



**TOWN OF DAVIE
TOWN COUNCIL REGULAR MEETING
MAY 16, 2018**

I. PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:32 p.m. and was followed by the Pledge of Allegiance.

II. ROLL CALL

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

III. PRESENTATIONS

3. Broward County Property Appraiser's Office, Marty Kiar, Property Appraiser

Mr. Kiar provided a brief presentation about the property appraiser's office: how property taxes were calculated, exemptions and data specific to the Town of Davie.

1. 2018 Mayor's Scholarship Recipients

Mayor Paul had presented the scholarships the previous evening to: Ethan Chiapelli; Sydney Leiter and Anya Sorensen.

2. Relay for Life, Charles "Mitch" Taylor, Intergovernmental Affairs Manager

Mr. Taylor and Jeff Pohlman, Assistant Director, Recreation and Cultural Arts, provided a presentation on the event. The event had been held on April 28 and 29 and raised \$10,000 on the day of the event. The home team had raised a total of \$3,100 and been ranked eighth. Mr. Taylor thanked the Police Department, Fire Rescue Department and the Parks, Recreation and Cultural Arts Department for their help.

3. Special Presentation to Jason Kaufman

Mayor Paul said the event could not have been possible without Mr. Kaufman. She thanked him for his effort and presented him with a certificate.

Mayor Paul pulled items 1 through 5 from the Consent Agenda. Vice Mayor Caletka pulled item 6.

Councilmember Luis made a motion, seconded by Councilmember Starkey to approve the Consent Agenda, less items 1, 2, 3, 4, 5 and 6. In a voice vote, all voted in favor. (Motion carried 5-0)

IV. APPROVAL OF CONSENT AGENDA

Proclamations

1. Hurricane Preparedness Week (May 6-12, 2018)
2. Kids to Parks Day (May 19, 2018)
3. EMS Week (May 20 - 26, 2018)
4. National Public Works Week (May 21-27, 2018)
5. National Gun Violence Awareness Day (June 1, 2018)

Resolutions

Budget and Finance

6. **CONTRACT EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN EXTENSION TO THE CONTRACT BETWEEN THE TOWN AND KEEFE, MCCULLOUGH & CO., LLP FOR EXTERNAL AUDITING SERVICES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from May 2, 2018)

Engineering

7. **CHANGE ORDER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER #4 PROVIDING A TIME EXTENSION TO THE CONTRACT BETWEEN THE TOWN OF DAVIE AND WEEKLEY ASPHALT PAVING, INC. FOR THE DAVIE ROAD PHASE II ROADWAY IMPROVEMENT PROJECT; AND PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Information Technology

8. **AGREEMENT RENEWAL** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH TYLER TECHNOLOGIES FOR THE NEW WORLD ERP SOFTWARE, PREVIOUSLY AWARDED BID B-09-107, FOR YEARLY MAINTENANCE RENEWALS OF THE NEW WORLD ERP SOFTWARE MAINTENANCE STARTING ON NOVEMBER 1, 2018 FROM TYLER TECHNOLOGIES AS A SOLE SOURCE PROVIDER, PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.
9. **AGREEMENT RENEWAL** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE PURCHASE OF SOFTWARE, ANNUAL MAINTENANCE AND PROFESSIONAL SERVICES FROM AVOLVE SOFTWARE A SOLE SOURCE PROVIDER FOR THE TOWN PROJECTDOX ENTERPRISE ELECTRONIC PLANS REVIEW SYSTEM; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Public Works

10. **CHANGE ORDER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROVAL OF CHANGE ORDER #5 FROM WEST CONSTRUCTION, INC. TO FURNISH AND INSTALL A MANUAL TRANSFER SWITCH TO ACCOMMODATE A TRAILER-MOUNTED BACKUP GENERATOR AT FIRE RESCUE STATION #86 AND FOC/COMMUNITY CENTER IN THE AMOUNT OF \$152,903.63; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.
11. **BID SELECTION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AWARDED ITB# RM-18-53 TO INSTALL A SLAB AND A.D.A. ACCESSIBLE WALKWAY TO THE POLE BARN AT MARANDO FARMS TO LWH CONSTRUCTION, INC. IN THE AMOUNT OF \$42,100; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney

12. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE, A PURCHASE AND SALE AGREEMENT OF THE DAVIE-COOPER CITY CHAMBER OF COMMERCE PROPERTY LOCATED AT 4185 SW 64 AVENUE, DAVIE, FL, IN THE AMOUNT OF \$892,000., AND AUTHORIZING THE TOWN ADMINISTRATOR AND TOWN ATTORNEY TO COMPLETE THE CLOSING OF THE PURCHASE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING EFFECTIVE DATE.

Quasi-Judicial Consent Agenda

13. **BUSINESS TAX RECEIPT - Home Occupation, Jokyli, Inc.** (1721 SW 119 Terrace, Zoned R-1).
14. **DESIGN VARIATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A DESIGN VARIATION FOR NOVA VILLAS (DV18-070) PURSUANT TO SECTION 12-438.23 OF THE LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE. (northwest corner of Nova Drive and Southwest 70th Avenue, zoned RAC-RTW).

V. DISCUSSION OF CONSENT AGENDA ITEMS

Councilmember Starkey made a motion, seconded by Councilmember Luis to approve proclamations 1 through 5. In a voice vote, all voted in favor. (Motion carried 5-0)

1. Hurricane Preparedness Week (May 6-12, 2018)

Councilmember Luis read the proclamation and Mayor Paul presented it to John Antapasis, Emergency Manager.

2. Kids to Parks Day (May 19, 2018)

Councilmember Hattan read the proclamation and Mayor Paul presented it to David Flaherty, Parks and Recreation Director. Mr. Flaherty announced a self-directed social media scavenger hunt starting on May 19 until the end of May in Davie Parks. Participants would be entered into a drawing for a free swim lesson or sports registration.

3. EMS Week (May 20 - 26, 2018)

Vice Mayor Caletka read the proclamation and Mayor Paul presented it to Jorge Gonzalez, Fire Chief.

4. National Public Works Week (May 21-27, 2018)

Councilmember Starkey read the proclamation and Mayor Paul presented it to Osdel Larrea, Director of the Department of Public Works and Capital Projects.

5. National Gun Violence Awareness Day (June 1, 2018)

Mayor Paul read the proclamation and presented it to Maria Martinez Menuja and Tanya Reed. Ms. Menuja announced a Healing Through Harmony/Wear Orange event on June 2 at Pine Trails Park in Parkland.

6. CONTRACT EXTENSION - KEEFE, MCCULLOUGH AUDITING SERVICES

Vice Mayor Caletka said a lobbyist who was not registered in Davie had contacted him about this item and Vice Mayor Caletka had refused to speak with him because he was not registered in the Town. He presented the following documents to Bill Ackerman, Budget and Finance Director: May 2, 2018 Town Council Agenda; Agenda Report for the May 2, 2018 agenda item regarding the Keefe McCullough contract extension; May 16, 2018 Town Council Agenda; Agenda Report for the May 16, 2018 agenda item regarding the Keefe McCullough contract extension; the Florida Statute cited in the agenda item.

Vice Mayor Caletka had highlighted the agenda item related to the Keefe McCullough contract extension and the text related to the Florida Statute that ruled selection procedures for hiring an auditor. Mr. Ackerman read the language on the two agendas and Vice Mayor Caletka pointed out that the language for the agenda item had changed from “Contract Extension” on the May 2 agenda to “Contract Renewal/Contract Extension” on the May 16 agenda.

Mr. Ackerman read the portion of the Florida Statute regarding minimum requirements for a contract for procurement of services that Vice Mayor Caletka had highlighted, “a provision specifying the contract period, including renewals and conditions under which the contract may be terminated or renewed.” Vice Mayor Caletka said the agenda item was for a renewal and extension and he could not find any language in Florida Statutes that would allow the Town to avoid procurement procedures while having an extension. He added the Contract Renewal Form from Council’s backup and asked Mr. Rayson to examine the documents.

Mr. Ackerman read the highlighted portion of the Contract Renewal Form, “The original contract covered the fiscal year 2013 through 2017 audits. An additional five-year term is available to renew this contract. The five-year term begins with the fiscal year 2018 audit and ends with the fiscal year 2022 audit.”

Mr. Ackerman informed Vice Mayor Caletka that rotating auditors every 10 years was not considered a best practice. Vice Mayor Caletka asked Mr. Rayson if an extension could “forego the proper procurement along with the renewal.”

Vice Mayor Caletka said the Town operated in a transparent manner because it was a best practice and putting an extension on this renewal was not transparent or best practice.

Vice Mayor Caletka stated he would make a motion to approve the item, with the following conditions: to strike any and all language mentioning an extension and adding language that at the end of this renewal period, they would go through the process to procure a new auditor for the next 10-year period.

Mr. Lemack informed Council that there was no automatic renewal after the second term; this required Council approval. Vice Mayor Caletka said his problem was that this was an extension, not a renewal.

Councilmember Luis made a motion, seconded by Councilmember Starkey to table the item to Council’s June 13 meeting to allow Mr. Rayson, Mr. Ackerman and the rest of Council time to consider the documents Vice Mayor Caletka had presented. In a voice vote, all voted in favor. (Motion carried 5-0)

VI. PUBLIC HEARING

Resolutions

15. **BOND** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE ISSUANCE OF ITS STUDENT HOUSING REVENUE BONDS (CHF-DAVIE, L.L.C.-NOVA SOUTHEASTERN UNIVERSITY CAMPUS PROJECT), SERIES 2018A AND ITS TAXABLE STUDENT HOUSING REVENUE BONDS (CHF-DAVIE, L.L.C.-NOVA SOUTHEASTERN UNIVERSITY CAMPUS PROJECT), SERIES 2018B, IN A COMBINED AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$100,000,000; PROVIDING FOR THE LENDING OF SUCH FUNDS TO CHF-DAVIE, L.L.C TO FINANCE THE COSTS OF DEVELOPMENT, CONSTRUCTION, FURNISHING AND EQUIPPING OF CERTAIN STUDENT HOUSING FACILITIES, CERTAIN LANDSCAPE, SITE WORK AND UTILITY IMPROVEMENTS ASSOCIATED THEREWITH AND APPROXIMATELY 300 PARKING SPACES IN A UNIVERSITY-OWNED PARKING FACILITY ON THE CAMPUS OF NOVA SOUTHEASTERN UNIVERSITY, INC. IN THE TOWN OF DAVIE, FLORIDA AND FUND A DEPOSIT TO A DEBT SERVICE RESERVE FUND, IF ANY, CAPITALIZE INTEREST, IF ANY, PAY CERTAIN START-UP EXPENSES AND PAY COSTS OF ISSUANCE; PROVIDING THAT SUCH BONDS SHALL NOT CONSTITUTE A DEBT, LIABILITY OR OBLIGATION OF THE TOWN OF DAVIE OR THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF OR NOVA SOUTHEASTERN UNIVERSITY, INC., BUT SHALL BE PAYABLE SOLELY FROM THE REVENUES HEREIN DESCRIBED; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH CHF-DAVIE, L.L.C. TO PROVIDE SECURITY FOR SUCH BONDS, AND FOR OTHER MATTERS THEREIN PROVIDED; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE WITH WILMINGTON TRUST, NATIONAL ASSOCIATION, AS TRUSTEE; AUTHORIZING THE MAYOR OR VICE MAYOR OF THE TOWN TO AWARD THE SALE OF THE BONDS TO THE UNDERWRITER DESCRIBED HEREIN, AND APPROVING THE CONDITIONS AND CRITERIA OF SUCH SALE; APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT WITH THE UNDERWRITER AND CHF-DAVIE, L.L.C.; APPROVING THE FORM AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND DELEGATING AUTHORITY TO APPROVE THE OFFICIAL STATEMENT; AND PROVIDING CERTAIN OTHER DETAILS IN CONNECTION THEREWITH.

Mr. Rayson read the Resolution by title.

Mr. Lemack reported the borrower was required to have an investment grade rating of BBB- from a nationally recognized rating agency. The borrower was rated BB- which did not meet the threshold. This rating was being appealed and NSU was seeking conditional approval. He said there was language in the agreement that would not allow the bonds to be issued unless that investment grade was achieved. He distributed language by the Town's bond counsel for that conditional approval.

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

Mr. Rayson was satisfied with the condition.

Councilmember Starkey made a motion, seconded by Councilmember Luis to approve, with the following condition: "Within 15 days of this meeting CHF-Davie LLC provides evidence that the proposed bonds will have an investment grade rating equal to BBB- from a nationally recognized rating agency. The Mayor is authorized to execute the resolution upon receipt of such evidence within a 15-day period." In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice Mayor Caletka

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

22. VARIANCE - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, TAKING FINAL ACTION ON VARIANCE APPLICATION V18-062 IMPERIAL SUSHI, AND PROVIDING AN EFFECTIVE DATE. (8570 Stirling Road, zoned B-2)

Mr. Rayson read the Resolution by title and reported quasi-judicial procedure had been waived. Mayor Paul opened the public hearing portion of the meeting.

Barry Long, resident of Hollywood, said he was representing Calvary Fellowship Church and Calvary Kids Pre-school. Mr. Long said they opposed the variance because of the property's proximity to their church and school. He feared the possibility of alcohol-related vehicular/pedestrian accidents.

Scott Erlich, CEO of the David Posnack JCC, said they supported the request; they felt the owner was responsible and they looked forward to the restaurant in this location.

Jason Gilchrist had reviewed the Planning and Zoning Board meeting and said one of their points was that the variance would allow "an existing restaurant" to serve alcohol. Mr. Erlich pointed out that the restaurant was still under construction. In addition, the incorporation for the restaurant was initiated well past the date the ordinance change to require the 1,200-foot separation. He opposed the variance for the safety of his nearby church and school.

Nectaria Chakas, attorney for the applicant, provided a presentation about the request and made the following points:

- The ordinance in 2016 was changed to require that restaurants with on-premises alcohol consumption must be 1,200 feet from any place of public assembly or a school.
- Building permits for the shopping center predated that ordinance change.
- The Certificates of Occupancy were approved right after the ordinance change.

Ms. Chakas said they had agreed to address the following concerns presented by the neighbors:

- Alcohol would not be sold to anyone unless he/she also ordered food.
- Hours of operation: 11:30 A.M. until 10:00 P.M. on weekdays and until 11:00 PM on weekends.
- There would be no outdoor seating.
- Alcohol sales would be limited to beer and wine.
- There was a wall between the shopping center and the church.

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

Ms. Chakas confirmed there would be no alcohol bar in the restaurant.

Kim Grantham said the Posnack Center was across the street but the church was right next door.

Councilmembers disclosed communications they had regarding the item.

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

16. **CAPITAL IMPROVEMENT PLAN** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE THIRD AMENDMENT TO THE 10-YEAR CAPITAL IMPROVEMENTS PROGRAM FOR THE TOWN OF DAVIE FOR FISCAL YEARS 2018-2027; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Ordinance - Second and Final Reading

17. **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CREATING CHAPTER 2, ARTICLE VI, SECTION 173, CODE OF ORDINANCES TITLED, "CRIMINAL HISTORY RECORD CHECKS FOR TOWN EMPLOYEES, CONTRACTED PERSONNEL, VOLUNTEERS, APPOINTEES AND PRIVATE CONTRACTORS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE. **{Approved on first reading on May 2, 2018. In a roll call vote: Mayor Paul - yes; Vice-Mayor Caletka - yes; Councilmember Luis - 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 Luis made a motion, seconded by Councilmember Starkey to approve. In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice Mayor Caletka - yes; Councilmember Hattan - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0).

Ordinances - First Readings (Second and Final Reading to be held on June 13, 2018)

18. **BUDGET AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING AN AMENDMENT TO THE ESTIMATED REVENUES AND APPROPRIATIONS FOR FISCAL YEAR 2018; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Rayson read the Ordinance by title and reported the second reading would be held on June 13, 2018.

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

19. **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CREATING CHAPTER 28 TITLED, "EMERGENCY MANAGEMENT, OF THE TOWN OF DAVIE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; 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.

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

Quasi-Judicial Public Hearing

20. **SPECIAL PERMIT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING SPECIAL PERMIT APPLICATION SE16-244 HOME DEPOT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE. (**Tower Shops - 2300 S. University Drive, zoned B-3**) (**tabled from May 2, 2018**)

Mr. Rayson read the Resolution by title and reported quasi-judicial procedure had been waived.

Mayor Paul opened the public hearing portion of the meeting.

Chris Fraga, district manager for West Broward County Home Depots, said he had addressed Councilmember Starkey's concerns: pallets stored on the south side of the garden center had been cleared; pallet trailers had been moved; and rental trucks had been moved in the parking lot. He had photos showing these changes.

David Quigley, Planning and Zoning Manager, recommended eliminating storage in the area southeast of the garden center entrance.

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

Mayor Paul stated her main issue had been that use of the front of the store for storage would push activity into the already congested drive area. She noted how traffic backed up significantly trying to get past Home Depot in the parking lot.

Councilmember Starkey thanked Mr. Fraga and other Home Depot representatives for meeting with her and Mayor Paul and remarked they had asked them to meet with staff as well but they had not done so. She noted that the rental trucks had been moved but then returned to their places, which must be addressed with the store manager. She said she could not approve this because it was still jeopardizing the safety of drivers and pedestrians. She acknowledged the front fire lane had been cleared but this was still the only area for loading and unloading.

Vice Mayor Caletka explained why the multiple ingress and egress to and from the shopping center was so dangerous, particularly for pedestrians. He did not feel that allowing Home Depot to spread out would make it any safer.

Mayor Paul said Mr. Lemack would meet with Mr. Fraga to discuss the issues and Mr. Fraga agreed.

Councilmember Starkey made a motion, seconded by Councilmember Luis to table to July 25. In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice Mayor Caletka - yes; Councilmember Hattan - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0).

21. **SPECIAL PERMIT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, TAKING FINAL ACTION ON SPECIAL PERMIT APPLICATION SE 17-277 PROFESSIONAL LASER CENTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE. (tabled from May 2, 2018)**

Mr. Rayson read the Resolution by title and reported quasi-judicial procedure was required. He asked for any members of the public who wished to speak or be declared an intervener to stand and declare him/herself. He swore in witnesses.

Mr. Quigley provided the staff report.

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

William McCormick, applicant's representative, said their justification letter addressed all of the code requirements for the special permit. He stated this property had been annexed into Davie in the 1980s and the Foreman settlement agreement indicated that the owners would not object to the annexation, provided the property would remain subject to Broward County code in effect at the time of annexation.

Mr. Rayson said there were items attached to the settlement agreement, including amendment G, a sign code adopted as part of the agreement. Mr. McCormick stated he had not been aware of this until Mr. Rayson mentioned it just now. He stated the sign code Mr. Rayson cited did not mention LED lighting. Mr. Rayson said LED signs were not contemplated in 1985 but Exhibit B referred to the prohibition of changing/flashing signs.

Mr. McCormick said the Foreman agreement allowed the sign to be rebuilt when the Florida Turnpike sound wall had been built. The old Broward County code had limited the height to 35 feet and they had received a variance from the Town to allow it to be 60 feet because it would not have been visible at 35 feet. When it had been rebuilt, a Planning and Zoning Board member had asked if the sign would need to be presented again to the Planning and Zoning Board if the owner wanted a digital sign and at the time, Mr. Quigley had stated the owner would not; that would be allowed per the prior code.

Mr. McCormick said they had applied to replace the faces of the billboard with digital displays and it had been denied. The owner believed they were entitled to this by right under the applicable code. Mr. Rayson had informed him that the special permit was the last step to exhaust administrative remedies. He reiterated that their justification letter addressed the criteria for the special permit and reported they had held two public meetings, which no one attended. The Planning and Zoning Board had heard their request and voted 3-1 in favor of approval.

Mr. McCormick said the staff report had raised the issue of safety, and explained that the Federal Highway Administration (FHA) had determined via a study that digital signs were no more likely to cause distractions than static signs. He asked Council to defer to the FHA report. Vice Mayor Caletka asked if that study had been peer reviewed. Chris Ashley, Out Front Media, stated it had been peer reviewed.

Mr. McCormick said Mr. Quigley had found a report generated by Gerry Wachtel with the Viridian Group and Mr. McCormick had found it on the website of an anti-billboard group. He questioned the motives of the Wachtel report.

Mr. Rayson agreed with Mr. McCormick regarding how distracting digital signs were, and added that the report did indicate that drives looked at digital signs longer than static signs. Mr. Ashley acknowledged that motorists looked at a digital sign for a slightly longer period of time, but both amounts were below thresholds identified as presenting a safety issue.

Mr. Rayson cited the Wachtel report, which indicated that in Florida, the presence of digital billboards increased the overall crash rates 25% near where they were located compared to other areas. Mr. McCormick pointed out that Mr. Wachtel made his living testifying in opposition to digital billboards. Mr. McCormick did not know if Mr. Wachtel had used scientific protocols in his research. He did not feel they should be giving more credence to this report than to the FHA report.

Cathy Sweetapple, transportation consultant for American Marketing, had provided additional peer-reviewed reports and noted that they agreed with the crash rate increase data in the Wachtel report. Ms. Sweetapple said the stretch of Turnpike where this sign would be located was particularly dangerous because there was a lane decrease there. She felt the billboard would distract drivers when they should be paying more attention.

Ms. Sweetapple described her education and experience to Council. She thought it was important to have State agencies opine on this request.

Mr. McCormick cross examined Ms. Sweetapple. She said she had not done a traffic study regarding the impacts of a billboard on the public traveling by. Ms. Sweetapple said she could analyze the effects of billboards on the safety of the traveling public because she was a driver and understood the distractions they presented while driving. This was the first time she had been asked professionally to analyze this.

James Grey Kane, American Marketing, criticized the FHA report, stating two peer reviewers of three had rejected the draft; it had been rewritten and not reviewed again. The FHA report had only been published on the FHA website.

Mr. Kane said American Marketing was a real estate company in Davie and his office was on the opposite side of the Turnpike from this billboard. He said he had read “every single one of these reports” and this billboard would be bad for the public because this type of billboard distracted drivers.

Mr. McCormick cross examined Mr. Kane. Mr. Kane said he was a political science professor at the University of Florida. He admitted he had no qualification or training to critique the FHA report. He stated he was aware of the State regulations regarding digital billboards and agreed that these should govern the operation of this billboard. Regarding the State regulation, Mr. Kane said he thought Mr. McCormick was referring to regulations regarding illumination and timing of changes on digital billboards and stated, “There was no scientific study done for that; it was just made up because they thought it would be a good idea.” Mr. Kane said he had concluded this from reading “backup material” from reviews from the Department of Transportation.

Mr. McCormick noted that this location had hosted a billboard for 20-30 years and he maintained that they had a right to install a digital billboard here based on the code frozen in place by the Foreman agreement. He said the evidence showed that they had satisfied all of the Town’s requirements.

Scott Erlich, CEO of the David Posnack JCC, disclosed that they would be a beneficiary of some of the revenue from this sign.

Charlotte Mather Taylor, CEO of the Ann Stork Center, disclosed that they would also be a beneficiary of some of the revenue from this sign. She said they had enjoyed the benefits of Out Front Media creating digital billboards for their events.

Mayor Paul said Council would not consider the contributions that would be made to the David Posnack JCC or the Ann Stork Center in considering the application. She was struck by the statistic from the Wachtel report indicating a 25% increase in vehicular crashes near digital billboards.

Mayor Paul referred to Mr. Rayson’s opinion in a 2017 letter that the owners of the billboard did not have the legal right to install a digital billboard here. Mr. Rayson said he stood by that opinion.

Mayor Paul was also concerned about the number and clustering of billboards at this site. Mayor Paul said Mr. McCormick had indicated that the subject of the billboard would be public safety but she did not think that advertising for local non-profits came under the heading of public safety information.

Vice Mayor Caletka said he considered the consequences of the differing arguments. He believed that an increase in crashes due to the digital billboard, even one as small as 1%, would override the other side of the argument.

Councilmember Luis said he was “not a big fan of the signs, period” and felt there were many reasons to deny the request. He thought they were a major safety issue and did not want to see them

in the Town.

Councilmember Hattan said as traffic increased, so would the number of distracted drivers in this area.

Councilmember Starkey said she had weighed the evidence and listened to staff, the applicant and witnesses. She had considered this request in light of the specific location and was concerned about the impact on traffic safety due to distracted drivers.

Mr. Rayson confirmed that current Town code prohibited the conversion of static billboards into digital.

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

VII. APPOINTMENTS

23. Committee/Board Vacancies & Appointments

24. Planning & Zoning Board Renewals

Mayor Paul reappointed Donna Evans. Vice Mayor Caletka reappointed Jodi Bock Davidson. Councilmember Starkey reappointed Christopher Cory. Councilmember Luis reappointed Ken DeArmas.

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

25. Site Plan Committee Renewals

Councilmembers all wished to reappoint their current appointees.

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

VIII. COMMITTEE RECOMMENDATIONS

None

IX. OLD BUSINESS

None

X. NEW BUSINESS

26. Staffing for Adequate Fire and Emergency Response Grant (SAFER) Program Application Prerequisite

Mr. Lemack requested that all Councilmembers authorize Mayor Paul to sign the supporting letter for the SAFER Grant application. Council agreed.

XI. SCHEDULE OF NEXT MEETING

May:

Wed. 16 6:30 PM Town Council Meeting

June

Wed. 13 4:00 PM First Budget Workshop

6:00 PM CRA

6:30 PM Town Council Meeting

July

Wed. 25 4:00 PM Second Budget Workshop

6:00 PM CRA

6:30 PM Town Council Meeting

August

Wed. 1 4:00 PM CIP Workshop
 4:30 PM Community Endowment Workshop
 6:00 PM CRA
 6:30 PM Town Council Meeting
Wed. 15 6:30 PM Town Council Meeting

September

Thurs. 6 5:15 PM First Budget Hearing
 6:00 PM CRA
 6:30 PM Town Council Meeting
Wed. 12 12:00 PM Special Assessments Hearing
Mon. 17 5:15 PM Second Budget Hearing
 6:30 PM Town Council Meeting

XII. MAYOR/COUNCILMEMBERS' COMMENTS

MAYOR PAUL

OLD DAVIE SCHOOLHOUSE 100TH ANNIVERSARY. Mayor Paul said the event had been great.

44th ANNUAL PIONEER DAY. Mayor Paul announced 18 people had been inducted into the Pioneer Hall of Fame. One of those nominated was Beverly Jean Smith Fotillo, a docent at Old Davie School.

U.S. NEWS AND WORLD REPORT HIGH SCHOOL RANKING. Mayor Paul said the report indicated a few area high schools within the top schools in the United States.

MOODY'S RATING. Mayor Paul was very proud that the Town's rating was now Aa1, the second-highest.

HUD GRANT. Mayor Paul had received a congratulatory letter from Florida Senator Bill Nelson regarding the \$622,000 grant the Town had been awarded.

COUNCILMEMBER HATTAN

PRESERVING THE BROWARD COUNTY HISTORIC PRESERVATION BOARD. Councilmember Hattan said one of her constituents, Sheldon McCartney, had kept the board going and she thanked him.

GOOD LUCK TO MS. BORGESI. Councilmember Hattan wished Ms. Borgesi well in her future endeavors.

COUNCILMEMBER LUIS

OLD DAVIE SCHOOL/PIONEER DAYS. Councilmember Luis said this had been a wonderful day. He said everyone at the school did a great job. He remarked on the unique history of the school and encouraged everyone to visit.

COUNCILMEMBER STARKEY

OLD DAVIE SCHOOL/PIONEER DAYS. Councilmember Starkey thanked everyone and said they had all done a great job.

VICE MAYOR CALETKA

HAPPY BIRTHDAYS. Vice Mayor Caletka wished Mayor Paul, Councilmember Starkey and Councilmember Luis a Happy Birthday.

TRANSPORTATION SURTAX CALL FOR PROJECTS. Vice Mayor Caletka reported he would represent the Town at the meeting at the Broward County Commission.

GRIFFIN/75 PARK AND RIDE. Vice Mayor Caletka announced that FDOT was interested in the Park and Ride again. He and the Mayor of Southwest Ranches would travel to Tallahassee to meet with the Secretary of Transportation and FDOT District Secretary. He was confident the MPO would vote unanimously against it.

TRANSPORTATION IMPROVEMENT PLAN. Vice Mayor Caletka explained that the plan included the Park and Ride on Davie Road and State Road 84, but it was called, “capital for fixed route” not “expansion of Park and Ride.” He said this had falsely been included in the TIP and gone against Davie’s previous request for security and a gate to secure Reese Road for ingress/egress to State Road 84. Vice Mayor Caletka asked Council to instruct Mr. Rayson to file an injunction to prevent this.

Vice Mayor Caletka made a motion, seconded by Councilmember Hattan to direct the Town Attorney to file an injunction on the Town’s behalf regarding the Park and Ride on Davie Road and State Road 84. In a voice vote, all voted in favor. (Motion carried 5-0)

XIII. TOWN ADMINISTRATOR’S COMMENTS

None

XIV. TOWN ATTORNEY’S COMMENTS

None

XV. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 9:47 p.m.

Approved _____

Mayor/Councilmember

Town Clerk