

1 PALMER TRINITY PRIVATE SCHOOL,
2 Plaintiff,
3 vs. Circuit Court Case No. 08-28977 CA 30
4 VILLAGE OF PALMETTO BAY,
5 Defendant.

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6 PALMER TRINITY PRIVATE SCHOOL,
7 Plaintiff,
8 vs. Appellate Court Case No. 08-245-AP
9 VILLAGE OF PALMETTO BAY,
10 Defendant.

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16701 S.W. 72nd Avenue,
Palmetto Bay, Florida,
Monday, 6:40 p.m.,
June 1, 2009.

NOTICE OF ATTORNEY-CLIENT SESSION

ORIGINAL

1 APPEARANCES:

2 EVE A. BOUTSIS, Village Attorney.

3 EUGENE P. FLINN, JR., Mayor.

4 BRIAN PARISER, Vice Mayor.

5 ED FELLER, Councilman.

6 HOWARD TENDRICH, Councilman.

7 SHELLEY STANCZYK, Councilwoman.

8 RON E. WILLIAMS, Village Manager.

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1 MS. BOUTSIS: I want to thank everyone for
2 being here tonight.

3 MAYOR FLINN: I move to adjourn.

4 MS. BOUTSIS: As Village Attorney I advised
5 the Mayor and the Village Council I would like to
6 speak to you in an attorney-client session
7 concerning the defense of certain legal actions,
8 particularly in Palmer Trinity Private School,
9 Circuit Court Case No. 08-28977 CA 30 and Palmer
10 Trinity Private School versus the Village of
11 Palmetto Bay, Appellate Court Case No.
12 08-245-AP.

13 At this time I would like to seek advice
14 from the Village Council relating to litigation
15 strategy and/or settlement.

16 It is now approximately 20 to 7:00 on
17 Monday, June 1, 2009 and I would like everybody
18 to introduce themselves from left to right.

19 VICE MAYOR PARISER: Brian Pariser, Vice
20 Mayor.

21 COUNCILMAN TENDRICH: Howard Tendrich,
22 Councilman for District 2.

23 COUNCILMAN FELLER: Ed Feller, Councilman for
24 District 1.

25 MAYOR FLINN: Eugene Flinn, Mayor of the

1 Village of Palmetto Bay.

2 COUNCILWOMAN STANCZYK: Shelley Stanczyk,
3 Councilwoman for District 3.

4 MS. BOUTSIS: Eve Boutsis, Village Attorney.

5 MR. WILLIAMS: And Ron Williams, Village
6 Manager.

7 MS. BOUTSIS: As you know, in handling the
8 litigation, the transcript will not be made
9 public to the community, the proceedings will be
10 transcribed.

11 I ask each person speak one at a time
12 because the court reporter can't take down
13 different statements by different people at the
14 same time.

15 The transcript, like I told you, and this is
16 solely related to the Palmer Trinity litigation,
17 I want to give you a couple of different
18 updates.

19 First of all, and I'll let the Mayor speak
20 as well, the Mayor and I, along with Mr. Williams
21 have held several informal mediation sessions.
22 Two with the Palmer Trinity representatives and
23 their attorney, Stan Price and one with the
24 residents from CCOCI and their attorney, Mr.
25 Gibbs.

1 I have been informed by Palmer Trinity they
2 will be filing an appeal of the decision on the
3 appellate matter. So they are going to the 3rd
4 District Court of Appeal.

5 It is going to be a tough one because they
6 do not have a record, but there is a lead case to
7 appeal. It is under the Auerbach case.

8 Basically they have to show such a strong
9 similarity in the facts and law that they would
10 be able to obtain the review. It is difficult
11 but it could happen.

12 So I wanted to bring that to your
13 attention.

14 According to the Palmer Trinity counsel, the
15 appeal should be filed this week.

16 That being said, Mayor, do you want to go
17 first and then I'll give you---

18 MAYOR FLINN: No.

19 VICE MAYOR PARISER: I have a question.

20 Is it a cert action or full appeal?

21 MS. BOUTSIS: It is a cert action.

22 VICE MAYOR PARISER: That can be turned
23 around pretty quickly?

24 MAYOR FLINN: Yes.

25 VICE MAYOR PARISER: For everybody else, the

1 last time, the last two times I filed a cert in
2 the morning, an order went out that afternoon for
3 the other side to respond within five days.

4 That's how quick it can possibly go.

5 COUNCILMAN TENDRICH: What is a cert?

6 MS. BOUTSIS: It is a type of appeal. That
7 is the best way to explain it.

8 The action they actually call an appeal is
9 actually a cert action and it is a certain
10 standard of review.

11 An appeal from that cert appeal is even a
12 shorter standard. It is legal jargon for meeting
13 an appeal, basically.

14 That being said, a meeting with the Chairman
15 of Palmer Trinity, Sean Murphy, who is the
16 Headmaster and the President of Palmer Trinity
17 and Stan Price, there were general discussions
18 about the concept of settlement. No details were
19 discussed at any of our mediation sessions about
20 the actual application by Palmer Trinity or any
21 amendments to that application.

22 Ultimately on Friday we had our last meeting
23 with Mr. Price because we wanted to know if they
24 were serious about settlement because the last
25 time we had met, they refused--I think I sent you

1 all an e-mail where they said they refused to
2 dismiss their actions.

3 What they have presented to me is the
4 following:

5 One. They would agree to dismiss currently
6 and with prejudice, meaning going forward, their
7 original action.

8 As you know, the original action is their
9 second lawsuit and that is for a violation of the
10 comp plan, that we were being in our comp plan
11 under 163, we were inconsistent in equal
12 protection claims under the Florida and Federal
13 Constitutions and their claims for their Bill of
14 Rights.

15 They advised they would agree to file their
16 appeal but stay their appeal. I asked why they
17 could not dismiss their appeal because what are
18 they coming back to us with. They have all the
19 leverage then if we don't have them dismissed.

20 They cited me to a case that basically said,
21 and it is good law, that basically says if there
22 is not a substantial change in circumstances, if
23 they dismissed their appeal, they would not be
24 able to go for another rezoning for the same
25 designation. They would have to have a

1 substantial change in circumstances and they are
2 afraid they do not have the substantial change in
3 circumstances, which is why they are not willing
4 to give up that right and they are filing an
5 appeal and are agreeing to a stay.

6 They would agree to withdraw their Burk J.
7 Harris (phonetic) claim as part of any settlement
8 and they have said if we were to agree to a
9 hearing, they would basically stipulate to an
10 application of no more than 1150 students with no
11 variances and then the details to be flushed out,
12 not guaranteeing that number but flushed out at
13 any hearing.

14 Just so you know, the application that they
15 filed the day before the moratorium was for 1800
16 students just on the agricultural land.

17 So that would be 1800 students plus 600,
18 which is 2400 students over a 15-year period.

19 MAYOR FLINN: The square footage in the
20 original application?

21 MS. BOUTSIS: We didn't get into those
22 details. I haven't analyzed that application
23 since the moratorium is pending.

24 At this point there are a couple of
25 options. You can take under consideration to see

1 if you want to go to some sort of settlement
2 where they would dismiss their original action,
3 they would stay their appeal and withdraw the
4 Burk J. Harris claim and we would hear again a
5 full hearing on some sort of amended application
6 at no more than 1150 students, understanding you
7 are not bound by that number or we continue with
8 litigation.

9 On the original action the Vice Mayor did
10 ask me for some sort of odds and I don't like to
11 give odds, but basically I think it is like a
12 60/40 in our favor at a minimum.

13 On the appeal it is probably more than that,
14 but I'll stay at 60/40, and as we told the Mayor
15 on Friday on the--no.

16 Actually, I think I told you on the original
17 action was 55/45. So the Burk J. Harris I think
18 it is 60/40 in our favor.

19 MAYOR FLINN: Come on, it is a lot better
20 than that.

21 MS. BOUTSIS: I'm being conservative. I am
22 being very conservative.

23 Now on the Burk J. Harris I know questions
24 have been raised, you know they had filed the
25 appeal, so are they precluded by losing the

1 appeal from the Burk J. Harris and I have not
2 found any cases that stand for that proposition.
3 It is actually a different cause of action with a
4 different standard.

5 The ability to use--I don't want to get too
6 much into that because that's not actual
7 litigation but it is part of the settlement
8 package. So, briefly, it is a different standard
9 and it could go forward despite us winning the
10 appeal. That's why I think it makes us, based
11 upon the record we have, I think it will be 60/40
12 in our favor we win any Burk J. Harris claims.

13 VICE MAYOR PARISER: I have a question.

14 They would dismiss the case, their first
15 case, their multicount case with prejudice?

16 MS. BOUTSIS: Yes.

17 VICE MAYOR PARISER: That means they could
18 never bring back those causes of action again?

19 MS. BOUTSIS: Right.

20 VICE MAYOR PARISER: We would withdraw the
21 Burk J. Harris, they would revise a subsequent
22 demand on a subsequent application?

23 MS. BOUTSIS: On a subsequent application.
24 On every action you take.

25 MAYOR FLINN: Every time we have a hearing or

1 something that would affect their property, they
2 would have a new vested right for a cause of
3 action, correct?

4 MS. BOUTSIS: Yes.

5 MAYOR FLINN: It is just as the facts are
6 now, they would be withdrawing it?

7 MS. BOUTSIS: Correct.

8 VICE MAYOR PARISER: So you can't contract
9 zones. So they say this is what we are thinking
10 about and we give them a new hearing and we come
11 back and it doesn't pass, it all starts over
12 again?

13 MS. BOUTSIS: That's pretty much true anytime
14 you have an application.

15 MAYOR FLINN: Except for the fact they would
16 not--they would stipulate that their appeal and
17 their actions would be based upon the first
18 hearing, not what we do the second time?

19 MS. BOUTSIS: That's correct.

20 VICE MAYOR PARISER: Say that again.

21 I'm sorry, Gene.

22 MAYOR FLINN: Basically what they are saying,
23 they want to go back and not have a do-over, they
24 want to go ahead and my big concern is I'm not
25 going to put us at risk for two appeals, for with

1 two appeals, two actions, you double your chance
2 of losing.

3 MS. BOUTSIS: Just so we are clear.

4 They would not give up the right on the
5 second hearing as far as the site plan and
6 because we haven't heard it so they weren't going
7 to give that up.

8 MAYOR FLINN: But if we don't like the site
9 plan?

10 MS. BOUTSIS: You get to modify it at the
11 hearing.

12 MAYOR FLINN: The site plan is going to come
13 after we decide whether or not the problems have
14 been fixed in regards to the reason why we denied
15 it the first time, which is based upon the
16 transportation element?

17 MS. BOUTSIS: Correct.

18 MAYOR FLINN: So we don't even reach the
19 second one until the point that we determine that
20 those issues have been satisfactorily resolved?

21 MS. BOUTSIS: Correct.

22 MAYOR FLINN: So going back now.

23 What they would be doing is insofar as what
24 we have heard, which is on the change of zoning
25 district, they have to rely upon the first one,

1 which right now is hanging by a thread, not based
2 upon actions we take upon the second one.

3 So that means if they go out and get a newer
4 and better traffic study in regards to issue
5 number one, which is the--

6 MS. BOUTSIS: Or change their traffic
7 patterns.

8 MAYOR FLINN: --or change their traffic
9 patterns, which still goes to the zoning
10 district, that cannot be part of the appeal if we
11 don't do something that they like in the second
12 hearing?

13 MS. BOUTSIS: No.

14 It would be only as to the site plan and the
15 variances.

16 MAYOR FLINN: We are not going to reach the
17 site plan and the variances if we don't get past
18 the traffic?

19 MS. BOUTSIS: Right.

20 MAYOR FLINN: So, obviously, if we get past
21 that point, they are not going to have an appeal
22 anyway because everything on their appeal is
23 based upon us not taking action on changing the
24 zoning district to the EUM or whatever they are
25 asking for, let's put it this way, away from the

1 agricultural district and there hasn't been any
2 action that puts them at risk because there is no
3 res judicata and there is no record even really
4 in regards to the variances because we have not
5 taken action on that.

6 MS. BOUTSIS: Did you have a question?

7 MAYOR FLINN: That is such a confusing
8 thing.

9 No. He is trying to figure out what is
10 appealable and what is not and I'm trying to
11 explain it.

12 VICE MAYOR PARISER: Another thought crossed
13 my mind.

14 Even though they dismiss the multicount
15 complaint this time based on this hearing, if we
16 have a new hearing, they could file a new
17 multicount complaint on the new hearing?

18 MS. BOUTSIS: The thing is if they are
19 dismissing with prejudice other equal protection
20 issues the same statute or ordinances they are
21 arguing about I think the only thing that could
22 come back again would be a new hearing on the due
23 process if there were any violations of due
24 process of the law.

25 MAYOR FLINN: My understanding was there

1 would be none.

2 Obviously, they are getting a second bite of
3 due process and you know what, I'm not going to
4 begin the hearing if they are not going to
5 concede they had due process.

6 I'll re-tee it up. If somehow you haven't
7 gotten adequate notice, if you are not ready to
8 go here today, we will come back on another day
9 because I'm not going to open that up.

10 They failed to properly object the first
11 time, which is not the first time they failed to
12 properly object, but as far as their due process
13 claims, I wouldn't go forward on any hearing
14 unless they stand before us and say I have no
15 objection to my due process at this point.

16 MS. BOUTSIS: Okay.

17 MAYOR FLINN: I mean, am I right or wrong on
18 that?

19 I want to know.

20 You had proper disclosures. I want to
21 know---

22 MS. BOUTSIS: If they do all that, yes.

23 MAYOR FLINN: If you have issues with
24 anything, you know, guys, you know.

25 VICE MAYOR PARISER: They have to volunteer

1 that.

2 MAYOR FLINN: No.

3 Is everybody ready to go?

4 MS. BOUTSIS: We can make them put it on the
5 record.

6 COUNCILMAN PARISER: I think with a second
7 hearing procedurally if they don't get their way,
8 they can start everything over again.

9 MS. BOUTSIS: Not on the original action
10 because of the prejudices. If they are
11 truly--let me put it this way. They are hoping
12 to get the rezoning.

13 If you say no to the rezoning, they are back
14 to their original appeal, which is going to be
15 stayed.

16 VICE MAYOR PARISER: How is that possible
17 with a second application?

18 MS. BOUTSIS: Because it is part of a
19 settlement. It is not a second application, it
20 would be a modification of the original.

21 COUNCILWOMAN STANCZYK: Why wouldn't they
22 want to do a new application?

23 MS. BOUTSIS: They want to do it under the
24 auspices of the settlement. They don't know what
25 is out there with the moratorium and they said

1 this specifically on Friday they don't know what
2 is out there with the moratorium or charter
3 amendment.

4 MAYOR FLINN: They want to try to stay under
5 the rules as they existed at the time of the
6 first time, not any rules in existence when they
7 filed a new application?

8 MS. BOUTSIS: That is correct.

9 MAYOR FLINN: Which I fully understand on
10 their part not saying that's the way I want them
11 to have it, but I fully understand it on their
12 part.

13 VICE MAYOR PARISER: We don't know if 360,
14 Senate Bill 360 is going to be vetoed or not.

15 I think even if it came into effect you
16 can't apply it to the first application.

17 MAYOR FLINN: He's got 22 hours I think to
18 veto it.

19 VICE MAYOR PARISER: My point is if they want
20 to somehow preserve their first application on
21 the transportation consideration, it is still
22 valid for the first application that was denied
23 because it is not retroactive.

24 MAYOR FLINN: Wait.

25 I guess it would be because we haven't ruled

1 yet, they could just basically dismiss their
2 appeal, bring it back down.

3 VICE MAYOR PARISER: On a new application?

4 MS. BOUTSIS: That would be on a new
5 application.

6 VICE MAYOR PARISER: It would apply to a new
7 application?

8 MS. BOUTSIS: Correct.

9 VICE MAYOR PARISER: I don't understand why
10 they want to preserve their appeal but file a
11 second application.

12 MS. BOUTSIS: Let me explain the preserving
13 of the appeal.

14 They had asked for rezoning. We denied the
15 rezoning. The case says unless there is a
16 substantial change in circumstances, you cannot
17 file an application for the same rezoning once
18 you've been denied and you didn't finish the
19 process.

20 VICE MAYOR PARISER: What was the last part?

21 MS. BOUTSIS: You didn't finish the process.
22 Meaning they didn't exhaust their appeals and
23 everything else.

24 COUNCILWOMAN STANCZYK: So they have to file
25 a new one?

1 MS. BOUTSIS: Yes.

2 COUNCILMAN FELLER: It seems to me the whole
3 situation would change if the Governor signs 360
4 or if he doesn't sign 360?

5 MS. BOUTSIS: Yes.

6 COUNCILMAN FELLER: What good is making
7 decisions when that is 18 hours from now?

8 He has three choices. He either vetos it
9 and this goes ahead as we are talking, he signs
10 it or pocket vetos it, in which case the whole
11 circumstance changes.

12 MS. BOUTSIS: Tonight is to give you an
13 update and let you decide on what you want to
14 do.

15 I actually thought the 360 was going to be
16 enacted last Friday. All of the indications I
17 had received were he would have signed it by
18 Friday. I think he's going to let it become law
19 without his signature.

20 VICE MAYOR PARISER: Gene, what is that
21 date?

22 MS. BOUTSIS: Today.

23 VILLAGE MANAGER WILLIAMS: There continues to
24 be a lot of opposition out there. We are getting
25 feedback from other angles, as well.

1 I don't think anybody actually knows what he
2 will finally do.

3 VICE MAYOR PARISER: For our Council, I think
4 the status of that Senate Bill 360 making any
5 kind of decision, that that's a key bit of
6 information.

7 COUNCILMAN FELLER: Okay.

8 MAYOR FLINN: What is okay?

9 COUNCILMAN FELLER: I don't think there is
10 any sense in going any further until we know
11 whether that's going to be law or not.

12 MAYOR FLINN: Let's set another
13 attorney-client session for Monday night.

14 MS. BOUTSIS: Before the zoning hearing?

15 MAYOR FLINN: Yes.

16 Actually, could we do it earlier?

17 MS. BOUTSIS: Whatever you would like.

18 MAYOR FLINN: What is the schedule for the
19 rest of the week?

20 COUNCILMAN TENDRICH: When is the zoning
21 hearing?

22 VICE MAYOR PARISER: Zoning is June 8th.

23 MAYOR FLINN: We can't do it June 4th I'm
24 getting anxious on this. I want to start moving
25 forward on it.

1 MS. BOUTSIS: How is June 3rd, Wednesday?

2 MAYOR FLINN: Right now in looking in their
3 eyes, in looking in their eyes in my opinion
4 these guys are very malleable right now and I
5 want to get moving on it and, quite frankly, I
6 don't think anybody here ever intended that we
7 were going to take this thing to the ends of the
8 earth and we need to really if we can get to
9 a--right now only through settlement can you
10 reach basically an agreement. Otherwise, you
11 have a winner and a loser.

12 Again, if somehow we get banged on the side
13 of our legal heads by Schwarts--

14 MAYOR FLINN: What do you mean happens,
15 Brian?

16 VICE MAYOR PARISER: --you get Schwarts'd.

17 MAYOR FLINN: Better you say it than me.

18 I'm going to tell you guys everything I tell
19 my clients. You have control in mediation. We
20 have control in a hearing. We have no control in
21 this court right now. And at some point even if
22 they win, even if we win everything, they still
23 come back and they will file a new application
24 and I haven't seen anything out there that
25 prevents them from doing what they want to do.

1 Because, again, at some point they will
2 prepare their next case even with the charter
3 amendment if it passes, even if 360 is vetoed,
4 they will come back with a plan without variances
5 and they will have it based upon a rational
6 number of kids and they will prepare this case to
7 go more in line to that 3rd DCA case they missed
8 the window on because they were in a hurry not to
9 come to an agreement.

10 They were pigs on that day and pigs get
11 slaughtered. I do not want to be slaughtered. I
12 want to have the control.

13 There are two ways I want this decision to
14 go, based upon a mediated agreement or based upon
15 a hearing that I am going to preside over.
16 That's the only two times that we have any sort
17 of ability to do anything with it.

18 Other than that, I want to make sure we take
19 a motion out of it. This is not healthy for
20 anybody. I think in judging from looking in
21 their eyes, I think that they are--I think the
22 timing is right to deal.

23 If you guys don't think we can deal, that's
24 fine. But let's see how it goes. That's why--I
25 can't meet Thursday. Maybe Monday is the better

1 day. We will meet Monday.

2 Absolutely nothing is going to happen
3 between now and Monday. But we don't know what
4 kind of deals Palmer is trying to cut with either
5 sort of the neighbors, we don't know what kind of
6 deals the neighbors are cutting and anybody can
7 strike a deal that is going to suit them but may
8 not be in the best interest of the Village.

9 I still think I might actually be the most
10 conservative voice out there based upon what
11 different neighbors groups want.

12 Remember they may speak for themselves but
13 we are the only five that have been elected to
14 speak for the Village.

15 So nothing is going to happen here tonight.
16 There is going to be no advice given. We are
17 going to meet again Monday. But you have to
18 decide under what circumstances you are ready to
19 move forward and I think everybody needs to talk
20 to Eve and give her some guidance separately,
21 independently.

22 You know what, if you guys just want to take
23 it to the wall and just say it and we will let it
24 ride. It certainly is either letting the
25 attorneys do the work and spend other people's

1 money.

2 Again, if we come back before a hearing and
3 they start basically moving to recuse or anything
4 like that and they get below three people, they
5 try to recuse me, they try to recuse--well, we
6 don't have the Vice Mayor Robinson who sat on the
7 original council who heard it.

8 Let's say they recuse me---

9 COUNCILMAN FELLER: Why should they recuse
10 you?

11 MAYOR FLINN: You never really know. You get
12 one free bite.

13 If you come up with a reason, you tell me if
14 it is different in Circuit Court, for their first
15 bite with the judge, you have to file what is
16 called a legally sufficient motion and it
17 basically just has to indicate you have a
18 reasonable fear you will not gain a fair
19 hearing.

20 You get one free bite, free judge. Down
21 there in the 11th Circuit they have 80 or 90 or
22 100 judges. They run it through and pick
23 somebody else.

24 The second time you have to have a
25 fact-finding hearing and demonstrate prejudice.

1 You get one free bite. They can have one bite
2 with me. They might find somebody they think
3 they can show cause on.

4 Now you are down to three. If you get down
5 below quorum, it is going before an
6 administrative judge and if you think an
7 administrative judge is going to look at anything
8 other than on the sterile facts and let the chips
9 fall where they may, you all are diluting
10 yourself on that.

11 MS. BOUTSIS: I will tell you I agree with
12 the Mayor as far as there is an opportunity if
13 you want to settle at this point and what happens
14 if we get closer to what you are looking for
15 based upon the evidence presented.

16 MAYOR FLINN: Let me just interrupt you on
17 that.

18 The second time for the first time I talked
19 directly to--I talked directly to the
20 chairperson, who didn't seem to understand and,
21 quite frankly, he didn't have the same level of
22 protection and sheltering that I think their
23 attorney did the first time and I basically read
24 him the riot act, and I don't mean to put it in
25 any sort of adversarial sense, but I basically

1 laid the cards on the table, showed him there was
2 no fear on our side, reiterated this and almost
3 mocking them on certain things. And judging from
4 my view of body language, looking at the
5 headmaster kind of slumping and sitting through,
6 I don't think these guys can take much more.

7 But at some point everybody is just going to
8 say I have so much invested in it, it is a fight
9 to the death. If that's what this Village wants,
10 let's step back---

11 COUNCILMAN FELLER: If I can say something.

12 That may be what some of the people in the
13 Village want but I think we have to say what does
14 this Council want? I don't want to fight to the
15 death. I'm really mirroring your thoughts.

16 We have a lot of things we have to do and I
17 would like to get this behind us and move on to
18 do everything else we have to do.

19 I don't want to just lay down in front of
20 them, but at the same time I don't want to go to
21 the wall.

22 VICE MAYOR PARISER: Unfortunately, fighting
23 to the death has different definitions. Because
24 I agree with the Mayor that they are just going
25 to keep coming back and coming back and coming

1 back in whatever form, what have you.

2 MAYOR FLINN: I want you all to go back--and
3 it was in the newspaper again about the City of
4 Hollywood is back at it. They spent \$2 million
5 on the Chabad case.

6 They are back at it again because apparently
7 part of the agreement after they agreed to pay
8 the \$2 million was--I thought it was 14 at one
9 point and maybe it was and they negotiated it
10 back down to two, but there were supposed to be
11 changes made to their comprehensive and land
12 develop code.

13 So it did not happen again and apparently
14 they made none of the changes and the same
15 lawyers are in there and they are talking about
16 the guy being an ambulance chaser and everything
17 else and that's just sport and speculation.

18 These things, you have to take them very
19 seriously. They can bite you in the rear.
20 That's why I feel very comfortable with what I
21 have done to date.

22 We had a very fair hearing, a very good
23 hearing. I think we all did our site visits and
24 I think we all went overboard on it not an a bad
25 respect.

1 I think the Council members had heard that
2 case, our ruling went out and there I don't think
3 you will find another zoning hearing where such a
4 good faith effort and education and looking at
5 both sides was done.

6 I mean, we all had friends on both sides,
7 probably five different sides. There is no two
8 sides in this case and it was really a torture
9 decision on this thing. And I think we all sleep
10 very well at night that we really came to the
11 right decision. But at some point we are just
12 doing this to prove, to see how bad we can start
13 slapping people around or do we have an end game
14 that we want to see?

15 If everybody had a picture in their mind at
16 that first hearing where they thought this case
17 could go, I think we can get it there.

18 But, you know, whatever. We will talk about
19 it again Monday.

20 Shelley has the floor.

21 COUNCILWOMAN STANCZYK: I do have a real
22 serious concern that we call it a day, we do the
23 hearing again, we do the vote again and we start
24 all over again with the lawsuit. That's a real
25 concern of mine.

1 MAYOR FLINN: Well, I think we are obviously
2 not going to make a decision tonight. I would
3 ask you to sit down with the manager and the
4 Village attorney this week and really go over
5 your fears.

6 VICE MAYOR PARISER: But at the same time,
7 Shelley, if we win everything going presently,
8 they they will just come back with another
9 application in another form, can't they?

10 MAYOR FLINN: Yes.

11 Just like they didn't build on the 1999, if
12 they don't like the way it goes, they can sit and
13 wait.

14 Money is tight right now anyway.

15 VICE MAYOR PARISER: It is almost ad
16 infinitum and we can win the second round, go
17 around all the way. I guess a new application is
18 a new application.

19 They have their rights and they are going to
20 press it because there is just too much at stake
21 for them.

22 But the reason I wanted to wait a little
23 with this Senate Bill 360, I asked Eve because I
24 heard local municipalities could op out and that
25 transportation segment would not be voided?

1 MS. BOUTSIS: No.

2 MAYOR FLINN: There is no op out.

3 You have to go through and create a very
4 complicated ordinance.

5 VICE MAYOR PARISER: I wanted the Council to
6 understand that.

7 MS. BOUTSIS: I sent an e-mail to everybody
8 there is no op out but it is in process.

9 MAYOR FLINN: I talked to Corden, our
10 traffic guy, on how we could do this and by the
11 time we get done with doing this, there is no
12 guaranty it is going to do what we want to do
13 because it--well, I don't even think we should
14 discuss it because it is going to come outside
15 the purview of the attorney-client anyway.

16 MS. BOUTSIS: For details of it, yes, I agree
17 with you. As far as just waiting into the
18 deciding factor, there is no op out.

19 That's all you need to know.

20 I don't want to keep you waiting---

21 MAYOR FLINN: Apparently there was always an
22 op out to concurrence within Dade County.

23 MS. BOUTSIS: It already exists.

24 MAYOR FLINN: And Doral was in one of these
25 opted out areas where they did not have the same

1 sword of concurrence that we have. So Cordenio is
2 the traffic consultant for Doral.

3 So what we would be doing would be basically
4 the same process--we would be in the same
5 position. If the Governor signs the bill, we
6 would respectfully be in the same position that
7 Doral was in and we would have to put the same
8 fix into place that Doral put in through Joe
9 Cordenio to try to do that. That's as close as
10 you get to an op out.

11 MS. BOUTSIS: I can give you details on that
12 separately.

13 MAYOR FLINN: I want you to, is it too much
14 to ask at least by phone that every council
15 member spend at least an hour conference with the
16 Village Attorney or the Village Manager on this
17 before next Monday--before this Monday, before we
18 reconvene?

19 VICE MAYOR PARISER: What time?

20 MS. BOUTSIS: Do you want to do it for 6:30?

21 MAYOR FLINN: We are going to have to do it
22 an hour before. We got started late. And,
23 please, no more housekeeping stuff before we get
24 started.

25 MS. BOUTSIS: Okay. Six o'clock?

1 MAYOR FLINN: Six o'clock.

2 COUNCILMAN FELLER: Okay.

3 MAYOR FLINN: Alright.

4 MS. BOUTSIS: Thank you.

5 Let me open the doors.

6 MAYOR FLINN: No.

7 Before you open the doors, we have to
8 declare this meeting, it is now 7:19 and this
9 meeting is adjourned.

10 MS. BOUTSIS: Thank you.

11 MAYOR FLINN: Thank you and good night.

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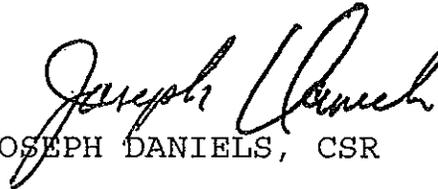
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STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

I, JOSEPH DANIELS, do hereby certify that in the case of PALMER TRINITY PRIVATE SCHOOL VS. VILLAGE OF PALMETTO BAY, Circuit Court Case No. 08-28977 CA 30 and PALMER TRINITY PRIVATE SCHOOL VS. VILLAGE OF PALMETTO BAY, Appellate Court Case No. 08-245-AP; that I was authorized to and did report in shorthand the proceedings and that the foregoing pages, numbered from 1 to 32, inclusive, constitute a true and correct transcription of my shorthand report of the proceeding.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of June, 2009.


JOSEPH DANIELS, CSR