

**REGULAR MEETING
NOVEMBER 27, 2007**

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 Caletka, and Councilmembers Crowley, Luis and Starkey. Also present were Town Administrator Shimun, attorney Thomas Moss, and Town Clerk Muniz recording the meeting.

Mayor Truex advised that item 9.2 needed to be added.

Councilmember Crowley made a motion, seconded by Mayor Truex, to add item 9.2. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex thanked Police Chief John George for his service to the Town. Mayor Truex announced that November 30, 2007 was being declared "Chief George Day" and read a proclamation thanking him for his service.

3. APPROVAL OF CONSENT AGENDA

Minutes

- 3.1 October 15, 2007 (Joint Workshop Meeting)
- 3.2 October 17, 2007 (Regular Meeting)

Business Tax Receipt

- 3.3 The Landscape Center, 2601 SW 110 Way

Resolutions

- R-2007-318 3.4 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE BY THE CITY OF BOCA RATON FOR SODIUM CHLORIDE, SOLAR SALT FOR WATER TREATMENT, SOUTHEAST FLORIDA COOPERATIVE PURCHASING GROUP BID #2005-028, TO MORTON INTERNATIONAL, INC./MORTON SALT. (\$50,000)
- R-2007-319 3.5 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AWARDED THE (2) TRAILER MOUNTED 30 KW GENERATORS TO NEFF RENTAL, INC. (\$31,592)
- R-2007-320 3.6 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FROM LOU'S POLICE DISTRIBUTORS, INC. D/B/A LOU'S POLICE AND SECURITY EQUIPMENT, INC. FOR 20 BUSHMASTER BCW A3F 11.5 RIFLES TO ENHANCE THE WEAPONRY OF THE DAVIE POLICE DEPARTMENT AND AUTHORIZING THE EXPENDITURE OF \$16,600.00 (PLUS ASSOCIATED SHIPPING AND HANDLING COSTS) FROM LAW ENFORCEMENT TRUST FUNDS.
- R-2007-321 3.7 **EXPENDITURE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE EXPENDITURE OF UP TO \$76,000 FROM THE DISTRICT TWO GENERAL OBLIGATION PARKS OPEN SPACE BONDS FOR PHASE ONE DEVELOPMENT THE OLD DAVIE SCHOOL ADDITION.

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- 3.8
R-2007-322 **EXPENDITURE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE TOWN OF DAVIE AND BROWARD COUNTY FOR THE EXPENDITURE OF FY 2003/04 AND FY 2004/05 FEDERAL HOME INVESTMENTS PARTNERSHIP PROGRAM (HOME) FUNDS IN THE TOTAL AMOUNT OF \$312,704 TO PROVIDE FOR CLOSING COSTS AND DOWN PAYMENT ASSISTANCE TO FIRST-TIME HOMEBUYERS EARNING 80%< OF THE ANNUAL MEDIAN INCOME LEVEL.
- 3.9
R-2007-323 **EXPENDITURE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE EXPENDITURE \$74,990.75 FOR THE PURCHASE OF LESS-LETHAL ELECTRO MUSCULAR DISRUPTION ELECTRONIC CONTROL DEVICES (TASERS) FROM DGG TASER INC., FOR THE TOWN OF DAVIE POLICE DEPARTMENT.
- 3.10
R-2007-324 **EMERGENCY REPAIR** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE EMERGENCY REPAIR TO THE UNDERDRAIN BAFFLES OF THE FOUR FILTER CELLS AT SYSTEM III WATER TREATMENT PLANT. (not budgeted - \$53,312; Accu-Tech Systems, Incorporated)
- 3.11
R-2007-325 **CONTRACT EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXTEND THE CONTRACT FOR TELECOMMUNICATIONS CONSULTING SERVICES BETWEEN THE TOWN OF DAVIE AND CITYSCAPE CONSULTANTS, INC. PREVIOUSLY KNOWN AS CITYSCAPE SITING AND MANAGEMENT, INC. (\$20,000)
- 3.12
R-2007-326 **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH GLE, INC. FOR ENGINEERING SERVICES FOR THE PHASE II - TOWN WIDE GENERATORS UPGRADES. (\$48,000)
- 3.13
R-2007-327 **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT TO AN EXISTING MITIGATION AGREEMENT BETWEEN THE TOWN OF DAVIE AND HOME DYNAMICS CORPORATION CONCERNING WETLAND MITIGATION AT THE VAN KIRK SITE; AND PROVIDING FOR AN EFFECTIVE DATE. (Town to be compensated \$1,212,044.75 for fill)
- 3.14
R-2007-328 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CDBG SUB-RECIPIENT AGREEMENT WITH THE HOPE OUTREACH CENTER INC., TO PROVIDE SOCIAL SERVICES/EMERGENCY ASSISTANCE TO DAVIE'S LOWER-INCOME FAMILIES AND INDIVIDUALS. (\$34,013)

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- 3.15 R-2007-329 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA** AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO A FIELD RENTAL AGREEMENT WITH DAVIE YOUTH LACROSSE FOUNDATION, INC. FOR USE OF ONE ATHLETIC FIELD AT DAVIE PINE ISLAND PARK FOR A YOUTH LACROSSE PROGRAM AND TO REDUCE THE RENTAL FEE FOR SAID USE TO \$5,000.00.
- 3.16 R-2007-330 **EASEMENT/CONSENT AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA** AUTHORIZING THE MAYOR TO EXECUTE THE FPL EASEMENT AND RIGHT-OF-WAY CONSENT AGREEMENT FOR THE VAN KIRK PROPERTY; AND PROVIDING FOR AN EFFECTIVE DATE.
- 3.17 R-2007-331 **COMMITMENT LETTERS - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA** AUTHORIZING THE MAYOR TO EXECUTE COMMITMENT LETTERS FOR THE VAN KIRK PROPERTY; AND PROVIDING FOR AN EFFECTIVE DATE.
- 3.18 R-2007-332 **NOISE MITIGATION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,** URGING THE BROWARD COUNTY COMMISSION TO CONSIDER MITIGATING DOWN TO THE 60 DNL LEVEL FOR AIRPORT RELATED NOISE IMPACTS IN THE TOWN OF DAVIE.
- 3.19 R-2007-333 **DELEGATION REQUEST - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,** APPROVING A DELEGATION REQUEST TO CHANGE THE RESTRICTIVE NOTE ON THE PLAT KNOWN AS “LORSON PLAT”, AND PROVIDING AN EFFECTIVE DATE. (DG 9-1-07, Lorson Professional Campus, 5355 SW 76 Avenue)

Councilmember Starkey pulled item 3.15 from the Consent Agenda. Mayor Truex pulled items 3.3 and 3.19. Vice-Mayor Caletka pulled item 3.18.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve without items 3.3, 3.15, 3.18, and 3.19. In a voice vote, all voted in favor. (Motion carried 5-0)

4. DISCUSSION OF CONSENT AGENDA ITEMS

3.3 Mark Flynt, representing the applicant, described problems he was experiencing with Code Compliance regarding some equipment parked on his property. He explained that the equipment did not belong to him. Acting Development Services Director Marcie Nolan and Council agreed that the equipment did not belong to Mr. Flynt and Code Compliance would not cite him for it.

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

Mr. Flynt asked the status of the roundabout construction at 26th and Hiatus Road. Public Works Director Manny Diez explained that the design had been permitted and he predicted construction would begin in 30 to 60 days.

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3.15 Councilmember Starkey advised that there had been a misunderstanding that the organization would be profiting from this program. She invited Peter Dunne to explain what he was seeking.

Peter Dunne, Davie Youth Lacrosse Foundation, Inc., explained that Lacrosse was the fastest growing youth sport in the country and he wished to initiate a program for boys and girls, kindergarten through eighth grade. He asked that the fee rental be reduced to \$2,000 above the Town's cost [reduced from \$7,500 to \$4,000].

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve with the recommendation to reduce the fee to \$4,000. In a voice vote, all voted in favor. (Motion carried 5-0)

3.18 Vice-Mayor Caletka requested an update on the Traffic Oriented Corridor (TOC) with Broward County. Ms. Nolan stated that this item had been deferred until August or September 2008. Vice-Mayor Caletka was concerned that the proposed resolution might harm the Town's chances of getting the TOC approved. Ms. Nolan did not believe this was the case and felt there was sufficient time to work things out with the County's process.

Vice-Mayor Caletka made a motion, seconded by Mayor Truex, to approve.

Councilmember Starkey wanted the mitigation to be at the 60 DNL level and was concerned that passing this resolution would reduce the Town's leverage to accomplish this. Councilmember Crowley did not oppose this, provided there would be no fiscal impact on the Town.

In a voice vote, with Councilmember Starkey opposed, all voted in favor. (Motion carried 4-1) When Mayor Truex informed her that the resolution did call for mitigation down to the 60 DNL level, Councilmember Starkey changed her vote to support the motion, resulting in a unanimous vote.

3.19 Mayor Truex explained that he had voted against this because of the access to 76th.

Councilmember Crowley made a motion, seconded by Councilmember Luis, to approve. In a voicevote , with Mayor Truex and Vice-Mayor Caletka dissenting, all voted in favor. (Motion carried 3-2)

5. PUBLIC HEARING

Ordinance - Second Reading

2007-36 5.1 **PENSION PLAN AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE POLICE PENSION PLAN TO COMPLY WITH CHAPTER 185, FLORIDA STATUTES; AMENDING THE DEFINITION OF COMPENSATION IN SECTION 1.7 TO INCLUDE UP TO 150 HOURS OF OVERTIME; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading November 7, 2007 - all voted in favor}**

Mr. Moss 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 portion of the meeting.

Councilmember Crowley 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)

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Ordinances - First Reading (Second and Final Reading to be held December 5, 2007)

5.2 **EXISTING NONCONFORMING VEHICULAR ACCESSWAY** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA PERTAINING TO THE SUBJECT OF WHETHER TO ALLOW THE CONTINUATION OF AN EXISTING NONCONFORMING VEHICULAR ACCESSWAY IN ACCORDANCE WITH THE PROCEDURES AND REQUIREMENTS CONTAINED IN SECTION 12-292(D), TOWN OF DAVIE CODE OF ORDINANCES; DESCRIBING THE LAND AFFECTED AS ALL OF TRACTS 55 AND 56, IN SECTION 11, TOWNSHIP 50 SOUTH, RANGE 40 EAST, ACCORDING TO THE FLORIDA FRUITLANDS COMPANY SUBDIVISION NO. 1, RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID LANDS LYING AND SITUATED IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA; THE EXISTING NONCONFORMING VEHICULAR ACCESSWAY BEING GENERALLY DESCRIBED AS THE 12400 THROUGH 12700 BLOCK OF SW 13TH STREET IN DAVIE, BROWARD COUNTY, FLORIDA; CONSIDERING THE APPROVAL IN CONNECTION THEREWITH OF A NON-EXCLUSIVE EASEMENT TO THE TOWN OF DAVIE FOR GOVERNMENTAL SERVICES AND A NON-EXCLUSIVE INGRESS/EGRESS LICENSE AND COVENANT TO CONVEY TO TOWN OF DAVIE; MAKING OTHER APPROPRIATE CONDITIONS IN CONNECTION WITH CONSIDERATION OF THIS MATTER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFORE. (tabled from November 7, 2007)

Mr. Moss read the ordinance by title. Mayor Truex announced that a public hearing would be held on this item at the December 5, 2007 meeting.

Don Lunney, representing the applicant, described the property and the difficulties the owner was encountering regarding the driveway and access rights. He said that there was a new issue concerning the safety of a bridge, which the Town's Engineer had requested Mr. Rodriguez replace. Mr. Lunney informed Council that Mr. Rodriguez could not afford to rebuild this bridge. He advised that the Fire Department had requested that Mr. Rodriguez cut back tree limbs and foliage to allow better access to the property, and Mr. Rodriguez had agreed.

There was also concern regarding the turnaround, and Mr. Lunney proposed that this be located in an easement offered by a neighbor and paid for by that neighbor. He proposed that the residents be permitted to use the access road and to grant the Town additional right-of-way when the properties were rebuilt.

Mayor Truex opened the public hearing portion of the meeting.

Ian Sierson stated that he and other residents wanted to keep the accessway as it was.

Fire Chief Joseph Montopoli stated that this property had several issues that concerned him regarding access and some of these issues were also in violation of the Town's Code.

Mr. Moss advised that he had spoken with Mr. Lunney and they agreed that each property owner on the accessway must agree to a "hold harmless" agreement. Mr. Lunney said that he had prepared a license agreement including the provision that property owners release the road owner and the Town from any liability regarding the road.

Chief Montopoli described access issues for the Fire Department to Councilmember Luis. Mr. Moss informed Councilmember Luis that the accessway was now private property and further acquisition and development would actually expose the Town to more liability than the current situation.

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Mr. Lunny felt the proposed arrangement was better than no arrangement, and this was a satisfactory interim step until everything conformed and could be turned over to the Town.

Mayor Truex could not condone going along with a situation that would make firefighters' jobs more dangerous and increase response time.

Councilmember Crowley would like to see recommendations from staff regarding this matter and that prior to the second reading, staff submit recommendations concerning who should be responsible for the improvements. Mr. Shimun advised that Chief Montopoli's memo provided recommendations for what must be done, but felt the Town could not dictate who should be responsible for the improvements.

Vice-Mayor Caletka asked Chief Montopoli what the course of action would be in the event of a disaster in the area. Chief Montopoli replied that the Fire Department would respond to the best of its ability, but reiterated his concerns for the Department's efficient and effective operation and the safety of the firefighters and the residents.

Vice-Mayor Caletka asked Mr. Lunny what consequences the Rodriguez family would face if this ordinance were not passed. Mr. Lunny reported that the family had the option to install another driveway from 14th Street. If this was not acceptable to the Town, they would remove the culvert, rendering the road unusable to anyone.

Assistant Town Administrator Ken Cohen recommended tabling this to the second meeting in December and allowing staff to work with Mr. Lunney, and to prepare recommendations. Councilmember Starkey was concerned about the Certificate of Occupancy for the Rodriguez family. Mr. Cohen said a temporary Certificate of Occupancy had already been issued.

Councilmember Crowley asked the Engineering Department to prepare an estimate for the improvements prior to the second reading.

Councilmember Crowley made a motion, seconded by Councilmember Luis, to table the item to December 5, 2007. In a voice vote, all voted in favor. (Motion carried 5-0)

5.3 FEE SCHEDULE - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CURRENT FEE SCHEDULES FOR THE ENGINEERING DIVISION OF THE DEVELOPMENT SERVICES DEPARTMENT OF THE TOWN OF DAVIE BY ADDING LEGAL REVIEW FEES, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Moss read the ordinance by title. Mayor Truex announced that a public hearing would be held on this item at the December 5, 2007 meeting.

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

Ms. Nolan explained that this ordinance would allow the Town to recoup the cost of the Town Attorney when people presented easements or other documents requiring review by the Town Attorney's Office.

Councilmember Crowley asked that the reference to blasting permits be removed. Ms. Nolan recommended making this part of a motion, but Mr. Moss advised that this would require re-advertisement. Ms. Nolan agreed to correct the advertisement for the next meeting.

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

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Quasi-Judicial Item

- 5.4 **VARIANCE** - V 7-3-07, Francis, 9085 South Lake Park Circle (PRD) (to reduce the minimum separation from the structure to the rear property line from 5 feet to 1.47 feet)
Planning and Zoning Board recommended approval

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

Mr. Abramson summarized the planning report.

Councilmember Starkey asked why the letters of support had not been included in Council's package. Mr. Abramson explained that letters of objection were usually included, but all the letters had expressed support. He agreed to include these in the future.

Greg Francis, the applicant, described his request.

Mr. Moss closed the public hearing portion of the meeting.

Council gave their disclosures on this item.

Councilmember Crowley made a motion, seconded by Councilmember Luis, 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)

6. APPOINTMENTS

6.1 Mayor Truex

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

No appointment was made.

- 6.1.2 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 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.

6.3 Councilmember Crowley

- 6.3.1 Budget Advisory Board (one exclusive appointment - term expires April 2008) (members shall have experience in financial related occupation or similar skills)

No appointment was made.

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- 6.3.2 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.

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

No appointment was made.

6.4 Councilmember Luis

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

Councilmember Luis appointed Greg Brilliant.

6.5 Councilmember Starkey

- 6.5.1 Airport/Transportation Advisory Board (one exclusive appointment; term expires December 2007)

No appointment was made.

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

No appointment was made.

- 6.5.3 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.

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

No appointment was made.

- 6.6 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 Town Administrator's Evaluation

Human Resources Director Mark Alan described the documentation that had been distributed to Council.

Mayor Truex said that he would like to meet with Mr. Shimun to review his evaluation.

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Councilmember Starkey stated, “there are a number of things that I have a great deal of concern over.” She felt Mr. Shimun's performance had declined and noted that she had received complaints from residents that Mr. Shimun did not return phone calls or respond to requests. Councilmember Starkey believed Mr. Shimun's attitude was sometimes insubordinate when dealing with Council. She noted she did not receive information and reports on departmental activities, and had to repeatedly request the status of certain items, since Council was not regularly presented with updates. Councilmember Starkey did not support a positive evaluation for Mr. Shimun and if he were any other employee, she would put him on probation and encourage him to meet with Council to establish goals and improve efforts to work as a team.

Vice-Mayor Caletka felt Mr. Shimun was doing an excellent job and had brought honor and honesty to the Town Administrator's Office. He remarked on how Mr. Shimun had resolved the police pension shortfall, handled the budget rollback, and encouraged department heads to work as a team. Vice-Mayor Caletka advised that he had met with Mr. Shimun several times to discuss a vision of Davie's future.

Councilmember Luis felt Mr. Shimun had made some necessary, tough decisions. He said Mr. Shimun had made himself available to explain his position on issues.

Councilmember Starkey asked Mr. Shimun if he would make an effort to treat all Councilmembers equally. Mr. Shimun responded that he had tried to treat all Councilmembers with the same degree of respect. He said that in his interactions with Councilmember Starkey, she would “always tell me what you want; you don't listen to what I have to say.”

Mayor Truex recommended that Mr. Shimun meet with Councilmember Starkey, but Councilmember Starkey stated that she would prefer Mr. Shimun meet with the Council as a group to address their goals, and said, “quite honestly I don't really feel that I'm being treated respectfully and equally.” She clarified that she was requesting a workshop between Council and Mr. Shimun to address some things he might be able to improve upon, and some of the shortfalls that Council had identified through forensic audits, workshops, goal setting sessions and the management efficiency study that had not yet come to fruition. Councilmember Crowley felt these issues could be addressed between Mr. Shimun and Councilmember Starkey individually. Councilmember Crowley appealed to Mr. Shimun to treat all Council members equally.

7.2 Downtown Davie Project - Mark Schmidt

Mark Schmidt reported that the project was at a total standstill and described conflicting letters the Town had issued to him over the past nine months regarding the project. He had recently spent \$20,000 to make modifications that were approved by the Central Broward Water Management District, but he was still unable to obtain permission to build the drainage lines. In the last nine months, Mr. Schmidt stated that he had spent \$750,000 to complete this drainage line without moving forward.

Mr. Schmidt asked Council to direct the Engineering Department to allow him to complete the drainage work on the easement. Mr. Shimun stated that all of the plans Mr. Schmidt had presented included encroaching upon Emerald Isles' property. Mr. Schmidt stated that this was absolutely not true and said they could finish installing the drainage pipe without going outside the easement.

Mr. Schmidt explained to Councilmember Crowley that they had also resolved the parking issue with Emerald Isles. Councilmember Crowley asked Mr. Schmidt why he had not begun work on the site, and Mr. Schmidt stated, “no bank will allow you to do vertical unless you finish your underground, and that work is at a standstill for nine months.”

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Councilmember Starkey did not feel it was appropriate to allow Mr. Schmidt to keep appearing on Council's agenda to resolve his construction issues. She wanted the issue resolved with staff and a report sent to Council. Councilmember Starkey said that developers had informed her that this project was up for sale and the residential deposits had been returned. Mr. Schmidt confirmed that every residential condo deposit had been returned. He said his experiences of the past nine months had caused him to question whether they wanted to proceed with the project, and they had approached other companies regarding a joint venture, and changing the uses of the project.

Mr. Shimun asked Mr. Moss for his opinion of the Town's liability if Mr. Schmidt blocked emergency and service vehicle access to Emerald Isles' property. Mr. Moss stated that the Town should have no liability on a private issue between two private parties. Mr. Shimun asked Mr. Moss if the Town should allow Mr. Schmidt to "do his work and let him do his damage to those people and they decide what to do amongst themselves." Mr. Moss advised that the Town should do just that.

Vice-Mayor Caletka felt this was something that could be worked out with staff. He was unsure if Council should be involved at this point.

Harvey Mattel, Mr. Schmidt's business partner, explained their financial hardship and frustration regarding the project. He stated that the only thing stopping the project was the Town's approval. Mr. Mattel advised that Emerald Isles was attempting to use the Town to accomplish what they could not accomplish through the courts.

Vice-Mayor Caletka noted that it was in the Town's best interest that this development go through. He asked Mr. Shimun if he would see that the adjacent property owner's rights were not infringed upon and do his best to move this project forward. Mr. Shimun stated they had been unable to resolve this at their meetings because the developer and Emerald Isles could not come to an agreement.

Mayor Truex agreed this was an important project for the area. He remembered earlier discussions and thought they had agreed that the Town would not give an adjoining property owner a veto right. Mayor Truex wondered why the Town would hold up a project when Emerald Isles was unreasonably refusing what was being offered to them. He informed Councilmember Starkey that he was the person who requested this be placed on Council's agenda, not Mr. Shimun.

Councilmember Crowley suggested a meeting between Mayor Truex, the Town Engineer, the Town Administrator, the Town Attorney, Mr. Schmidt and representatives from Emerald Isles to address the easement issue. They could then report back to Council on the results of this meeting. Mayor Truex supported this suggestion. Mr. Mattel agreed to the meeting, but believed the issues would remain the same. Councilmember Starkey supported such a meeting and requested that a written explanation be created for Council.

Council directed staff to schedule the meeting prior to December 5, 2007.

8. NEW BUSINESS

No new business was discussed.

9. SCHEDULE OF NEXT MEETING

9.1 Charter Review Schedule

Town Clerk Muniz reminded Council that they had discussed the possibility of presenting the Charter review ballot questions in August, but the Supervisor of Elections had advised this was not possible. The alternative was to handle it is a separate election or have the issues placed on the November ballot. Mayor Truex noted that some residents had remarked it should only be voted on in March.

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Town Clerk Muniz wanted to begin scheduling discussions on the Charter suggestions. Council agreed that discussions could wait until summer 2008.

9.2 Mobile Home Workshop

Housing & Community Development Director Shirley Taylor-Prakelt announced that the task force had completed its goal, and the consultant was now finalizing the report on their recommendations. She asked to set a date for a Council workshop. After discussion, Council scheduled the workshop for December 17th at 6 p.m.

10. MAYOR/COUNCILMEMBER'S COMMENTS

COUNCILMEMBER LUIS

SIDEWALK LOCATION. Councilmember Luis felt the sidewalk near Raul Bosque's property was inappropriate at this location and should not be built. Bill Laystrom explained that this sidewalk would be located within the Town's right-of-way, but would end up in Mr. Bosque's corral. He pointed out that although the Code required the sidewalk, Council could waive this requirement.

Mr. Shimun said that staff's position was that since the sidewalk was required, it should be built, but staff would defer to Council's direction. Ms. Nolan clarified that the sidewalk was part of the project's site plan approval process and engineering permit. She added that fences were not permitted within the Town's right-of-way unless the property owner obtained an agreement from Council, and Mr. Bosque had not done this, so his fence should either be legalized or removed.

Councilmember Luis made a motion, seconded by Councilmember Crowley, to waive the requirement for a sidewalk on the east side of the road near the Mill Creek property. In a voice vote, all voted in favor. (Motion carried 5-0)

NATIONAL LEAGUE OF CITIES. Councilmember Luis thanked Council for allowing him to attend the National League of Cities conference. He reported that this conference had been very educational.

VICE MAYOR CALETKA

EVERGLADES BUS. Vice-Mayor Caletka expressed thanks for the information regarding the Everglades bus.

LOBBYISTS GOAL-SETTING SESSION. Vice-Mayor Caletka requested a workshop with the lobbyists to set goals for the upcoming year.

CRA DIRECTOR. Vice-Mayor Caletka said he had sought a legal opinion from the Town Attorney regarding the CRA Director, and the Town Attorney had informed him that Council could use an ordinance to clarify the CRA director's position in the organizational chart.

GAMBLING AGREEMENT. Vice-Mayor Caletka pointed out that Davie was directly impacted by the Seminole gaming and asked that staff conduct a study determining the impact on Davie so the Town could recoup their share. Council agreed.

COUNCILMEMBER CROWLEY

EAST DAVIE NATURE PARK. Councilmember Crowley was concerned about the condition of the wetland area. Mr. Cohen reported that staff was close to a resolution with the Water Management District and the County. The plan included lowering portions of the park, clearing, and replanting.

BROWARD COUNTY SPECIAL DISTRICT STUDY. Councilmember Crowley noted that there was already an existing State Statute regarding special district studies and there was no point in the County's conducting this study. He agreed to report to Council on the progress of the legislative bill.

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COUNCILMEMBER STARKEY

CONGRATULATIONS. Councilmember Starkey congratulated Broward County Mayor Lois Wexler on becoming Mayor.

HAPPY THANKSGIVING. Councilmember Starkey hoped everyone had a happy Thanksgiving.

I-595 ELEVATED LANE. Councilmember Starkey announced that the Hawkes Landing community Homeowner's Association had given her an award honoring her efforts to defeat the I-595 elevated lanes.

MAYOR TRUEX

POLICE CHIEF. Mayor Truex welcomed Patrick Lynn as Davie's new Police Chief. Chief Lynn thanked the Town for the opportunity to serve.

NATIONAL LEAGUE OF CITIES AWARD. Mayor Truex announced that the Town had received an award for being in the National League of Cities for 25 years.

11. TOWN ADMINISTRATOR'S COMMENTS

BROADVIEW PARK. Mr. Shimun announced that the Legislative Delegation Annexation Committee was meeting on November 28th and advised that he had been informing the Delegation that the Broadview annexation must be revenue neutral.

Councilmember Starkey stated that with the possible budget constraints, a financial study would be appropriate to examine these issues to determine what the cost to the Town would be for the annexation.

Mayor Truex advised that he was against annexation of Broadview Park and felt the only issue was how much Davie would lose. He felt he should inform the Broadview residents that the Town was no longer interested. Councilmember Crowley agreed and believed that Broadview Park belonged in Fort Lauderdale or Plantation.

Vice-Mayor Caletka felt the Town should not be so quick to refuse the annexation. He stated that the information provided in the two reports was flawed and he felt Council should examine all the facts before making a decision.

Councilmember Luis believed this issue must be examined closely and this might be an opportunity which should be taken advantage of now. He agreed the Town should only annex the area if it proved to be revenue neutral.

Councilmember Starkey requested updated information. Council directed staff to create a resolution to oppose the annexation.

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 10:42 p.m.

Approved _____

Mayor/Councilmember

Town Clerk