

IN RE: PALMER TRINITY PRIVATE SCHOOL VS.  
VILLAGE OF PALMETTO BAY

CASE NO: 08-28977 CA 30  
10-34016 CA 20

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9750 East Hibiscus Street  
Palmetto Bay, Florida,  
Wednesday, 7:00 p.m.,  
March 23, 2011.

APPEARANCES:

Ron Williams, Village Manager  
Eve Boutsis, Village Attorney  
Shelley Stanczyk, Mayor  
Patrick Fiore, Council Member, District 1  
Howard Tendrich, Council Member  
Brian Pariser, Vice Mayor  
Joan Lindsay, Councilwoman

1 MS. BOUTSIS: Thank you everyone for  
2 being here. As the Village Attorney I  
3 requested that the Mayor and Village Council  
4 meet in the defense of certain legal action.

5 I am going to concentrate on one case  
6 tonight or at this point in the session, and  
7 it's Palmer Trinity versus the Village of  
8 Palmetto Bay, under Circuit Court Case  
9 Number 10-34016 CA 20. I am seeking advice  
10 from the Village Council regarding  
11 litigation strategy and/or settlement.

12 The meeting is being held, it's now  
13 7:05, on Wednesday, March 23rd and I will  
14 ask everybody to go around and introduce  
15 themselves. This transcript will be made  
16 part of the record at the end of the pending  
17 litigation. So I ask that there is only one  
18 person speaking at a time. The court  
19 reporter cannot take down more than one  
20 person's testimony at a time. And do not do  
21 what I do which, is uh-huhs, uh-uhs and  
22 please try to use a yes and no or maybe to  
23 express yourself so that the record can be  
24 clear.

25 Just so we are clear, I want to put on

1 the record that the original notice of  
2 attorney/client session had the appellate  
3 case number on there and I corrected that.  
4 The reason being is that we cannot meet on  
5 the appeal because the appeal is over and we  
6 will be going to a rehearing. So I have  
7 taken it off the notice and I am putting  
8 that on the record for tonight.

9 That being said, I will start going  
10 around the room and I will introduce myself.

11 I am Eve Boutsis, Village Attorney.

12 MS. LINDSAY: Joan Lindsay.

13 MR. FIORE: Patrick Fiore.

14 MR. PARISER: Brian Pariser.

15 MR. TENDRICH: Howard Tendrich.

16 MS. STANCZYK: Shelley Stanczyk.

17 MR. WILLIAMS: Ron Williams.

18 MS. BOUTSIS: To be clear, I think that  
19 I should tell you a little bit about the  
20 2010 litigation, 10-34016. That litigation  
21 is based upon the hearing that was held on  
22 May 4th of 2010 on the zoning resolution of  
23 approving the site plan and special  
24 exception request of Palmer Trinity for  
25 expansion onto the additional acres, which I

1 believe is known as the Hester Property to a  
2 55 acres and to expand the student  
3 population to 900 and to do the buildings as  
4 well.

5 The Palmer Trinity Private School has  
6 sued upon a condition that was in the  
7 resolution and that condition relates to  
8 both a 30 year prohibition and a number of  
9 students of 900. So going forward, the  
10 litigation is based on several arguments of  
11 due process, access to courts or inability  
12 to access the courts, and let me actually  
13 get you to that page of my memo. I prepared  
14 a memo in anticipation of tonight's meeting  
15 and in here I do have the specifics.

16 It was for a 30-year prohibition by  
17 constitutional rights to access to the  
18 Courts, precludes the ability to petition a  
19 grievance. Three, that the provision is a  
20 substantive due process violation. Four,  
21 that it is an equal protection violation.  
22 Five, that it is a violation of Chapter 163.  
23 And six, it is a violation of the Village  
24 and County's Citizens Bill of Rights. The  
25 Bill of Rights provision has an attorneys

1 fee provision.

2 The major relation between this and the  
3 appeal, and that's sort of why it's  
4 involved, although we cannot talk  
5 specifically about the appeal because that's  
6 no longer here, is that the Circuit Court  
7 Appellate Division ruled, as you are aware,  
8 in favor of Palmer Trinity and we will be  
9 going to rehearing.

10 I think there are several items that we  
11 wanted to discuss tonight and they relate to  
12 one, whether the entire resolution would go  
13 to rehearing or is it only the two items  
14 that Palmer Trinity appealed.

15 Two, whether the resolution that was  
16 signed in 2010 except for those two  
17 provisions are enforceable at this moment  
18 and your direction on that.

19 Third, I know that everybody has been  
20 receiving communications about the trees and  
21 I believe the manager has given you some  
22 update, but we can give you additional  
23 update and see if that will address some of  
24 the concerns there.

25 And fourth, I think we need to talk

1 about going forward to the hearing. And  
2 lastly, I had sent in this memorandum an  
3 update later yesterday and it was basically  
4 a request for your authorization to write a  
5 57105 letter, which is an attorney's fee  
6 letter to both the law firm and to the  
7 school based upon certain allegations in  
8 their 2010 case and possibly the 2008 case,  
9 but if we get to 2008 I would have to ask to  
10 deal with that at that time.

11 Where do you want to start?

12 MS. STANCZYK: How about if we start  
13 with the 57, because I think that's most  
14 easily disposed of.

15 MS. BOUTSIS: I would like to wait on  
16 that because I may have to ask someone to  
17 recuse themselves in that portion, so if we  
18 can wait until the end.

19 MS. STANCZYK: Okay.

20 MS. BOUTSIS: We'll do that last.

21 That being said, I think we can deal  
22 with the easiest. Perhaps not the least  
23 emotional issue, but the most upfront to  
24 deal with at this point issue which is the  
25 trees and DERM'S ruling.

1                   DERM has issued from their department  
2                   head a ruling which the manager has brought  
3                   a copy. They do not need a zoning  
4                   resolution. They have full will and power,  
5                   they are in control of these permits and  
6                   Palmer Trinity is within its rights to pull  
7                   a permit and DERM will not be rescinding  
8                   that permit. That's one issue.

9                   And I don't know if you want to talk  
10                  about that portion or go onto the other  
11                  issues and whether the zoning resolution is  
12                  enforceable or not.

13                 MR. PARISER: They all tie in. The way  
14                 that I understand it in our discussions are  
15                 and the case law, is that Palmer Trinity  
16                 appealed the resolution, matters should have  
17                 been stayed whatever, during the appeal.  
18                 The appeal is over, the mandate issue, there  
19                 is no more appeal.

20                 They remanded it and they remanded it  
21                 for a full hearing. They can't tell us what  
22                 to do, they can't say do this or do that.  
23                 They don't have the authority to do that  
24                 because it's a quasi-judicial hearing. And  
25                 because of that when it goes back to hearing

1           it is a brand new hearing it's not just the  
2           two items, it's everything.

3           Now, if Palmer Trinity wants to agree  
4           to conditions at the beginning of the  
5           hearing or what, you know, that remains to  
6           be seen but I think it's a whole brand new  
7           hearing.

8           But visa vi, the trees, as I understand  
9           it because CCOCI sent out an e-mail to  
10          everybody saying they are violating the  
11          resolution. There is no resolution as I  
12          understand it. There is nothing.

13          MS. BOUTSIS: I have given you a legal  
14          analysis. I, of course, do not rule, I give  
15          you advice. And based upon the law, the  
16          cases that I have found, including Broward  
17          County versus GBV International Limited,  
18          which is a Florida Supreme Court Case of  
19          2001, the whole thing would be subject to  
20          hearing. It's not just that case, it's also  
21          the other case that I cite which is Plaxico,  
22          LLC, vs. The City of Miami Beach.

23          Now, that's my position. Stan Price is  
24          relying on a case Dougherty versus the City  
25          of Miami which is a Third District Case from

1           2009. That doesn't stand for this  
2           proposition. In that case the City of  
3           Miami, City Commission was acting as an  
4           appellate body and it was their second  
5           appeal to the Circuit Court. So the Court  
6           was saying to them, you already had one  
7           appeal, you went back to the City Commission,  
8           they were acting in their appellate  
9           capacity, it came back to us in appeal, we  
10          have already ruled, we are not going to deal  
11          with these issues.

12                    In appeal the City Commission wasn't  
13                    getting new evidence, they weren't getting  
14                    new testimony. It was an appeal where the  
15                    testimony came from the Planning Board. So  
16                    it's like what's happened if we were  
17                    appealed or when we were appealed, you take  
18                    a transcript and look at the evidence that  
19                    was presented at the time. So his case is  
20                    completely off base.

21                    Based upon the cases that I found and  
22                    talking to several city attorneys, I talked  
23                    to the City Attorney from the City of Miami  
24                    Beach, I talked to the City Attorney from  
25                    Miramar, Susan L. Trevarthen, who handles

1                   several Broward City's, as well as the City  
2                   Attorney for the City of Miami and the City  
3                   Attorney for Homestead, Cutler Bay, I think  
4                   that's it, and they are of the same opinion  
5                   that I am.

6                   So again, if you disagree, you can make  
7                   a decision and decide what you would like to  
8                   do. I am confident in the position that I  
9                   have raised, particularly as the only case  
10                  that Mr. Price can raise just doesn't make  
11                  any sense for this proposition that he is  
12                  citing.

13                  MR. PARISER: I read the cases and I  
14                  think that Price is not correct and I think  
15                  it's a brand new hearing, which means brand  
16                  new evidence can come in on any matter. But  
17                  again, if we are talking just limiting it at  
18                  this point for trees, and one of the  
19                  questions that I asked you is, I said, okay,  
20                  say we never had the zoning issue. Palmer  
21                  Trinity bought 32 acres, Palmer Trinity  
22                  decides that they want to take out some  
23                  trees. Without any zoning, my understanding  
24                  is that they can apply for a permit for DERM  
25                  and DERM supercedes under Home Rule Charter

1 any jurisdiction for municipalities for  
2 trees. And Palmer Trinity can go there and  
3 say, I want to remove 10, 20, 120,000 trees  
4 and DERM says, okay, as long as you pull  
5 permit and do mitigation for trade or native  
6 species and they can do that.

7 MS. BOUTSIS: We have obtained that in  
8 writing today.

9 MR. PARISER: And I wanted you to get  
10 something on county letterhead and that was  
11 confirmed. I saw the e-mail saying, you  
12 know, that they issued this permit  
13 independent of any zoning matter.

14 MS. BOUTSIS: That is correct.

15 MR. PARISER: And plus, there is no  
16 present zoning resolution because everything  
17 is up for a brand new hearing. So it's, I  
18 mean, there is nothing to do, unfortunately.  
19 They can do that.

20 Now, I am suspecting that probably what  
21 they are clearing at Palmer Trinity is the  
22 footprint of their landscape plan I have a  
23 suspicion.

24 MS. BOUTSIS: If I may interrupt you.  
25 I will tell you that when all of this --

1           when the Village first learned of the  
2           pulling of a permit, this is when I began  
3           getting into the conversation with Mr. Price  
4           who is, just so we are clear, Mr. Price  
5           although he is not -- he is still the  
6           counsel of record in the litigation we are  
7           talking about, but he may not be involved in  
8           the civil litigation for much longer but he  
9           is still of record. He will remain  
10          counselor or Palmer Trinity as far as the  
11          zoning application and any appeals.

12                   And the reason that I am making that  
13          clarification is, since I know there is  
14          another attorney out there why am I talking  
15          to Stan Price. I am talking to Stan Price  
16          because of the appeal, and because he is  
17          still counsel of record in this 2010  
18          litigation.

19                   MS. STANCZYK: What does the other guy  
20          do?

21                   MS. BOUTSIS: He is doing the 2008  
22          litigation which we can get into later. And  
23          he may get involved in the 2010. I will  
24          tell you that Palmer Trinity doesn't know  
25          what it's doing with their lawyers.

1                   So I contacted Mr. Price and said, why  
2                   are you pulling a permit. I have a copy of  
3                   a permit here, why are you pulling this.  
4                   And he said, I am going consistent with your  
5                   resolution. And I said, but as I understand  
6                   it, there is no resolution here and we have  
7                   to go to a public hearing, and that's when  
8                   he gave me the Dougherty case that doesn't  
9                   apply to the proposition that he says it  
10                  does.

11                  And so I took it a step further,  
12                  because I know the council is going to be  
13                  asking me, I know the community is going to  
14                  be nervous. If your position is true, then  
15                  you can't just blanket cut down 2,000 trees.  
16                  And Mr. Price has put in writing, no, that  
17                  he is being consistent with the resolution  
18                  that was enacted in 2010 which is that  
19                  during phase one he can, One, either pull a  
20                  building permit or DERM tree removal permit,  
21                  which is what he did. And/or, and  
22                  additionally during phase one, he is  
23                  entitled to clear the area for the staging  
24                  and clear the road. And in his mind he is  
25                  in compliance.

1 I did not concede with anything but I  
2 wanted him on the record with his position  
3 so that I can give you all the information.

4 MR. PARISER: But that's his position,  
5 but there is no resolution.

6 MS. BOUTSIS: I understand that. But  
7 he is wrong on the law.

8 MR. PARISER: Right. There is no  
9 resolution based upon the cases. I am not  
10 an expert in zoning law, but I have read the  
11 cases and there is no resolution for him to  
12 say I am proceeding under the resolution.  
13 And DERM is saying we don't care about any  
14 resolution, they can do that.

15 MS. BOUTSIS: So if there was a  
16 resolution to enforce, he is saying that he  
17 is in compliance with it. And if there is  
18 resolution to enforce because we have to go  
19 back to public hearing, there is nothing for  
20 me to do -- well, what can I do is what I am  
21 trying to figure out, because Dade County  
22 has Home Rule Charter power and it says that  
23 DERM shall do these things and has the  
24 ability to enforce incorporated and  
25 unincorporated Dade their tree permitting

1 process and they have issued their memo  
2 saying that they don't having anything to do  
3 with zoning and the permit was issued  
4 properly.

5 So if that's the case, do we sue DERM  
6 and how do I sue DERM on Home Rule Charter.

7 MS. LINDSAY: The section 30-3014 has  
8 no bearing?

9 MS. BOUTSIS: That talks about stays  
10 pending appeal. The language that I had  
11 spoken with Ms. Lindsay earlier today, and  
12 it basically says, "In the event an  
13 application is made for change of zoning on  
14 property which possesses a variance,  
15 condition use, site plan reviews, permits or  
16 -- or certificate shall be issued for such  
17 variance use, special permit until the order  
18 and the application becomes final and any  
19 appeal proceeding is concluded. If the  
20 application is approved, the variance,  
21 conditional use, etcetera, shall terminate  
22 unless continued by the rezoning resolution,  
23 otherwise such prior approval shall  
24 terminate with the approval of the  
25 application. No plans may be submitted to

1 the building department until the  
2 application for zoning hearing has been  
3 approved or approved with modifications."

4 The problem that I have here is, he  
5 hasn't submitted any plans to the building  
6 department and it's specific to the building  
7 department it's not DERM. And I can't tell  
8 DERM what to do.

9 MR. PARISER: If Price thinks that  
10 tomorrow he can submit a permit application  
11 to pave roads or put up a building or do  
12 something else, you can't, you don't have an  
13 approval of anything.

14 MS. BOUTSIS: Under my position yes,  
15 that's one hundred percent correct.

16 MR. FIORE: Can I go back to the trees.  
17 I went down there today, I looked it at from  
18 all angles, I went down that street that  
19 councilwoman Lindsay lives on. I was there,  
20 I went on 184, I went around, not inside of  
21 the thing. I saw all of the trees cut down.

22 So my question is this. They got a  
23 permit to cut down the trees, fine. They  
24 have to replace the trees that they cut  
25 down, correct?

1 MS. BOUTSIS: Correct.

2 MS. STANCZYK: But all of the trees are  
3 canopy trees.

4 MR. FIORE: Whatever, they have to  
5 replace the trees they cut down.

6 MS. BOUTSIS: They have a performance  
7 bond in place which DERM can attach if they  
8 don't do the work that they are supposed to  
9 do according to DERM before litigation, and  
10 they have to replace the full mitigation,  
11 they have to replace the six hundred  
12 thousand square feet of canopy. Three  
13 hundred thousand, give or take, native.

14 MR. FIORE: The other thing, the  
15 question was the wildlife. I saw the  
16 peacocks. I saw the peacocks. I am new  
17 here, I went down and I saw the peacocks.  
18 What's their mitigation factor for a certain  
19 habitat for the wildlife? Are they going to  
20 have a certain area put aside for the  
21 wildlife? That's another question that I  
22 have. That's valid questions for me. I  
23 wasn't here.

24 MS. STANCZYK: I think one more thing  
25 you might want to ask Patrick is, isn't the

1 Peacock protected?

2 MR. FIORE: I am going to be honest  
3 with you, I wasn't happy to see what I saw.  
4 I am going to be very straight forward here.  
5 However, they have a permit to cut down the  
6 trees. They cut them down, they've got to  
7 replace with a certain canopy. I saw the  
8 peacocks in there. Is there burrowing owls  
9 in there? I just want to know what's the  
10 mitigation, just like traffic, what's the  
11 mitigation? The mitigating factors that  
12 Palmer Trinity has to do to mitigate certain  
13 things? Do they have to have a habitat for  
14 the wildlife? Is there a plan to replace  
15 the trees?

16 MS. BOUTSIS: The trees, I know that  
17 they have been talking about the canopy and  
18 where that can be and that's according to  
19 the landscape plan that Palmer Trinity  
20 provided, which coincides with their plan  
21 that they produced to the Village for Palmer  
22 Trinity.

23 I can only tell you, I did not ask the  
24 question of DERM about peafowls and the  
25 other animals that could be affected.

1           Perhaps we should contact the County again,  
2           because they are protected under a Dade  
3           County Ordinance, sponsored by Commissioner  
4           Sorensen back in that time period, and maybe  
5           push them to put additional conditions. I  
6           didn't think to ask.

7           MR. FIORE: These are mitigating  
8           factors. Then I would like as a new  
9           council, member I would like to know what's  
10          the mitigating factor for the wildlife.  
11          Okay, they have a DERM permit, they cut down  
12          the trees, they have to replace the trees.  
13          I know in Dade County if you cut down a tree  
14          you have to replace the tree. So that's  
15          just on the trees.

16          MR. PARISER: That's a valid point on  
17          the wildlife.

18          MS. LINDSAY: An unfortunate part of  
19          that is that once the trees are cut down,  
20          and I drove down 184th street today myself,  
21          and the peafowls are now on Eureka Drive.  
22          They are not going to hang around on Eureka  
23          Drive while Palmer Trinity clears the  
24          remainder of the groves and it goes about  
25          replacing the canopy. I think it's absurd

1 to ask the peacocks to hold the spot and to  
2 go somewhere else temporarily and then  
3 return to the area. They won't return to  
4 the area.

5 I have an unusual number who have moved  
6 over with me, which is fine. But Councilman  
7 Fiore, I appreciate what you are saying and  
8 applaud you for your concern about the  
9 wildlife, but I don't see how it's possible  
10 to achieve what you are asking for.

11 MR. FIORE: Well, something has to be  
12 done because they have already tore down  
13 most of the trees and so they have to put  
14 other trees up, but in the meantime they  
15 have this displaced wildlife.

16 MS. LINDSAY: They have a certain  
17 amount of time to put the canopy back and  
18 they can ask for extension, upon extension,  
19 upon extension.

20 MR. FIORE: Again, because I wasn't  
21 here, was that one of the 80 conditions in  
22 this?

23 MS. LINDSAY: No, that's a condition of  
24 DERM.

25 MS. STANCZYK: It was never spoken to.

1           It was a step program that was in the  
2           original resolution that they will clear  
3           trees in a manner that was not immediate.  
4           So in other words, there would be an area  
5           cleared as to where they were building,  
6           where they were staging, and it would occur  
7           over a long period of time.

8           MR. FIORE: This gets back to what -- I  
9           was a civilian then. I spent six years on  
10          the zoning board in West Kendall and I know  
11          from experience that the covenants that we  
12          had, you can put condition, after condition,  
13          after condition, it's very hard to enforce.  
14          This is what happens when you put in a lot  
15          of these conditions, do we spend more and  
16          more tax money for more and more people to  
17          do more and more of this. This is something  
18          that I noticed in my experience.

19          So however, as I said, this was an  
20          eye-opening thing for me when I went down  
21          there today.

22          Now, saying that, I have one more  
23          question for our attorney.

24          The plan was approved, it was appealed,  
25          do they have the right now to start

1 building?

2 MS. BOUTSIS: No.

3 MR. FIORE: So it's pending a new  
4 hearing, they can't build, but they can cut  
5 down the trees and everything because there  
6 is no resolution that says they can't?

7 MR. PARISER: No, because DERM says  
8 that they can. DERM doesn't care about a  
9 resolution.

10 MR. FIORE: Unfortunately, the sad part  
11 about the whole thing is the wildlife being  
12 affected there. That's my point on the  
13 trees. Do they have a plan to place the  
14 trees and if they do have a plan, what is  
15 the plan? What can be done at this time,  
16 which I don't know I am not a biologist, but  
17 what can be done at this time to protect the  
18 wildlife.

19 MS. STANCZYK: They have a standard up  
20 to three years, because they have a year to  
21 start, I believe, then they have one  
22 immediate automatic renewal that they can  
23 have by asking, and a second renewal they  
24 can get by asking with conditions. So they  
25 have up to three years.

1 MR. PARISER: You are talking of trees?

2 MS. STANCZYK: Yes, that was his  
3 question.

4 MR. PARISER: If there was a Peacock  
5 peafowl ordinance we should look at it.  
6 They may be in violation of that ordinance  
7 if they didn't get prior approval of  
8 protecting.

9 MS. LINDSAY: We looked into that with  
10 DERM prior to the hearing, to other types of  
11 protected wildlife.

12 MS. STANCZYK: Foxes aren't protected.

13 MR. FIORE: I didn't see any foxes.

14 MS. STANCZYK: You don't see them.

15 MS. LINDSAY: It's my understanding  
16 that the protection for the peacock doesn't  
17 extend itself to include their habitat.

18 MS. BOUTSIS: You just can't kill them.

19 MS. LINDSAY: Exactly.

20 MR. PARISER: I am not a wildlife  
21 expert.

22 MR. FIORE: Did they send a biologist  
23 in there prior to this? Have we checked  
24 with Palmer, did they send a habitat expert  
25 in there prior to doing this?

1 MS. BOUTSIS: I will find out the  
2 answer, I don't know.

3 MR. FIORE: Thank you.

4 MS. STANCZYK: How about the  
5 archeological study.

6 MS. BOUTSIS: Let me tell you about the  
7 archeological study. This is the area for  
8 the archeological study according to the  
9 archeologist from Dade County. It has  
10 nothing to do with the groves. I find that  
11 incredible that they are worried about  
12 archeology under the constructed buildings.  
13 I thought I would share that with you  
14 because I was chocked today.

15 MR. PARISER: It doesn't touch upon  
16 groves?

17 MS. BOUTSIS: No.

18 MS. STANCZYK: I am chocked too because  
19 the grove is probably higher land than when  
20 they built.

21 MS. BOUTSIS: It seems that it's not  
22 flat land, but there is some tunnels or  
23 pits, I think it is. There are some natural  
24 formations that are like pits and ---

25 MS. LINDSAY: Slews.

1 MS. BOUTSIS: Thank you. And that area  
2 is here and that is the area where they  
3 would find anything.

4 MR. PARISER: Just to go back a little  
5 bit on the wildlife, because it really  
6 strikes a cord and maybe our Village  
7 Attorney can contact the Sierra Club or some  
8 other proactive environmental group, a  
9 wildlife group to see if -- I know projects  
10 have stopped because of little minnows.

11 MR. FIORE: You have to have mitigating  
12 factors here. If they are going to be  
13 allowed to expand there has to be mitigating  
14 factors. There is mitigating factors for  
15 traffic, there is mitigating factors for  
16 height of buildings, you have to have a  
17 mitigating factor for what you are doing  
18 with the trees and in this case there is  
19 wildlife in there.

20 MS. LINDSAY: Mr. Pariser, we have  
21 contacted all of those groups in the past.

22 MR. PARISER: Because it's private  
23 property versus, I mean, how do they get a  
24 damn stopped?

25 MS. LINDSAY: I'd be happy to encourage

1 the attorney to look into it.

2 MS. BOUTSIS: Sure, absolutely. This  
3 information came from Jeff Ransom County  
4 Archeologist, Department of Planning and  
5 Zoning, Office of Historic and Archeological  
6 Research.

7 MR. PARISER: One follow up thing that  
8 I am really concerned about today and the  
9 e-mails and everything else. I want either  
10 a press release or something, because  
11 everybody is saying, Village you are doing  
12 nothing, Village, you are letting them do  
13 whatever they want, Village you are breaking  
14 the resolution. That something has got to  
15 go out on press release, put it out on a  
16 website, put it out in our special e-mail,  
17 E-Currents or something saying it's not us  
18 it's DERM. And by the way, DERM is a county  
19 agency and if you have a problem with that  
20 call the county commission.

21 MS. BOUTSIS: I think some of you  
22 haven't talked about it, but I think the  
23 Vice Mayor and I have been the most talking  
24 about it. I think we are in agreement that  
25 we go to a hearing on all items. That's how

1 I read the law. I just want to make sure  
2 that we are on the same page.

3 MS. STANCZYK: I agree.

4 MR. LINDSAY: I don't think that we  
5 have a choice.

6 MS. BOUTSIS: That's sort of my  
7 position, but I want to make sure.

8 MR. PARISER: The point on that is,  
9 along with what the case law you've got and  
10 what have you, we discussed the scenario if  
11 we said okay, only the two items, then  
12 somebody from the public can stand up and  
13 say no, wait a second, I am here to give  
14 testimony or to talk about everything that's  
15 up. So you are damned if you do and you are  
16 damned if you don't, but if that's what the  
17 law is, it's open for something.

18 And it's certainly not a rubber stamp  
19 from the case law.

20 MS. BOUTSIS: It is not a rubber stamp,  
21 I am very confident in that. As far as, and  
22 I haven't talked to each of you to the same  
23 extent, but I have talked to several of you  
24 individually and what I have tried to  
25 explain is, if we go to the hearing and we

1           only focus on the two items, if somebody has  
2           competence substantial evidence to present  
3           on any of the conditions, on anything, and  
4           we say, we can't listen to it we are only  
5           dealing with two, that sets us up for  
6           another lawsuit, because hey, you violated  
7           my due process right and you wouldn't let me  
8           present competent substantial evidence on  
9           the record. And that's what I am trying to  
10          avoid, I am trying to avoid more lawsuits.

11                   MR. FIORE: That's a good point.  
12                   That's a very good point.

13                   MS. STANCZYK: Keeping in mind, I think  
14                   there's a memo that explained to us all of  
15                   the downsides. I think kind of a discussion  
16                   of how we meet the challenge that's before  
17                   us is a good discussion to hear that there  
18                   is a positive direction to be taken on how  
19                   we meet the challenges that they have given  
20                   us. And it's not really a challenge, it's  
21                   questions that we answer and how we answer  
22                   the question, and I think Attorney Boutsis  
23                   can outline that for you.

24                   MS. BOUTSIS: Let me give you what  
25                   sounds like a lecture, so please bear with

1 me, I am not intending to be a lecturer.

2 You know the standard of review is due  
3 process, competent substantial evidence and  
4 to adhere to the correct law. That's the  
5 standard if you were to be sued on a zoning  
6 manner. Due process, we already have  
7 challenges on due process. In all of the  
8 litigation we have had a due process  
9 challenge. And one of the reasons that I am  
10 so conservative in my advice to all of you,  
11 and particularly, for example, last week as  
12 a point of example, to Vice Mayor Pariser,  
13 at the town hall meetings, is that we are  
14 being challenged constitutionally on our  
15 ordinance for the Jennings proceedings.

16 I will tell you that there is, and I  
17 gave the Vice Mayor an article about due  
18 process and Jennings. There is quite a few  
19 municipalities that do enact to these 6011  
20 Florida statute Disclosure ordinance because  
21 they believe that such an ordinance is  
22 unconstitutional, and it's never been  
23 challenged. I asked you all to enact this  
24 ordinance because should anybody contact  
25 you, you have a way to cure and remedy the

1 situation by doing disclosures. But as a  
2 conservative saying, don't seek these  
3 disclosures, try not to get into these  
4 situations because if we are challenged on  
5 the ordinance I want to have a clear record  
6 and say, hey, even if we have the ordinance  
7 in place we haven't gotten the disclosures.

8 That's one of the ways that I have  
9 tried to be proactive so that we don't have  
10 a due process challenge. And I know that  
11 the community doesn't like it and I don't  
12 blame them, but that's one way.

13 Another way of having competent  
14 substantial evidence in the record. And  
15 that does come with experts, that does come  
16 with professional staff, that comes with all  
17 that. I put in my memo what I thought were  
18 the pitfalls, so you are aware of what the  
19 pitfalls are and understanding you are  
20 reviewing an application that was submitted  
21 by Palmer Trinity for 1,150 students.

22 Ideally as the City attorney, I would  
23 like to preserve as much of the prior record  
24 as possible, have your new planner come in,  
25 update whatever he needs and maybe it will

1 be a substantial change, maybe it won't, I  
2 can't tell you, but I assuming -- I may be  
3 naive, but I am assuming to a certain extent  
4 planning, is planning, is planning, and  
5 there is only so much change that will  
6 happen, I don't know that for a fact.

7 So from my point of view, if there were  
8 anybody to present testimony, additional  
9 experts, I would like to see it from the  
10 community, not because I am trying to put  
11 the burden on the community, but because it  
12 keeps the record clear and I don't have to  
13 deal with Palmer Trinity and Mr. Price and  
14 another appeal arguing that, you read my  
15 memo, you are treating us differently and  
16 all that kind of stuff.

17 That being said, a second-best scenario  
18 for moving forward on the hearing is, if we  
19 hire experts, we give a good reason, lots of  
20 good reasons, competent reasons why these  
21 experts should be hired. And the reason we  
22 need that, not only should be hired, but  
23 once they are hired and if they do a report,  
24 if that happens, that that be put on the  
25 record as to why this extra step was taken.

1           And the reason I call it an extra step is  
2           because we have never hired a second, for  
3           example, traffic expert, and the Village has  
4           not had a history previously of hiring a  
5           sound expert.

6           And I only say that in an abundance of  
7           caution, because we know the MO. We have  
8           seen what Stan Price does, and he is going  
9           to play with the Court and he is going to,  
10          if on appeal he doesn't like what happens,  
11          he is going to trout out Palmer Trinity one,  
12          Palmer Trinity two, and he is going to make  
13          it Palmer Trinity three and see our due  
14          process rights are violated.

15          So to prevent against that, we need a  
16          very clean record and we need lots of  
17          competent substantial evidence to support  
18          it. Did I forget anything?

19          MS. STANCZYK: I think probably explain  
20          where we need the evidence is probably next,  
21          because what is the foundation of Competent  
22          Substantial Evidence that's been presented  
23          that we need to challenge or change or, not  
24          change but clarify, what are those avenues?

25          MS. BOUTSIS: Well, the prior record as

1           you know, I guess site plan approval and  
2           special exception had a lot of criteria for  
3           a private school. It talks about square  
4           feet, it talks about traffic, it talks about  
5           sound, neighborhood compatibility. We can  
6           be here all night reading the list.

7                     In short, the last hearing, for the  
8           benefit of you who were not here, we had our  
9           planner, we had the Corradino Group as the  
10          Village's Traffic Consultant. Those were  
11          our two main experts. I don't think that we  
12          had anything else, I don't remember anything  
13          else.

14                    MR. WILLIAMS: That's it.

15                    MS. BOUTSIS: We had Ed Silva on the  
16          side in case there were any questions on the  
17          building part, but those are the two people  
18          that testified.

19                    Mr. Price brought forward a planner, I  
20          don't remember his name. He brought an  
21          architect, he brought a landscape architect,  
22          a sound person and his traffic consultants.

23                    MR. PARISER: Did he bring a sound  
24          person?

25                    MS. BOUTSIS: Yes, he did. It was

1 entered into the record, there was an  
2 objection at some point by Mr. Gibb's  
3 because he didn't seal the documents and we  
4 took a break for me to find the documents.

5 CCOCI had a representative and it was  
6 Mr. Gibbs, not as an expert, but for legal  
7 argument. Mark Alvarez as his planner who  
8 also gave some traffic analysis and at some  
9 point worked with the Corradino Group and  
10 those were the experts. I think there was a  
11 report submitted on a sound person but that  
12 person did not testify.

13 MR. PARISER: Procedurally it's a  
14 two-edge sword that it's a new hearing and  
15 it's not a new hearing. Last time I said I  
16 don't want to give up the 78, hopefully the  
17 Court will rule for us and Palmer Trinity  
18 has agreed to the 78 conditions. If this is  
19 a brand new hearing, Palmer Trinity can say,  
20 I am not agreeing to 78. Or they can say, I  
21 am agreeing to 78, or they can say, I want  
22 new conditions.

23 MS. STANCZYK: It also gives us a  
24 chance to clean up some verbiage.

25 MR. PARISER: But my point is, if it's

1 a brand new hearing, everything is on the  
2 table again.

3 Now, as far as the debate of whether a  
4 sound engineer, we should have a sound  
5 engineer. If they have a sound engineer we  
6 should have a sound engineer. How can Stan  
7 Price complain, we have never had a sound  
8 person but he is allowed to put on sound  
9 expert advice but we can't.

10 MS. STANCZYK: In other words, we  
11 should take his word for it?

12 MR. PARISER: No, we shouldn't take his  
13 word for it, we should have our own sound  
14 person and he can't complain. You are  
15 picking on us if he himself is presenting a  
16 sound expert.

17 MS. LINDSAY: The sound engineer is  
18 someone that I think should have been hired  
19 at the last hearing, primarily because this  
20 is a unique situation where you have a  
21 sports complex sandwiched between homes,  
22 including an Olympic size swimming pool.  
23 That's roughly 27 times the size of any pool  
24 in the neighborhood and it's very close to  
25 peoples homes. Water polo matches are

1           planned for this pool. We all know that  
2           sound carries over water, so this  
3           exacerbates the problem.

4           Ransom Everglades put in a pool  
5           recently. The neighbors were concerned  
6           about the pool and noise. The neighbors  
7           hired a sound engineer, Robert Gonzalez, who  
8           is the sound engineer that I consulted as  
9           president of CCOCI prior to the last  
10          hearing.

11          Robert Gonzalez was able to work out an  
12          arrangement for building a barrier between  
13          the pool and the homes that satisfied both  
14          parties.

15          Gulliver on Old Cutler Road in Coral  
16          Gables has recently gotten approval for a  
17          swimming pool of this size. They are  
18          enclosing theirs in a structure to prevent  
19          the obvious problem with the neighbors.

20          I think based on the fact that just for  
21          the pool alone, we have reason to hire a  
22          sound engineer. Obviously Gulliver and  
23          Ransom have seen the need to protect the  
24          neighbors from the problem of sound and so I  
25          think that that's important here.

1                   Another thing that I would like to say  
2                   is, because this is a unique situation with  
3                   multiple athletic fields sandwiched between  
4                   homes, you have a number of different  
5                   activities that can be held at one time.  
6                   This again magnifies the problem for the  
7                   homeowners in the neighborhood affecting  
8                   their quality of life directly.

9                   Now, I gave the Village Attorney an  
10                  example earlier today. If Palmer Trinity  
11                  wanted to have two students back there on  
12                  the 33 acres, certainly no one could argue  
13                  that this would be a problem. If Palmer  
14                  Trinity wanted to put ten thousand students  
15                  on that acreage, I think that we can all  
16                  agree without witnessing it, that if we had  
17                  that many people back there cheering or  
18                  playing at these events it would be a  
19                  problem.

20                  So somewhere in there is a number that  
21                  becomes a problem. And I don't think that  
22                  we have an expert who can tell us what the  
23                  impact of this is going to be. And I think  
24                  it's up to us to protect the quality of life  
25                  for the people in the entire community, but

1 in terms of sound, specifically in this  
2 neighborhood and we need to address that.  
3 We need to do everything that we can so we  
4 can say, just as Vice Mayor has pointed out  
5 about putting on a bulletin here or press  
6 release about the trees. We need to let  
7 people know, we have done everything that we  
8 can, and if the law requires that we do  
9 something that we don't want to do, our  
10 hands are tied.

11 MR. FIORE: Good point. I will say  
12 this. Much better session this time than  
13 right after the election.

14 Everybody agree to that, because I  
15 certainly feel better?

16 Does everybody understand this case  
17 went to court twice and twice the Village  
18 was on the losing end. With all due  
19 respect, council member Lindsay, I think  
20 what you just said is good, but what the  
21 Village, the risk, the financial risk to the  
22 Village, possibly potentially could be. The  
23 other thing is the legal fees. And I heard  
24 this before that it wasn't that much and now  
25 they are in the three hundred thousand

1                   dollar range; correct, Mr. Williams, or  
2                   thereabouts?

3                   MR. WILLIAMS: You mean going forward?  
4                   I don't know if I know the answer to that.

5                   MR. FIORE: They are rising and they  
6                   are going to continue to rise with the  
7                   hiring of these -- it's not going to cost us  
8                   anything to hire a planner, we have to hire  
9                   a zoning and planning director, that's  
10                  salary.

11                  Again, I want to do what's best for  
12                  everybody here. And that doesn't mean just  
13                  the people that live around there. You have  
14                  a whole city here. And I said that before  
15                  and I stand by it again.

16                  However, I am going to agree with  
17                  councilwoman Lindsay on what she just said  
18                  at the end, we have to follow the rule of  
19                  law here. If the rule of law says this,  
20                  then it has to end, this has to end. I will  
21                  not be the one to put the city at financial  
22                  risk. I don't like that.

23                  However, again, saying that, if we are  
24                  going to do this and it's going to go to  
25                  another hearing, we've got to get it right

1           this time.  If we don't get it right this  
2           time, I am not going to be the one  
3           responsible for things that happen.

4           MS. LINDSAY:  If I can add something  
5           there.  You said we have been to court twice  
6           on this, but you probably need to understand  
7           that we have been to court twice but on two  
8           different issues.

9           The first time the Village went to  
10          court was on the zoning decision.  The  
11          council decided five to zero not to change  
12          the zoning on the parcel.  That was case  
13          number one.  And case number two, as you  
14          know, was in regard to the two conditions  
15          from the resolution.  So we have been to  
16          court twice.

17          Another thing that I would add here is,  
18          if we don't do this right, Palmer Trinity is  
19          not the only entity that can sue the  
20          Village.

21          MR. FIORE:  I understand that.  I spent  
22          six years on the zoning council.

23          MS. LINDSAY:  It's very important that  
24          we do this right, and I agree with you.

25          I think that I can speak for everyone

1 here, no one wants to keep spending money  
2 unnecessarily.

3 But beyond having what you referred to  
4 at our last meeting as a fiduciary duty to  
5 everybody in the Village, let me just remind  
6 everyone that the fiduciary duty is not just  
7 about dollars and cents it's about trust.  
8 And I know that the 4,476 people that voted  
9 for me, voted for me because they trusted me  
10 to protect their quality of life, as I have  
11 demonstrated in the past that I would do.  
12 And that's my duty. And if we spend  
13 \$300,000, that's a small price to pay to  
14 live up to the promises that we have all  
15 made to our constituents, to the people of  
16 this Village to maintain the suburban  
17 quality of life that we all moved here to  
18 enjoy. It's not something that any of us  
19 relishes. I don't relish it, and I have  
20 been involved in this as much as anyone for  
21 a long time. And I certainly would like to  
22 see it come to a resolution that everyone  
23 can live with.

24 MR. FIORE: I would like to see a  
25 partnership between the developer and the

1 community. You have heard me say that  
2 before in the past, and what was the  
3 response from certain individuals, it wasn't  
4 friendly. And I am going back four or five  
5 months ago.

6 However saying that, it does say here,  
7 "There is no simple legal authority cited to  
8 support such an extreme and unreasonable  
9 restriction on a private property owner."  
10 Therefore, it better be done right.

11 MS. LINDSAY: That was the 30 years, it  
12 had nothing to do with the nine hundred.

13 MS. STANCZYK: I think when you talk  
14 about the fact that in those words I think  
15 that the discussion that we have had in the  
16 past was more about the uniqueness of it not  
17 about the severity of it. The fact that no  
18 one previously had accepted 30 years. So  
19 that was unique and new. So it doesn't mean  
20 it was a horrible thing, it was untested and  
21 they weren't willing to test it.

22 MS. LINDSAY: Councilman, Fiore, I  
23 might add that I think the reason that our  
24 planning direct or thought that that was  
25 something reasonable to put in was because

1           we have had another situation in the Village  
2           where there was a 30 year covenant. Now,  
3           understandably, both parties had agreed to  
4           it and that was the difference.

5           MS. STANCZYK: And at the same time,  
6           the plan that was put forward by Palmer  
7           Trinity actually would have been completed a  
8           couple of years before the 30 years expired.  
9           So keeping in mind that they had promise no  
10          change and no addition to the school during  
11          that period of time. 30 years on its face  
12          did not appear burdensome.

13          MS. BOUTSIS: That is correct. You  
14          have two years to get your building permit  
15          and then you have 25 years to construct, so  
16          there is 27 years, plus if any delays,  
17          that's 30 years.

18          MS. STANCZYK: So on the face that they  
19          had assured us was their plan, did not  
20          appear burdensome.

21          MR. FIORE: With all due respect, I  
22          think we are beyond verbiage here, we are  
23          talking about the risk of sanctions and  
24          millions of dollars. And my understanding  
25          is that we are being sued. And this was all

1 new to me when and I walked into the office  
2 after the election and I found out all of  
3 this. So again, yes, the rule of law, yes,  
4 the fiduciary responsibility to everyone in  
5 the city. These are big numbers, but I will  
6 go along to have another hearing. I am not  
7 happy about it, but this is our chance and  
8 it's got to be done right.

9 MS. STANCZYK: Keep in mind it's a  
10 requirement of the judge that we have  
11 another hearing.

12 MS. BOUTSIS: It was quashed, so we  
13 have to have a hearing, yes.

14 MR. FIORE: Again, as I said for the  
15 third time, I spent six years on the zoning  
16 board. When things were remanded back to  
17 us, depending on the case, sometimes it was  
18 just an administrative duty and we had to  
19 just okay it, this was what we were told by  
20 the county attorney. There were other times  
21 where we had to open a public hearing and  
22 listen to other evidence, or other evidence  
23 that was not allowed to be brought in  
24 previously was allowed to be brought in now.

25 MR. TENDRICH: If we have to have

1 another hearing I think we should have the  
2 sound person and the traffic person, then  
3 you have complete evidence.

4 MR. PARISER: I've got to tell you, if  
5 I was in my own civil case and my opponent  
6 had a sound expert and I didn't, and I went  
7 to trial, I would be checking with my  
8 malpractice carrier.

9 MR. FIORE: You had a traffic expert.

10 MR. PARISER: Sound.

11 MR. FIORE: You had this guy Corradino.  
12 "Reviewed the traffic and recommended  
13 approval. Finding that based on 1,150  
14 students the application satisfied the  
15 relevant traffic level of service standard."

16 MS. STANCZYK: Except if you go back  
17 over the traffic study, I found a few  
18 questionable errors in that, and I've kind  
19 of examined a few traffic studies in the  
20 past successfully. There is a few flaws in  
21 there, and one example is that the estimate  
22 of 300 students walking or bicycling to  
23 school might be one.

24 MR. FIORE: This brings me to my one  
25 last thing. Forgive my, again, I am new, I

1           like to get it right.

2           The other mitigating factor, apart from  
3           the trees and wildlife, I saw that everybody  
4           seemed to have a problem with the traffic.  
5           That seemed to be the overriding concern.

6           What's the mitigating -- I read the  
7           thing from May 4th of 2010. The mitigating  
8           factor to alleviate the traffic on 176th  
9           street was the entrance off of 184th, is  
10          that correct?

11          MS. BOUTSIS: There were several  
12          things. There was improvement of 176th  
13          street at the entrance to the school to  
14          allow longer queuing, no left to go back  
15          into the neighborhood. I don't remember all  
16          of the detail, and 184th street ---

17          MR. FIORE: But there is a mitigating  
18          factor to take the traffic off 176th street  
19          and that's off of 184th?

20          MR. WILLIAMS: Put it on 184th.

21          MR. FIORE: Is that going to change  
22          anything different drastically on that in an  
23          upcoming hearing?

24          MS. LINDSAY: The issue is not solely  
25          176th street. The issue is also Old Cutler

1 Road. And the problem with Old Cutler Road  
2 and the arrangement that they created now,  
3 is that now they have essentially got the  
4 people in the neighborhood blocked off.  
5 This neighborhood right here.

6 These people, if they try to go out  
7 their neighborhood to Old Cutler Road on  
8 175th, can't get out on this street. With  
9 184th opening right here off of Old Cutler  
10 Road, this traffic is going to be  
11 essentially blocking these people in this  
12 neighborhood and now we have an additional  
13 number of cars not just going to 176th  
14 street and going north as most of them do,  
15 but we have those going off of 184th and  
16 going north.

17 So now instead of several hundred cars  
18 we are magnifying that, this traffic study,  
19 I studied it today as well and I have  
20 Corradino's responses and his questions, not  
21 Corradino's responses but Palmer's responses  
22 to Corradino's questions and I don't see how  
23 they have addressed the traffic north on  
24 176th street on Old Cutler Road. And they  
25 haven't addressed the cut through traffic on

1 174th and 175th, and they haven't addressed  
2 the traffic problems that they are creating  
3 on other streets in the neighborhood.

4 The whole conclusion of this, and it's  
5 right here on page 35, is focussed on  
6 reducing the traffic on 176th street and  
7 that's the primary focus of the conclusion  
8 of the traffic study.

9 Certainly, what they have done, by  
10 limiting the driveway on 176th street for  
11 Palmer Trinity to 460 students, they have  
12 limited the number to 460 reduces the number  
13 coming in on that street, but they haven't  
14 considered the impact on the entire  
15 neighborhood.

16 MR. FIORE: So what do you say they do  
17 then?

18 MS. LINDSAY: There are a number of  
19 things that they can do. One of the things  
20 that they can do, councilman, is to stagger  
21 the starting time so that everyone isn't  
22 coming in at the same time.

23 MR. FIORE: Why wasn't that brought up  
24 at the last hearing?

25 MS. LINDSAY: We have offered them four

1 or five different solutions for their  
2 traffic problem and it falls on death ears.

3 In response to my group in meeting with  
4 them time after time is, we will fix the  
5 traffic problem when it surfaces, and if we  
6 don't, you can sue us. That was the  
7 response that we got. There was no  
8 cooperation for staggering starting times.

9 We suggested that perhaps if there were  
10 places further north, the park, where they  
11 could have a drop off, for the parents to  
12 drop off the children and put a number of  
13 them on a bus so that you wouldn't have all  
14 of those individual vehicles bringing  
15 students into Palmer Trinity, that that  
16 would be another solution to part of the  
17 problem. There is a number of things that  
18 could be done. And perhaps if we had the  
19 flexibility to augment the resolution  
20 conditions, perhaps we could work out some  
21 of these things with Palmer Trinity.

22 I don't know whether staff ever  
23 addressed these things with Palmer Trinity,  
24 I wasn't permitted to talk to staff about  
25 that.

1 MR. FIORE: Can I take a break, I have  
2 to call my son, he called me; is that okay?

3 (Recess in Proceedings)

4 MR. PARISER: Counsel brought up the  
5 traffic. I got Corradino's traffic report  
6 and I compared it to Palmer Trinity's. I am  
7 not a traffic expert. First time I am  
8 looking at traffic reports, quite candidly.  
9 I don't know if things were said or looked  
10 at that should have been said or looked at.  
11 One of the benefits about sometimes getting  
12 reversed or appealed and remanded, what have  
13 you is, you get a chance to take a look at  
14 the evidence and present the evidence in a  
15 different way, maybe not a different theory.  
16 Quasi-judicial is not as stringent as strict  
17 rules of evidence in court. But the Mayor  
18 said she found something that's deficient  
19 maybe. Councilman Lindsay said something  
20 deficient may be in the Corradino report.

21 As far as I am concerned, knowledge is  
22 good. Somebody else takes a look at it,  
23 another traffic engineer, and he may agree  
24 one hundred percent with what Corradino said  
25 or he may not.

1 MS. BOUTSIS: So I guess the consensus  
2 here based on what I heard from counsel  
3 person Tendrich and Fiore. I think the  
4 Mayor is on the same page, is that we get  
5 two consultants.

6 MR. PARISER: That consultant for  
7 traffic is obligated to look at Corradino's  
8 and that Corradino's is part of the record  
9 going forward?

10 MS. BOUTSIS: Everything that came  
11 before is part of the record.

12 MS. BOUTSIS: Technically I incorporate  
13 by reference the entire record from 2008, so  
14 you are going to have like three binders  
15 worth of material.

16 MR. PARISER: I am just saying, a new  
17 person might agree one hundred percent with  
18 Corradino.

19 MR. TENDRICH: You are getting a sound  
20 expert and a traffic expert, right, just one  
21 of each? You said two.

22 MS. BOUTSIS: Yes, correct, one of  
23 each.

24 MR. FIORE: What's the cost, how much  
25 is that going to cost the tax payers?

1 MS. BOUTSIS: I have no idea.

2 MR. FIORE: I'd like to know, please.

3 MS. STANCZYK: I think we can do that  
4 at a later time.

5 MS. BOUTSIS: We can provide that to  
6 you.

7 MR. FIORE: It's not our money, it's  
8 the peoples money.

9 MR. PARISER: How much was Corradino?

10 MS. BOUTSIS: A few thousand, I think.

11 MR. WILLIAMS: It was several thousand.

12 MR. PARISER: Not like 50 thousand or  
13 20 thousand?

14 MR. WILLIAMS: It won't be that. We  
15 can go back and pull that up.

16 MS. LINDSAY: For clarification, are we  
17 talking about simply looking at Palmer's  
18 study and making up questions or are we  
19 talking about doing a traffic study?

20 MS. STANCZYK: It's going to be a  
21 little of both. The reality is, because you  
22 are going to have to look at the previous  
23 study to see exactly what it did, what it  
24 didn't do, and if there are errors in it and  
25 then go forward with a study that shows you

1           -- because the study itself was not that  
2           complete from what I can tell.

3           When I looked at it it was missing a  
4           number of streets that were really affected  
5           by the traffic. So if you have over limited  
6           the study, it sounds like you are going to  
7           have a new study that's more complete.

8           If you only take one street and ten  
9           streets are involved, that's not a traffic  
10          study.

11          MR. TENDRICH: I don't think whoever  
12          you hired is going to look at those first.  
13          I don't think that an expert is going to do  
14          his job and then look at all three of them  
15          to compare.

16          MS. STANCZYK: You are right, except  
17          what you are doing is you are presenting  
18          evidence and you are trying to say that the  
19          evidence that was previously submitted is  
20          not sufficient, so you are going to have to  
21          talk about it first, and then you go forward  
22          and do your own. You are going to set your  
23          parameters, and we have already said tonight  
24          that the streets that were involved in the  
25          original traffic study that they had were

1 not sufficient because it wasn't  
2 encompassing enough.

3 MR. FIORE: You guys were there until  
4 2:00 in the morning. No offense, but c'  
5 mon, you were there until 2:00 in the  
6 morning, why wasn't this discussed or  
7 brought up?

8 MS. LINDSAY: I wasn't there.

9 MR. FIORE: Neither was I. I am just  
10 making -- we can't keep doing this one  
11 hundred times.

12 MR. WILLIAMS: Councilman, that  
13 information was entered into the record and  
14 I believe Mr. Corradino testified at the  
15 hearing.

16 MS. STANCZYK: That was the evidence  
17 presented.

18 MR. PARISER: By the way, the expense  
19 or cost or necessity for a traffic engineer  
20 to take a look at this again, it goes both  
21 ways. Palmer Trinity may change their  
22 traffic study.

23 MS. STANCZYK: Fine, good for them.  
24 But as you informed me, the burden was to  
25 provide competent substantial evidence on

1           our part. It's not the judge's duty to  
2           judge which is better evidence, it's the  
3           judges duty to accept competent substantial  
4           evidence on our part.

5           MS. BOUTSIS: That the record reflects  
6           competent substantial evidence in the  
7           record. It cannot reweigh the evidence.

8           MS. STANCZYK: They make no judgement  
9           as to theirs, they make judgement as to  
10          ours. They are not judging what's better,  
11          because we are the decision-maker. And they  
12          are also not deciding whose got the best  
13          evidence, that's not their job.

14          MS. BOUTSIS: Very good synopsis.

15          MS. STANCZYK: I do listen sometimes.

16          MS. BOUTSIS: Do I need any further  
17          direction?

18          MR. WILLIAMS: I think as soon as  
19          councilman Fiore gets all his questions in,  
20          I think that I have heard everyone say what  
21          we want to do.

22          MR. FIORE: Two other things. I wasn't  
23          part of this so I have questions now because  
24          I am adamant about what I said about the  
25          taxpayers money.

1           Does everybody here know what ex parte  
2           communication really means? To me it means  
3           that you cannot discuss the specifics of a  
4           pending zoning item. And for us to be  
5           getting e-mails, and people coming into  
6           meetings, I think was uncalled for, and I  
7           want to go on the record for that.

8           The other question that I have concerns  
9           councilwoman Lindsay. They are probably  
10          going to come at us and say that you should  
11          recuse yourself from this because of your  
12          duties previous to being elected, and they  
13          are going to come at us with this. If I  
14          know Mr. Price, that's what's going to  
15          happen. Can I finish Mayor, please?

16          I think these are reasonable questions  
17          to ask if we are going to go ahead with this  
18          and if we are going to spend taxpayer money  
19          to get this and get that. I don't have an  
20          issue with that, I am willing to do this,  
21          but again, and I agree with what the Mayor  
22          says, let's get it right this time, because  
23          this, for the good of the community, has got  
24          to end, people.

25          MS. STANCZYK: Let me have my say. She

1 is not the first person they try to recuse.  
2 And number one, when people come to us, we  
3 are elected by this community. This  
4 community decided to incorporate. They  
5 didn't decide to incorporate to limit their  
6 liability, to limit their first amendment  
7 rights. They have the right to come  
8 forward. Yes, we have to sometimes put  
9 limitations on it. Sometimes we have to put  
10 limitations on what we hear. We certainly  
11 put limitations on what we discuss. But  
12 they have the right to e-mail us, they have  
13 the right to speak to us, they have the  
14 right to air their grievances, that's why we  
15 incorporated. That's why we instructed our  
16 attorney at every hearing from now on when  
17 someone mentions and says the word Palmer  
18 Trinity, she is to give us a discourse, a  
19 full description of doing our disclosure at  
20 that hearing at that moment on the record  
21 not individually. Number one.

22 Number two. It is your job, and I  
23 watched you not take notes on what people  
24 said the other evening during our hearing.

25 Now, when they came up and said what

1           they were having to say, our job was to take  
2           notes and make a full disclosure of what  
3           they had to say during the hearing, and  
4           that's our job and we will do that.

5                   And I have also given her instruction  
6           which she passed to you, that you were to  
7           make weekly disclosures so that they are  
8           timely and accurate and full. Enough said  
9           on that.

10                   Now, I was the first person they moved  
11           to recuse because what I had to say, what  
12           now, 12 years ago, because I exercised my  
13           first amendment right, and I have done that  
14           over the past 30-something years in this  
15           community. And I will not stop exercising  
16           my first amendment rights as to what I can  
17           do as an elected official. But yes, they  
18           will move to recuse us and that's their  
19           obligation if they say it's a fulfillment of  
20           their job and responsibility to their  
21           client.

22                   However, we have to respond as what our  
23           responsibility is. One, as we were elected.  
24           We were elected because we represent people  
25           and they have confidence in us and that's

1 the confidence that they hold. They believe  
2 in us because they know that we are  
3 sensitive to what their needs are, and we  
4 are going to continue to fulfill that. So  
5 there you go.

6 MR. FIORE: That's the needs of the  
7 whole city, Mayor, the whole city.

8 MS. STANCZYK: That's always been my  
9 goal.

10 MR. TENDRICH: Concerning the speaking  
11 out. I feel that the Village Attorney did  
12 her job properly by telling people not to  
13 discuss it. And I feel that they discussed  
14 it. I had planned to walk out of the  
15 meeting because they were told not to  
16 discuss Palmer Trinity in that meeting. And  
17 for us to have a full disclosure of that  
18 when, I mean, if the people didn't speak  
19 English maybe it should have been translated  
20 in another language, but everybody who spoke  
21 about it, going around about talking about  
22 Palmer Trinity understood English and they  
23 were talking English.

24 I feel that we are adults and the  
25 people at the meeting were adults. And when

1 an attorney tells you something, like Vice  
2 Mayor said, he gives his people direction  
3 and he feels that if he gives them the  
4 direction they should follow it. She gives  
5 us direction and that's what we should  
6 follow. I am talking about this meeting  
7 that we had, the town hall meeting.

8 I thought it was totally incorrect and  
9 impolite, and I don't know of a word  
10 stronger of the people to try and make us  
11 look like fools.

12 MR. FIORE: It was inappropriate.

13 MS. STANCZYK: I don't know if they  
14 tried to make us look like fools.

15 MS. LINDSAY: I think one of the  
16 problems is that a lot of people don't know  
17 what the Jennings rule is and so perhaps if  
18 this should happen again, it would be  
19 worthwhile for you to cite the Jennings rule  
20 or to give a synopsis of it to the people  
21 who haven't been educated on that particular  
22 issue.

23 MS. STANCZYK: I think what you said  
24 actually has a lot of merit because two  
25 seconds ago I got an e-mail asking me what

1 is Jennings.

2 MS. BOUTSIS: I can certainly take your  
3 direction. I can do whatever you would like  
4 me to do, I have no problem talking to  
5 people.

6 MR. WILLIAMS: We can put that on the  
7 website as well.

8 MS. BOUTSIS: I have written an article  
9 before on Jennings for the Palmetto Bay News  
10 which maybe we can recirculate.

11 We will put on the record here that I  
12 don't want to put in the record on the  
13 public forum, Dade County doesn't have our  
14 ordinance, meaning the disclosure ordinance.

15 The reason Dade County doesn't have our  
16 ordinance is because the county attorney's  
17 office for the past, since Jennings was  
18 created in 1993 when the lawsuit happened,  
19 has said that the state stature is  
20 unconstitutional and I think that I started  
21 out with that earlier tonight. There is a  
22 lot of County and City attorneys that  
23 believe it's unconstitutional.

24 I don't want to ever say that in the  
25 public forum. I am not necessarily agreeing

1 with it, and we are being challenged  
2 constitutionally on Jennings, so we are on a  
3 slippery slip. So I figure the best way to  
4 handle it is, even though I have given you  
5 the protection under state law, if you don't  
6 have the situation, then you don't have the  
7 disclosure, then even if they challenge it  
8 it doesn't matter, it doesn't change the  
9 result.

10 MR. TENDRICH: The thing is like  
11 Councilwoman Lindsay said, maybe some of the  
12 people in the audience didn't understand it.  
13 But a couple of the people who spoke did  
14 understand it and knew it and should not  
15 have spoken, and I just want to leave it at  
16 that.

17 MR. WILLIAMS: I don't know if you  
18 finished, Councilman Fiore, but I do have a  
19 question and I do want to get a little  
20 clarification from Vice Mayor and it's on  
21 the traffic study.

22 We are hiring a traffic engineer to do,  
23 and I just want to be clear here, tell me  
24 what we are doing here. We are reviewing  
25 the 2008 study by Plumber and then the

1 analysis by Corradino.

2 MS. LINDSAY: I think this comes under  
3 the April 22, 2010 date and included ---

4 MS. BOUTSIS: Prior.

5 MR. WILLIAMS: Everything.

6 MS. LINDSAY: It was my understanding  
7 that we were going to hire a traffic  
8 engineer to review these and to do a new  
9 study.

10 MR. WILLIAMS: That was the second part  
11 of my question.

12 MS. LINDSAY: I think that's important.

13 MR. WILLIAMS: That's what I wanted to  
14 get the consensus on. Do that analysis and  
15 do a traffic analysis based on the 900  
16 students as proposed by Mayor Stanczyk; is  
17 that what we were doing?

18 MR. FIORE: It says right here. This  
19 was the first time the number 900 was ever  
20 mentioned at the public hearing ---

21 MR. TENDRICH: I think personally it  
22 should be based on 1,150 since that's what  
23 they are requesting.

24 MS. STANCZYK: The purpose of this is  
25 to support what we have done. When you do a

1 study, the purpose is to find support for  
2 the information and the resolution that you  
3 put forward, it's not to support their  
4 application. It's to support the resolution  
5 that we passed, otherwise why bother.

6 MR. FIORE: I wasn't here, I didn't  
7 support that.

8 MS. STANCZYK: The resolution is what's  
9 in question.

10 MR. FIORE: I understand. Did we have  
11 a positive staff recommendation on this  
12 application of May 4th of 2010?

13 MR. WILLIAMS: The staff recommended  
14 one thing, the council approved something  
15 different.

16 MR. FIORE: What was the staff  
17 recommendation?

18 MR. WILLIAMS: 1,150. Let me qualify  
19 that for the record so we are clear. The  
20 application was 1,150, and let me make sure  
21 I get this right. The staff agreed with  
22 that recommendation.

23 MS. BOUTSIS: Based on the 80  
24 conditions.

25 MR. FIORE: I just want to get this

1 right. There is two entities, and I said  
2 this right after the election. The  
3 Concerned Citizens of Old Cutler, there was  
4 no support given to me by them, there was no  
5 support given to me by Palmer. I owe no one  
6 nothing in this, I want to do what's right  
7 by the taxpayers of this Village. Thank  
8 you.

9 MS. STANCZYK: We really aren't  
10 adjourned.

11 MR. WILLIAMS: I don't think there is  
12 any question on the sound person, we'll work  
13 on that.

14 MR. TENDRICH: I feel personally that  
15 it should be 1,150 because if that's what  
16 staff approved. I could be wrong.

17 MS. STANCZYK: The judge remanded the  
18 900 resolution, that's the question. It's  
19 not 1,150.

20 MS. LINDSAY: If we are to only look at  
21 1,150 students and we don't get a good  
22 traffic report, we don't have the option, as  
23 I understand it, to just pick a number at  
24 the hearing; is that correct?

25 Here lies the problem. If you go with

1 1,150 and only look to support that, then it  
2 could be construed as rubber stamping, and  
3 that's a problem, is that not correct?

4 MR. PARISER: My concern, the reason  
5 for a new study is, they submitted 1,150,  
6 they could submit 1,000, I don't know what  
7 they are going to do. I don't know if they  
8 are going to back off. I want a traffic  
9 study to reflect the spread between 900 and  
10 1,150, that's all.

11 If the traffic expert says it can  
12 handle 900, it can handle 1,150. And if  
13 there was something that was overlooked in  
14 the original Corradino report, a new expert  
15 may say, I don't agree with 1,150 but I  
16 agree with 1,000.

17 MR. WILLIAMS: I didn't hear you.

18 MR. PARISER: The Mayor said her  
19 understanding is that to find competent  
20 substantial evidence for the number 900. It  
21 may not be 900. But a new traffic expert  
22 might say, it's not 1,150 either, and I want  
23 them to give an opinion between 900 and  
24 1,150. Because a traffic expert may say, it  
25 can handle 950 or it can handle one

1           thousand, but I don't want to be trapped  
2           into, you don't have any evidence for it,  
3           they said 1,150 and our expert says, well,  
4           the question is asked, did you do an  
5           analysis other than 1,150, no.

6           MR. TENDRICH: I agree with the Vice  
7           Mayor. I do.

8           MS. BOUTSIS: The application for your  
9           review is for 1,150. I am not saying that  
10          another number couldn't work, but you have  
11          been asked to approve or deny an application  
12          of 1,150.

13          MR. PARISER: Be careful what you ask  
14          for because a new traffic expert may say  
15          1,150 is okay. But if it isn't we should  
16          know.

17          MR. TENDRICH: It could also say 1,400.

18          MR. FIORE: If this is going to be a  
19          new application?

20          MS. BOUTSIS: No, it's not a new  
21          application.

22          MR. PARISER: They are stuck at 1,150.

23          MR. FIORE: So they can't go up?

24          MS. BOUTSIS: No.

25          MS. LINDSAY: There is another reason

1                   why they won't be going up.

2                   MR. FIORE: Which is what?

3                   MS. LINDSAY: There was another party  
4 involved in the lawsuit from Cutler Bay  
5 represented by John Shuban. They made a  
6 deal with them.

7                   MR. FIORE: Why wasn't I informed of  
8 this?

9                   MS. LINDSAY: The deal isn't public. I  
10 don't have the particulars of the deal, but  
11 knowing the situation as well as I do, I  
12 guarantee the number they arrived at with  
13 Cutler Glenn was the magic number of 1,150.  
14 It's not going up.

15                   MS. STANCZYK: Not this time.

16                   MR. FIORE: It cannot go up past 1,150.  
17 It can go down, it can't go up?

18                   MS. LINDSAY: They have also as part of  
19 that deal with Cutler Glenn, the split  
20 between 176th and 184th. I am sure that's  
21 part of the deal. Have I seen the deal, no.

22                   MR. WILLIAMS: Let me see if I can go  
23 back to the Vice Mayor's point. If we  
24 believe 1,150 is the top, you are saying  
25 that's the max?

1 MS. BOUTSIS: That's the application.

2 MR. WILLIAMS: Then we can ask for a  
3 review at no greater than that number.

4 Not greater than, because if not I  
5 don't want us to get into -- and I think  
6 Councilman Fiore has a point. If we get a  
7 number, and the Vice Mayor talked about  
8 this, if we get a number of 980 off the  
9 floor or something and you all like that,  
10 then we don't have competent substantial  
11 evidence of 980. You see where I am going?

12 So we are saying not greater than, not  
13 to exceed.

14 MS. LINDSAY: Not to exceed what?

15 MR. WILLIAMS: 1,150.

16 MR. TENDRICH: I agree.

17 MS. LINDSAY: We are asking the traffic  
18 engineer to do a study on the number not  
19 greater than 1,150. How does that give us  
20 the competent substantial evidence that we  
21 need? If he does not greater than 1,150 we  
22 are not asking him to do numbers below that,  
23 we are just saying don't go above that,  
24 which is essentially just saying, just look  
25 at 1,150.

1 MR. WILLIAMS: No.

2 MR. PARISER: They are asking for  
3 1,150, based upon your independent review of  
4 this thing what do you believe is a range of  
5 students that their plan can accommodate.

6 MR. WILLIAMS: Let's say the number is  
7 one thousand. Hypothetically if the number  
8 is a thousand, if you have asked them to not  
9 exceed 1,150 and it works at 1,150,  
10 obviously it works at one thousand.

11 You understand what I am saying?

12 MS. LINDSAY: I understand it works at  
13 one thousand, but that doesn't mean we have  
14 -- if the council decides to lower the  
15 number as they did the last time, how does  
16 that give us the competent substantial  
17 testimony that we need?

18 MS. STANCZYK: We are looking to see  
19 that your original resolution has support,  
20 that's what we are looking for in terms of  
21 competent substantial evidence.

22 MR. WILLIAMS: The 900.

23 MS. STANCZYK: Well, the support of the  
24 resolution.

25 MR. PARISER: The expert may say no.

1 MS. STANCZYK: Then he says no.

2 MR. PARISER: He may say, I think it  
3 can accommodate 950.

4 MS. STANCZYK: Fine, but what we are  
5 trying not to do is we are trying to support  
6 what we did.

7 MR. WILLIAMS: Mayor, I think you have  
8 to listen. He is saying the application is  
9 1,150. The 900 is no longer on the table,  
10 is that accurate?

11 MS. BOUTSIS: You have to have  
12 competent substantial evidence for it, but  
13 your job is not to pick a different number,  
14 it's whether it works or not.

15 If an expert comes in and says, look,  
16 like they did with the 1,400. 1,400 doesn't  
17 work, but if you -- and they knew that 1,400  
18 didn't work. 1,150 worked based upon these  
19 conditions. So maybe if you don't have  
20 these conditions, you want it to flow, it  
21 may be 900, it may be 850 without the  
22 condition, and maybe that's what I think you  
23 are trying to find out. But without those  
24 conditions how do you get there and get to a  
25 smoother running traffic situation. And

1 unless there is something completely flawed  
2 in the reports that you have from Corradino  
3 and the other traffic consultant or whoever,  
4 the task is to review the application before  
5 you and the application before you is the  
6 request for 1,150. It either works or it  
7 doesn't.

8 It either works with conditions or it  
9 doesn't. You can't pick another number  
10 unless you are given it by a traffic  
11 consultant that says this number doesn't  
12 work. You need to know whether that number  
13 works or not.

14 MS. STANCZYK: I am confused, because  
15 when they remanded it back to us they  
16 remanded it back and said it was not  
17 competent substantial evidence to support  
18 900. They are asking for the evidence.  
19 They are not asking for the evidence in  
20 support of the application as it was  
21 originally made. They are asking for  
22 competent substantial evidence for the  
23 resolution as it was presented.

24 MS. BOUTSIS: They are asking for  
25 competent substantial evidence, period.

1 Period. So whatever your decision that you  
2 make going forward, has to be based on  
3 competent substantial evidence. So it's not  
4 that you find 900 as a council, because your  
5 job is to review the application.

6 MR. WILLIAMS: Mayor at this point  
7 going back to the tree story, we don't have  
8 a resolution. This is a new application.

9 MS. BOUTSIS: It's a rehearing, clean  
10 record sort of.

11 MR. WILLIAMS: Rehearing.

12 MR. PARISER: The competent substantial  
13 evidence is they have an application for  
14 1,150, Palmer does this. Our expert says, I  
15 agree one hundred percent, or he says no,  
16 because -- and I tell you, Palmer Trinity  
17 through Stan Price was mumbling about, I  
18 want to back away from four or five or six  
19 conditions. They may not agree to  
20 everything beforehand, which may change the  
21 equation for students. He was mumbling  
22 about that. This is a new application. We  
23 go back there and he may say fine, all those  
24 sacred 78, we are not agreeing except for  
25 30.

1           That may change the traffic pattern and  
2           everything else. So the expert has to -- it  
3           may not be such an easy assignment, because  
4           he is going to have to say well, you know,  
5           1,150 with the 78 conditions, but if you are  
6           taking away 30 conditions I think the number  
7           is 800 or I think the number is 900.

8           MS. STANCZYK: If we are doing a  
9           rehearing do we basically have no  
10          conditions?

11          MS. BOUTSIS: The staff makes another  
12          recommendation. Like I said before, because  
13          you have no planners, some of them may  
14          change. Maybe they take the recommendations  
15          about noise and everything else and they fix  
16          these items and you now have this different  
17          set of 80 conditions that they are  
18          recommending. You don't have to take them.  
19          Or 76 or 102.

20          MR. FIORE: But Eve, they only appealed  
21          two of them. They appealed the 900 and the  
22          30 years.

23          MR. PARISER: But if this is a new  
24          hearing I don't think that they are bound by  
25          the 78. That was the risk.

1           MR. FIORE: Maybe that's something that  
2 we have to find out about.

3           MS. BOUTSIS: In short, what I am  
4 trying to say is, everything is on the table  
5 at the public hearing, because either Palmer  
6 Trinity is going to challenge us if they  
7 don't get certain parameters, they are going  
8 to challenge us anyway, or someone in the  
9 community can challenge us because we  
10 narrowed the focus of the hearing to such a  
11 limited basis that competent substantial  
12 evidence couldn't be taken on these  
13 decisions.

14           MR. FIORE: That's the right of  
15 everybody after a zoning hearing. They have  
16 the right to appeal, the winning party or  
17 the losing party.

18           MS. BOUTSIS: Except that it takes your  
19 right as a council to make a better  
20 resolution. And if you don't have the right  
21 to go to this hearing and based upon the  
22 evidence that you hear get rid of conditions  
23 1, 10, 12, supplement conditions, 20, 21,  
24 22, it's limiting your rights in your  
25 review. And as I have said, Stan Price's

1 citation to authority is wrong. So I am  
2 confident in my belief that you have a full  
3 hearing.

4 Now, you can overrule me, I have said  
5 that from the beginning. I only give  
6 advice, I am not the law, I am not the  
7 judge, so if you want to overrule me and  
8 just limit it to two, you can do that.

9 MR. WILLIAMS: What we can do, and I  
10 believe if you want to get into optimal  
11 numbers. Do you want to get a finite with  
12 this? An optimal number may be some  
13 different number, but I don't want to see us  
14 get caught in the things that we were just  
15 talking about that a number gets decided  
16 upon and then all of the sudden it comes  
17 back at us and we have the same problem  
18 again.

19 MR. PARISER: Somebody from the dais  
20 says, I think 950 and nobody has heard the  
21 number 950. Then we open a hearing,  
22 Mr. Traffic expert, what's your opinion  
23 about 950?

24 MR. LINDSAY: And if it's 2:00 in the  
25 morning we adjourn.

1           MR. FIORE: But they have to present  
2 something.

3           MR. PARISER: No, I agree with you.  
4 And that if a number comes up our experts  
5 gives an opinion and if some of the  
6 conditions have been changed by Palmer  
7 Trinity that they are not agreeing to,  
8 putting in a turn lane or something, they  
9 say no we are not bound by it, this is a new  
10 hearing we are not going to do that, and we  
11 turn to our traffic expert, okay, missing a  
12 traffic turn, how would that affect traffic  
13 and should the number be lower?

14           MR. FIORE: They have to present an  
15 application, right? Don't they have to  
16 present something? They have to give us  
17 something?

18           MS. BOUTSIS: Because it's a rehearing  
19 the application is on an expansion of Palmer  
20 Trinity onto the new site at 1,150 students.

21           MR. FIORE: The only thing, I want to  
22 go back to the very beginning of this  
23 evening. What I would like to see is, at  
24 least get an answer from them and somewhere  
25 along the line it will help me make a better

1 decision, is the mitigating factor on the  
2 traffic, mitigating factor on the wildlife  
3 and the trees, right?

4 MR. WILLIAMS: Trees, we can't go back  
5 to the trees.

6 MR. FIORE: No, they are already down.

7 MR. WILLIAMS: We moved past the trees  
8 with DERM.

9 MR. FIORE: So then I guess what we are  
10 saying, Mr. Manager, we are assuming, and  
11 let me know if I am wrong, we are assuming  
12 that they are going to come back with the  
13 same application at 1,150?

14 MS. BOUTSIS: The answer is one hundred  
15 percent, yes.

16 MR. FIORE: Does everybody understand  
17 that, they are going to come back with  
18 1,150?

19 MR. PARISER: The question is, will  
20 they agree to all 78 conditions? Price is  
21 talking yes, but Price is also thinking he  
22 is bound by the 78 conditions.

23 MS. LINDSAY: I still say, going back  
24 to the sound engineer, that once we have  
25 that evaluation and have that expert

1 testimony, the sound engineer may be able to  
2 suggest some other fixes to some of the  
3 problems that this sports complex is going  
4 to create.

5 MR. FIORE: Mitigating factors.

6 MS. LINDSAY: Exactly.

7 MR. FIORE: Let me go back to the very  
8 beginning before I got upset. All I want to  
9 see is the mitigating factors resolved to  
10 the best of the ability of everyone there  
11 and that's all I want. This is going to get  
12 done in some form or fashion. We want to  
13 get it done the right way and that's all I  
14 ever asked of anybody a long time ago and  
15 that's all I would ask now. Thank you for  
16 the kind words.

17 MS. BOUTSIS: Mr. Williams, do you have  
18 the direction that you need?

19 MR. WILLIAMS: Going once, twice up to  
20 1,150, Mayor?

21 MR. TENDRICH: Yes, up to 1,150.

22 MS. STANCZYK: Yes, whatever gets me  
23 where I need to be.

24 MR. FIORE: Up to 1,150.

25 MR. WILLIAMS: Councilwoman.

1           MR. LINDSAY: I appreciate that, and I  
2           am sorry because I don't feel like what I  
3           just said a few moments ago was straightened  
4           out in my mind. Can you tell me how asking  
5           the traffic engineer to do a study up to  
6           1,150 gets us any information on anything  
7           else? If I were told to do that, I would do  
8           1,150.

9           MS. STANCZYK: How do we get to a  
10          different number?

11          MS. LINDSAY: I don't know that saying  
12          up to 1,150 is any different from just  
13          analyze at 1,150.

14          MR. WILLIAMS: I believe if we ask a  
15          traffic engineer that has more technical  
16          knowledge than I certainly do and maybe more  
17          than most of us here, he would come back to  
18          me and say, Williams, give me one thousand  
19          to 1,150, give me 900 to 1,150 that's the  
20          way we work, and of course I would report  
21          that back to you all.

22                 There are measures and factors and  
23                 sequencing and all of that stuff that goes  
24                 on, it's pretty technical stuff. Now,  
25                 fortunately, they have computers to do all

1 of these simulations these days. We just  
2 need to tell them something.

3 MR. PARISER: If you say 900 to 1,150  
4 and Palmer Trinity backs out of some of the  
5 conditions, it may be 850, how does he  
6 respond?

7 MR. WILLIAMS: That's why the only  
8 consistent number that we have is the 1,150.  
9 We don't have another. Like you and I said,  
10 we don't have a 1,031 number.

11 MR. PARISER: 900.

12 MS. BOUTSIS: Can I make a suggesting  
13 and perhaps, I don't know if this works or  
14 not. Since the application is for 1,150 we  
15 have to address the 1,150, okay. So perhaps  
16 going backwards from there, if 1,150 could  
17 possibly work, but it has 30 conditions from  
18 traffic, now take it down. If you take out  
19 these conditions, what does that number  
20 become. If you take out these conditions,  
21 what does that number become. Does that  
22 work?

23 MR. PARISER: Yes, that's what I am  
24 looking for.

25 MS. STANCZYK: I don't think that's

1           what you are looking for because I think the  
2           conditions have not been decided. The  
3           recommendations haven't been made by the  
4           planner yet, so you don't know what they  
5           are.

6           MS. BOUTSIS: I'm sorry to interrupt  
7           you. Whatever this consultant comes up with  
8           as his conditions, because what a traffic  
9           consultant does, I don't think you are  
10          looking for yes or no, it's not 1,150 yes or  
11          no, it's 1,150 works at this number with  
12          these conditions. 1,400 didn't work,  
13          period, at the site, I believe. Even if  
14          they tried to put on 176th street, it didn't  
15          work. So if they come up with 1,150 works  
16          with these conditions.

17          MR. WILLIAMS: And 184th came later.

18          MS. BOUTSIS: And then if he is  
19          reducing all of these conditions, what does  
20          that bring you down to. I am trying to  
21          think outside of the box here. The only  
22          reason that I am saying that is because when  
23          you know what the numbers are for the  
24          different things and you are not looking for  
25          a number different from Palmer Trinity, you

1           are saying, if they don't agree to these  
2           conditions, we now know in preparation for  
3           the hearing ---

4           MS. STANCZYK: You are telling me that  
5           you are giving them 1,150.

6           MS. BOUTSIS: I don't know that the  
7           traffic consultant is going to say that  
8           works.

9           MR. WILLIAMS: He is going to analyze  
10          that work that the councilwoman has. Let's  
11          go with that, please. I think three of you  
12          are saying up to 1,150 and then I'll report  
13          back to you all what practical difficulties  
14          or problems are within that frame.

15          MR. TENDRICH: I think what our  
16          attorney just said is perfect. For 1,150  
17          you have to do 30 things, but if you don't  
18          want to do the 30 things you want to do 27,  
19          you can only have 1,100, but if you only  
20          want to do 20 of them, then you can only  
21          have 1,000.

22          MS. STANCZYK: What we sent them and  
23          what we are appealing, what they have sent  
24          back to us was the original resolution. I  
25          think the way it sounds that we are getting

1           so far is, that we are not going to be able  
2           to go back to the original resolution. We  
3           are not going to have any of those options  
4           in-between, because we are not setting  
5           ourselves up to find competent substantial  
6           evidence to support a different number than  
7           1,150.

8           What you have done is, you supported  
9           1,150 and now you are saying you can do  
10          better on it by giving them conditions, and  
11          that's not where we really want to be.

12          MR. TENDRICH: I disagree. I feel that  
13          1,150 is what their application is. And by  
14          telling them you can have 1,150 if you do  
15          these 30 things, then they have to meet  
16          them.

17          MS. STANCZYK: That's the same  
18          application that they came forward before  
19          and we didn't vote for.

20          MR. TENDRICH: That's why we are having  
21          a hearing again, because we didn't vote for  
22          it and the Judge ruled us wrong.

23          MS. STANCZYK: He didn't say it was  
24          wrong, he said we didn't have competent  
25          substantial evidence. I am trying to find a

1 way to get the competent substantial  
2 evidence that supports the resolution and  
3 the difference in the fact that we did not  
4 support the original application. Now you  
5 are trying to find the way to support the  
6 original application.

7 MS. BOUTSIS: I am not trying to find  
8 anything other than the standard. That is  
9 what you have asked to do. Now, if it  
10 doesn't come out that way factually and it's  
11 supported by competent evidence, I am good  
12 with that. But I have to admit, I am  
13 uncomfortable for this council to be picking  
14 a different number than what's in the  
15 application. It either works or it doesn't.  
16 If you are asking for the conditions to come  
17 down because they don't agree to A, B, C in  
18 the conditions if that's where your traffic  
19 consultant comes out with. Your new traffic  
20 consultant may say that, no, Corradino  
21 really messed up and 1,150 doesn't work,  
22 period. I don't know the first thing about  
23 traffic and I won't tell you that I do, but  
24 if you have conditions and it works ---

25 MR. WILLIAMS: We'll have to go to

1 Georgia for someone that's willing to take  
2 this job.

3 MS. BOUTSIS: I don't want you to be  
4 set for the fall, is my point.

5 MS. STANCZYK: Do we have an option to  
6 give them a different number than, for  
7 instance, if we come forward with the 78  
8 recommendations, because that's what they  
9 agreed to in the past, and we have the  
10 traffic custodian, and we have the  
11 recommendations that are stayed because they  
12 agreed to them in the past, just saying, do  
13 we have the option then to give them a  
14 different number, we can only give them the  
15 number that the traffic engineer comes up  
16 with?

17 MR. WILLIAMS: You can propose a new  
18 number from the dais like it happened  
19 before. We want to be in a position that we  
20 can support something. You can propose  
21 whatever you want to propose based on the  
22 evidence that you hear from the floor, but  
23 we need to be in a position so we can  
24 support that.

25 MR. PARISER: You can say, Mr. Traffic

1 engineer, will 900 work better than 1,150  
2 for traffic flow in the neighborhood? One  
3 of the things that I heard is that it that  
4 was single family UM homes, the number of  
5 trips per day would equate to approximately  
6 what it would be for 900 people. That's  
7 what was running through my mind.

8 So Mr. Traffic engineer, on the record  
9 this time because it wasn't stated last  
10 time. You are saying that if they have  
11 zoning for UM homes, it's whatever, 300  
12 trips a day if they had the homes built, but  
13 with 1,150 it's generating 500 trips a day.  
14 So to me that's a significantly higher  
15 traffic impact, but that wasn't said on the  
16 record.

17 MS. LINDSAY: I think Mark Alvarez did  
18 bring some of that up but they didn't  
19 elaborate.

20 MS. STANCZYK: They didn't like him as  
21 an expert.

22 MR. WILLIAMS: That was not on the 900  
23 that was on the 1,150, because we did not  
24 reopen the hearing, and we'll be attune to  
25 that. Everybody will be all over this thing

1 going forward.

2 MR. FIORE: It says here that the 900  
3 number is not supported by competent  
4 substantial evidence and constitutes a  
5 departure from the essential requirements of  
6 law. That number doesn't work.

7 MR. PARISER: No, what they are saying  
8 is there is no evidence to support it.

9 MR. FIORE: So you had a traffic  
10 consultant, so now you want to get another  
11 traffic consultant to try to get down to  
12 that number?

13 MR. WILLIAMS: We don't know what that  
14 person is going to say.

15 MR. FIORE: Mr. Manager, you can't pick  
16 substantial competent evidence out of the  
17 sky and create it where there is none. I  
18 don't think everybody understands that.

19 MS. LINDSAY: If I can say one thing.  
20 We did not have a traffic study done by  
21 Mr. Corradino. Mr. Corradino examined  
22 Palmer Trinity's traffic study and asked  
23 some questions. So what we are suggesting  
24 now is that we go further than just  
25 responding to their traffic study and that

1 we do our own.

2 As Vice Mayor said a minute ago about  
3 the sound engineer. If they have a sound  
4 engineer, we should have a sound engineer.  
5 And a number of us here feel the same way  
6 about the traffic situation, that we should  
7 have a study here.

8 MR. FIORE: Why wasn't that done in the  
9 first place? Why are we sitting here  
10 wasting more taxpayers money? This is  
11 absurd to me.

12 MS. STANCZYK: It's hard to go back and  
13 rethink those things, but we are trying to  
14 go faster going forward.

15 MR. FIORE: That's wonderful, Mayor,  
16 but also the clock is running and the dime  
17 is running and I don't know when it stops.  
18 You just agreed with me.

19 MS. LINDSAY: We are trying to get the  
20 competent substantial evidence going forward  
21 at the next hearing from all available  
22 sources. A planner, a sound engineer and a  
23 traffic engineer, so that we will make a  
24 decision based on the evidence and we will  
25 not be in this position again.

1                   MR. TENDRICH: I want the Manager to do  
2 we talked about 10 minutes ago with 1,150 as  
3 the Vice Mayor said and the Village Attorney  
4 said. They check it and they say 1,150,  
5 maybe he will say 1,150 won't work for  
6 anything, but that's the maximum that we  
7 have been looking at. He will say, like we  
8 said before, he will say yes, it will work  
9 with this, if you do that it will work with  
10 this.

11                   MS. LINDSAY: May I suggest something  
12 that might satisfy everyone here. That we  
13 have the traffic engineer examine the 1,150  
14 and we also have the traffic engineer  
15 examine the number that would be the number  
16 of people living in those homes if that  
17 property were developed as single family  
18 homes. I believe the number is 79 homes,  
19 and the average number of people living in  
20 any home in the Village I believe is 3.1.

21                   MR. WILLIAMS: Where did that come  
22 from?

23                   MS. BOUTSIS: It's from the census  
24 which was incorporated into our  
25 comprehensive plan, which is the findings

1           for or comprehensive plan. So Mr. Alvarez  
2           took the information from there and he  
3           extrapolated a number of homes based upon,  
4           you take the square footage and you take out  
5           about 15 percent of roadways, whatever.

6           MR. PARISER: Have the traffic engineer  
7           tell us what the number of trips would be if  
8           it was developed as single family homes,  
9           amongst whatever else he does.

10          MR. WILLIAMS: We have a new census  
11          now, but we'll go with what we have.

12          MS. BOUTSIS: There is one last thing  
13          we need to discuss.

14          (Thereupon, Council person Joan Lindsay  
15          stepped out of the room.)

16          MS. BOUTSIS: I asked Council person  
17          Lindsay to step out of the room and that's  
18          because I want to talk to you about the  
19          Circuit Court case 08-28977 CA 30 which is  
20          also Palmer Trinity Private School and the  
21          Village of Palmetto Bay.

22          I asked the authorization of  
23          Ms. Lindsay to go ahead and contact the  
24          Attorney General to make sure that I could  
25          get an ethics opinion to ensure that she was

1           protected and the Village was protected.  
2           And they indicated that she would probably  
3           have a conflict of interest because she is a  
4           party in the 2008 case. So that's why I  
5           asked her to leave at this point.

6                     I think that I have a very good  
7           argument legally. I put it in my  
8           memorandum, to challenge Stan Price,  
9           Mr. Cleary, who is their new counsel and  
10          Palmer Trinity itself under a 57.105, which  
11          is like a frivolous action going forward.  
12          This is a letter that you issue and then  
13          there is a certain amount of time that  
14          passes, and if they don't withdraw the  
15          claims you get to go after your attorney's  
16          fees and if you are successful in your  
17          position then you get all of your attorney's  
18          fees back on that issue.

19                    There are claims for damages in the  
20          2008 complaint. It's not so clear that they  
21          are in the 2010 complaint and I need to get  
22          some clarification from Palmer Trinity on  
23          that.

24                    And the Courts have held that you can  
25          not do a federal constitutional challenge in

1 a zoning manner. The Florida courts went  
2 further and said, you cannot do a damage  
3 claim against a municipality or a sovereign.  
4 Let's start with the principal of that. The  
5 sovereign is immune, meaning you cannot sue  
6 the sovereign, unless there is an exception.  
7 One of the exceptions is if you have a  
8 contract. If you think about it, we signed  
9 a contract to build Village Hall. If we  
10 could not be sued, then we could have  
11 Village Hall constructed and never pay for  
12 it because sovereign can't be sued. So if  
13 the Village signs a contract we have the  
14 right to be sued on that contract.

15 Another provision for a lawsuit against  
16 the sovereign is workman's comp. And for  
17 example, another one is 76828, which is  
18 called basically the limited sovereign  
19 immunity statute. Basically it says, the  
20 sovereign, meaning the city or the county  
21 can be sued for personal injury or wrongful  
22 death or physical type damages from  
23 recognized torts. Torts are personal  
24 injury, wrongful death kind of actions.

25 And the state cases have said, you

1           can't get damages in zoning claims, one.  
2           Two, you can't get delayed damages because  
3           of appeals in zoning claims. That was  
4           actually the Mandelstam versus the City of  
5           South Miami, which my law partner the  
6           attorney for the City, he actually litigated  
7           that case.

8           I think that we have a good shot on  
9           57105 on that basis. It doesn't mean that  
10          all of the claims go away. It doesn't mean  
11          that there can't still be a due process.  
12          There is another court case which I have  
13          cited, you cannot do a substantive due  
14          process claim against a municipality or  
15          county. It means, basically substantive due  
16          process goes for damages. They can still do  
17          procedural, which is one of their claims.  
18          They can still do a declaratory relief kind  
19          of action which are some of their other  
20          claims. But I think with this letter and  
21          then following up with, if they don't remove  
22          these claims for damages, either a motion to  
23          dismiss or summary judgment, and I am  
24          recommending preparing the letter and  
25          issuing it.

1                   MR. PARISER: Let me just throw a  
2 couple of tidbits in with 57105. Normally  
3 you only get attorney's fees by statute or  
4 by contract. And the courts, maybe about 10  
5 or 12 years ago they said, okay there is a  
6 lot frivolous claims pursuant to what the  
7 legislature thinks, let's do a system where  
8 the attorney representing the client puts  
9 his financial credibility on the line.  
10 Because 57105 says, not only do you send a  
11 letter out challenging somebody for being  
12 frivolous and no basis and what have you,  
13 but if you do not withdraw the claim within  
14 21 days, from that point forward, sometimes  
15 going a little back, the client as well as  
16 the attorney representing the client is  
17 liable for attorney's fees. And that's a  
18 very big factor. That's why you think about  
19 it twice and you check the law to see if  
20 it's reasonable.

21                   From what the memorandum says that Eve  
22 presented, a lot of these things I don't  
23 think have a basis at all. They throw out  
24 14 million, two million, I just don't see  
25 it. And you know, let them put their money

1           where their mouth is in their financial  
2           responsibility, and if they really think  
3           that they have a claim they will go forward.

4           MS. BOUTSIS: What I would like to do  
5           in the 57105 letter is explain what I have  
6           explained to you and say, if you disagree,  
7           let me know. But at least I have put out  
8           the basis, and the court is very clear on  
9           what my position is and if they don't take  
10          it out and I am right, then let's at least  
11          get our legal fees.

12          MR. PARISER: I say put them on notice.  
13          I don't think that any of these claims for  
14          due process or any of these other claims  
15          work.

16          MR. WILLIAMS: What's the downside for  
17          us? Do we have any exposure?

18          MR. PARISER: Nothing. They already  
19          57105'd us.

20          MS. BOUTSIS: To be clear, they have  
21          only 57105'd us on the appeal.

22          MR. WILLIAMS: Does it grow or lessen  
23          our exposure?

24          MS. BOUTSIS: Our writing the letter  
25          doesn't grow exposure. If anything, after I

1 write the letter and they withdraw it, I  
2 ruin their exposure to the 13.5 million  
3 dollars. And if they don't withdraw it and  
4 we go to a summary judgment hearing on my  
5 law, which is good law, and I win, not only  
6 do those claims go away for 14-million,  
7 15-million dollars, but we get our legal  
8 fees in having to fight it.

9 MR. WILLIAMS: So it's, put your money  
10 where your mouth is.

11 MR. PARISER: They have five or six  
12 fanciful claims, some of which Eve gave law  
13 that you are not going to get it, and some  
14 that there isn't any law, but it doesn't  
15 seem very strong. I say give them a letter  
16 back if that's what they want to do.

17 MS. BOUTSIS: Okay. Are you okay with  
18 that, Patrick?

19 MR. FIORE: I don't know. Who is to  
20 say they are not going to win again.

21 MS. BOUTSIS: I am not talking about  
22 the appeal now, I am talking about these  
23 other claims where they are saying that they  
24 are entitled to damages based upon zoning.

25 MR. FIORE: Would that be for lost

1                   fruition and things like that?

2                   MS. BOUTSIS: Yes. And I have found a  
3 case that says just because there was  
4 appeals and it doesn't matter if the city  
5 was wrong, you don't get damages for those  
6 delays.

7                   MS. STANCZYK: In other words, you are  
8 wrong to appeal, you are wrong to fight your  
9 case is what they are trying to tell us?

10                  MR. FIORE: Is that like punitive  
11 damages?

12                  MS. BOUTSIS: No, just regular damages.  
13 I don't believe you can get punitive  
14 damages.

15                  MR. FIORE: Well, if they can't get  
16 14-million dollars, can they get half a  
17 million dollars?

18                  MR. PARISER: If you can't get a dollar  
19 for damages you can't get a million.

20                  MS. BOUTSIS: That's what my motion is  
21 going for, limit those damages to zero.

22                  MR. TENDRICH: I am all in favor of the  
23 letter.

24                  MS. STANCZYK: Me too.

25                  MR. BOUTSIS: If you want I can go over

1                   it in a little more detail with you.

2                   MR. PARISER: There is no downside in  
3                   doing the letter. It gives the other  
4                   attorney's their ---

5                   MS. STANCZYK: It's pretty clear in the  
6                   memo.

7                   MS. BOUTSIS: In short, the idea is the  
8                   State of Florida has said, since we are  
9                   sovereign, you as a Village are Sovereign,  
10                  nobody can sue you unless there is a  
11                  recognized right. And there is no  
12                  recognized right to monetary damages, so  
13                  unless there is an exception to the rule ---

14                  MR. FIORE: Because there is a zoning  
15                  manner, it's not like somebody slipped and  
16                  fell?

17                  MS. BOUTSIS: Exactly. So the State  
18                  waived sovereign immunity so that if you  
19                  slip and fall you can sue the Village.  
20                  There is no similar waiver for this.

21                  Now, there are property right issues  
22                  that perhaps Palmer Trinity could raise, but  
23                  they haven't. There are no property rights  
24                  being adjudicated by the courts.

25                  MR. FIORE: That's fine, I'll confirm.

1           Going forward with this, what's to say it  
2           goes back to court again and they sanction  
3           the Village, what happens then, then we have  
4           to pay?

5           MS. BOUTSIS: I guess the point is, in  
6           an appeal the court can only look at the  
7           appeal. So I don't see it as a sanctioning  
8           thing because the court can only look at  
9           each appeal and each one has to meet the  
10          standards.

11          Palmer Trinity is going to try and  
12          turn, let's say a different case, you know,  
13          of these 2008 and 2010 trial cases into some  
14          sort of, sanction them Your Honor, they are  
15          bad people, they are treating us differently  
16          and I think those are the cases that I can  
17          win based upon the law that I found.

18          I don't know specifically, and I don't  
19          want to go there on the record until I know  
20          for sure, there could be property rights  
21          allegations made, meaning Burt J. Harris,  
22          which means it's a different standard that  
23          is a statutory exception that allows a  
24          community to be sued.

25          MR. FIORE: I hope everybody

1 understands that.

2 MR. PARISER: By the way, if we gave  
3 them, from my understanding with  
4 conversations with Price, if we gave them  
5 everything that they wanted today, they are  
6 still going to sue us.

7 MS. BOUTSIS: That is correct.

8 MR. PARISER: If we gave them 1,500  
9 students today they are still going to sue  
10 us.

11 MR. BOUTSIS: That was not just from  
12 Stan Price, that came directly from the  
13 board of directors of Palmer Trinity,  
14 Mr. Joe Kalbac, and Mr. Williams is a  
15 witness.

16 MR. PARISER: If we gave them  
17 everything that they wanted today, they are  
18 still suing us.

19 MR. FIORE: Let me go back to what I  
20 said earlier and I want to address this to  
21 the Mayor. This is what I was saying when I  
22 said I am not pro or anti anything, Mayor,  
23 you follow me? I am pro whatever is best  
24 for the Village, period, but I don't want to  
25 be pigeon-holed into something and I didn't

1           like and I want to do what's best for the  
2           Village. I don't agree with that they  
3           should be threatening people, I am a member  
4           of this council, I was elected.

5           MS. STANCZYK: They have been  
6           threatening us all along. They threatened  
7           us the day of the town hall meeting.

8           MR. FIORE: That's why I say it's got  
9           to get done the right way. There is too  
10          much at risk for the Village and that's what  
11          I am trying to tell people, whether you like  
12          me sitting up here or not.

13          MR. PARISER: I just don't appreciate  
14          the attitude that they had.

15          MR. FIORE: Vice Mayor, I don't know  
16          anybody there. My kids don't go there, I  
17          don't have the money to send my kids there,  
18          I probably wouldn't send them there. I  
19          think it gets back to what I was saying,  
20          it's torn this Village apart, I hope  
21          everybody understands that. Maybe you  
22          didn't see what I saw.

23          MS. STANCZYK: I think I have seen it  
24          probably a lot longer than you have, and  
25          that's what the problem is. There needs to

1 be a resolution, but a resolution that can  
2 bring people together and right now they are  
3 not there. This thing has been going on for  
4 me since about 1998.

5 MR. FIORE: Do you agree that it has to  
6 end?

7 MS. STANCZYK: Yes, I do.

8 MR. FIORE: With no risk to the  
9 Village?

10 MS. STANCZYK: There is always risks,  
11 that's the thing, that's why we got elected.  
12 We are here to make a decision that works  
13 and works for everybody, not to remove risks  
14 and run and hide in a corner. If you say  
15 everything is a risk and you make no  
16 decision and/or you make a decision that  
17 immediately ends everything, number one,  
18 your residents are never going to be happy  
19 because you didn't protect them. You didn't  
20 take a risk to protect them. Number two, if  
21 you quit and you run away, the next guy  
22 knocking on the door knows he's got your  
23 number.

24 MR. FIORE: That's fine, but then they  
25 could have elected someone else in my

1 position and they didn't, Mayor.

2 MS. STANCZYK: That's why they elected  
3 me.

4 MR. FIORE: I am not questioning that,  
5 you just said it yourself.

6 Anyway, I am in agreement with the  
7 57105.

8 MS. BOUTSIS: Is there anything else we  
9 need to do for tonight?

10 MR. PARISER: When do we have to give  
11 them this hearing?

12 MS. BOUTSIS: The mandate says we are  
13 to take every action consistent with their  
14 order which is that quashed, and you go to  
15 rehearing. That being said, there is no  
16 appellate rule on a time period and the  
17 mandate does not have a time period.

18 In our prior litigation that went up to  
19 the Third District, the Third District said  
20 you have 30 days, 11 Circuit do this. This  
21 mandate is silent.

22 Now, we should do it within a  
23 reasonable amount of time and as quickly as  
24 possible. But having said that, we need a  
25 planner and we need our consultant and we

1           need to do a 30-day notice of advertising  
2           which is consistent with our zoning code.  
3           So I told Mr. Kalbac that at minimum it  
4           would be 90 days from whenever we met.

5           MR. WILLIAMS: Is there a possibility  
6           that they can go back into court and ask the  
7           panel to command an earlier hearing?

8           MS. BOUTSIS: I guess they could try,  
9           but I think it would be foolish, and I have  
10          already written a letter to them explaining  
11          the situation, so that if the court sees it  
12          we sound really damn reasonable.

13          MS. STANCZYK: The other thing is  
14          school gets out.

15          MS. BOUTSIS: Please do not tell me to  
16          not have the hearing over the summer because  
17          that can't happen.

18          MS. STANCZYK: School is getting out.

19          MR. FIORE: When do you want to have  
20          the hearing?

21          MS. STANCZYK: It's not about that,  
22          it's about the traffic study done on a  
23          timely basis so that they are not on spring  
24          break, they are not on a spring trip, they  
25          are not closed for a holiday and that they

1                   are still in session.

2                   MS. BOUTSIS: I think I have clear  
3                   direction. Thank you everyone, have a good  
4                   night.

5  
6  
7                   (Whereupon, the A/C session was  
8                   concluded at 9:15 p.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA :  
 : SS.  
COUNTY OF DADE :

I, ADRIADNA GONZALEZ, Court Reporter,  
Notary Public in and for the State of Florida at  
Large, do hereby certify that I reported the A/C  
Session called by the Village Counsel in the  
above-styled cause, and that the foregoing pages,  
numbered 1 to 107 inclusive, constitute a true and  
correct transcription of my shorthand report of the  
A/C session.

I further certify that I am not an  
attorney or counsel of any of the parties, nor a  
relative or employee of any attorney or counsel  
connected with the action, nor financially  
interested in the action.

WITNESS my hand and official seal in  
the City of Miami, County of Miami-Dade, S  
Florida, this 4th day of April, 2011.

*[Handwritten Signature]*



Adrianna Gonzalez  
Court Reporter  
Commission # EE041583  
Expires Nov. 29, 2014