

REGULAR MEETING
MAY 16, 2007
7:00 PM

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:01 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Truex, Vice-Mayor Caletka, and Councilmembers Crowley, Luis and Starkey. Also present were Town Administrator Shimun, Town Attorney Cherof, and Town Clerk Muniz recording the meeting.

Mayor Truex stated a request had been made to take item 8.1 out of order, and he wanted to take item 7.1 out of order. He felt they should handle these immediately after the approval of the Consent Agenda.

3. APPROVAL OF CONSENT AGENDA

Minutes

3.1 March 22, 2007 (Regular Meeting)

3.2 April 4, 2007 (Regular Meeting)

Proclamation

3.3 Emergency Medical Services Week (May 20-26, 2007)

Resolutions

3.4 **ASSET VALUATION SERVICES** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF AMERICAN APPRAISAL ASSOCIATES, INC. TO PROVIDE ASSET VALUATION SERVICES FOR GASB 34 COMPLIANCE AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
R-2007-131

3.5 **ELECTRICAL ENGINEERING SERVICES** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF GLE ASSOCIATES, INC. TO PROVIDE ELECTRICAL ENGINEERING SERVICES FOR THE GENERATORS, PHASE II PROJECT AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
R-2007-132

3.6 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN LONG LAKE RANCHES WEST HOMEOWNERS ASSOCIATION, INC. AND THE TOWN OF DAVIE POLICE DEPARTMENT FOR TRAFFIC CONTROL.
R-2007-133

3.7 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AFFIRMING ITS INTENT TO ENTER INTO AN AGREEMENT WITH THE FRIENDS OF THE FARM PARK, INC. FOR THE PURPOSE OF COOPERATIVE JOINT EFFORT IN THE DEVELOPMENT AND OPERATION OF THE DAVIE FARM PARK.
R-2007-134

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- 3.8
R-2007-135 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AND EXECUTING THE 2007 AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN OF DAVIE, PROVIDING FOR DIVISION AND DISTRIBUTION OF THE PROCEEDS FROM BROWARD COUNTY FIFTH CENT ADDITIONAL LOCAL OPTION GAS TAX ON MOTOR FUEL FOR TRANSIT, AND PROVIDING FOR AN EFFECTIVE DATE.
- 3.9
R-2007-136 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AND EXECUTING THE 2007 AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN OF DAVIE, PROVIDING FOR DIVISION AND DISTRIBUTION OF THE PROCEEDS OF THE LOCAL OPTION GAS TAX IMPOSED BY THE BROWARD COUNTY LOCAL OPTION GAS TAX ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE.
- 3.10
R-2007-137 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AND EXECUTING THE 2007 AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN OF DAVIE, PROVIDING FOR DIVISION AND DISTRIBUTION OF THE PROCEEDS FROM THE BROWARD COUNTY “ADDITIONAL” LOCAL OPTION GAS TAX ON MOTOR FUEL ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE.
- 3.11
R-2007-138 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT WITH SAPOZNIK INSURANCE & ASSOCIATES, INC. FOR HEALTH INSURANCE CONSULTANT SERVICES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.
- 3.12
R-2007-139 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND NOVA SOUTHEASTERN UNIVERSITY FOR COMMUNITY ORIENTED POLICE OFFICERS.
- 3.13
R-2007-139 **GRANT APPLICATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE FDOT INTERMODAL DEVELOPMENT PROGRAM ON BEHALF OF NOVA SOUTHEASTERN UNIVERSITY FOR SIGNAGE AND KIOSKS AND AUTHORIZING THE TOWN TO ACT AS THE GOVERNMENTAL SPONSOR FOR SUCH APPLICATION.

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3.14 R-2007-140 **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A PLAT KNOWN AS THE “M & U PROPERTIES” AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY AFFIXING THE MAYOR’S SIGNATURE AND THE TOWN SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 11-1-05, M & U Properties Plat, 8280 Griffin Road) (B-2) *Planning and Zoning Board recommended approval***

3.15 R-2007-141 **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A PLAT KNOWN AS THE “ROUNTREE PLAT” AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY AFFIXING THE MAYOR’S SIGNATURE AND THE TOWN SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 6-3-06, Rountree Plat, Linda Strutt Consulting, Inc./200 Harvard Corp., 4561, 4575, and 4595 Oakes Road and 3520 and 3540 Burriss Road) (B-2) *Planning and Zoning Board recommended approval [see related item 5.6]***

Councilmember Starkey pulled items 3.11 and 3.13 from the Consent Agenda. Mayor Truex pulled item 3.3.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve the Consent Agenda minus items 3.3, 3.11, 3.13. In a voice vote, all voted in favor. (Motion carried 5-0)

4. DISCUSSION OF CONSENT AGENDA ITEMS

3.3 Councilmember Starkey 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 and noted that the Town consistently emphasized the importance of public safety.

Deputy Fire Chief Steve Eggnatz thanked Council for the acknowledgement. He informed them of the upcoming County-wide EMS competition in Pembroke Pines on May 22nd and the EMS Conference on May 24th in Hollywood. Chief Eggnatz invited residents to come by any station for a wellness check and encouraged interested residents to make an appointment at Station 65 for a child car seat check by calling 954-797-1213.

3.11 Councilmember Starkey remarked that the new contract was significantly higher. She pointed out that Council had directed staff to negotiate the contract and if the consultant could not meet that price, they would go with AON, the first bidder. Mr. Cohen reminded Council that their direction had been to negotiate a contract, but no dollar limit was provided, so they had returned with the contract Ms. Sapoznik was requesting. The amount had increased from \$75,000 to \$102,000 on the base contract. Mr. Cohen explained that Ms. Sapoznik could only collect the additional \$1.50 per employee per month for other items if she could generate a savings of at least that amount. Councilmember Starkey said that staff had been directed to negotiate a contract for \$95,000, and if that amount could not be met, they would go back to the first bidder. Mr. Cohen said he had not understood that the contract must be for \$95,000.

Councilmember Starkey asked if the consultant or the Town had filed a Section 11208, per State Statute. Mr. Shimun said to his knowledge, this had not been done, but Ms. Sapoznik was researching this issue. Councilmember Starkey said this was a requirement to ensure they had sufficient reserves,

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and without this check, they could be in a situation where they did not have sufficient reserves. Human Resources Director Mark Alan said that Ms. Sapoznik had not provided information that it had been filed. He noted that they would include a clause in any future contract regarding compliance issues and filings. Griselle Farbish, representing Sapoznik Insurance & Associates, said she could not answer that question this evening. Regarding the reserves, Ms. Farbish said she had been told that “there’s more than enough in there” but she did not know the exact figure.

Councilmember Crowley suggested that the item be tabled to allow staff to meet with the consultants to get answers to Councilmember Starkey’s question and negotiate further with the firm.

Vice-Mayor Caletka agreed and stated that he had “never seen so much lobbying for firms in my life, and it’s to the point where I actually, genuinely feel harassed.” He stated that “inappropriate comments were made to our assistant at Town Hall.” Vice-Mayor Caletka said this had become a political issue, with the unions getting involved, and it therefore ceased to be a sound business decision. He could not believe this was being delayed again because “now all of a sudden there’s more information that wants to come across the line at the last minute.”

Mayor Truex opposed tabling the item and retaining the current consultant. He said he did not see a political component, but felt “something’s fishy about the whole thing, I don’t like it.” Regarding the possible add-on items, Mayor Truex thought the reason they were paying almost \$100,000 was for a consultant to advocate for the Town and there was not supposed to be a contingency.

Councilmember Starkey described the process used to bring the firms to Council for selection, and noted that AON had been ranked first, Capretta had been second, and Sapoznik had been third. Sapoznik had then been given the opportunity to match the AON bid. Councilmember Starkey was uncomfortable with the contract, the price, the terms, and the additional compensation charges. She thought clear direction had been given to staff. Councilmember Starkey remembered that Council had agreed to stop any vendor increases as well. She wanted to bring back the first two top-ranking firms to present again to Council in a transparent public process.

Mayor Truex asked why Councilmember Luis and Councilmember Crowley favored the highest-priced firm. Vice-Mayor Caletka remembered staff’s comment that the incumbent firm was doing an “excellent” job, so he felt it made sense to choose the first-ranked firm or the incumbent. Councilmember Crowley said his intent was to save the employees money, and he thought they had directed staff to negotiate a lower rate.

Ms. Farbish informed Council that her firm would be willing to cap the contract at \$95,000. The additional \$1.50 would only come in if they reduced the rate on the current plans.

The AON representative indicated that the original RFP was for medical, and they had quoted \$95,000. There was no request for ancillary products at that time such as life, disability, dental, vision, etc. If long-term care was written, it would be another 15%.

Mr. Shimun recommended Council begin the process again and indicated that the incumbent firm could remain until this issue was resolved.

Councilmember Crowley made a motion to table the item to the next meeting.

Mr. Cherof reminded Council that their last official action had been to designate a number one firm with which to negotiate. Tabling the item this evening would not change the ranking, but would direct staff to continue the negotiations. Mr. Cherof advised that a motion to rescind the designation of the number one firm would require a supermajority because it had not been noticed on the agenda as a motion to rescind. He explained that a Councilmember who had voted on the prevailing side could also move to reconsider their previous vote to rank Sapoznik as the number one firm. If Council voted to reject this contract, they would move to the second-ranked firm.

Mr. Alan confirmed that the Town would continue to have insurance under the existing fees. The plan year expired January 1, 2008.

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Councilmember Crowley made a motion, seconded by Vice-Mayor Caletka, to reject all proposals and re-advertise.

Mr. Cherof confirmed for Mayor Truex that Council could reconsider, then have presentations and then re-rank the firms at the next meeting. Councilmember Crowley said he was unhappy with the entire process and did not favor this. Councilmember Starkey felt hearing the proposals again and re-ranking the firms would be more transparent. She also wanted all questions answered by then.

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - no. (Motion failed - see following statement from Mr. Cherof for explanation)

Mr. Cherof said this motion was considered a motion to rescind and therefore required a supermajority to pass. The vote had been three to two, so the motion failed. He advised Council to make a motion to reconsider the ranking of the firms.

Councilmember Crowley made a motion, seconded by Councilmember Luis, to reconsider. In a voice vote the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - no; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 4-1)

Vice-Mayor Caletka made a motion, seconded by Councilmember Crowley, to negotiate with the number one ranked firm, Sapoznik, and if the negotiation failed to meet the \$95,000 cap, to negotiate with the second-ranked firm, Capretta.

Vice-Mayor Caletka confirmed that the price was a flat \$95,000 with no add-ons or incentives. Mr. Alan said Sapoznik's fee structure was based upon census, which could fluctuate. Vice-Mayor Caletka said, "If they get 95 after six months, then it's free for the rest of the year."

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - no. (Motion carried 3-2)

3.13 Councilmember Starkey suggested changes to the resolution language. She wanted a second "Whereas", which would indicate, "subject to all approvals, the project will also need to go through all appropriate local review processes, such as master signage plan review, building permit review and permitting, subject to approval of the Town Council." In the third "Whereas," Councilmember Starkey wanted to add, "Whereas, Nova Southeastern University agrees to supply the remaining match, with no expense to the Town." In Section 2, Councilmember Starkey wanted to add "the same thing, where it would say subject to the approval of the Town Council."

Mayor Truex stated he seconded the motion.

Pete Witschen, Nova Southeastern University (NSU), explained that the way this was structured, NSU would fund the grant match; they also agreed to reimburse the Town for any out-of-pocket expenses for staff time due to grant administration. He did not object to the additional language suggested by Councilmember Starkey.

Councilmember Starkey said her motion would include these amendments as well as any administrative expenses for administering the grant and so forth would be paid for by Nova.

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

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5. PUBLIC HEARING

Ordinances - Second and Final Reading

- 2007-7 5.1 **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA AMENDING THE TOWN CODE OF ORDINANCES TO REPLACE THE TERM "OCCUPATIONAL LICENSE" WITH "BUSINESS TAX"; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. **{Approved on First Reading on May 2, 2007. The vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - out of room; Councilmember Luis - yes; Councilmember Starkey - yes}**

Mr. Cherof read the ordinance by title.

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

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

- 2007-8 5.2 **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 2, ARTICLE V, BOARDS AND COMMITTEES OF THE CODE OF ORDINANCES, ADDING A NEW SECTION 2-77 TO AUTHORIZE CANCELLATION OF BOARDS/COMMITTEES MEETINGS WHEN NO ITEMS ARE ON THE BOARDS/COMMITTEES' CURRENT AGENDA OR WHERE THE BOARDS/COMMITTEES MEETING'S START TIME IS DELAYED MORE THAN THIRTY (30) MINUTES DUE TO A LACK OF QUORUM; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. **{Approved on First Reading on May 2, 2007. All voted in favor.}**

Mr. Cherof read the ordinance by title.

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

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

Ordinances - First Reading (Second and Final Reading to be held June 6, 2007)

- 5.3 **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE II, SECTION 12-24, STATEMENT OF PURPOSE AND INTENT OF ZONING DISTRICTS; ARTICLE III, SECTION 12-32, TABLE OF PERMITTED USES; SECTION 12-33 GENERAL REGULATIONS; SECTION 12-34, DETAILED USE REGULATIONS - STANDARDS ENUMERATED; ARTICLE V, SECTION 12-83, COMMERCIAL CONSERVATION STANDARDS; ARTICLE VI, SECTION 12-107, LANDSCAPING STANDARDS FOR LOTS AND SITES; ARTICLE VII, SECTION 12-208, REQUIREMENTS FOR OFF STREET PARKING; ARTICLE XI, ADDING SECTION 12-349 REVIEW OF APPLICATIONS FOR DEVELOPMENT OF LAND FORMERLY IN HACIENDA VILLAGE OR UNINCORPORATED BROWARD COUNTY CURRENTLY USED FOR RECYCLING, SCRAP METAL

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PROCESSING, AND AUTOMOBILE WRECKING YARD; AND AMENDING ARTICLE XIV, SECTION 12-503, DEFINITIONS; AMENDING RECYCLING, SCRAP METAL PROCESSING, AND AUTOMOBILE WRECKING YARDS AS EXISTING LEGAL USES IN THE M-3 ZONING DISTRICT WHEN THE PROPERTY WAS DESIGNATED FOR JUNKYARD USE UNDER HACIENDA VILLAGE OR BROWARD COUNTY CODES AND THE EXISTING USE IS LEGALLY PERMITTED; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from April 4, 2007) *Local Planning Agency recommended approval subject to the amendments previously set forth which were: 1) an amendment to Subsection (U), page 4, four lines up from the bottom of the page, it should read "...practices otherwise conform to generally accepted Recycling, Scrap Metal Processing and Automobile Wrecking Yard business practices, the operation does not emit noxious odors, is in conformance with all applicable environmental regulations, and otherwise conforms with the nuisance standards as defined by the Town code.";* 2) page 5, with (HH), add to the end of the last sentence: *"...which shall not be deemed to include the permanent storage of said inventory or material.";* and 3) in the same definition as (HH) after the previously added wording, add the sentence: *"This definition shall not be deemed to include the reduction of concrete to a powder like form."* (Motion carried 5-0)

Mr. Cherof read the ordinance by title. He announced that the second and final reading would be held on June 6, 2007. Mayor Truex reiterated that a public hearing on this item would be held at the June 6, 2007 meeting.

Mayor Truex opened the public hearing portion of the meeting.

Acting Planning and Zoning Manager Marcie Nolan summarized the planning report.

Councilmember Crowley asked why staff was proposing a Code change now. Ms. Nolan explained that staff had been directed to create an amendment that satisfied the needs of the Town. She reported that the Planning and Zoning Board would review this next week.

Sam Poole, attorney for Larry Danielle, provided a copy of the legislation that incorporated Hacienda Village into Davie, and drew Council's attention to one phrase, indicating that Hacienda Villages's zoning would be preserved. Mr. Poole explained that his client had purchased the adjacent facilities, including a recycling business. He submitted an aerial photo depicting his client's property, and a copy of the permits on the property.

Mr. Poole said as his client's business evolved, differences in the Hacienda Village code and Davie's Industrial District Code had become an issue. When Mr. Danielle applied for a building permit for a storage structure, he had been denied and advised to request a zoning change. Mr. Poole indicated that he had prepared the proposed amendment to the Code to allow Mr. Danielle's business to come into a conforming use under Town code.

Mr. Poole advised that the hours of operation were now normal business hours. Mr. Danielle explained that the business now operated sometimes 24 hours per day.

Mr. Poole referred to language in the amendment that meant that over time, as the property was redeveloped, it would come up to Code. He explained that requiring the property to come into compliance at this time, especially regarding landscaping and open space, would be cost-prohibitive.

Lloyd Berger, representing Berger Marshall Realty, announced that there was pending litigation against Mr. Danielle regarding the grinding of concrete, which Mr. Danielle had stopped doing, and for which there was a settlement in the works.

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Karen Stenzel-Nowicki discussed problems with another property involved in the Transit Oriented Corridor [TOC], the old Jolmy/Brauser property, that had turned into a junkyard, with no landscaping to shield its view from the TOC. She cautioned Council that nothing had been done to protect the community from that type of use.

Mayor Truex closed the public hearing.

Ms. Nolan explained that staff had created a farm-based code to help implement the TOC. She stated staff had also reviewed existing codes in other municipalities already dealing with industrial uses adjacent to residential or other developments. Ms. Nolan noted that the goal was to ensure a transitional buffer from surrounding uses.

Mr. Cherof asked Mr. Poole how he felt Senate Bill 1149 affected the changes he was proposing. Mr. Poole said he had included a reference to Senate Bill 1149 to explain the genesis of where they were today. He agreed that interpretation of what rights might exist under that code were debatable. Mr. Poole said if this change were approved, he would agree to stipulate that the 1984 Hacienda Village Code no longer applied.

Mayor Truex asked Ms. Nolan to explain the paragraph on page 154 regarding threshold for compliance. Ms. Nolan advised that this allowed existing uses five years to conform to the Land Development Code, unless granted special exception by Council.

Ms. Nolan explained to Councilmember Crowley that staff's goal was not to have this use go away, as this type of facility was a necessary component of society. The goal was to make it all work together in the community. This is what she felt the State Road 7 plan did, and this was why she felt this was a win-win situation for the property owner and the Town.

Vice-Mayor Caletka asked how much it would cost the applicant to conform to staff's proposal. Mr. Poole said it would cost \$25 million. He added that it would not be possible to make that kind of investment and operate this type of business. Mr. Danielle explained to Vice-Mayor Caletka that he currently paid \$280,000 per year in property taxes. The assessed value of the property was approximately \$20 million.

Vice-Mayor Caletka asked if Mr. Danielle's main objection was the need to enclose everything, or if he had other objections. Mr. Poole stated that if everything were enclosed, air conditioning very large spaces would be required and he added that Mr. Danielle had wanted to build a structure with open sides. Mr. Poole thought that staff's statement that monolithic structures should be discouraged and that facades should have vertical and horizontal articulation, was inappropriate for this type of facility. He also objected to the building material specifications, stating these were appropriate to a Class A office park, and this was an expense issue.

Councilmember Crowley said he would approve staff's proposal for a vacant parcel, but felt it was not practical to ask this property owner to comply. Mayor Truex agreed and said no one knew for sure if the TOC would happen.

Vice-Mayor Caletka remarked on the delays in getting the TOC and agreed that forcing the owner to spend \$25 million was excessive. He pointed out how well-kept this property was and indicated that he favored the applicant's proposal.

Councilmember Luis agreed they should not tell the owner he must spend \$25 million.

Councilmember Starkey agreed, but was still concerned that there would be an increase in marine salvage. Ms. Nolan stated this was a difference in Broward County code under which the property was annexed, and in the applicant's proposal, the property could be a "junkyard." Staff's proposed ordinance definition was for auto wrecking.

Mr. Shimun pointed out that Council had three choices, one of which was to leave it alone, which would allow Mr. Danielle to continue without intensifying the use. Staff's proposal would allow

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the use to intensify, but in a regulated area. With Mr. Danielle's proposal, he could intensify the use with no incentive to conform with the TOC in the future.

Councilmember Crowley made a motion, seconded by Councilmember Luis, to approve the applicant's proposal on the text amendment as written.

Mayor Truex asked about the hours of operation. Mr. Danielle explained that the main reason he needed to stay open late was to cycle inventory in and out after retail business hours.

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

- 5.4 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 25 OF THE TOWN CODE ENTITLED "UTILITIES", BY AMENDING SECTION 32 ENTITLED "WATER CONSERVATION" BY REVISING THE MONTHLY WATER RATE CHARGES AND BLOCK ADJUSTMENTS AND PROVIDING FOR YEAR ROUND WATER CONSERVATION, PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Cherof read the ordinance by title. Mayor Truex announced that a public hearing on this item would be held at the June 6, 2007 meeting.

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

Councilmember Crowley asked how this ordinance would be enforced. Utilities Director Bruce Taylor explained that Code Compliance would enforce this through a Special Magistrate and the Police Department would assist with enforcement. He explained that information was being provided through the water bills, on Davie TV and on the Town's website. Mr. Shimun added that enforcement would be town-wide, whether a residence used Davie water or Sunrise water.

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

Ordinances - First Reading/Quasi-Judicial Items (Second and Final Reading to be held June 6, 2007)

- 5.5 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 1-2-06, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM MH-1, MOBILE HOME RESIDENTIAL DISTRICT TO R-1, ESTATE DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 1-2-06, Brennand, 12700 SW 14 Place) *Planning and Zoning Board recommended approval***

Mr. Cherof read the ordinance by title. Mayor Truex announced that a public hearing on this item would be held at the June 6, 2007 meeting.

Mr. Cheroff swore in the witnesses. Ms. Nolan summarized the planning report.

Tripp Harper, representing the applicant, invited Council's questions.

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

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Louis Mazzoli said he did not to object to what Mr. Brennand wanted to do, but objected to the construction of berms. Mr. Mazzoli indicated that he did not want Garden Grove Estates to become “the next New Orleans” because water would flow there, as the lowest point. He wanted a lift station built and was also concerned about the drowning danger caused by unsecured drainage canals.

Mr. Cherof closed the public hearing.

Mr. Cherof informed Councilmember Starkey that this would not compromise the Town’s existing mobile home ordinance.

Councilmember Crowley asked if approval would allow others to come in, or if they should look at this as a master plan on this block. Ms. Nolan explained that the owners of the half-acre lots would be required to seek rezoning, but one-acre lots were already compatible.

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

5.6 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 6-1-06, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM M-3 HACIENDA VILLAGE TO M-3, PLANNED INDUSTRIAL PARK DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 6-1-06, Linda Strutt Consulting, Inc./200 Harvard Corp., 4561, 4575, and 4595 Oakes Road and 3520 and 3540 Burriss Road) *Planning and Zoning Board recommended approval [see related item 3.15]***

Mr. Cherof read the ordinance by title.

Mayor Truex announced that a public hearing on this item would be held at the June 6, 2007 meeting. Acting Deputy Planning and Zoning Manager David Abramson summarized the planning report.

Linda Conners, representing Linda Strutt Consulting, invited Council’s questions.

Mr. Cherof opened the public hearing portion of the meeting. As no one spoke, Mr. Cherof closed the public hearing.

Councilmember Crowley asked if there was sufficient right-of-way on 46th Street to allow trucks to turn onto Twelve Oaks Road. Town Engineer Larry Peters said they had not requested additional right-of-way and they had added five feet when the easement was converted to a right-of-way. He said they would have the opportunity to request more right-of-way when the site plan was submitted.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve, subject to the Town Engineer’s review of the site plan when it came in and possibly requesting additional right-of-way. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Quasi-Judicial Item

5.7 V 12-02-06, Pico, 15031 Brighton Lane (PUD, County) (reduce the required west side setback from 15 feet to 10 feet in order to install a dock in the rear of the yard) *Planning and Zoning Board recommended approval subject to compliance with all of staff’s comments including the engineering requirements of obtaining a marine engineer that would provide marine engineering plans to the Town of Davie for approval*

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George Pico, the applicant, drew Council's attention to Exhibit 8, depicting a wall collapse, which resulted in his need for a variance. To regain the use of this section of his property lost to the lake, Mr. Pico wanted to build a deck/dock structure. Docks required a 15-foot side setback, and Mr. Pico was requesting a variance to reduce this to 10 feet.

Councilmember Starkey asked if erosion was an issue at this lake. Mr. Pico said his was the only washout on this lake of which he was aware. Mr. Pico had contacted contractors regarding fill to repair the washout, and only one had indicated they would do the work, at a cost of over \$40,000.

Councilmember Luis confirmed that a building permit would be obtained and engineering plans would be submitted. He did not have an objection.

Councilmember Crowley indicated that Mr. Pico was a severe erosion problem. He indicated that "there were companies that will provide that service to you" and indicated that the fill from the lake could be pumped back into Mr. Pico's yard. Mr. Pico responded that there had to be useable fill and the diver could find no sand in the bottom of the lake. Councilmember Crowley asked that Mr. Pico obtain approval from the South Broward Drainage District prior to obtaining the permit from the Town. Mr. Pico advised that this was not a problem.

Mr. Cherof opened the public hearing portion of the meeting. As no one spoke, Mr. Cherof closed the public hearing.

Mr. Abramson advised that staff had determined there was an economic hardship, but the variance was not required for reasonable use of the land or building. Mr. Pico said there was a physical hardship, as he had lost the use of part of his yard. He indicated that he also had a property appraiser's report stating that his property was now worth \$28,000 less.

Councilmember Luis made a motion, seconded by Councilmember Crowley, to approve, subject to approval from the Drainage District. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

6. APPOINTMENTS

6.1 Mayor Truex

6.1.1 Mobile Home Task Force (one exclusive appointment - representing a mobile home park owner/manager)

No appointment was made.

6.1.2 Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2008) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

6.1.3 Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2008) (members shall be a minimum 60 years of age)

No appointment was made.

6.1.4 Water and Environmental Advisory Board (one exclusive appointment; term expires April 2008) (insofar as possible, one member shall be a licensed engineer)

Mayor Truex appointed Jeffrey Rubinoff.

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- 6.1.5 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

6.2 Vice-Mayor Caletka

- 6.2.1 Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2008) (members shall be a minimum 60 years of age)

Vice-Mayor Caletka appointed Jim Thomas.

6.3 Councilmember Luis

- 6.3.1 Airport Advisory Board (two exclusive appointments; terms expire December 2007)

No appointments were made.

6.4 Councilmember Starkey

- 6.4.1 Airport Advisory Board (one exclusive appointment - terms expire December 2007)

No appointment was made.

Councilmember Starkey said that she was trying to find another Mobile Home Task Force appointee. Mr. Cherof indicated that Mr. Baron needed a more specific consent from Council to waive a potential conflict. Mr. Baron had already submitted the disclosure form regarding his legal representation for Silver Oaks Mobile Home Park.

Councilmember Crowley made a motion, seconded by Mayor Truex, to waive the conflict, “recognizing that he’s a mobile home park representative.” In a voice vote, all voted in favor. (Motion carried 5-0)

- 6.5 Unsafe Structures Board (two non-exclusive appointments; terms expire April 2009) (members shall be permanent resident or have their principal place of business within the Town's jurisdiction) (one appointment shall be a plumbing contractor and one appointment shall be a real estate property manager)

No appointments were made.

7. OLD BUSINESS

7.1 Response to FAA's and Broward County's Draft EIS

Earlier in the meeting, John Herin, attorney with Stearns Weaver Miller law firm, provided a draft of the Town's comments in response to the FAA's Environmental Impact Statement [EIS] regarding the Fort Lauderdale/Hollywood International Airport expansion. Mr. Herin asked Council to advise him of any specific questions they wanted to include to the FAA. He explained that the comments noted several problems with the draft EIS, which he felt was premature and there was relevant information that had been omitted, such as the results of the Part 150 Study. Mr. Herin noted that the noise contours in the draft EIS did not match those in the Part 150 Study. He also did not believe reasonable alternatives had been analyzed. Mr. Herin thought the baseline data used to create the EIS was flawed.

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Mr. Herin explained that there was a specific requirement for the FAA to perform outreach to the mobile home owners and dwellers, and he believed they had “utterly failed in that respect.”

Rich Richards, attorney with Stearns Weaver Miller law firm, felt Runway 1331 was “missing from the equation.” He believed that if the airport was expanded, they must “spread the pain” of the expansion among communities. Most of the alternatives being considered involved stopping the use of Runway 1331, supposedly because of the affects of the noise on residents, but stopping its use would result in additional noise impacts on other residents.

Amy Kimble-Merley, consultant, said there were many land-use planning issues that had not been adequately addressed, particularly environmental justice issues. She explained that under federal law, they were required to ensure that minority and/or disadvantaged communities were not disproportionately affected. Ms. Kimble-Merley said they also stressed the semi-rural nature of the Davie community, and that made this type of impact particularly obnoxious.

Mr. Herin asked Council to review the draft and return their comments as soon as possible, as the draft was due the following Monday.

Mayor Truex asked how significant the Dania Beach decision was. Mr. Herin responded that this result helped substantiate their contention that the EIS was premature and not broad enough in scope. Mr. Richards explained that the lawsuit had resulted from the FAA’s desire to utilize Runway 1331 more, and Dania Beach’s contention was that this would require an EIS. The court had sided with Dania Beach, stating that the change in use of the runway would require an EIS.

Mr. Herin explained to Councilmember Starkey that all of the Town’s previous comments had been incorporated into the letter. Councilmember Starkey said she appreciated this, especially regarding the noise and environmental issues over Town parks and residential communities, and their particular concern about the mobile home communities.

7.2 Bid Specifications for Legal Services

Mayor Truex wanted the firm to have substantial practice within Broward County and indicated that he did not care if the firm practiced in Miami-Dade or Palm Beach counties. He also wanted resumes to include all courts in which the attorney was admitted to practice. Under item 5, Councilmember Crowley wanted to add “State government” to the requirement for contact information, remove “at least three,” regarding references and eliminate the “past three-years” timeframe.

7.3 Naming of Basketball Court (Mayor Truex)

Michael Davenport informed Council about Daniel Cantor Wultz, a Weston teen who died last year as a result of an Israeli suicide bomb attack. Daniel had been an avid Miami Heat fan, attending every game and all the players knew him. His parents had created a foundation in his name, and lectured about combating hatred. They had addressed the United States Congress and several meetings at the U.N.

Mr. Davenport wished to name a basketball court after Daniel, any costs for which would be borne by private donors and the foundation.

Mayor Truex noted that Daniel was a resident of Weston and he felt this would be a nice gesture.

Councilmember Starkey said she sympathized with the family, but she could not support a precedence of naming basketball courts or anything in public parks. She said that the naming rights that the Town would associate with people that were not residents “or had a significant as pioneers to the Town or influence to the Town in that regard” was troubling to her. Councilmember Starkey was a strong advocate of children and human life and being able to preach peace and kindness but she did not want to open the door to having naming rights on park facilities.

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Councilmember Luis questioned what the City of Weston had done. Mr. Davenport responded that the City has an ordinance that no public place could be named after a person.

Vice-Mayor Caletka agreed that this was not appropriate for a non-Davie resident. Mr. Davenport indicated that it was not a matter of being a resident, but Daniel was a County resident and was a child. He added that this was something that we wanted to teach people hate, indifference and ignorance could kill and had nothing to do with location.

Councilmember Crowley said he had no objection, but wanted to know the location prior to final approval and as long as the Councilmember in that district had no objection.

Mr. Davenport informed Council that there were places in Davie named for people who had made no contribution to the Town.

Councilmember Luis questioned if this dedication would include monument. Mr. Davenport explained that it was a plaque which would be paid for [by private donors]. Councilmember Starkey suggested the tree legacy program where a live tree could be planted in one of the Town's parks with a placard recognizing the individual and it becomes a place of peace to be visited.

Mayor Truex asked staff to propose a specific court and bring it back to Council for approval. He volunteered to work with Mr. Davenport and staff.

Councilmember Luis made a motion, seconded by Councilmember Crowley, that this move forward, and for Mayor Truex to work with staff on this. In a voice vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - no; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - no. (Motion carried 3-2)

8. NEW BUSINESS

8.1 Selection of Auditing Service

Early in the meeting, Acting Budget and Finance Director Carol Menke advised that two firms would make presentations, Council would then rank the applicants and one would be selected based upon this ranking. Staff would then negotiate with the selected firm and return at the next Council meeting with an engagement letter.

McCullough & Company

Bill Benson explained that because their firm had a higher ratio of partners to total employees, a partner would oversee fieldwork and work directly with Town staff. He pointed out that his firm represented 9 of Broward County's 32 cities, and several of these had been clients of his company for many years.

Cindy Calvert explained that they currently provided services to over 125 not-for-profits and governmental entities, and this concentration gave them significant knowledge and expertise in compliance auditing. Ms. Calvert noted that Davie would probably need single audits for their Community Development Block and Mass Transit grants, and for Hurricane Wilma. She stated that her firm had performed FEMA single audits for 10 municipalities in the past year. She pointed out that the average length of their audit firm client was over 10 years, compared to an industry average of 3.9 years. Ms. Calvert said they currently represented over 70 governmental entities, including 12 municipalities and numerous special taxing districts.

Mr. Benson stated their entire office staff was governmental-qualified. He felt Davie would be a very important client for his firm, and he assured Council they would be treated as such. Mr. Benson advised that in almost every city in which they worked, they were hired by, worked for, and reported to the City Commission. He added that his firm had never worked for Davie and his firm was not a member of the Association of Special Districts.

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Grau & Associates

Tony Grau stated that his firm was the Town's current auditor, and invited questions from Council. He explained that he had split from Grau & Company specifically to concentrate on governmental clients, and his practice was almost 100% government, non-profits, and yellow book single audits. Mr. Grau reported that in 2005, his firm had conducted 173 audits to government auditing standards. He estimated for 2006, they would audit 220 government entities in the State of Florida. His firm currently had five municipal clients.

Mr. Grau said he felt it was important that Davie have their audit completed by September 30th and get back on schedule. Councilmember Crowley said his biggest concern had been to get the audit completed on time. He asked Mr. Grau how they could get back on schedule for reporting to the State. Mr. Grau noted that last year, the fraud and hurricane issues had held up the audit. He felt that there was no reason this year that the audit could not be completed on time. Mr. Shimun said that Mr. Grau had assured him that they could have the 2006 audit within 90 days, and they would be back on schedule for 2007.

Ms. Menke distributed the ranking forms and reminded Council that the highest rank was "1" so the lowest score would win. After collecting and totaling the forms, Ms. Menke announced that Grau & Associates had been ranked highest with 7 points and Keefe, McCullough & Company had received 8 points.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve the first ranked firm, Grau & Associates, subject to the administrator performing the negotiation and if the first negotiation failed, they would go to the second choice. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

8.2 Increase in Police Off-Duty Detail Fee (Vice-Mayor Caletka)

Vice-Mayor Caletka said he wanted to withdraw this issue. He had seen a letter from the Police union indicating that they disagreed with the process, and he did not want to "make them do anything they don't want to do."

8.3 Downtown Davie Project - Request for Assistance

Bill Laystrom stated that his client needed Davie to act as applicant and request an interpretation of one of Broward County's Code definitions from the Broward County Planning Council. He agreed to reimburse the Town for the cost of Mr. Cherof's assistance.

Mark Schmidt, representing the developer, explained that they were not seeking a variance in density. He stated that they had built a lake on viable land with entitlements and this land had never been counted in their density entitlements. Mr. Schmidt stated that in order to make the project viable, they must pick up the additional density in additional floor[s] to existing building plans instead of an additional building.

Mayor Truex said he had been a big supporter of this project, but he did not agree to this request. Councilmember Crowley said he would not support additional units either.

Mr. Schmidt said, "We can't build condominiums in a market that doesn't sell condominiums. It is simple; the other choice we have is not to do it, is to wait and see what happens with the marketplace and delay it two or three years. If that is what Downtown Davie wants to do and that is what the Council directs us, then that's what we'll do. Economically, there is no way in the world we can go ahead and build something for fifty-some-odd million of seventy million dollars that is only worth sixty million dollars."

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Councilmember Starkey did not want more height than they had anticipated. She remarked that developers were always insisting they could not make a project work unless they were permitted additional density and/or height.

Mr. Schmidt provided a description of the project to Councilmember Luis and Councilmember Luis asked if the project would go forward if Council did not allow the additional units. Mr. Schmidt stated that he could not borrow the money to make the project go forward under those conditions.

9. MAYOR/COUNCILMEMBER'S COMMENTS

COUNCILMEMBER CROWLEY

MASTER ASSOCIATION MEETING. Councilmember Crowley gave a copy of the meeting announcement to Mr. Shimun and asked that it be posted so two or more members of Council could attend.

PINE TREE COMPLAINTS. Councilmember Crowley said residents had complained to him about dead wood in the pine tree stand in the right-of-way adjacent to Town Hall. He asked that the Public Works Director get back to him on this.

COUNCILMEMBER STARKEY

VAN KIRK PARCEL UPDATE. Councilmember Starkey asked for an update on the Van Kirk parcel.

GOAL SETTING SESSION. Councilmember Starkey thanked staff for attending the goal setting session and said she looked forward to working on all of their projects.

AIRPORT NOTIFICATION. Councilmember Starkey said the Town must ensure residents knew about the June 5th meeting. She wanted to supply transportation to the meeting as well and asked if Council would support allocating funds for this. Assistant Town Administrator Ken Cohen recalled that the last time they had used one bus. Council agreed to provide a bus to service the Everglades Mobile Home Community and Pine Island Ridge and to provide notification of this service to residents.

COUNCILMEMBER LUIS

AUTOMATED EXTERNAL DEFIBRILLATORS (AED). Councilmember Luis said he would like to require AED's for all new businesses that met certain requirements, and to require a phase-in for existing businesses to purchase them. Councilmember Luis advised that he had spoken to Fire Chief Don DiPetrillo, who felt that this could save many lives.

MAYOR TRUEX

WATER RESTRICTIONS ENFORCEMENT. Mayor Truex questioned if different Town employees could be deputized to enforce the water restrictions. Mr. Cherof was not sure this was possible. He explained that the process with which the Town was already proceeding with allowed local law enforcement to issue citations to appear in County Court for violation of the ordinance, and this should be sufficient.

LIMITING COUNCILMEMBERS ITEM DISCUSSION TIME. Mayor Truex suggested that Councilmembers limit their discussion time to five minutes, and if time ran out, an extension was possible pending agreement of all members. He indicated that he would be bringing this issue up at a future Council meeting.

VIDEO AND AUDIO TAPING AT TOWN HALL AND TOWN PROPERTIES. Mayor Truex asked about a memo regarding this. Mr. Cherof said there was a request for an opinion regarding this, and his opinion was that there was no expectation of privacy on public property when video cameras

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were set up, but there were some limitations with respect to audio tapes, so the recommendation was not to use audio tapes, only video tapes.

Councilmember Starkey said she did not think it was appropriate to tape conversations and she wanted to know where the cameras were. She had sought the legal opinion questioning under what circumstances recordings could be made.

Town Clerk Muniz said they currently had audio and video surveillance in two locations: in the Human Resources Department and in the Town Clerk's lobby. This was for security, and was in response to specific past incidents. Mr. Muniz said there was clear notice that the monitors were in use. Town Clerk Muniz stated that the opinion from Mr. Cherof was that it was not illegal to audio record, provided people were advised it was occurring. Mr. Cherof said this was an issue of sufficient notice so there was no expectation of privacy.

Mayor Truex said he would like to ban this. Councilmember Starkey stated that she did not mind a security camera but asked who monitored this. Town Clerk Muniz said the Town Clerk's Office did not actively monitor the camera, but the recordings were for security and training purposes. Councilmember Starkey said she did not like the audio recording. Vice-Mayor Caletka felt it was acceptable, provided there was adequate notice. Councilmember Luis indicated that he did not have a problem with it as long as it was a security issue.

10. TOWN ADMINISTRATOR'S COMMENTS

No comments were provided.

11. TOWN ATTORNEY'S COMMENTS

No comments were provided.

12. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 12:08 a.m.

Approved _____

Mayor/Councilmember

Town Clerk