.

Mr. Mele: So you're asking about the portion that's adjacent to the FPL easement and the portion that's adjacent to the park? Excuse me for one second please.

Councilmember Paul: Okay.

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Mr. Mele: I want to say this very carefully so that it makes the point correctly and I also don't say the wrong thing. But, if the variance is approved, we are willing to reconstruct the additional 350 feet that you've described, with the two lanes of asphalt, road rock and everything that goes with it. The only reason I gave a little bit of description is there's a couple of spots - or at least one spot, staff will correct me if I say it wrong - where we're putting in a traffic circle. I don't think anybody's asking for an additional traffic circle on the 350 feet, that's the only thing...but if the variance is approved, as we've shown it would, we will agree to build the additional 350 feet.

Mr. Kiar: Councilwoman?

Councilmember Starkey: To that, I noticed that around town in a few spots, you know how this road spills down - and that was the reason behind it, to provide a safer roadway for not just the residents that are moving in to Home Dynamics, but for those who travel it. One of the things that I've seen that looks like it's working to prevent that from eroding in the future is that right where the guard rail is, they have a curbing...the asphalt comes, and then all of a sudden you see a white curbing with the guard rail. It prevents it from spilling over and eroding with the water and so forth. It has little spill off and cutoffs in the area. There are a few places in town where I notice that we're doing that and it's actually working. Would that be something that we would do as part of the improvement to that area so we wouldn't have to continue to resurface? What would the improvement be?

Mr. Mele: I'll get one of our engineers up here in a minute, but I think one of the reasons that you sometimes find these roads that seem to be slipping into the canal is not the road itself, it's the base under the road. If you put asphalt on top of muck without the proper de-mucking of rock, eventually that road's going to start to cave in. So I don't know that we need this curbing because we're going to be redoing the rock and putting it in on a solid base. But let me get our engineer up because if we needed it we would obviously do it. I just don't know that we need it.

Councilmember Starkey: You know what I'm talking about? Because then it would have little cuts, and I've seen where they have the curb and little cuts that come in to allow the water to flow into the canal but it just doesn't erode underneath that and create that constant deterioration of the roadway.

Mike Gai: Mike Gai with SunTech Engineering. I'm familiar with what you're talking about. I think in this area what I think Central Broward Drainage requires to do is not to have the run off into the canal but actually go into the swale area that we'd have to be creating to the east before we could discharge into the canal.

Councilmember Starkey: But what would prevent it, because the sloping from the center point of the road right of way slopes down on both sides.

Mr. Gai: When we reconstruct the road we could have it slope in one direction, that's what would happen.

Councilmember Starkey: Okay.

Councilmember Crowley: ...construction standards today, we'd have to slope it away from the canal into a swale for pre-treatment before it discharges.

Mr. Mele: So Mike, you're saying we would be pitching the road toward the east, away from the canal not toward the west.

Mr. Gai: For the most part, this road is basically flat out there.

Councilmember Starkey: I mean what happens now is it's mounded then it's a road along the side.

Mr. Mele: I think what Mike's saying is once we put in the ...take out the muck, put in the proper sub grade and pitch the road to the east, it should work just fine. But we'll review it with your engineers and if there's some mechanism that's needed to hold it in place, we don't want to spend all the money to rebuild this road only to have it fall apart.

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Councilmember Starkey: Exactly. And that's one of the things I don't know if you have seen where you could put that curbing even still, just so it kind of maintains the integrity of the road, from preventing it, because it's such a narrow road to begin with - with very little separation between the road and the guard rail and the canal. And if it approves Central Broward, if they put that curbing, I don't know if that would work or not.

Mr. Mele: If that's what would be needed to solve the problem, we'll do it. What I don't want to do is try to design a road here as we speak and...when we've got all the engineers around...we understand the issues and we'll make sure...

Councilmember Starkey: I wanted to know if that would be part of whatever your improvements are to prevent that erosion.

Mr. Mele: The way we're going to design it, we think we can stop the erosion without the curb, but if we need the curb, we'll do the curb.

Mr. Kiar: Yes please, Councilmember Paul.

Councilmember Paul: I don't want to leave anything out there for interpretation. When you do that additional 350 linear feet to improve the road -- that also includes continuing the trail?

Mr. Mele: Yes. The section for the 350 feet will be just like the section to the north except for the traffic circle which is only in the part to the north. Everything else will be the same.

Councilmember Paul. Okay. I have one other question. You're getting warmer. There are certain things that are in the...

Mr. Mele: Councilmember Paul can I just interrupt for a second? My client is reminding me that on our site, we've checked to make sure there's enough right-of-way for the road and the trail because we're dedicating it if there isn't enough. South of us, we have to check and make sure the right-of-way is there because we can't dedicate it, because we don't own it. So he was pointing out, is all the trail and everything will be there as long as there's enough right-of-way to put it in.

Councilmember Paul: I'm sure there will be.

Mr. Mele: Okay. I just wanted to point that out.

Councilmember Paul: We've been working with FPL in relationship to trails.

Mr. Mele: And the park you guys own right?

Councilmember Paul: Right.

Mr. Mele: If we need to talk to FPL, I'm sure we can work together on doing that.

Councilmember Paul: Other question, and I don't know if this came up at the last meeting or not, involving the open space, looking at that...What I would like to do is to make sure that those open space pieces are protected from all forms of development. That the open space be set aside through a conveyance that can't be revoked.

Mr. Mele: Can I make a suggestion?

Councilmember Paul: Yes.

Mr. Mele: I believe in the staff report it indicates that if the variance is granted it's based on this site plan and that when the site plan comes back, it's got to look like this. Secondly, we will be creating a Homeowners Association for this property and these common areas will be deeded to the Homeowners Association. We will be happy to put provisions in the Homeowners Association documents that say that these areas have to remain as open space. We'd be happy to have your legal counsel review those documents and make sure that they're sufficient. What we usually do in a situation like this where you asked for the condition, we indicate that that provision of the Homeowner's Association documents cannot be amended unless approved by the Town. So what we would put in there is a provision preserving it as a park, deeding it to the homeowner's association, preserving it as a park, and also

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providing that the homeowner's association declaration could not be amended, that portion could not be amended without your approval. So that way it's open space in perpetuity.

Councilmember Paul: Okay. That will do.

Mr. Mele: Alejandro wanted to make sure that in open space like this you could put a tot lot or a play structure...you just don't want to build houses?

Councilmember Paul: I'm talking about no more houses. I don't want, you know, 10 years for them to decide to put more houses.

Mayor Truex: Or other amenities - you wouldn't want...

Councilmember Paul: Oh, amenities, recreational is fine.

Mayor Truex: No, not buildings, like you can't have a clubhouse.

Councilmember Paul: No clubhouse, no homes...

Mr. Mele: You don't want a clubhouse either? I don't care, I just want to make sure I understand...

Councilmember Paul: No buildings.

Mr. Mele: No buildings. Okay, no problem.

Councilmember Paul: And is the wetland also turned over to the homeowners association?

Mr. Mele: Actually, the wetland yes. The ownership will be turned over to the homeowners association and it will also be covered by conservation easement which I know you discussed earlier tonight.

Councilmember Paul: So that would preclude that from any future development which is fine.

Mayor Truex: That's maintained by the homeowners association?

Mr. Mele: The first 5 years, monitoring and maintaining is the responsibility of the people that put it together but eventually yes, it is all turned over to the Homeowners Association as common property.

Mayor Truex: But not the Town?

Mr. Mele: No, not the Town. I mean, if you want it, but I don't think you want it.

Councilmember Paul: No, that's fine, as long as it's being maintained by the homeowners.

Mr. Mele: It will be.

Mr. Kiar: Are there any other questions of Mr. Mele? All right, at this point, this is a public hearing. There are a number of nice folks out there who have raised their hands. I think they're all pretty much in the same row. So if you all would come on up. Anybody who wants to speak for or against? Would you please give your name and address?

Miriam Grossman: Miriam Grossman, 4710 SW 57 Avenue. Well after last month's meeting I had written out some thoughts against compromise which I didn't feel was warranted in this case, but I'm very impressed with your site plan on board and although it will be a hard adjustment going down 58th and looking at 81 homes rather than to trees and plants, my main concern is I guess right now the 66 variances that you might issue and what will happen to the rest of the green space. Will it set a precedent? I mean, you will have to be very, very careful with what's left and scrutinize what a developer wants to do. I'd hold them to it. Thank you.

Mr. Kiar: Thank you Ms. Grossman. Anyone else?

Rebecca Miele: Hello, good evening. Rebecca Miele 5251 SW 49 Street. I'd like to remind the Town Council that this is an open space overlay - this portion of land that we're discussing. And three-fifths of this Town Council voted that overlay. It was their decision that this was the best thing to keep this property this way for the Town of Davie. With that being said Mrs. Hubert, I'd like to remind you that they're not bending over backward, they are doing what is required for them to do in order to change things to get what they want. Because of the Town Council that we have being so dedicated to preserving Davie, and keeping it so that it's not overcrowded, I think that we can trust your opinion on the way that

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you vote, that the vote that you make will be the best thing for the residents in District 1. With that being said, I had to leave the last meeting, I wasn't able to attend the rest of it and it's my understanding that the Council gave Home Dynamics guidelines to stick to in order to make a compromise of this area. That is to be, or is right now, currently, open space area. With that in mind, we are trusting that you'll make the right decision for the residents. That being said, on a personal level, the plan they have is a very nice plan. I have seen other plans at one unit per acre and they're not as nice as this plan is currently. Keeping that it will be the plan that they use, and they're making no changes to this plan other than what the Town Council sees fit for that to be, my personal opinion is that it's a very good plan and just keep that in mind and keep the open space in mind when you make your vote and we do trust that you're going to make the right vote that's right for the citizens of Davie. I also just want to take a minute to congratulate you all by sticking by your guns, not letting developers come in and just run everything the way they want things to go. I'm sure that a lot of other places would have given in for other reasons, but it's a pretty good compromise, it's a beautiful site plan, other than it being an open space area that the citizens of the Town of Davie voted to keep in District 1, other than that, this is a very good compromise.

Mr. Kiar: Thank you Ms. Miele. Anyone else that would like to speak?

Betty O'Connor: Hi. Betty O'Connor, 5280 SW 48 Street. I had a whole 2-page paper planned out for tonight. We did get to look at the site plan before you all just got to see it. It is very nice. My concern is that this will set a precedent. Even though they look at it individually, the next parcel land that's just to the other side, they'll look at that and say, "Well they got to go this much on this piece of property." And that's what we've been up here all along trying to fight - is keeping it R-1, one house per acre, not just for the site, but for the remaining ones that are...the few that are left that are R-1. We need to cherish what we have and you know, saying that, yes this is beautiful, it does look better than their site plan that they have at Sierra Ranches - that it is one house per acre - it's much nicer looking. But it still will set a precedent. But if you think that that's okay to do that, then that's obviously how you should vote and we'll abide by it and be happy with it. Understand that I'm on 2 acres and I may be coming to you for a variance because now I want more than 2 houses when we go to sell our property -- 2 houses that we're allowed. And this is something we fought all along and now I feel like if this is passed, then I can come to you in good conscience and ask for more houses being allowed on my little parcel. Okay and thank you so much. They've come a long way, Home Dynamics has come a long way because of all of you that stood up to them and said, "188 homes weren't good, 166 homes weren't good." This is a wonderful site and it's half of what they asked for. Thanks so much.

Mr. Kiar: Thank you. Is there anyone else that would like to speak? Ms. Nowicki.

Ms. Stenzel-Nowicki: Good evening. Karen Stenzel-Nowicki, 5480 SW 55 Avenue. So many issues, so many times the residents on SW 58 Avenue have come before the Davie Town Council in 13 years. So many times, I didn't even have to write a speech this time nor am I going to read something that was written in legal language prepared by someone else. You are all familiar with that legal language used to determine your decision this evening. There are fewer of us here tonight. Mr. and Mrs. Flaherty have gone before us, passed away. They were very, very committed advocates who lived directly across the street from this area in question. Mrs. Kaplan came home at a quarter to six this evening from the hospital from her biopsy procedure and healthwise could not be here although she wanted to. We have all stood shoulder to shoulder over these many years to protect our sense of place in this community we call home. It would be wonderful to have a perfect decision making process. This however is not Shangri-La. Some of you - 98 homes on 98 acres is acceptable. Some may want 57 homes on 57 buildable acres. There may be a few who want to see the open space design utilized. And then there may be some who want affordable housing and a commercial corporate park. Whatever our desires, whatever our hopes, all of us have nobly stood for what we believe is to be right. Well, it isn't a matter of right or wrong. It is

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time to put 58th Avenue to rest on behalf of our community. So many of us, so many of us have asked for that. We would like to see this done before we put any more of our residents to rest. Let's do the right thing this evening so that a few of us may see the fruits of our labors and be able to enjoy it in our lifetime. I have given it my all and it is time to take a rest. Thank you.

Mr. Kiar: Thank you. Is there anyone else who would like to speak? Seeing none, I'll close the public hearing portion of the meeting and at this point I'll turn this matter back over to the Council for disclosures and deliberations.

Mayor Truex: Okay, disclosures.

Councilmember Paul: How long has this been going on? I think it's the same disclosures that we made the last few times. I don't think anybody's different.

Councilmember Starkey: The same disclosures. I've spoken to many of the residents as well as the applicant about this issue. And, Ms. Nowicki, thank you for mentioning my new friends, Irma and Jack. They've been friends for many, many years, and in all conscience, I know this is something they would support. I've been friends with their family for years.

Mayor Truex: The only disclosure I had additionally is I got, I think it's the same site plan shown tonight and I talked to Mr. Mele since the last meeting. Mr. Crowley?

Councilmember Crowley: A couple e-mails from the residents and of course the applicants.

Mayor Truex: Okay, discussion. Mrs. Starkey?

Vice-Mayor Hubert: Okay, last time we sat here, we told them what we wanted and they did what we wanted. Tonight they came and we asked for 350 additional "road", which we didn't ask for two weeks ago.

Councilmember Paul: Yes I did, I asked for it.

Vice-Mayor Hubert: I don't remember the road. And we asked for the sound wall and they're willing to do that. And she doesn't think they bent over backwards and I think they have, because most developments it's one road in, one road out. They're doing two roads.

Resident: It's zoned overlay

Mayor Truex: No shouting in back.

Vice-Mayor Hubert: I still think that they've gone beyond and I really like the way the [inaudible] looks. And I think they're going to be great neighbors there.

Mayor Truex: Okay.

Councilmember Crowley: Is that your motion?

Vice-Mayor Hubert: I'm just saying. I'm just talking. I just think they will be great neighbors

Councilmember Starkey: Typically, I constantly supported the one unit per acre that would allow for housing for the house - the equestrian community to vividly support that. This project at this point however shows those unique wetlands that honestly I don't see any other way to benefit those unique wetlands. I do see that the minimum lot size which I was getting heartburn over which was the 20,000 square feet has been raised, and I see that the majority of the lots around there have created that open space feeling. Over time I've come to love it. I don't know if that's, as one resident said, "they've beaten us down," I don't know whether that's the case or whether it's actually, we are creating something beautiful and unique in District 1. And around the surrounding communities, something we can be proud of. Just remember, when construction begins, it's painful. We will have to put up with a lot, and noise and trucks and traffic. And that comes with what you've supported as residents. It's going to be difficult; keep the communication open. Talk to the engineers and Development Services constantly. But, with this, I think we finally have gotten a beautiful project that the community overall hasn't been beaten down on. I actually think they really enjoy this project and it'll be an enhancement to their community and less traffic overall. And I would support it.

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Mayor Truex: Okay, anybody else? Mrs. Paul?

Councilmember Paul: I think that going back and after we talked about the yield plan at the last meeting, the 81 homes fits better than what the yield plan should have been. With some of the things that I brought up as far as open space, those are basically the same requirements that are in the overlay district. I too have a concern about the issue of the variances and as part of this, if we move forward, we have to be assured, and I think this came up at the last meeting, that there will not be any more variances, there'll be no changes in houses, because, usually, if you get a variance on this for the lot size, then you're going to come back later on and ask for variances to fit. And I just wanted to reiterate. You didn't state at the last meeting that there would be no variance, period.

Mr. Mele: Dennis Mele on behalf of the applicant. The only variances are the ones that are on your agenda tonight.

Mr. Kiar: And the site plan is exactly as what's been presented.

Mr. Mele: Yes. Obviously we still have to go through the remainder of the site plan process. If they asked us to change something, we'll change it, but other than that, we'll present the plan we showed you.

Mr. Kiar: Thank you Mr. Mele.

Councilmember Paul: So, you know, a year when you come back, or a resident wants to add something and it's going to change, there has to in the Homeowners document as well. Because you know, the homeowner comes in at some future time, and wants to put an addition on the house and needs a variance, they're not going to be able to do that.

Mayor Truex: No, they're going to be granted.

Councilmember Paul: You think so?

Mayor Truex: Of course.

Councilmember Paul: Is there going to be a statement in the homeowner's document that there will be agreement included - no future variances?

Mr. Mele: If you like, we'll add a statement to the homeowner's document that we made a commitment for no more variances and that that runs with the land and binds the people who buy.

Mayor Truex: That's not enforceable though. They can always come in and ask for a variance.

Councilmember Paul: Well...

[Council voices]

Mr. Mele: We had this discussion before...All we can do is give the necessary notice of what we've committed to do. So when they do come in, if you want, we can say to them, "Hey, you bought. You knew this was the rule."

Mayor Truex: You can always say no but they'll say it's a hardship.

Councilmember Starkey: Well in addition, it should also have like it does in most homeowners' documents that they have to have homeowners' approval, which means if the documents say no, chances are it won't.

Mr. Mele: Remember what I indicated, I think it was the last time, when Councilmember Paul asked me this is that we would put the language in the homeowners documents and we would let them know what the commitment was and also, that language, like the other language we talked about earlier, would be reviewed by your attorney, and that they would make sure to set it the way that we told you we would do it. And I know that anyone can come in and ask you for any application that you have in your list of applications - variances - site plans, rezonings, whatever. You've told us that you want us to set up a system that they won't get here. However if they do get here, it won't be very easy. They will always be the case, for any matter that comes in front of the Town Council, the buck rests with you. And I think you trust yourselves. I think the people here trust you too.

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Councilmember Paul. Okay. You know, I can appreciate everybody's comments about, "We'd much rather see it as open space." I think everybody would as well, but we have to wrestle every time that we do something with the fact that a property owner has the right to sell their property and the developer has the right to develop it as long as they stay within the Code. Obviously they couldn't stay within the code, so they asked for variances. We've been going through this a long time. I think we've come a long way. I would prefer to have stayed with the one home per acre, but under the circumstances, I think that this is a good compromise. We got them to add a sound wall. We got them to run the road improvements further to the south. And you know, when I was thinking about this personally, I remember that it was refused when I asked the last time. And that was my deciding factor. I said, "if they refuse to do that road to the south, I'm not going to vote for it," because I think that's a good addition to this, to give them the variances to have them make further improvements on the road. So, I would imagine that I'm going to support this.

Mayor Truex: Okay are you finished?

Councilmember Paul: Yes.

Mayor Truex: Okay. I'll do the easy math so I don't take too long. But I'm definitely going to vote against it again. First of all, it's the wrong procedure. What ought to be done is, they don't want to follow the code, then we should change the code if we don't like it. I don't care for this one variance to change basically the whole setbacks. It's not quite as bad as the E-zoning we used to have but I don't go along with this stuff about balancing, you know, you've got lakes and stuff, so you take away lot sizes other places. The increased density I definitely do not agree with. It's been a while since we've had a drought but when we have the next drought, here's my prediction. We'll be sorry that we have as many new residents as we do in the whole county and it's like that thing we discussed earlier with the airport and the county incrementally has done a lot of damage to the environment bit by bit by bit. And it's a few more houses here and there but it does add up. As far as the precedent, that is probably the number one biggest thing with me and I'm glad Mr. Mele went through all those supposed hardships. I respect Mr. Mele, but he's definitely 100% wrong with all these, with all due respect, as far as...you know I always found it fascinating before I was elected to anything, when I sat out in the audience and there'd be these alleged hardships. But these plots of land - they do not drop out of the sky. People buy them and know what they are. And this thing about the supposed hardship of the wetlands -- it was wetlands when they bought it. They knew about it. They knew what they were buying. This thing about two entrances -- I mean, that's the way they designed it. Not everybody in the area would tell you that two entrances are even a good thing. As far as rebuilding 58th Avenue, more likely anybody along 58th Avenue, the shape that's in, we're going to demand that they do it. And more than likely, I know it's going to be a brute, but if it wasn't, and we made them stick and build the lot sizes and the setbacks that the code requires, we'd also make them do those improvements on 58th Avenue. Definitely, it definitely, definitely, 100% is going to make it easier, I don't care what anybody says about these variances don't have value as a precedent, the next - be it 61st Avenue, 58th Avenue, the next one that comes along, it's definitely going to be pointed out that, "Well, you let them do it, why don't you let us do it?" And the fact of the matter is, we're not holding out, but if we did hold out and said, "You must build to code," I'm quite certain they or someone else would build to code. I know some people were frightened about commercial. I'm glad the one resident didn't refer to it as industrial again. It was never proposed industrial but if anybody came back with commercial, I would do everything I could to steer them away from that concept at this point. But you know, I can see it will be approved and all things considered, I'd rather be punched in the stomach than have a stick in the eyes, so it is better than what we could have had, but I'm not giving in still, so it would be one vote against it anyway. Anybody else? You want to vote out? Go ahead Mr. Crowley.

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Councilmember Crowley: You want to vote out right now - we need a motion, right? It's just since I didn't say anything, I voiced my support at the last meeting. They came back with the plan that they presented tonight and even exceeded that through the comments of the other Councilmembers. History will show you, every time this project has been denied, there's always been a proposal for a commercial development coming in there. Every time. If you look at it, it's been twice already proposed commercial. And I think commercial is a bigger water use than if it was residential. They use more water so if you're concerned about droughts or water use, that commercial industrial site they proposed...

Mayor Truex: Don't say industrial.

Councilmember Crowley: They would have used more water than these residents coming in that's proposed. So I know that for a fact. Once again, I do support the project. As far as the motion, so many stipulations, I think, do we have anything? Did anybody write them down so we make sure we don't miss anything?

Vice-Mayor Hubert: Sound wall, 350 additional feet...

Councilmember Crowley: Why don't you go ahead and motion since you have it? It's your district.

Councilmember Paul: Excuse me. When we make the motion, something that we have adding to them is to make sure that it's recorded appropriately - all the additions and everything - or is that going to be, 'cause that's not considered the site plan? You're going to be coming in with the site plan right?

Mr. Mele: Yes, what I had thought you would do was to have a list of the conditions - a couple of them require special documents, like we talked about with the Homeowners' Association documents. I think the rest of them would be conditions you would enumerate here. When the site plan comes in, your staff would check the site plan to make sure it matches the conditions.

Mayor Truex: Well, regardless of the motion, anything you verbally made at the meeting you committed to do that.

Mr. Mele: Oh absolutely. If you want to enumerate it, fine. If you don't want to rely on the transcript, I will give them back to you.

Councilmember Paul: In that case, when the minutes are done, would you do a verbatim, and to make sure that every one of the things that we've stipulated including the issues that I did on the open space, on the sound wall, on the no variances in the homeowners' documents, the road...

Vice-Mayor Hubert: And you did agree to a tot park?

Councilmember Paul: What?

Vice-Mayor Hubert: You did agree to a tot park in there? On your open space, they can put a little playground...

Councilmember Paul: No, no buildings on the open space.

Vice-Mayor Hubert: So they can't have a tot park.

Councilmember Paul: Well, that was one of things I had indicated on the open space is that it's protected from all forms of development and that's in perpetuity, goes with the land.

Mayor Truex: And it's subject to this site plan; I think that's one of the things as well, is that right, Mr. Mele?

Mr. Mele: That's correct.

Mayor Truex: Okay, did you want...

Vice-Mayor Hubert: Make a motion to approve, with the verbatim, we'll do it from the tapes, everyone gets a copy of it, all those stipulations that we agreed to.

Mayor Truex: Okay, is there a second?

Councilmember Crowley: Second.

Mayor Truex: Okay, roll call vote.

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Town Clerk Muniz: Councilmember Crowley - yes. Councilmember Paul - yes; Councilmember Starkey - yes; Vice-Mayor Hubert - yes; Mayor Truex - no.

Town Clerk Muniz: Motion passes. (4-1)

Councilmember Starkey: I just want to thank the mayor for standing and I do believe that that was, and hopefully we'll never let this one happen, but I do believe that this is the best with the wetland considered. And I think you made the right choice too, but there, no difference here.

Councilmember Paul: I'd also like to make a comment. It's nice that you like to stick to the law.

Mayor Truex: I always do, in every case.

Councilmember Paul: No you don't.

Mayor Truex: I never want to violate the law.

Councilmember Paul: I remember when you first became mayor, there was a very big issue in which the Code was not adhered to.

Mayor Truex: No, I don't think so.

Councilmember Paul: You know what I'm talking about.

Resident: We're proud of you, Tom.

Councilmember Starkey: I am too, even though I voted this way.

Mayor Truex: You know what, it's just a difference of opinion. So that's that.

[End of verbatim record]

6.12. **VARIANCE** - V 2-4-05, Ashley Furniture/Advance Business Associates 3, 15451 Sheridan Street (PUD-5, Broward County) (to increase the maximum total sign area from 150 square feet to 1,208 for several signs) *Planning and Zoning Board recommended approval*

Earlier in the meeting, Mr. Kiar read the rules of evidence and swore in the witnesses.

Deputy Planning and Zoning Manager Marcie Nolan summarized the variance request.

Keith Canning, representing the petition, stated that the 1,039 feet would be satisfactory. He explained the request and commended staff for their efforts.

Councilmember Paul questioned the need for two signs close together on the west elevation. Mr. Canning explained that the signage was geared toward building brand recognition.

Mayor Truex asked if the variance request applied only to the signs illustrated. Ms. Nolan advised that the request was specific to the attached exhibit.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, Mr. Kiar closed the public hearing and turned the meeting over to Council for disclosures.

Council had no disclosures. Councilmember Starkey voiced her support for the project.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve.

Mayor Truex asked the applicant whether the variance was only for the signs as shown. Mr. Canning responded in the affirmative. Councilmember Paul asked if there were any freestanding signs approved with any site plans. Mr. Canning responded in the negative.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Hubert - yes; Councilmember Crowley - yes; Councilmember Paul - no; Councilmember Starkey - yes. (Motion carried 4-1)

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7. APPOINTMENTS

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

No appointment was made.

7.2. Child Safety Board (one exclusive appointment - Mayor Truex; term expires April 2006) (whenever possible, members shall have interest and expertise in law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood)

Mayor Truex appointed Mike Holderfield.

7.3. School Advisory Board (one exclusive appointment - Vice-Mayor Hubert; terms expire April 2006) (insofar as possible, members are to have experience in educational matters)

No appointment was made.

7.4. Senior Citizen Advisory Committee (two exclusive appointments - Vice-Mayor Hubert; terms expire April 2006) (members shall be a minimum 60 years of age)

No appointments were made.

7.5. Site Plan Committee (one exclusive appointment per Councilmember; terms expire June 2006) (members must be residents of the Town and, whenever possible, should be an architect, landscape architect and an urban planner or designer)

Councilmember Crowley appointed Jim Aucamp, Jr. Councilmember Paul appointed Julie Aiken. Vice-Mayor Hubert appointed Sam Engel, Jr. Mayor Truex appointed Jeff Evans. Councilmember Starkey appointed Robert Breslau.

7.6. Water and Environmental Advisory Board (one exclusive appointment - Mayor Truex; terms expire April 2006) (insofar as possible, one member shall be a licensed engineer)

No appointment was made.

Councilmember Starkey asked that Mayor Truex's appointment to the Child Safety Board be informed about the Task Force meeting scheduled for June 6th.

8. OLD BUSINESS

There was no old business to be discussed.

9. NEW BUSINESS

Councilmember Paul spoke of an issue involving homeowners' policies not being renewed for properties with horse boarding or training facilities. She had spoken with elected officials about this and advised that Senator Rich would be looking into this. Councilmember Paul asked Council for permission to prepare a letter to the Commissioner of Insurance to review this issue and provide relief, and follow this up with a resolution if needed. No objections were noted.

Councilmember Paul advised that the Farm Bureau no longer wrote insurance for farmers. She requested that Council grant permission to write to the State Farm Bureau requesting that they re-evaluate their policy and encourage them to begin writing policies for farmers.

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10. MAYOR/COUNCILMEMBER'S COMMENTS

COUNCILMEMBER PAUL

NEW TOWN HALL. Councilmember Paul referred to a document she had received from the Community Redevelopment Agency and requested discussion at the next meeting regarding the perceived location of a new Town Hall. Mayor Truex was in favor of this.

WALDREP DAIRY. Councilmember Paul referred to the development of the Waldrep Dairy and voiced her concern about interest in an elementary school. She wanted Council to look at impacts to Davie. Councilmember Paul voiced her concern about possible plans to purchase land next to the site for an elementary school.

OFFICER MARK LEONE. Councilmember Paul congratulated Officer Mark Leone for saving a young child's life.

MEETING WITH WASTE MANAGEMENT. Councilmember Paul asked if the date was scheduled for a meeting with residents and Waste Management. Town Clerk Muniz advised that the date was not 100% set because of conflicts with Councilmembers' schedules. Councilmember Paul felt Waste Management was making a step in the right direction as they had been improving on bulk collection.

ON-CALL ATTORNEY. Councilmember Paul wanted Mr. Kovanes to meet with Mr. Kiar to look into getting an "on call environmental/land use attorney" to discuss the 441 Collaborative and new projects coming where conservation easements would be requested.

VICE-MAYOR HUBERT

HAPPY BIRTHDAY. Vice-Mayor Hubert wished Councilmembers Starkey and Paul Happy Birthday.

Councilmember Paul mentioned the thank you notes she received from students which voiced appreciation to the Council for saving trees, wetlands and trails.

COUNCILMEMBER STARKEY

THANKS. Councilmember Starkey gave thanks for her birthday wishes. She gave recognition to Veterans in light of Memorial Day.

GOLF TOURNAMENT. Councilmember Starkey spoke of the success of the *Guns and Hoses Golf Tournament* for the Police/Fire Memorial.

PRESENTATIONS. Councilmember Starkey wanted to add a presentation to the June 15th meeting, for an award to *The Miami Dolphins*. She also wanted School Board member Marty Rubinstein to present a capital update on the School Board's budget at the July 6th Council meeting.

TASK FORCE MEETING. Councilmember Starkey advised that the Child Safety Board/School Advisory Board Task Force would meet the following June 6th at the Police Station. She advised that other Task Force meetings were scheduled for June 25th in the Community Room and the July meeting would be held at the Police Department.

ROLLING HILLS DEMOLITION. Councilmember Starkey spoke of an email she received from Mr. Talenfeld who wanted to demolish the hotel at the Rolling Hills property and asked for a status report. Mr. Kutney advised that nothing had been filed yet. Councilmember Starkey asked for comment regarding public participation plans prior to demolition was considered. Mr. Kutney advised there was no public participation requirement for demolition. Councilmember Starkey stressed that the community nearby be notified if demolition was planned.

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CODE BOOK. Councilmember Starkey asked that navigational access be provided to the complete text of the Town Code on the Town's website. Town Clerk Muniz advised that full text was currently available on the web. Councilmember Starkey asked for an updated Code to be provided on CD-ROM.

COUNCILMEMBER CROWLEY

ASSESSED PROPERTY VALUE. Councilmember Crowley spoke of an estimated increase of 13.3% on the Town's assessed property value.

NOVA HIGH'S BASEBALL TEAM. Councilmember Crowley advised the Nova High School baseball team's win at the state championship. He wanted to do something to acknowledge the coach in the future.

MAYOR TRUEX

CELL PHONE BAN. Mayor Truex spoke of an inquiry from a resident requesting banning of cell phones in school zones. Mayor Truex advised that the State legislature had pre-empted any municipality from doing this.

BROADVIEW PARK. Mayor Truex asked if there was any recent communication regarding Broadview Park annexation. Mr. Kovanes advised that he had not spoken with the individuals since the meeting. Mayor Truex felt a local bill would give the Town more control and asked staff to have some dialog with the annexation committee with the goal of moving this along. Councilmember Starkey spoke of concerns regarding multiple annexations and felt upcoming incorporations should be staggered to be better absorbed into the Town's budget.

MAIL CAMPAIGN. Mayor Truex asked if a mail campaign was planned for United Ranches. Mr. Kovanes stated that he had met with the lobbyists and laid out a timeline for public information to be distributed.

11. TOWN ADMINISTRATOR'S COMMENTS

FLORIDA LEAGUE OF CITIES. Mr. Kovanes advised that the Town received confirmation indicating that the Florida League of Cities would discuss Councilmember Crowley filling the vacancy.

PET FRIENDLY HURRICANE SHELTER. Mr. Kovanes announced there was a pet friendly shelter at the Millennium Middle School in Tamarac. He advised that staff would examine availability of areas in the Town and throughout the County.

Mr. Kovanes advised that the Broward County Transit Investment Plan would occur on June 14, 15, and 16 and would encompass the proposed changes to the transit system over 25 years.

12. TOWN ATTORNEY'S COMMENTS

No comments were provided.

13. ADJOURNMENT

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

Approved _____

Mayor/Councilmember

Town Clerk