Item No. 10.2.b

AGENDA ITEM REQUEST FORM

Development Services	Jeff Bowman
Department Submitting Request	Dept Head's Signature

REGULAR COMMISSION MTG Meeting Dates - 7:00 PM	DEADLINE TO Town Clerk	ROUNDTABLE MEETING Meeting Dates – 7:00 PM	DEADLINE TO Town Clerk
☐ Mar 22, 2011	Mar 11 (5:00 pm)	☐ Mar 8, 2011	Feb 25 (5:00 pm)

SUBJECT TITLE: Second Reading, Proposed Ordinance 2010-06 – Amending the Comprehensive Plan.

EXPLANATION:

This is second reading of Ordinance 2010-06 **(Exhibit 2)**. First reading was approved on September 27, 2010. The Amendments to the Comprehensive Plan is **Exhibit A** to the Ordinance. The Supporting Document to the Comprehensive Plan is **Exhibit 3**.

History

In mid-2009 the Town started the process of updating portions of the Comprehensive Plan and Supporting Documents in an effort to comply with various mandates of the State of Florida and Broward County. The proposed amendments are outlined below:

1. A Public School Facilities element, in accordance with Section 163.3177(12), Florida Statutes.
2. Revisions that the Broward County Planning Council is requiring the Town to make in order for the Town's comprehensive plan to be recertified as being in substantial conformity with the County's plan.
3. Provisions implementing greenhouse gas reduction strategies and energy-efficient land use patterns into various elements of the Town's comprehensive plan, as required by Chapter No. 2008-191, Laws of Florida.
4. Revisions to the transportation level of service standards to conform to previously adopted changes in the County's plan.
5. Revisions to the provisions applicable to the Coastal High Hazard Area to conform to the revised Section 163.3178, Florida Statutes.

Outline below are the actions to date regarding the progress of the amendments:

1. June of 2009, Walter Keller (Consultant) started the revisions.
2. December 3, 2009 the Broward County Planning Council provisionally approved the proposed amendments.
3. June 16, 2010 & July 21, 2010 the Planning and Zoning Board reviewed the proposed amendments and recommended approval.
4. August 25, 2010 the Town Commission approved Resolution 2010-20 (Authorizing the issuance of an (Notice of Intent) NOI).
5. September 14, 2010, A Public Hearing was held regarding the NOI. The Town Commission approved the further processing of the proposed regulations.
6. On September 27, 2010 the Town Commission approved First Reading of the proposed Ordinance.

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7. On December 9, 2010 the Broward County Planning Council approved a six (6) month extension for adoption of the proposed amendments.
8. On December 30, 2010 the Department of Community Affairs (DCA) completed its review of the proposed amendments and provided their recommendations.
9. March 8, 2011, the Town Commission, at their Roundtable meeting, reviewed the proposed revisions addressing the ORC recommendations and suggested a few minor revisions with direction to move forward. Staff advised the Commission that we would send the revisions to the Planning and Zoning Board for their review as well on March 16, 2011.
10. On March 16, 2011 the Planning and Zoning Board reviewed the proposed revisions and recommended approval.

The revisions made since you reviewed this are in red type. There is one simple change that has been made that was not in the packet reviewed by the P&Z Board. In paragraph 4.7.11 we struck the reference to the 2011 Parking Study as it does not address these issues.

PLANNING AND ZONING RECOMMENDATION: Approval of recommended amendments to the Comprehensive Plan.

STAFF RECOMMENDATION: Approval of Ordinance on second reading.

EXHIBITS: Exhibit 1 – Walter Keller's ORC Response (Objections, Recommendations, and Comments) Response to DCA (Department of Community Affairs)
Exhibit 2 – Ordinance 2010-06 – Exhibit A – Proposed amendments
Exhibit 3 – Support Documents
Exhibit 4 – Planning and Zoning Minutes of June 16, 2010; July 21, 2010; and March 16, 2011

Reviewed by Town Attorney
☒ Yes ☐ No

Town Manager Initials CW

Exhibit 1

Response to the ORC Report
by Walter H. Keller, Inc.

Transportation Element

ORC Objection: The Town has not included the projected peak hour levels of service information for transportation facilities, or identified the regional and local transportation facilities critical to evacuation of coastal population on the Future Transportation Map that was submitted.

Authority: Section 163.3177 (6) (j), F.S.; and Rule 9J-5-019 (2) (b) 4 and 5, F.A.C.

Recommendation: The Department recommends that the Town either include the projected peak hour levels of service for transportation facilities and the regional and local transportation facilities critical to evacuation of coastal population on the Future Transportation Map that was submitted or include this information as a separate map series to be adopted as part of the Transportation Map series.

Proposed Revision:

The data and analysis of the Transportation Element were revised to reflect more recent traffic projections available in the 2030 LRTP thereby revising the 2020 traffic projections and LOS. Text, Table 7-5 and Figure 7-5 in the data and analysis were revised to address the ORC Objection (see pages VII-19 thru VII-21). Added revised projected peak hour levels of service and Evacuation Routes outside of the Town to the adopted Future Transportation Map (see revised Figure 5 page 125).

Inadequate Policies on Greenhouse Gas Emission Reduction (Future Land Use, Housing, Transportation, and Conservation Elements)

ORC Objection: The following policies lack meaningful and predictable standards and guidelines as to how these policies will be implemented and ultimately achieve the objectives with which they are associated.

New Housing Element Policies 2.5.1 through 2.5.4 states the Town "shall encourage energy efficient design and in the creation of housing", "shall promote new housing projects which contain compact building design principles, mixed use, medium to medium high densities, promote pedestrian activity and support multi modal transportation options". The Town shall "promote housing projects which use renewable energy resources in construction, reduce public infrastructure costs and reduce impacts on natural resources". (Please note Policies 2.5.1 and 2.5.3 are identical).

Modified Transportation Policy 4.7.6 states "where feasible include the construction of sidewalks and bikeways in all improvement projects...to promote the reduction of greenhouse gas emissions". Policy 4.7.7 states "investigate the feasibility of installing bicycle racks at Town parks, beach portals, bus stops, commercial establishments and tourist centers to promote the reduction of greenhouse gas emissions". Policy 4.10.2 will "Encourage mixed use and transit oriented development...thereby promoting the reduction of greenhouse gas emissions".

Authority: Sections 163.3177(6) (a), (b), (d) 6, (f)(1)h and i, (j)10, and (9), F.S.; Rules 9J-5.003(82), (90), and 9J-5.005(6), F.A.C.

Recommendation: Revise Housing Element Policies 2.5.1 through 2.5.4 and Transportation Element Policies 4.7.6, 4.7.7, and 4.10.2 to include the specific, measurable outcomes the Town intends to achieve in reducing greenhouse gas emissions, and promoting energy efficiency and conservation. Revise the policies to include meaningful and predictable guidelines and standards that will be applied to development to achieve the objectives. The policies should also identify the guidelines and standards the Town can apply right away and include specific actions and time frames for implementing additional energy conservation measures for reducing greenhouse gas emissions that will take longer to implement. In an effort to assist the Town in addressing this objection, the Department has provided, as an attachment to this report, other policies the Town may wish to consider adopting. These examples have been put forward by other local governments around the state. All of the policies may not be relevant to every local government. The policies also are not intended to be interpreted as what the Town must adopt, but to provide ideas for the Town to consider as it adopts policies appropriate to its own circumstances.

Proposed Revision:

Policy 1.10.04 was added to the Future Land Use Element to incorporate Smart Growth strategies into the Land Development Regulations (see page 12). Policy 2.5.3 was removed from the Housing Element and replaced with a policy to monitor Broward County Climate Change Task Force for applicable policies for the Town (see page 16). Policy 2.5.6 was added to the Housing Element to incorporate Housing Smart Growth strategies into the Land Development Regulations (see page 17). Policies 4.7.10 and 4.7.11 were added to the Transportation Element to incorporate pedestrian improvements into the 2011 Master Plan Update and to identify cost effective multimodal capital improvements in the Town's 2011 Parking Study and 2012 Five Year Capital Improvement Program (see page 25). Policy 6.4.9 was added to the Conservation Element to monitor Broward County Climate Change Task Force to identify applicable greenhouse gas reduction strategies and conservation policies that are applicable to the Town (see page 38).

Coastal High Hazard Area and Definition

ORC Objection: Section163. 3178(9) (c), F.S., requires that the Future Land Use Map depict the Coastal High Hazard Area (CHHA) and include the definition of the CHHA in the Coastal Management Element. However, the amendment does not include the CHHA on the Future Land Use Map and the Coastal Management Element does not include the definition of the CHHA. The definition of the CHHA is located in Section 163.3178 (2) (h), F.S.

Authority: Sections 163.3178(2) (h) and (9) (c) F.S.; and Rules 9J-5.005 (2), 9J- 5.006 (4) (b) 6, 9J-5.013 (2) (e) 3, F.A.C.

Recommendation: Include the statutory definition of the CHHA in a policy in the Coastal Management Element and depict the CHHA line on the Town's Future Land Use Map based on the definition. The CHHA can be obtained from the South Florida Regional Evacuation Study prepared by the South Florida Regional Planning Council that was made available to the public on December 15, 2010.

Proposed Revision:

The recently released storm surge information for the Town for a Class I storm surge was obtained from the South Florida Regional Planning Council. This information was added to the Future Land Use Map (see revised Figure 1). A new Policy 5.4.3 has been added to the Coastal Management Element defining the CHHA (see page 31).

Public School Facility Element

ORC Objection: The transmittal package did not include an executed updated interlocal agreement. The Town has not revised the Level of Service (LOS) Standards in the Capital Improvements Element (CIE) and the Public School Facilities Element to be consistent with the second amended interlocal agreement which causes an inconsistency between the CIE and the interlocal agreement. The Town has not incorporated by reference in a policy the adopted School Board of Broward County's 2010-2011 to 2014-15 District Education Facilities Plan adopted on September 7, 2010.

The Town has not included the revised map series showing the District's updated five (2010 to 2015) and ten year (2010 to 2020) maps for elementary, middle, and high schools, charter and special schools, and ancillary facilities.

Policies 11.1.2.10 and 11.1.2.11 appear to direct Broward County to undertake certain actions such as implement impact fees, revise the fees every three years, require new residential construction to pay their fair share, and develop an alternative mitigation system to the fee. Policy 11.1.2.11 also directs the County and School Board to initiate pre-application meetings for development that increase residential uses and requires the County to consider comments submitted by the School District. Policies 11.1.2.10 and 11.1.2.11 do not specify how the Town will coordinate with the County and the other municipalities to implement impact fees, revise the fees every three years, require new residential construction to pay their fair share, and develop other alternative mitigation programs since it is unlikely the Town can compel the County to undertake these activities.

Authority: Sections 163.3177 (12) (c-h), and 163.31777, F.S.; and Rules 9J-5.025 (2), (3) (b) 1, 2, 3, (c) 2, 3, 6, 7 and (4) F.A.C.

Recommendations:

The Town should revise the proposed amendment to make the following changes:

- Include a copy of the signed Second Amendment Interlocal Agreement with the School Board.
- Revise Policy 8.6.2 and Table 3 in the Capital Improvements Element (CIE) and Policy 11.1.2.3 in the Public School Facilities Element to include the level of service standards

established in Section 8.10 of the Second Amended Interlocal Agreement. Also revise Policy 8.6.4 to adopt the School Board of Broward County's 2010-20111 to 2014-2015 District Educational Facilities Plan that was adopted September 7, 2010.

- Revise the Public Schools Facilities Element (PSFE) to include Future Conditions Maps for the Five Year Plans (2010-2015) for Elementary Schools, Middle Schools, High Schools, Charter Schools, Special Schools and the Future Conditions for Ancillary Plant Locations (2010- 2015). Also include the Future Conditions Maps for the Ten Year Plans (2010-2020) for Elementary Schools, Middle Schools, High Schools, Charter Schools, Special Schools and the Future Conditions Map for Ancillary Plant Locations (2010-2020).
- Policies 11.2.10 and 11.1.2.11 in the PSFE should be revised to state that the Town will coordinate with the School Board, Broward County and other municipalities to accomplish the items listed in these policies.

Proposed Revision:

The Public School Facility Element has been fully updated to be consistent with the 2nd Amended Interlocal Agreement (signature page copy to be attached by the Town). Noted policies in the ORC Report have been revised (see pages 48, 57 thru 60 and Table 3 page 129). The data and analysis has also been updated to reflect current conditions (see revised Figures in the adoption document (see pages 66 thru 78) and Text, Figures and Tables in the Support Document (see pages XII-1 thru XII-72).

Public School Facility Element

Comment

It appears to be the intent of Goal 11.2 and Objective 11.2.1 to focus on maximizing collaboration and coordination between the Town, other municipalities, and the School Board as well as establishing a mechanism to accomplish this. It would improve this goal and objective if they were revised to clarify that this goal and objective will be accomplished by the Town in coordination with Broward County, other municipalities, and the School Board.

II. Consistency with Chapter 187, F.S., State Comprehensive Plan

The proposed amendment is inconsistent with the following provisions of Chapter 187, F.S.:

Section 187.201 (6), Public Safety, Policies (b) 22 and 23, regarding the safe evacuation of coastal residents and to protect public and private property and human lives from the effects of natural disasters (Coastal High Hazard Area and Transportation Element Objections);

Section 187.201(10) Air Quality, Policies (b) 1-4, regarding the maintenance of optimum air quality and the improvement of air quality (Green House Gas Emissions Reduction Objection);

Section 187.201 (11), Energy, Policies (b) 1-8, regarding energy conservation (Green House Gas Emissions Reduction Objection);

Section 187.201(16) Urban and Downtown Revitalization, Policy (b) 8, regarding the promotion of intergovernmental coordination and cooperation processes for educational facilities in urban areas (Public School Facilities Element Objections);

Section 187.201(19) Transportation, Policies (b) 2, 3, 9, 13, and 14, concerning the coordination of transportation improvements and alternative modes of transportation (Transportation Element Objection);

Section 187.201(25) Plan Implementation, Policy (b) 7, ensure local plans implement and accurately reflect state goals and policies that address problems, issues, and conditions that are of particular concern in a region.

By addressing the concerns noted in Section I., these inconsistencies with Chapter 187, Florida Statutes, can be addressed.

Items Not Previously Reviewed

The text introducing the Natural Resource Maps was revised to include the off-shore marine resources of the Town. Figure 2 was revised to depict the off-shore marine resources including the coral reefs and the S. S. Copenhagen Shipwreck (see pages 120 and 121).

The Capital Improvements Element's Tables 1 and 2 have been revised to reflect the annual Capital Improvement Program Update. The updated information identifies funding and capital improvement costs for the next 5 years. It should be noted the Capital Improvements are not needed to meet Level of Service requirements and the Town does not utilize de minimis provisions in concurrency determinations. See revised Table 1 and 2 and related text (pages 126 and 127).

Exhibit 2

Exhibit 3

Exhibit 4

P&Z Minutes – March 16, 2011

Item #1: Comprehensive Plan Amendments - Review

Review of prepared responses by Walter Keller regarding the Department of Community Affairs (DCA)

Development Services Director Jeff Bowman started with an introduction to the Review of the Comprehensive Plan Amendments and referred to his memo that was provided in the backup material. The memo indicated that the Board reviewed the proposed amendments to the Town's Comprehensive Plan on June 16, 2010 and July 21, 2010 recommending approval to the Town Commission. Following the Board's review and the Town Commission's approval on first reading of Ordinance 2010-06, the proposed amendments were sent to the Department of Community Affairs (DCA) for approval. DCA provided their written report which is referred to as an Objections, Recommendations, and Comments Report (ORC). Town Consultant Walter Keller has prepared revisions to address DCA's recommendations and will explain the proposed amendments. Exhibit 1 is Mr. Keller's response to the DCA ORC report as amended with minor revisions discussed at the March 8, 2011 Commission Roundtable meeting. The Comprehensive Plan with its supporting documents is very extensive. Exhibit 2 outlines only the pages of the Comprehensive Plan with its support documents that were revised to address DCA's concerns. Included in the backup are information maps and tables not previously reviewed by the Board and are indicated in Walter's report on page 5. The memo referenced that the second reading of Ordinance 2010-06 adopting the proposed amendments is scheduled for March 22, 2011.

Town Consultant Walter Keller explained that the ORC report is the objections, recommendations and comments report that is put out by the Department of Community Affairs. Essentially the Department of Transportation and the Department of Community Affairs are responsible for making the decisions as to what they think is important to the comp plan relative to state law or objections or comments they may get from other agencies. The plan as it was proposed went through Planning and Zoning and the Town Commission that was sent out to these various agencies for review. They came up with unique comments and then the Florida Department of Community Affairs decided these were the objections, comments and suggestions on how to address them. Mr. Keller said that there is an objection, he has to consider what can be done to address it. If there is a comment, he generally tries to do the same thing but only if it is not mandatory.

Mr. Keller referred to his Response to the ORC Report that was provided in the Board's backup material. Mr. Keller said that in the first 5 pages that shows the verbatim objection from the DCA and literally put in what their recommendation was and then added what he proposed to do to address those issues. Mr. Keller said that there were basically 5 levels of objections. The first objection was on the transportation element. Mr. Keller said that, frankly, the objection that was on the plan was not appropriate because they objected to something that was not changed which was approved two or three years prior. Mr. Keller said that he has done this for a long, long time and he has never seen this happen before and, in fact, Mr. Keller said that he did not think it was legal for them to do this. Mr. Keller talked with them and tried to see how important this was and the reviewer thought it was important to readdress this. Mr. Keller said that essentially they got a comment from the Department of Transportation that our Future Transportation Map did not have enough information and that the evacuation route did not go outside the Town limits. Mr. Keller said that he did not agree with them but he went ahead and changed the map.

Mr. Keller said that the Plan went through a major review about seven years ago and everything was changed but in the amendments that we have had since then, we do not change all of the data. We change generally the policies and objectives in the Plan. Mr. Keller referred to page 125 figure 5 that shows the new revised proposed Future Transportation Plan that addresses the first objection.

The second objection said that the Town was required by state law to put provisions in four of the Comprehensive Plan Elements to try to address Greenhouse Gas Emissions and find ways to reduce it. Mr. Keller said that it was extremely difficult for Lauderdale-By-The-Sea to have a big impact on Greenhouse Gas Emissions when the Town is already fully developed. So, he put in some policies, data, and support documents for DCA to review and they said they were not specific enough. Mr. Keller said that the policies he put in were already approved in other plans he has done for other communities that were similar to the Town. Mr. Keller said that the DCA reviews were not always consistent so he put in some new policies to make it a little bit more measurable. Mr. Keller referred to his response report on page 2 under "Proposed Revision", Policy 1.10.04 was added to the Future Land Use Element to incorporate Smart Growth strategies into the Land Development Regulations. Policy 2.5.3 was removed from the Housing Element and replaced with a policy to monitor Broward County Climate Change Task Force for applicable policies for the Town. Also, policy 2.5.6 was added to the Housing Element to incorporate Housing Smart Growth strategies into the Land Development Regulations. Mr. Keller asked the Board to refer to his response report to review the other changes that were made.

Mr. Keller said that essentially the general rule was to try to modify the Land Development Regulations of the Town within one year of Plan's adoption and address site plan review and development applications to try and make them more sensitive to reducing Greenhouse Gas Emissions.

The third objection dealt with the Coastal High Hazard Area (CHHA) and Definition. Mr. Keller said that the state law changed and it defines what was considered the Coastal High Hazard Area. Mr. Keller said that he had to modify and put into the Plan the new definition. Mr. Keller said that on the original submission, he did not make it part of the adopted Plan and actually put it in the support document which the DCA did not like. Mr. Keller said that was a valid comment. Mr. Keller said that they also changed the technical basis on determining the CHHA and recently the South Florida Regional Planning Council put out a document that changed it in Town. Mr. Keller said that he revised it a year ago and since then they have changed all of the technical reviews and so he had to revise it again. Now the changes are a part of the adopted Plan that is actually shown on the Future Land Use Map that is included in the Board's backup material. Mr. Keller said that the annexed portion of the map is shown in purple and those areas are defined as what is called the storm surge line that would be the result of a class 1 hurricane. So anything seaward of that line would be considered Coastal High Hazard Area. Now the Town actually shows less high hazard area in this revised map than was shown before. Mr. Keller said that he also added the definition to the policies and that was how the objection was addressed.

The fourth objection dealt with the Broward County School Board and the Public School Facility Element. Mr. Keller said that one of the things that happened to the Town was that the Town was told that they were no longer exempt from Public School Facility Element requirement and the Town had to enter into an Interlocal Agreement with the Broward County School Board and we had to do a Public School Facility Element. Last year a public school element was drafted and since then, they changed the standard on how they measure the public school level of service. Mr. Keller said that the element has now been totally revised and reflects the new standards of the Broward County School Board and the amended and second amended Interolocal Agreement that was recently signed by the Town.

Mr. Keller said that Town Attorney Mehaffey provided him with her comments, so he changed some of the policies based upon her review.

Mr. Keller said that he had to address several inconsistencies and there were two other areas that were changed and referred to the Natural Resource Map Series. Mr. Keller said that there was a section that said that there was no natural or native vegetation or marine resources in Town. The intent of that statement was to tell the state when they reviewed the Plan, that this was in the original Plan that was done 7 years ago and except for the beach area, the intracoastal is a canal that was man-made and there is no wet-land areas and no natural vegetation areas or mangroves and so there is no need to map any natural resources. Mr. Keller said that if you read it right now with the thought that the Town is very sensitive to the reefs and the work that the Town is trying to do to try to expand, enhance and protect the reefs, it didn't sound right and the Commission was a little concerned about that. Mr. Keller said that he revised it and except for the Atlantic Ocean, the beach area, and the off-shore marine resources, the Town has no resources.

Mr. Keller said that the last change dealt with Capital Improvement. Mr. Keller said that each year the Town is suppose to update the annual element of the Capital Improvement Element which is essentially the 5 year program. When the original document was done, this information was not available and the Town provided this recently and a new updated 5 year Capital Improvement Program was completed to meet state requirements and is listed in Table 1 and Table 2. Mr. Keller said that the Capital Improvements were not needed to meet the Level of Service requirements and the Town does not utilize ***de minimis*** provisions in concurrency determinations. Mr. Keller said that if he does not make these statements, they would not accept the Plan. Mr. Keller said that the ***de minimis*** process is used when you have a very small project that is below certain thresholds.

Mr. Keller closed his comments and asked the Board if they had any questions.

Mr. Wick referred to page 2 and asked if the CHHA (Coastal High Hazard Area) would change the CCCL (Coastal Construction Control Line) grouping. Mr. Wick commented that he thought Mr. Keller had done a great job on the report.

Mr. Keller said that the CHHA has nothing to do with the CCCL and there is no relationship between the two of them.

Mr. Hunsaker asked if there would be any affect with the storm tide zone in terms of development if a house backs up against the intracoastal canal and it is destroyed, could they rebuild?

Mr. Keller responded that because there would be such a small portion of the Town that is a factor, he did not think that it would have any impact on the Town. Mr. Keller that if it were a larger area and it was vacant land and somebody wanted to get a Land Use Plan, then that might trigger certain comments that the property would be in a Coastal High Hazard Area. Mr. Keller said that generally the state guidelines would be that they do not want you spending public monies like building infrastructure or doing public projects in an area that would be considered a Coastal High Hazard Area.

Acting Chair Yankwitt referred to XII page 19 Table 12—3: Population Broward County 1970-2035 and noted that we are expected to have 21% of the Town's population to be over age 65 by the year 2035 and right now we only have 15% yet we are still going to stay with kids under age 18.

Mr. Keller said that these figures were not Town sensitive and are county-wide numbers and these were numbers that the county provided. Mr. Keller commented that before the census was done, there were a lot of senior citizens that could not afford to live in Town so there were a lot more seniors in the county because they went to places where they could afford to live.

Acting Chair Yankwitt referred page 16 Policy 2.4.10 "Encourage employers to offer assistance in meeting the housing needs of employees who are cost burdened". Mr. Yankwitt said that he was a small business owner and wanted to know how this policy would affect him.

Mr. Keller said that this policy was done a few years back and said that one of the Plan amendments dealt with people who could not afford to live in the housing in Town. So they had to put in policies to help make housing more affordable for more of the population and that was throughout the county. Mr. Keller said he had to put that policy in to address the housing needs.

Acting Chair Yankwitt said that he understood that but the policy says to encourage employers.

Mr. Keller saidi that he did not know the specific program and that it might mean that employers could develop programs with their employees or possibly participate in programs that were available county-wide. Mr. Keller said that there were housing programs that were already in place for the lower income bracket. Mr. Keller said that this policy was just a suggestion and the Town probably does not have enough larger employers type businesses to make this policy feasible. Mr. Keller said that he put in this policy to try and address the requirement he had to have in the plan.

Mr. Wick interjected that it would be like the idea if the employer were the Broward Educational System, the Broward Police Department or the Broward Fire Department who would like to encourage their employers in the Town to be able to have their employees move into Town. Unfortunately, we have been hit with a recession over the last four years or so and it has gone pretty much the other way. Mr. Wick said that if our property costs go much higher, it would be very difficult to have teachers especially live in our Town. Mr. Wick said that the Town's biggest employer would be the Aruba's Beach Café unless it's the municipality itself. Mr. Wick felt that this policy was meant to get some major manufacturers to maybe help their people out in some way.

Mr. Keller said that these policies under 2.4 were put in under this objective because approximately 4 years ago we went through an evaluation appraisal report process and one of things that the Town was identified as needing was to address the housing issue for people that could not afford housing. So, these were policies that Mr. Keller put in to satisfy the state-wide requirement.

Acting Chair Yankwitt said that the policy should describe the situation where the Police Department would promote someone to live in the Town where it works, then he would understand that. But this policy is saying that employers offer assistance in meeting the housing needs of employees. As a small business owner, Acting Chair Yankwitt felt he was already taxed enough.

Mr. Keller said that this is not a new thing and it has been in the Plan for 4 years to meet certain housing requirements that the Town had to address.

Mr. Hunsaker said that this is an example, in his opinion, that people in higher levels of government can't get their hands around the concept of a coastal community that is 2 miles long and a half-mile wide. So, they expect the Town to have policies as if we were a quarter of Broward County and to get through the system you have to put a policy in. Mr. Hunsaker said that if you had a large employer in Town who could not get enough people, the employer would be motivated to provide in some way to get affordable housing or better bus services. This is a policy to address the issue and it does not mean that you have to do it. Mr.

Hunsaker said that land use cost is so high, the Town can't afford to put in low-income housing and that this policy does not mean it is an action policy.

Acting Chair Yankwitt felt that down the line, this might be connected to other policies and could pose a problem.

Mr. Keller said that if you read the data part of the Plan in V-27 it explains where these things originated and there were certain policies that were shown in the South Florida Regional Plan and in their review, said that the Town needed to address this affordable housing issue. Mr. Keller said that he took some of their own policies and put them in the Town's Plan as things that the Town would try to encourage. With that, the Town got through that aspect of the Plan. This was really done to be more supportive on regional very wide affordable housing efforts rather than happening strictly within the community.

Town Attorney Mehaffey said that this policy does not necessarily mean that employers should offer financial assistance and it could be as simple as an employer might offer an educational program or an employer being aware of programs that would be available to his employees. Town Attorney Mehaffey asked Mr. Keller if her understanding of the policy could be as broad as that rather than specifically financial assistance.

Mr. Keller said that the policy is not specific and is general. The intent could be as simple as the Town encouraging employers throughout Broward County to offer this because we might have somebody living in Town that needs help and their employer might be able to help. The whole emphasis was to try and support more area wide things rather than the Town trying to do affordable housing.

Since the board had no futher comments, Acting Chair Yankwitt requested a motion from the board.

Mr. Hunsaker made a motion, seconded by Mr. Wick, to recommend that the proposed amendments to the Town's Comprehensive Plan be submitted to the Town Commission for approval. There being no further discussion on the main motion, a roll call vote was taken. All voted in favor 3 - 0

Exhibit 4

P&Z Minutes – July 21, 2010

Item #3: Amendments to the Town's Comprehensive Plan with revisions.

Planning Consultant Walter Keller reviewed the documents contained in the backup. He prepared a memo on the areas of the Comprehensive Plan to which the amendments applied, the basis of the changes and exactly which changes to the Plan were being proposed for the specific items. For the record, the Town had an adopted Comprehensive Plan, and the Board was only being asked to review the proposed changes, all of which were shown in the backup by strike throughs indicating deletions or by underlines indicating additions. He stated the support document in the backup was not adopted though it followed with the Plan, and the revisions to the support document were already complete but not illustrated.

Chairman Oldaker asked Mr. Keller to revisit the issue of deadlines.

Mr. Keller responded there were a number of items the Town was required to add to its Comprehensive Plan and, when the Plan went forward, if those items were not included, there would be difficulties in making certain types of amendments. For instance, if the Town was applying for a grant and some of the amendments were not in place, it might be difficult try to get the particular type of grant. He said, as to things such as the public school facility element, the Town was required to make the proposed changes based on the Town executing the Inter Local Agreement (ILA) with the School Board some six months ago. To his knowledge, the Town Commission had yet to approve the amendments to the ILA, but in his discussion with the School Board representative, the amendments would likely be ratified based on their getting approval from a sufficient number of cities within Broward to allow them to go forward. The Town was required by the ILA and the state to have a public school facility element. Mr. Keller stated he was unaware of there being a specific deadline or the Board being required to make a decision immediately, but a situation might arise where there could be problems applying for a grant due a lack of approval of the amendments. The Town employed him to create the proposed amendments with the understanding they would be processed; the longer they sat, the more likely problems could occur. The way the process worked was the P&Z Board essentially sat as the Local Planning Agency and, as such, they made recommendations to the Town Commission, and once the matters were submitted to the Commission, P&Z was essentially finished with the Comprehensive Plan. He pointed out the Town Commission would then hold a transmittal hearing, and if the Commission agreed to transmit the document after the public hearing, the document went out for review by regional and state agencies, and after approximately 120 days formal comments were submitted on possible deficiencies, suggested revisions and, in some cases, objections. The Town then had 60 days to consider the feedback, make changes to the Plan and send it in for compliance review. Mr. Keller indicated the process had a long way to go before the document was final. The Broward County Planning Council certified municipal land use elements and, once certified by the County, became the Town's land use element. He said staff and he went through the County and were granted a provisional certification at the County Commission's December 2009 meeting, and the Town had one year to make the proposed amendments or apply for an extension to the provisional certification; he was only aware of the one-year deadline applying to the land use changes.

Town Attorney Trevarthen concurred with Mr. Kellar's comments. When items came before the P&Z Board in this manner, the Town already spent money preparing them after going through a very long and involved process. She thought if there was not a real problem, the orientation of the Board should always be to move the item forward, as in the present instance the Town was out of compliance on at least three statutes, and the changes were being made to bring the Town into compliance. One of the three statutes contained a penalty provision, but she was not implying the Town was likely to be assessed a fine in the very near future, as the powers that be were relatively slow in pursuing municipalities out of compliance. However, there was a potential of being assessed a monetary penalty. She explained, as a philosophical point for a new board and understanding its relationship to the subject Plan amendments, the disposition should be to resolve them within the month they were presented to the Board; the process worked best if the Board moved things along.

Chairperson Oldaker understood the Commission was not meeting in August.

Town Attorney Trevarthen believed a Commission meeting was tentatively scheduled for the last week of August, but the date might be changed.

Mr. Hunsaker pointed out the Town had no schools, yet due to the way the laws worked, the Town was required to have an agreement with some entity to provide education for its children and, to make the Comprehensive Plan complete, there had to be a detailed section on schools.

Mr. Keller responded the public school facility element was a major part of the proposed revisions. In the whole scheme of things, there was not a lot in the public school facility element the Town could agree or disagree to, as most was prescribed by law. The Town was required to have them in place, one by state law, though he had been previously successful in getting an exemption for the Town but the exemption was now lost. He noted at such time the Town was required to enter into the ILA. The second issue dealt with concurrency, a process the Town followed when a development project was approved.

Town Attorney Trevarthen agreed, commenting on the Town's loss of the exemption being due to a new statute in 2005 where the school concurrency was updated; the original school ILA was what the Town was exempt from. The new requirement in 2005 triggered the requirement for the Town to participate and the loss of the exemption; the criteria for exemption was related to whether what was happening in a particular community created additional impacts on schools. She said this only pertained to residential not commercial development. On the issue of lack of control, municipalities all over the County worked for over a year to write the subject element into the ILA, and the Town had been under the impression it was exempt and had no need to deal with the changes. Now the exemption was withdrawn and the Town felt frustrated with being faced with a "take it or leave it" situation, and this was due mainly to the established requirements becoming law before the Town was involved. She remarked the step being proposed was: 1) by law the Town must have a public school facilities element; 2) by law it must deal with things in a uniform manner countywide. The manner in which it was being dealt with in Broward County was determined by a very involved and inclusive process with dozens of meetings with cities, school boards and the County working out a solution and voting for it.

Chairman Oldaker felt frustration with regard to what the Town was required to do if the amendments to the ILA were already mandated and were running parallel to Broward County.

Mr. Keller intimated the ILA was originally developed in 1989 and had gone through approximately six revisions of which two or three were major. For example, when the Town annexed the intercoastal beach area and the Sea Ranch condominiums, those parcels almost doubled the size of the Town in population and area; so in 2002, there was a major update to incorporate that information. He said, essentially, the Land Use Plan contained in the Comprehensive Plan that set up the basis for zoning, density and uses remained intact; minor changes mostly reflected existing conditions but few, if any, changes reflected proposed new development or changes in the direction the Town had in 1989. The transportation element was sensitized to reflect what the Town wanted within the boundaries of what the Town could relatively control with regard to County and state roads. He indicated the proposed amendments, while voluminous with 350 pages, concerned changes in five areas of the Plan, and the memo spelled out those amendments, such as: the land use element, the public school facility element, and the green house gases emissions element. He reiterated approval by the P&Z Board was a required step in the process as the local planning agency.

Chairperson Oldaker questioned if the Board's present discussion was about a situation that was already set in stone and if, in Mr. Kellar's professional opinion, there was much the Board could add to the proposed amendments.

Mr. Keller responded the proposed amendments were his best attempt at present to meet the statutes. Based on his experience, the state would always have some objection to a municipality's plan, as this was part of the process; it was in going through the revisions stage the state might show some flexibility. In going through the process of having the plan reviewed by a variety of agencies, the P&Z Board was not reintroduced into the process unless

specifically requested by the Commission, but it was not a requirement by statute. He went on to state if there was anything contained in the amendments he found controversial or anti-Town, the Board would have been informed of those issues. It was unlikely the amendments to the ILA would have much impact on the Town one way or another.

Town Attorney Trevarthen mentioned being present at the meetings where the amended ILA came up, and the concerns expressed for the Town were stated clearly, were understandable, and there was a level of frustration shown with regard to the information that was available. She pointed out most of the concerns being raised were more on the operational side of the School Board: building new schools and new capacity, and looking at new development that created demands on school capacity, and these were the issues associated with the proposed amendments to the ILA. Issues concerning which school a child attended, how boundaries were handled, and policies on how they were operating within each school were not within the legal scope of what was covered by the ILA or the public school facilities element.

Vice Chairman Brandt noted the only reason he brought the point up was due to the boundary maps being included in the Comprehensive Plan. By approving the proposed amendments, it meant the Board was in agreement with the boundary maps.

Town Attorney Trevarthen replied if anyone criticized the Commission or Board for such an agreement, she would point out to them such action made no difference at all; the boundary map was an existing map that by Constitution and statute was not within the Town's control. This was under the authority of the School Board, and it was negotiated and agreed that the system of dealing with the impacts of development and building new schools would use the individual school boundaries as opposed to another type of boundary.

Mr. Keller observed most of the units that pushed the Town over the threshold for exemption were not occupied by any children, most of them being high rise condominiums, a factor the guidelines failed to address.

Town Attorney Trevarthen commented this too was a statutory issue, as they set the threshold for exemption perhaps too sensitively.

Mr. Freeny questioned if the amendments to the ILA were to bring the Town current with regard to the school facilities element.

Mr. Keller responded before finally being adopted, it was likely the school facilities element would be revised slightly, as the ILA was being amended, and that would change a few of the policies currently contained in the ILA.

Mr. Freeny observed the amendments to the ILA were the same changes presented to the Commission previously.

Town Attorney Trevarthen answered: yes. She updated the Board on the status of the School Board acquiring sufficient Broward municipality support for the amendments to the ILA, making the changes effective. The Town needed to respond to this fact, but sufficient support allowed the County and School Board to proceed with sending the new ILA to Tallahassee for compliance review. She indicated the cities and County that already signed on had begun the process of writing the implementation of the Comprehensive Plan amendments that would contain the change in level of service.

Vice Chairman Brandt made a motion to approve the amendments to the Comprehensive Plan, seconded by Mr. Hunsaker who also called the question, and to move the item forward to the Town Commission based on the Board's recommendation. Since there was no further discussion from the board, Chairman Oldaker asked for roll call vote.

In a roll call vote, there was a 3 - 1 vote in favor of sending the proposed changes to the Town's Comprehensive Plan to the Town Commission with the Board's recommendation to pass as presented. The motion carried 3 – 1; Vice Chairman Brandt voted no.

Chairman Oldaker asked if the Board was under the wire to give its approval on Item #3, why the matter was not brought before the Board earlier.

Town Attorney Trevarthen explained the timing was not due to any dilatoriness on the Town's part, rather she believed the Town entered into the ILA with the School Board late fall of 2009, and the Town had a year to adopt the ILA.

Mr. Hunsaker emphasized the P&Z Board was not simply a cog in the wheel, rather it performed a very important service. Board members read the documents pertaining to the amendments to the Town's Comprehensive Plan, assuring the Town whatever Mr. Keller placed in the documents was reviewed and discussed. He encouraged Board members to read the document. The public chose not to attend the meeting to weigh in on the discussion, but the Board performed its duty as required. He went on to mention the addition of having a School Board representative attend the P&Z Board meeting; when he asked the representative a question concerning density and high rises, she responded they calculated one student per 200 units of a high rise. Thus, the high rise development did not create the need for schools, but it increased the number of residential units.

Exhibit 4

P&Z Minutes – June 16, 2010

Item #1: Amendments to the Towns' Comprehensive Plan to include revisions addressing the Broward County Planning Council's Provisional Certification of the Future Land use Element, the new Public School Facility Element.

Planning Consultant Walter Keller began with an introduction and provided a brief overview to help the board understand the role of the Planning and Zoning Board in the Comprehensive Plan and process that is involved.

Mr. Keller said that the Town's plan was first done in 1989 which basically has two parts. The adoption part is primarily the goals, objectives, and policies. The item in the board's backup material shows the strike-throughs and underlining of the proposed revisions to the plan. The second part of the document is called the support document that is not formally adopted so that changes can be made and not have to go through the process. The comprehensive plan that was adopted by the Town in 1989 was the first plan that was mandated by state law. Mr. Keller said that the board should know that Broward County is a home-rule county and said that the Broward County Planning Council (BCPC) has all of the responsibility in the area of future land use which is one of the elements in the document. The BCPC has requirements to determine the land use within the Town. However, when the Town has a plan that the planning council finds is in substantial conformity to the county, you can find the future land use element consistent, then the Town's future land use element prevails.

Mr. Keller said that a lot of the material is mandated and periodically the state requires that every seven years, you have to go through an in-depth evaluation process to determine if the plan still meets the intent of what it is suppose to do. That leads to the Evaluation and Appraisal Report (EAR). Mr. Keller said that the Town went through that process approximately five years ago which led to another series of amendments.

Mr. Keller said that the changes that were before the board were basically changes to be consistent with new mandates by the state and also to make changes in the future land use element based upon the certification requirements of the BCPC. So far as the changes that were done, the future land use has a lot of changes that were necessitated in order to be compliant with the BCPC certification requirements.

The second area of changes was that the state passed new requirements relative to greenhouse gas emissions and the governor executed certain mandates which went through the DCA. Then state law was changed and we needed to have amendments to the plan to deal with greenhouse gas emissions. So, four elements of the plan needed to be amended; the further land use element; the housing element; the conservation element; and the transportation element. In those elements, you would also see changes relative to the greenhouse gas emissions.

Mr. Keller said that another area of proposed changes deals with school concurrency. Recently, the state determined that the Town needed to have a public school facility element in the plan. So, the Town executed an Interlocal Agreement with the Broward County School Board. Therefore, there is a draft in the board's backup material of a proposed public school element that meets the requirements of the state and also Broward County. It is a county-wide element that the Town has to participate in.

Mr. Keller said that the next change was that the state changed the definition of the coastal high hazard area. Since the Town is a barrier island, the Town had to provide a definition within the plan of the coastal high hazard area. So, a map and a definition and a support document that shows that area were added to that document.

Mr. Keller said that the final area of changes deals with the transportation level of service. The plan that was done a couple of years ago was consistent with the county requirements for transportation levels. Since that time, the county and the state had to make some revisions, so our plan has been revised to be consistent with the most recent county and state changes.

Mr. Keller said that there were no changes in land use or density and that the changes that were implemented were changes that were mandated by the state or the planning council. Mr. Keller commented that this is a great deal of information for the board to take in and would understand if the board wished this item to return to the board next month.

Mr. Freeny referred to the Interlocal Agreement with regards to the school element and asked if this was the same issue that has been discussed at previous meetings or is this the framework to accommodate the agreement.

Mr. Keller responded that the Broward County School Board is in the process of revising what they call their level of service and as part of that, the school board has gone to the different cities that are participating in the Interlocal Agreement asking them to adopt revisions that affect the level of service. Mr. Keller said that he did not think that the Town approved that change. The

document that the board is reviewing, reflects the level of service as it is right now and does not reflect the proposed changes. If the proposed changes were approved, there would be a need to make some changes in this document. The reason why the document does not reflect the change is that the data analysis for the changes and some objectives and policies would need to be revised. Mr. Keller said that language could be added to this document prior to adoption that would address that issue.

Chairman Oldaker asked if there was a deadline.

Mr. Keller said that there were requirements to enact the greenhouse gas emissions and if the changes were not implemented by a certain period of time, it would hold up certain amendments. However, there is no specific deadline that this would have to be done tonight.

Mr. Brandt asked Mr. Keller how these changes impact the Town's rules, regulations and ordinances if at all.

Mr. Keller used the greenhouse gas emission changes as an example and asked the board to refer to Policy Objective 1.10 on page 11. Mr. Keller said that the smart growth objective has been added to the plan based upon greenhouse gas emission requirements. Essentially, this talks about revising the Town's land development regulations to mandate or require that any new building within the community be more oriented to smart growth. Once, this is put into the document, the Town is required to modify the land development regulations within one year and have them put into effect. So, a new developer would have to make his drawings sensitive to the smart growth requirements.

Mr. Brandt said in reading through the material there were a lot of references to other out-side documents. Mr. Brandt was worried about enacting new policies that may impact the rules of the Town without knowing what impact they would have. Mr. Brandt said that it also sounded like most of these changes are mandated through some county or state process and it doesn't really matter what the board thinks.

Mr. Keller said that if someone comes in and develops in the community, transportation concurrency is something that the Town would have to comply with because in order for someone to get a building permit, they would have to be consistent with the transportation concurrency requirements and the process is already existing – a developer would have to go down to Broward County and basically pay a transit fee in order to pull their building permit. Mr. Keller said that the process was changed after the last version of the plan and this is clarification of the current process that is already being used.

Mr. Brandt said Mr. Keller knows this because he deals with this all of the time and said that there were a lot of things in the plan, such as this process that he was not familiar with, and unless the board reviews the document line by line, he was uncomfortable with going any further.

Mr. Keller said that as a policy maker, a line–by-line review is difficult; and to provide the references for backup would be equally difficult. Mr. Keller said that the Comprehensive Plan has been in effect since 1989.

Attorney Trevarthen interjected that everything that Mr. Keller has said is correct and she wanted to make sure the board understood that Broward County is unique. Attorney Trevarthen said that there is a charter in Broward County whereby the County Commission, by vote of the people in 1978, is given control over a county-wide land use plan and specifically the future land use element and the transportation element are part of that system. So, unlike the cities to the north like Palm Beach County or the cities to south in Dade County, in matters affecting the future land use element and matters affecting transportation, we have to do what the county says and that forms the minimum. There is sometimes room to do something additional or perhaps something more strict but that legal system has been in place since 1978. Attorney Trevarthen said what Mr. Keller is explaining, is that the changes to the concurrency system in this document were voted on and approved by the County Commission a year or more ago and the Town is out of compliance because we have not mirrored them in our comprehensive plan as required by county charter. Attorney Trevarthen said that the spirit of the question by Mr. Brandt was very understandable, and that is why Mr. Keller is suggesting that if there is any hesitation with the board, this matter could certainly roll over. Attorney Trevarthen said that the board really may not want to be inundated with the hundreds and hundreds of pages on how the concurrency system works and the details of the coastal high hazard system just because they are mandated pages of the original documents. Attorney Trevarthen suggested that the board request that staff make a more detailed presentation so that the board would understand how this process actually works.

Chairman Oldaker asked specifically what the board was suppose to do since this is all mandated.

Mr. Keller asked the board to consider this hearing like a workshop and continue this meeting to the next Planning and Zoning Hearing. Mr. Keller said that he was looking for direction regarding the greenhouse gas impacts and reducing our energy usage. Mr. Keller said that the historical trend shows that the sea level is rising and with the sea level rising, it could have a very drastic impact on a Town that is a barrier island. The Town by itself can't impact everything, however, many towns together can reduce the energy usage and contribute to reducing the greenhouse gases. So, the emphasis is to try and develop procedures and techniques that would reduce the amount of vehicular travel and let people travel in a mode that reduces gasoline usage either by using mass transit or using site design techniques or to encourage people to walk to downtown rather than driving to downtown.

Attorney Trevarthen also responded to Chairman Oldaker's comments and said that there was a range of answers. On the transportation and concurrency issue, the Town is pretty much stuck with exactly that language and for the most part, the Town needs to come into compliance with what the county language states. Attorney Trevarthen said that would not be true for everything that is in the plan and Mr. Keller has given the board a very good overview of the concepts of the greenhouse gas. Attorney Trevarthen said that there is a statute on point that is very minimum and does not have a lot of language and there is a rule that is pretty simple that gives some concepts. While the Town is mandated to deal with the greenhouse gas emissions issue, there has been left a certain amount of discretion to each city and county to decide how best to express these concepts in their own plan. Finally, with regard to the school changes, there was little room for the Town to make any changes because when this was first implemented, the Town was exempt and the Town was not at the table when the school concurrency issue was being put into effect.

Mr. Keller said that if the board felt they really needed additional documents over and above what is already provided, it would be very voluminous.

Mr. Brandt said that if there are things the board is unable to change, highlight them in color and for those things the board has latitude on, highlight them in a different color. Mr. Brandt said that he has reviewed this item page by page and on his notes, he wrote remove Section 11 because he knew that the Town did not feel very strongly about the ILA but now he is being told that the Town really does not have a choice.

Attorney Trevarthen responded that what Mr. Brandt was looking for might be for Staff to return to the Planning and Zoning Board with a bullet-point memo to differentiate what areas could be changed and possibly a power-point presentation to assist the board to better understand what they needed to do.

Mr. Brandt said that he could not vote on recommending a 130 page document without really understanding at least what it is going to do and what ramifications it would have on Town code.

Mr. Keller said that Mr. Brandt was not being asked to recommend a 130 page document. The board is being asked to approve the proposed changes because the document is already approved. These are changes to reflect the things that the Town has to address and that there is a little bit more flexibility with the greenhouse gas emissions issue.

Mr. Brandt said that he understood what Mr. Keller was saying and commented that he has been very involved in House Bill 7135 that enacted the smart growth changes and is very familiar with the requirements and why they are in front of the board. However, there are a lot of changes he is not familiar with and agrees that there should be a multi-meeting process.

Mr. Hunsaker said that he did not know what the Town would gain by spending taxpayer's dollars to review a document that the experts were telling the board what "is" and what "is not" mandated. Mr. Hunsaker said that the bottom line is really not going to change much of what is in the community at all.

Mr. Brandt said that he did not know what the language does and would not know if it would change the community or not.

Mr. Hunsaker responded that the Town was fully developed and there would not be a lot of changes unless buildings were torn down on a lot by lot basis and new ones were built.

Mr. Keller said that he did not know what the impacts would be on the Town because he did not know the ramifications of the changes. Let's say for example, this document mandates that the Town revise some of the land development regulations and include the smart growth requirement. That would have some impact at some point.

Chairman Oldaker requested that Staff return with an abbreviated version of the plan because the document submitted is overwhelming and asked Mr. Brandt if he had any further questions.

Mr. Brandt agreed and said that he would provide Staff with his comments so that they could return with the information in question.

A motion was made by Eric Yankwitt, seconded by Yann Brandt, to continue the Amendments to the Towns' Comprehensive Plan to include revisions to address the Broward County Planning Council's Provisional Certification of the Future Land use Element and the new Public School Facility Element to the next Planning and Zoning meeting scheduled for July 21, 2010 with direction to Staff to bring a cover memo with the emphasis on where the board could make recommendations to change the document and for Staff to provide a timeline of where the process stands so the board would know what deadlines were involved related to these requirements. In a roll-call vote, all voted in favor. Motion passes 5 – 0.