

**TOWN OF DAVIE
REGULAR MEETING
MAY 4, 2016**

I. PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:30 p.m. and was followed by the Pledge of Allegiance.

II. ROLL CALL

Present at the meeting were Mayor Paul, Vice-Mayor Luis and Councilmembers Caletka, Hattan and Starkey. Also present were Town Administrator Lemack, Assistant Town Administrator Lewis, Town Attorney Rayson, Assistant Town Administrator Holste and Town Clerk Roig recording the meeting.

Mayor Paul requested a moment of silence in memory of Marcie Oppenheimer-Nolan, who had passed away recently.

III. OPEN PUBLIC MEETING

Sharon Wolf, Vice President of the Davie Woman's Club, invited everyone to a Tea on May 15 from 2:00 p.m. until 4 p.m.

Steve Post, Davie's Last Frontier, requested a soda machine at Wolf Lake. He stated there were several developments going up that were making it very difficult to cross Davie Road. He proposed a passive light for crossing the street, paid for by the developers. Mr. Post said Robbins Lodge used to be free for emergency horse evacuations but prices had risen steadily to \$40 now, which he felt was ridiculous.

Mayor Paul reported there was a request to table Item 21.

Councilmember Starkey made a motion, seconded by Councilmember Hattan to table Item 21. In a voice vote, all voted in favor. (Motion carried 5-0)

IV. PRESENTATIONS

1. Certificate of Achievement - Benjamin Morales, Mayor Judy Paul

Mayor Paul announced that Mr. Morales had been named one of the top youth volunteers in Florida for 2016 in the 21st Annual Prudential Spirit of Community Awards. He had raised \$20,000 to build a primary school in Guatemala and he had raised \$1,500 for the Share a Book project for students in the school. Mayor Paul presented the certificate to Mr. Morales. Mr. Morales thanked the Town for the honor.

2. Certificate of Recognition - Rachel Dagen, Mayor Judy Paul

Mayor Paul said Ms. Dagen could not be present. She stated Ms. Dagen had won debate competitions and been selected for the national finals.

3. 2015 Tree City USA Award and 2015 Tree City USA Growth Award, Mark Collins, Public Works Director

Mr. Collins said the Town had won the Growth Award every year since 2007. He presented the award to the Town.

4. 2016 Heart Walk, Mayor Judy Paul

Mayor Paul reported the Town had received the Top Town Award for raising the most money. She presented the award to the Fire Department in the name of the late Chief Joe Montopoli.

Mayor Paul pulled items 1, 2 and 15 from the Consent Agenda. Councilmember Starkey pulled items 3 and 8.

Councilmember Hattan made a motion, seconded by Councilmember Caletka to approve the Consent Agenda, less items 1, 2, 3, 8 and 15. In a voice vote, all voted in favor. (Motion carried 5-0)

V. APPROVAL OF CONSENT AGENDA

Proclamations

1. Water Reuse Week (May 15-21, 2016)
2. Public Service Appreciation Week (May 1-7, 2016)

Resolutions

Budget and Finance

3. **POLICY REVISION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REVISING THE FUND BALANCE POLICY FOR THE TOWN OF DAVIE; AUTHORIZING THE TOWN ADMINISTRATOR TO IMPLEMENT THE CHANGES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

CRA

4. **PUBLIC-PRIVATE PARTNERSHIP** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RATIFYING THE ACTION OF THE DAVIE COMMUNITY REDEVELOPMENT AGENCY SELECTING THE FIRM OF REDEVELOPMENT MANAGEMENT ASSOCIATES TO PROVIDE CONSULTING SERVICES FOR A PUBLIC-PRIVATE PARTNERSHIP (P3) CONSULTANT TO DEVELOP A REQUEST FOR PROPOSALS AND TO ASSIST IN THE SELECTION OF A PRIVATE DEVELOPMENT PARTNER FOR THE DEVELOPMENT OF THE DAVIE DOWNTOWN CENTER ON PROPERTY CURRENTLY OWNED BY THE TOWN OF DAVIE AND DAVIE COMMUNITY REDEVELOPMENT AGENCY PURSUANT TO TOWN OF DAVIE REQUEST FOR PROPOSALS B-16-83; AND PROVIDING FOR AN EFFECTIVE DATE.

Community Services

5. **SUMMER YOUTH EMPLOYMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA APPROVING A SUMMER YOUTH EMPLOYMENT AGREEMENT BETWEEN THE TOWN OF DAVIE AND CAREER SOURCE BROWARD COUNCIL OF ELECTED OFFICIALS, A CONSORTIUM OF THE CITIES OF FORT LAUDERDALE AND HOLLYWOOD, AND BROWARD COUNTY, EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF FLORIDA AS AN INTERLOCAL UNIT OF GOVERNMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Fire

6. **POLICY REVISION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REVISING THE TOWN OF DAVIE EMS TRANSPORT RESIDENT POLICY TO INCLUDE TOWN EMPLOYEES WHO ARE TRANSPORTED DURING NORMAL WORKING HOURS AND PROVIDING FOR AN EFFECTIVE DATE.
7. **BID SELECTION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID AWARDED BY LAKE COUNTY, FLORIDA TO BENNETT FIRE PRODUCTS COMPANY, INC., CONTRACT NO. 12-0806B FOR FIRE EQUIPMENT AND SUPPLIES, NOT TO EXCEED \$65,000.00 PER FISCAL YEAR.

Human Resources

8. **POLICY** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ESTABLISHING A NEW DISCRETIONARY SPENDING POLICY; AND PROVIDING FOR AN EFFECTIVE DATE.

Information Technology

9. **BID SELECTION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING BIDS AWARDED BY THE STATE OF FLORIDA CONTRACT # 973-561-010-1 FOR CISCO TELEPHONY AND NETWORK INFRASTRUCTURE EQUIPMENT AND CONTRACT #43220000-WSCA-14-ACS FOR CISCO TELEPHONY MAINTENANCE AND SERVICES AT POLICE DEPARTMENT, TOWN HALL, AND OTHER REMOTE FACILITIES.

Parks and Recreation

10. **AGREEMENT EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A FINAL THREE YEAR EXTENSION TO THE CURRENT AGREEMENT BETWEEN THE TOWN OF DAVIE AND SUNSHINE AFTER SCHOOL CHILD CARE, INC., AND APPROVING SCHEDULED INCREASES IN FEES AS LISTED IN THE AGREEMENT AMENDMENT AND PROVIDING FOR AN EFFECTIVE DATE.

Public Works

11. **BID SELECTION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO APPROVE THE TOWN TO PIGGY-BACK FROM CLAY COUNTY RFP 13/14-8 FOR COURT LIGHTING UPGRADES FROM MUSCO SPORTS LIGHTING, LLC IN THE AMOUNT OF \$89,950 FOR LIGHTING UPGRADES AT SHENANDOAH PARK AND PROVIDING FOR AN EFFECTIVE DATE.

Utilities

12. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LOAN AGREEMENT (WW061300) RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM TO ALLOW FOR ADJUSTMENTS TO FEES AND SEMI-ANNUAL LOAN PAYMENTS.
13. **BID SELECTION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE BID FOR HACH PRODUCTS AWARDED BY BROWARD COUNTY, FLORIDA (SOLICITATION NUMBER Y1362410B1)
14. **BID SELECTION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE BID AWARDED BY THE CITY OF MARGATE, FLORIDA, FOR SODIUM HYDROXIDE FOR WATER TREATMENT, SOUTHEAST FLORIDA COOPERATIVE PURCHASING GROUP BID (2014-009).

Quasi-Judicial Consent Items

15. **Site Plan (SP) 15-100, Atlantic Montessori Charter School** (2550 Flamingo Road, zoned CF). **(Denied on February 11, 2016, reconsidered on March 2, 2016, then tabled to the April 20, 2016 meeting) (See related item #24)**
16. **Master Site Plan SP 15-358 Pine Island Plaza** (8800-8990 State Road 84, zoned B-2A County & R-4B County; proposed zoning is B-3). **(See related items #26 & 27)**

17. **Temporary Use Permit, Saddle Bridge** (7600 Griffin Road, Zoned Griffin Corridor District - University Drive Node).

VI. DISCUSSION OF CONSENT AGENDA ITEMS

1. Water Reuse Week (May 15-21, 2016)

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

Vice-Mayor Luis read the proclamation.

Don Bayler, Utilities Director, announced the Town had won the David York Reuse Award at the Florida Water Resource Conference recently.

Renuka Mohammed-Bajnath, Assistant Utilities Director, described the Town's reclaimed water program and how they had won the award. She thanked staff who had worked on the submittal.

2. Public Service Appreciation Week (May 1-7, 2016)

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

Councilmember Caletka read the proclamation.

Resolutions

Budget and Finance

3. **POLICY REVISION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REVISING THE FUND BALANCE POLICY FOR THE TOWN OF DAVIE; AUTHORIZING THE TOWN ADMINISTRATOR TO IMPLEMENT THE CHANGES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Starkey feared this gave too much flexibility and that it was watered down. She hoped to work through this with Town administration. Mr. Lemack wished to discuss the issues with Councilmember Starkey before Council approved it.

Councilmember Starkey made a motion, seconded by Councilmember Caletka to table to May 18. In a voice vote, all voted in favor. (Motion carried 5-0)

8. **POLICY** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ESTABLISHING A NEW DISCRETIONARY SPENDING POLICY; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Starkey asked if this included Council taking \$50 from their office accounts and Mr. Lemack replied that it would. Councilmember Starkey did not feel this was sufficient. Councilmember Caletka suggested adding Town Council to the list of exclusions. Councilmember Hattan stated she did not mind needing to ask for permission.

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

VII. PUBLIC HEARING

Ordinance - Second and Final Reading

18. **BUDGET AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING AN AMENDMENT TO THE ESTIMATED REVENUES AND APPROPRIATIONS FOR FISCAL YEAR 2016; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. **{Approved on first reading on April 20, 2016. In a roll call vote: Mayor Paul - yes; Vice-Mayor Luis - yes; Councilmember**

Caletka - yes; Councilmember Hattan - yes; Councilmember Starkey - yes. (Motion carried 5-0)}

Mr. Rayson read the ordinance by title.

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

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

Ordinance - First Reading (Second and Final Reading to be on held May 18, 2016)

19. CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CREATING CHAPTER 4, TITLED, "ANIMALS", ARTICLE V, TITLED "ELIMINATION OF THE RETAIL SALE OF DOGS AND CATS FROM PET SHOPS", SECTION 70, TITLED "ELIMINATION OF THE RETAIL SALE OF DOGS AND CATS FROM PET SHOPS", IN THE CODE OF ORDINANCES PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE. (Tabled from March 2, 2016)

Mr. Rayson read the ordinance by title.

Councilmember Caletka felt this issue would take time and education to make right. He hoped something would be done to improve regulation. He remarked that Davie pet shop owners had not ceased their offensive behaviors since Council had begun discussing this issue. Councilmember Caletka said he was going to withdraw the item because he knew Council would not approve it.

Mayor Paul recalled that during a zoning in progress, Council had passed an ordinance stopping any new pet stores in Town from selling dogs or cats. She agreed with Councilmember Caletka that shutting down puppy mills must be done through the State and Federal government. She wished to put this on the Town's legislative agenda.

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

20. CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA AMENDING CHAPTER 6, ARTICLE I, SECTION 9, CODE OF ORDINANCES TITLED, "ESTABLISHMENT OF FINE, LIEN, AND COST RECOVERY PROCEDURES; ESTABLISHMENT OF COST RECOVERY SCHEDULE OF FINES," PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Rayson read the ordinance by title.

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

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

21. CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE FOLLOWING SECTIONS OF CHAPTER 12, LAND DEVELOPMENT CODE: ARTICLE III, USE REGULATIONS, SEC. 12-32, PERMITTED USES; SEC. 12-33, GENERAL REGULATIONS; SEC. 12-34, STANDARDS FOR SPECIFIC USES; ARTICLE IV, DISTRICT PERFORMANCE STANDARDS AND CAPACITY

ANALYSIS; ARTICLE V, DEVELOPMENT STANDARDS; ARTICLE VI, SITE LANDSCAPING; CREATING THE FOLLOWING DIVISIONS WITHIN ARTICLE VI: DIVISION 1, LANDSCAPING, DIVISION 2, PREVENTION OF TREE ABUSE, DIVISION 3, TREE PRESERVATION, REMOVAL AND RELOCATION; AND DIVISION 4, CLEARING AND GRUBBING OF LAND; AMENDING ARTICLE VII, PARKING; AMENDING ARTICLE VIII, SIGNS, LIGHTING; AMENDING ARTICLE X, PLANNING AND DEVELOPMENT; ARTICLE XI, DEVELOPMENT REVIEW PROCEDURES; ARTICLE XII, SUBDIVISIONS AND SITE PLANS; ARTICLE XIII, SPECIAL PLANNING AREAS AND DISTRICTS, DIVISION 11, REGIONAL ACTIVITY CENTER, SEC. 12-438.15. - SUPPLEMENTAL REGULATIONS (CONCERNING DRIVE-THROUGH BUSINESSES); ARTICLE XIV, DEFINITIONS; REPEALING CHAPTER 26 VEGETATION; PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

Tabled.

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

Mr. Rayson read the ordinance by title.

Mayor Paul announced a public hearing would be held on May 18.

Councilmember Starkey wanted staff to study revising some of the rates.

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

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

Quasi-Judicial Public Hearing Items

APPLICANT HAS WITHDRAWN APPLICATION

23. **VARIANCE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING VARIANCE APPLICATION V15-327 DIAZ; AND PROVIDING AN EFFECTIVE DATE. (V15-327 Diaz, 1985 SW 115th Avenue, zoned R-1) (**Tabled from April 6, 2016**)

Withdrawn.

25. **VARIANCE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING VARIANCE APPLICATION V16-043 PORSCHE, AND PROVIDING AN EFFECTIVE DATE (Variance V16-043, **Porsche**, 4641 SW 148 Ave., zoned B-3).

Mr. Rayson read the resolution by title and reported all parties had waived quasi-judicial procedures.

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

Councilmembers disclosed communications they had regarding this item.

Vice-Mayor Luis made a motion, seconded by Mayor Paul to approve. In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice-Mayor Luis - yes; Councilmember Hattan - absent; Councilmember Caletka - yes; Councilmember Starkey - yes. (Motion carried 4-0).

26. **VARIANCE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING VARIANCE APPLICATION V15-026 PINE ISLAND PLAZA, AND PROVIDING AN

EFFECTIVE DATE (Variance V15-026, **Pine Island Plaza**, 8800-8990 State Road 84; zoned B-2A County & R-4B County; B-3 zoning proposed). (See related items #16 & 27)

Mr. Rayson read the resolution by title and reported all parties had waived quasi-judicial procedures.

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

Councilmembers disclosed communications they had regarding this item.

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

Ordinance - First Reading (Second and Final Reading to be on held May 18, 2016)

27. **REZONING (ZB) 15-027** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING APPLICATION ZB15-027 PINE ISLAND PLAZA, CHANGING THE ZONING DESIGNATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-2A COUNTY AND R-4B COUNTY TO PLANNED BUSINESS CENTER (B-3) DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING THE SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Rezoning ZB15-027, **Pine Island Plaza**, 8800-8990 State Road 84, currently zoned B-2A County and R-4B County). (See related items #16 & 26)

Mr. Rayson read the ordinance by title and reported the final reading would be on May 18.

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

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

24. **VARIANCE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING VARIANCE APPLICATION "V 15-192 ATLANTIC MONTESSORI CHARTER SCHOOL," AND PROVIDING FOR AN EFFECTIVE DATE. (V15-192, 2550 South Flamingo Road, zoned CF) (**Denied on February 11, 2016, reconsidered on March 2, 2016, then tabled to April 20, 2016**)(See related item #15)

Mr. Rayson read the resolution by title and reported this was a reconsideration.

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

Michael Moskowitz, attorney for the applicant, stated they waived quasi-judicial procedures and submitted several documents into the record. He remarked there were virtually no neighbors to the property and the building was significantly set back from Frontage Road. Mr. Moskowitz said the proposed uses were all permitted in this CF zoning district.

Mr. Moskowitz stated the architect had designed the building for four uses: early childhood educational facility; after school care for elementary school children; summer school for elementary school children and a K-5 elementary school. He noted that in 2002, the code had not differentiated between these uses regarding the building/site plan design or licensing and the building had complied with the code when constructed but the Town had changed the code in 2012. Under Davie's Code Section 12-39, the property was grandfathered in and they should therefore not need to apply for a variance. The applicant disagreed with staff's position that a variance was required.

Mr. Moskowitz reviewed the variance criteria:

a. There are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the

applicant of the reasonable use of such land or building for which the variance is sought, and that alleged hardship is not self-created by any person having an interest in the property.

Mr. Moskowitz said the peculiarity was that the land and building were in existence when the code was changed in 2012. He said the continued use solely as a preschool was not economically feasible, so not allowing the variance would deprive the owner of reasonable use of the building.

b. The granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

Mr. Moskowitz said this was the minimum variance needed, and pointed out that the property to the east had been vacant for years. The variance would not impinge on that land.

c. That granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Mr. Moskowitz said there was vacant property on all sides of this property, so there would be no detrimental effect to the neighborhood. He said there had been concerns raised about traffic stacking and queuing but this was not part of the setback requirements; this concerned the site plan.

Mr. Moskowitz stated prior to 2007, almost 300 students had attended the school and there had never been any problem with traffic or parking. He said the proposed use would lead to a decrease in traffic because they would cap the number of students at 236.

Mark Rickards, certified planner with Kimley-Horn and Associates, state criterion C referenced the reason for setback requirements: noise, view and intensity.

He pointed out that moving the building back to comply with setback requirements would result in more noise for residential neighbors. He said there was already landscape buffer which the applicant had agreed to increase and the applicant was voluntarily limiting density. Mr. Rickards said in his opinion, the proposed request met all three criteria.

Mr. Moskowitz said the applicant was willing to stipulate as a condition of the variance that enrollment would be certified each year. The total number of students would be limited to 236, with a maximum of 180 of those being K-5 students.

Christopher Heggen, transportation engineer, described the analyses they had conducted, specifically one dedicated to traffic queuing during pickup and drop-off periods and road level of service. He noted a study had concluded that the Town's adopted level of service standards on the adjacent roadway had been met. Mr. Rayson said issues of queuing were more appropriately addressed during discussion of the site plan.

Raymond Moses, owner of the property, said he had read Mr. Scarfo's affidavit related to his having been the architect and general contractor of this property. Mr. Moses confirmed that Mr. Scarfo's affidavit stated that the building accommodated all four of the uses Mr. Moskowitz had previously discussed. He also confirmed that when the property was built, it conformed with all setback requirements.

Mr. Rayson said the Town's Zoning Manager had researched and found that when the facility was built, the application was solely for a daycare facility. Mr. Moses said this meant they did not intend to offer service after 6:15 p.m. Mr. Moses confirmed that the occupational license described the business as a "child daycare facility" and the planning report from 1999 was for a 15,000 square foot daycare center. Mr. Rayson noted that a K-5 school was never mentioned. Mr. Moses stated the name was "Room to Grow Academy," to indicate the possible uses. Mr. Rayson said they had never asked permission for a kindergarten use and Mr. Moses explained the Town did not need to give permission.

Mr. Rayson presented a Declaration of Restrictions for the property to Mr. Moskowitz and explained it stated the restrictions: use shall be restricted to operation of a daycare center, a preschool and a private school. Mr. Moskowitz insisted that this document showed that use of the building as a school was expressly contemplated then and was therefore consistent with what they had been saying. Mr. Rayson pointed out that a charter school was a public school and Mr. Moskowitz said Florida statutes prohibited preventing charter schools. Mr. Moskowitz confirmed

that if a variance was granted, they would abide by any conditions attached to the variance.

Juana Garcia, operator of Atlantic Montessori, described the Montessori program and said this building was perfect for this use. She and her husband were currently operating the Montessori pre-school at this facility serving infants through pre-K. Ms. Garcia described their unsuccessful efforts to increase enrollment and confirmed that the current number of students could not support operating expenses. Ms. Garcia confirmed they would cap the number of students at 236 with a limit of 180 in K-5.

Sunita Moses, the owner's daughter, stated from time to time over the years, there had been a kindergarten operated at the facility. Enrollment had declined from approximately 300 since 2007 and had never rebounded. Ms. Moses said since then, no additional residential communities had been built nearby. She said parents were finding it more difficult to pay for their children's school since the recession. Ms. Moses stated the facility could not survive without offering K-5 curriculum.

David Quigley, Planning and Zoning Manager, clarified that Section 12-39 of the Town's Land Development Code addressed all manner of non-conformities, including developments before the Town was formed. Ordinance 2012-28 comprehensively addressed K-12 schools and indicated it applied to all new schools as well as expansions of existing schools. Mr. Moskowitz had Mr. Quigley confirm that 12-39 had never been repealed.

Councilmember Starkey stated in 1998 the parcel came to Council for a plat note, and asked if this was when the deed restriction had been attached. Mr. Quigley understood that the restrictions came into effect at the time the property was rezoned in 1997. Councilmember Starkey said there was a 1999 parking reduction variance granted based on the facility being a "child care facility." The 1998 site plan indicated this would be a "day care facility." Councilmember Starkey argued that contrary to Ms. Moses' testimony, there had been significant development in the area.

Councilmember Starkey asked Mr. Rayson if this would set a precedent for other daycare centers applying to obtain variances to operate a K-5 school and Mr. Rayson reminded her that no variance was precedent for any other variance application.

Ms. Moses informed Councilmember Caletka that children who attended the kindergarten operated here were accepted by Broward County schools.

Mr. Moskowitz stated a charter school was a "private/public" school because parents did not pay for children to attend but it was owned and operated by a private entity, not a school board. Mr. Rayson stated this was a private school that qualified as a charter school.

As no one else spoke, Mr. Rayson closed the public hearing portion of the meeting.

Vice-Mayor Luis said the proposal was palatable now with the reduction in the number of students. He also felt Mr. Moskowitz had some valid arguments about the site being grandfathered in.

Councilmember Caletka thanked Mr. Quigley and Mr. Rayson for their research and Mr. Moskowitz or the new information he had presented. He also believed they had reasonable, vested rights. Mayor Paul said if this evidence had been brought forward initially, the variance would probably have been granted.

Vice-Mayor Luis made a motion, seconded by Councilmember Hattan to approve, subject to the following conditions: the number of students would be capped at 236, with a maximum of 180 of those being in K-5; the applicant would abide by the restrictive covenants of record; the applicant would file an annual, notarized report of school population with a breakdown of K-5 and pre-K. In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice-Mayor Luis - yes; Councilmember Hattan - yes; Councilmember Caletka - yes; Councilmember Starkey - yes. (Motion carried 5-0).

15. Site Plan (SP) 15-100, Atlantic Montessori Charter School (2550 Flamingo Road, zoned CF). (Denied on February 11, 2016, reconsidered on March 2, 2016, then tabled to the April 20, 2016 meeting) (See related item #24)

Mayor Paul wanted to review the site plan and discuss it at Council's May 18 meeting.

Councilmember Caletka made a motion, seconded by Councilmember Hattan to table to May

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

VIII. APPOINTMENTS

28. Committee/Board Vacancies and Appointments
None.

IX. COMMITTEE RECOMMENDATIONS

None.

X. OLD BUSINESS

No discussion.

XI. NEW BUSINESS

No discussion.

XII. SCHEDULE OF NEXT MEETING

No discussion.

XIII. MAYOR/COUNCILMEMBER'S COMMENTS

MAYOR PAUL

TEACHER APPRECIATION WEEK. Mayor Paul reminded everyone it was Teacher Appreciation Week.

CLASSIC CAR SHOW. Mayor Paul announced the show was on May 22. There were two title sponsors this year: Rick Case and Porsche.

ANIMAL FASHION AND HORSE SHOW. Mayor Paul said the show would be on June 12 and there was quite an array of animals coming.

WESTERN HIGH SCHOOL AWARDS NIGHT FOR SENIORS. Mayor Paul stated she would attend and present two students with the Mayor's scholarship.

SOLAR ROBOTIC TEAM. Mayor Paul had learned the team had been named "Rookie Team" champions. She had invited them to the next meeting to be recognized.

VICE-MAYOR LUIS

FIREWALL WORK-A-THON. Vice-Mayor Luis explained Firewall provided after school tutoring and they had a positive impact on children's lives. The annual Work-a-thon this year had been at Snyder Park. He thanked Chris McKay from the Miami Dolphins for spending time with the kids that afternoon.

COUNCILMEMBER HATTAN

DAVIE WOMAN'S CLUB. Councilmember Hattan announced the club would host a membership and visitor Tea on May 15 from 2 p.m. until 4 p.m.

HOPE OUTREACH LEAPS PROGRAM. Councilmember Hattan said this was a great program. This year, all fifth graders who had been tutored there had made the honor roll.

DAVIE UNITED METHODIST CHURCH 100-YEAR GALA. Councilmember Hattan had attended the event and said it was very nice.

WESTERN HIGH DUI PREVENTION EVENT. Councilmember Hattan announced Western High would hold a DUI prevention event before prom time. Police and Fire would stage an accident to show students what could happen.

COUNCILMEMBER STARKEY

MANUEL AZABA RECOGNITION. Councilmember Starkey reported resident Mr. Azaba had received a scholarship from the Broward League of Cities Scholarship Committee and she wished to recognize him at a Council meeting and have Broward League of Cities present him with his scholarship check then because he had been unavailable for the ceremony.

THANKS TO STAFF. Councilmember Starkey thanked staff for their help with the Orange Park and Liberty Park spring cleaning project. She also thanked Firewall Ministries members who had helped.

UNIFIED TOWN PALETTE. Councilmember Starkey wished to define a color palette for Town buildings.

POLICE PROMOTION CEREMONY. Councilmember Starkey congratulated everyone who had been promoted.

OUTSTANDING COMMUNITY PARTNER OF THE YEAR AWARD. Councilmember Starkey reported the Town had received the award from the Baby Boomers and Breakthrough.

DAVIE UNITED METHODIST CHURCH 100-YEAR CELEBRATION. Councilmember Starkey had attended a mass at the church and said an eagle scout had restored the church tower bell and put it in the prayer garden.

BRIDGE RIBBON CUTTING DATE. Councilmember Starkey wanted to know if Council still wanted to have a picnic on the bridge. Council agreed, provided they could coordinate their calendars.

COUNCILMEMBER CALETKA

CITIZENS ON PATROL. Councilmember Caletka said he heartily supported this program and recognized participants who were in attendance.

GOATS. Councilmember Caletka said the ladies who were his neighbors had informed him they did not want the Town to allow goats in the R-5 zoning district.

ORLANDO STATE MPO MEETING. Councilmember Caletka reported he had been elected to the executive board of the State MPO.

XIV. TOWN ADMINISTRATOR’S COMMENTS

77 AVENUE WATER REVISION. Mr. Bayler reported the project was on schedule. Pressure testing and bacteriological testing would take place the following week. They anticipated completion by mid-June, on schedule.

DISTRICT 3 FORUM. Mr. Lemack announced the District 3 forum would be Thursday, May 5 at Pine island Park at 6:30 p.m.

XV. TOWN ATTORNEY’S COMMENTS

No report.

XVI. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 9:25 pm.

Approved_____

Mayor/Councilmember

Town Clerk