

VILLAGE OF PALMETTO BAY

IN THE MATTER OF:

CASE NO.: 12-029

SHORES AT PALMETTO BAY, LLC, VERSUS THE VILLAGE OF
PALMETTO BAY

PLACE: 9705 East Hibiscus Street
Palmetto Bay, Florida 33157

DATE: Monday, April 1, 2013

The above-entitled matter came on pursuant
to notice of attorney/client session at 6:10 p.m.

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APPEARANCES

On Behalf of the Village of Palmetto Bay:

EVE BOUTSIS, ESQ.,
FIGUEREDO & BOUTSIS, P.A.

COUNCIL

- MAYOR SHELLEY STANCZYK
- VICE MAYOR JOHN DUBOIS
- COUNCILMAN PATRICK FIORE
- COUNCILMAN TIM SCHAFFER
- COUNCILWOMAN JOAN LINDSAY
- VILLAGE MANAGER RON E. WILLIAMS

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PROCEEDINGS

MS. BOUTSIS: All right. So we are ready to call this meeting to order, please. Thank you.

It's 6:10. Thank you. As the Village attorney I have requested that the Mayor and Council meet today in the matter of the defense of a certain legal action entitled Shores of Palmetto Bay, LLC, versus the Village of Palmetto Bay in Appellate Court Case number 12-029 in the Eleventh Judicial Circuit Appellate Division; also under Village Resolution 2011-85.

I am seeking advice from the Village Council regarding litigation, strategy and/or settlement.

It is now approximately 6:10 p.m. on Monday, April first. I will have everybody go around the room and introduce yourselves so the Court Reporter can take down your names.

Please have one person speak at a time so that the Court Reporter can take down everybody's testimony.

And try and use yes and no; not uh-huh and uh-uh because that doesn't come up in the Court

1 record.

2 And the transcript will be made available
3 at the end of the litigation. There can be no
4 statements made off the record. It's all on
5 the record.

6 Again, my name is Eve Boutsis. I am the
7 Village attorney. We will go from the right to
8 left.

9 MR. FIORE: Patrick Fiore, District One
10 Councilman.

11 MR. SCHAFFER: Tim Schaffer, District Two
12 Council Member.

13 MR. WILLIAMS: Ron Williams, Village
14 manager.

15 THE VICE MAYOR: John DuBois, Vice Mayor.

16 THE MAYOR: Shelley Stanczyk, Mayor.

17 MS. LINDSAY: Joan Lindsay, Councilwoman
18 District Three.

19 MS. BOUTSIS: Thank you everyone for being
20 here.

21 You may recall about a month ago we
22 received a renewed settlement offer from the
23 Shores of Palmetto Bay otherwise known as Parks
24 of Palmetto Bay through the principal,
25 Mr. Rosen, and his Counsel, J. C. Planas.

1 Around the twelfth of March per the
2 direction of this council Mr. Williams and I
3 had a meeting with Mr. Planas and Mr. Rosen.

4 At that time we listened to their request
5 and their position. So I don't know if
6 Mr. Williams would you like to give a synopsis
7 of that meeting.

8 MR. WILLIAMS: Yes. I, you know, in --
9 in --

10 In short you will recall that I asked, you
11 know, for your authorization to work on a
12 purchase option with Mr. Rosen and -- of
13 course -- his attorney.

14 That quite frankly didn't go very well at
15 all. His position, his adamant position --

16 To put emphasis on it his adamant position
17 was that --

18 Even though we did not offer a specific
19 amount his adamant position was that he
20 originally said five million. But he now has
21 an offer for six million.

22 And he is not going to take --

23 He is not going to take the six million.
24 He absolutely wants to build his school. And
25 he wants us to, to work with him in order to do

1 that.

2 We revisited that issue many times during
3 our meeting. And, of course, everyone was
4 working from their angle.

5 I did not totally buy that this, that to
6 be his position probably the first two or three
7 times.

8 And I am not totally convinced as of yet
9 that that's where he wants to go. But he
10 clearly is stating that he will not sell it.

11 And he has turned down six million
12 dollars. And he wants to build a school. Now
13 subsequent to that --

14 And I will have more conference later.
15 Subsequent to that after that meeting they left
16 with the firm position that they wanted a
17 settlement agreement to build their, build out
18 their property.

19 MS. BOUTSIS: The only caveat I would add
20 is he said:

21 "If you want the property it's five
22 million. It's just immediate. It's a
23 quitclaim.

24 "You take it as it is. I am not doing any
25 appraisals, nothing and good-bye."

1 MR. WILLIAMS: And, of course, you know
2 our comment was:

3 "You know we are not able to write you a
4 check without appraisals and, and the process
5 that we have to go through to -- to respect
6 the -- first of all, to respect the State law."

7 But at the same time to make sure that we
8 are prudent in our, in our process here. But
9 we did --

10 Subsequent to the meeting I did proceed to
11 order an appraisal which I am told will be --

12 MS. BOUTSIS: Next week will be getting
13 it.

14 MR. WILLIAMS: -- ready next week just to
15 get a feel as to whether or not we have another
16 opportunity to come back and say:

17 "You offered six million. But it's worth
18 only whatever number."

19 And to, to see if there is any opportunity
20 for further negotiation. But no. The Village
21 attorney who will talk more about her
22 conversation with Mr. Planas they appeared on
23 the surface --

24 And we are still not convinced fully of
25 it. But he appeared on the surface to be

1 adamant about wanting to build -- build a
2 school.

3 And that the property was not for sale
4 considering -- you know -- the options that we
5 have available: Appraisals, prudence, all of
6 those things.

7 MS. BOUTSIS: Now, a good portion of the
8 agreement the first draft I had J. C. Planas do
9 to keep costs down.

10 And also since it was --

11 He was pushing for this settlement. So he
12 did the first draft. There have been a few
13 drafts in the past.

14 The first draft arrived on Thursday. And
15 there have been a couple of drafts back and
16 forth since then.

17 Most of it --

18 A lot of it is what you would think of as
19 boilerplate in the sense of what you would put
20 into a settlement agreement with a
21 municipality.

22 The main gist of it is a couple of points.
23 You know that I have talked to you time and
24 again that we don't want to be ever accused of
25 contract zoning.

1 We want to go through the right process so
2 that we don't have a challenge when we make the
3 decision in the public forum.

4 Okay?

5 So they have agreed to that. So basically
6 it's a hearing on the settlement agreement.
7 And there would be the quasi judicial hearing
8 on the application and with a reservation of
9 their rights to basically once the settlement
10 is approved and the application is approved the
11 litigation goes away.

12 The appeal goes away. Or if we deny their
13 application they have the right to continue
14 that appeal.

15 That's the concept. Now, time wise I have
16 explained time again:

17 "Look. We just have to meet the time
18 deadlines."

19 I don't want a challenge from anyone in
20 the community saying:

21 "We didn't meet the zoning deadline of 30
22 day notice."

23 Or anything else because this has come up
24 in other cities like Surfside. And I gave that
25 legislation to Mr. -- that litigation to

1 Mr. Planas. And we are in agreement as to that
2 process.

3 In here basically it says he would do the
4 application for the charter school at one
5 thousand four hundred and the administrative
6 review of the rest of the application which is
7 for the mixed use development.

8 And again that's not for your
9 consideration. That's an administrative site
10 plan review.

11 He wants which you once agreed to as a
12 Council in this room did agree to waive the
13 fee.

14 Now he did pay a second fee. Just so we
15 understand he had his first application which
16 you heard.

17 He then filed another application for the
18 same thing, but we were on appeal. We have his
19 check. We never deposited it.

20 And then he filed a third one. The third
21 one is the one we are talking about now. So I
22 am not sure if he is talking, if he is looking
23 for that original two thousand dollar check to
24 go away for the second application.

25 I am assuming yes. But I need to clarify

1 that with his Counsel. Either way he is not --
2 He is looking for not to create obviously
3 a third fee. But it's probably also to waive
4 the second fee.

5 The --

6 I had put a provision in here thinking
7 that this is --

8 Since we are looking for stability and in
9 my perspective I think we have --

10 Again, we never know what a Court can do.
11 I think we were start, very strong position at
12 oral argument.

13 Mr. Planas was of the same position which
14 is why I think they came back to us with a
15 concept for settlement at that point.

16 Having said that I put in a provision that
17 basically said:

18 "You are tied to this agreement. It would
19 be recorded as a covenant against the property.
20 And it would be capped at that one thousand
21 four hundred kids.

22 "You can't come back and ask for anymore
23 regardless of what the State Legislature does,
24 without -- regardless whether you could find
25 more room.

1 "You are stuck to the one thousand four
2 hundred kids that you put in your application."

3 Originally they agreed to that. What --
4 Actually the first five or --

5 Four or five versions of the settlement
6 agreement they agreed to that. They now would
7 like to be able to go through the process at
8 some point not knowing when.

9 I mean it could be ten years from now to,
10 if --

11 If they are a successful school, the
12 community likes them and they have the ability
13 they would like to come back and do that.

14 So I need to bring that to your attention.
15 Because that's now an item in dispute which
16 wasn't a dispute for the first few versions.

17 The second thing which is I think
18 something we talked about forever and it's this
19 usable, available charter.

20 They have conceded the point. Mr. Rosen
21 himself at our settlement conference said:

22 "I will do it. I don't --

23 "You know, it's done. I will get it
24 done."

25 Well, it hasn't happened yet. So Mr.

1 Planas originally called me today and said:

2 "Look. Can you put a 30 day provision,
3 get the hearing whenever the hearing is and
4 within 30 days we will get our School Board
5 approval process.

6 "Maybe we will get it done before then.
7 But 30 days after the hearing at the maximum
8 for us to get our approval from the School
9 Board.

10 "And if we don't the application is
11 denied."

12 MR. WILLIAMS: Let me --

13 MS. BOUTSIS: It's now increased to 90
14 days.

15 MR. WILLIAMS: Yeah. Let me comment on
16 that.

17 And, and, and just with all of this real
18 strong language and conversation about:

19 "I am building my school. I am going to
20 do everything I have got to do. I don't care
21 what, what it takes. That's where I am headed.
22 You know, full steam ahead."

23 He still hasn't gotten the charter. This
24 lends me to believe that some of that
25 conversation, some of that is not all the way

1 there.

2 Because he --

3 He said over and over again:

4 "I will get whatever charters that you
5 need. I will do whatever I have got to do.
6 You know, I just want to get the school
7 built -- built -- built -- built -- built."

8 But here we are --

9 MS. BOUTSIS: Three week later.

10 MR. WILLIAMS: -- three weeks later and he
11 still hasn't gotten his charter.

12 So some of that may be, you know, may not
13 be as strong as he is saying. But that's
14 his -- that's his forward position at this
15 moment.

16 MS. BOUTSIS: So he did say, you know,
17 sort of like with the condition that there were
18 three alternatives this Council could have
19 taken:

20 Deny the application, continue the
21 application for a certain amount of time or
22 approve the application subject to a certain
23 amount of time to get the document he needs or
24 the denial were to go through.

25 And he is asking for that third condition

1 basically. So it would be a condition of the
2 zoning resolution that he would have 90 days to
3 get or it's a denial of the application.

4 Originally it was 30 days. And I said:
5 "Look. You are asking for this. So are
6 you sure you want 30? Because last time you
7 asked for thirty you got 60 and you still
8 didn't comply."

9 And it's been three weeks. And I have
10 heard nothing about it. So, you know, my last
11 e-mail version he bumped it up to ninety.

12 And that's J. C. Planas bumped it up to
13 90.

14 Okay. The other provision is basically
15 what we talked about previously was expedited
16 review.

17 And that's really it. It talks about, you
18 know, if anybody breaches that the other party
19 can go into court including for injunctive
20 relief.

21 So if they ever violate the number of
22 students or what have you we could go to court
23 to stop that activity.

24 There is one language in here that I am
25 going to be talking to Mr. Planas because he

1 just put it in around 5:15 tonight.

2 And originally it was a reservation.
3 There is a provision in here about a
4 reservation of rights.

5 In other words, in the sense of each
6 person pay their own fees. You know, you are
7 responsible for your costs. I am responsible
8 for my costs.

9 And he put a one liner in. And I am
10 assuming which I need to clarify with him that
11 if, if they get to -- this agreement falls
12 apart and we have to go back to court to get
13 that final order that he, they could try and
14 seek their attorney's fees.

15 Now any party can try and seek their
16 attorney's fees. But there is not an
17 entitlement to attorney's fees like you have
18 seen in some other litigation that we have had.

19 There is no entitlement. And there is no
20 frivolous action there. So although he put
21 that language in here I am not sure that there
22 is a huge risk.

23 But it disturbs me to have it in there any
24 way. And those are the major points.

25 Everything else is all the different language.

1 And I don't --

2 You don't need to make a decision tonight.
3 And, again, any final decision happens on the
4 dahlias.

5 But I wanted to get you a working copy and
6 give you the five basic concepts and also give
7 you the update on our settlement meeting.

8 Are there questions? Are there comments?

9 THE MAYOR: If there are 90 days are they
10 going to be able to pull up a link permit
11 within that 90 days of getting a charter?

12 MS. BOUTSIS: They could.

13 It would be at their own risk, but they
14 could. I mean theoretically they --

15 You know, they still --

16 It's their only --

17 They have --

18 Their plans haven't even been reviewed.

19 So I am assuming, you know, first we would have
20 to do our review.

21 And I don't know how detailed they are at
22 this point. And then they would have to go to
23 building.

24 So they could try and go through the
25 review process. I don't know that in 90 days

1 they could get it all done.

2 But they theoretically could.

3 THE VICE MAYOR: Yeah. But I would
4 imagine zoning --

5 Planning and zoning would have the right
6 to deny it if they didn't have the charter in
7 there hand for the building permits.

8 MS. BOUTSIS: Exactly.

9 THE VICE MAYOR: Yeah. So it's kind of a
10 moot point.

11 MR. SCHAFFER: Question. Why --

12 What is the reasoning or why is it taking
13 him so long to get this charter?

14 Is it a County --

15 Is the County doing something that says
16 they have got an issue or --

17 I don't understand.

18 MS. BOUTSIS: It's the County School Board
19 so we are clear.

20 And the charter school that he has been
21 dealing with, the Zuluetas, they have a very
22 good rapport with the School Board.

23 And they have a lot of A schools. So I am
24 not aware of any issues with the Zuluetas or
25 the charter school.

1 MR. SCHAFFER: What's the normal time
2 frame --

3 If I was them and I wanted to go to a
4 charter what is the normal time frame? Do you
5 know?

6 MS. BOUTSIS: I --

7 MR. SCHAFFER: Because I am trying to
8 figure out why he is just not getting the
9 charter.

10 MS. BOUTSIS: I have to tell you I have
11 seen them go through the process and I have
12 seen the Zuluetas go through the process.

13 MR. SCHAFFER: Yeah.

14 MS. BOUTSIS: It's not that difficult
15 because it's sort of like a boilerplate at some
16 point.

17 You know, unless --

18 As long they are not asking for something
19 incredibly outrageous --

20 MR. SCHAFFER: Uh-huh.

21 MS. BOUTSIS: -- they have been
22 preapproved sort of if you know what I mean.

23 They have a track record. They know what
24 they have to submit. And they go through two
25 different boards.

1 There is the first board and then the
2 School Board. The first board is like --

3 I think it's called the ARK Committee. I
4 am sorry. I don't remember what the acronym
5 stands for.

6 And there is one a month of each. So I
7 am --

8 From what I understand the charter that
9 the Zuluetas had for this site they are using
10 Hender.

11 MR. SCHAFFER: Which means that --

12 MS. BOUTSIS: They --

13 They had made a decision at some point --
14 they being the charter school people -- had
15 made a decision at some point that they were
16 just going to use that charter elsewhere and
17 that was in the newspaper.

18 Now, according to Mr. Planas he indicated
19 otherwise. That they didn't do what they
20 needed to do and that charter was expiring.

21 But that's not what the newspaper
22 reporter's -- in The Miami Herald is reporting.

23 MR. SCHAFFER: It's just something that --

24 MR. WILLIAMS: That's my --

25 MR. SCHAFFER: There's something --

1 MR. WILLIAMS: That's my --

2 MR. SCHAFFER: -- there --

3 MR. WILLIAMS: -- bitter question about
4 the, even though he is taking the strong
5 position the commitment.

6 Because I mean that was three weeks ago.
7 And he promised that he would have it. He
8 would begin to go, he would go to get it --

9 MR. SCHAFFER: Almost like there is
10 something there.

11 THE VICE MAYOR: I --

12 I would just assume it's a business
13 decision.

14 How much does it cost him to go forward
15 with that?

16 MS. BOUTSIS: I don't have the answer for
17 you on that. I am sorry.

18 THE VICE MAYOR: I would wait until the --

19 MS. BOUTSIS: I can tell --

20 THE VICE MAYOR: -- the application is
21 approved.

22 MS. BOUTSIS: I can tell you that
23 previously I know that there were extra
24 charters flying around.

25 They got as many as they could get

1 approved because they are, they believe they
2 are fungible.

3 They could go --

4 In their minds they can go anywhere. So I
5 don't really understand what the issue is
6 because if they are so fungible and they have
7 gotten these extras then there should be one
8 available.

9 MR. SCHAFFER: True.

10 MS. BOUTSIS: And according to what
11 Mr. Rosen said he has a very --

12 He has now developed a really good rapport
13 with the Zuluetas. They went to Costa Rica
14 together to his place in Costa Rica or
15 something.

16 And they are good buddies now. And I
17 don't know. I can't tell you. I didn't want
18 to --

19 MR. WILLIAMS: I --

20 MS. BOUTSIS: I am sorry to interrupt.

21 I didn't want to start calling over at the
22 School Board and be accused of like interfering
23 with the process.

24 MR. WILLIAMS: Go ahead.

25 THE VICE MAYOR: But the bottom line is it

1 doesn't really matter.

2 I mean does it?

3 If it takes 90 days, if it takes 180 days
4 it's just going to be that much longer before
5 they build this school.

6 MS. BOUTSIS: Well --

7 THE VICE MAYOR: Right? Why would it
8 matter to us?

9 MS. BOUTSIS: Because what --

10 For us the important part --

11 The reason why we wanted this in the first
12 place is we want to know who to hold
13 responsible.

14 I called on the Zuluetas. But they are
15 all subsidiaries. They are all different
16 companies. They are all different people in
17 charge.

18 So we need to know who to hold
19 responsible. And they could always assign it.
20 It doesn't matter --

21 Like ultimately as long as we have the
22 trail we can assign it.

23 "No. We don't matter. If you want to do
24 one hundred twenty days" --

25 As long as we have it within a reasonable

1 time before they start construction that --

2 Or let's put it even better than that. We
3 need it before they start working the school.

4 Because we need to know who to hold
5 accountable for the school, for the students,
6 for the traffic -- all of that kind of stuff.

7 Now, it's up to you --

8 It's up to you all how much time. They
9 asked for 30 days. And I thought that might be
10 cutting it short.

11 And it changed to 90 and they are not
12 asking for more.

13 MR. WILLIAMS: I will have the at least
14 what I think will be a, a rather accurate --
15 you know -- appraisal of the value of the
16 property.

17 MS. BOUTSIS: By the end of next week you
18 will have that.

19 So I don't need a decision today. If you
20 would like I would like to see if we could hold
21 perhaps another shade session when you get back
22 from Tallahassee after you have digested what I
23 have said, perhaps review through the documents
24 and then we could take a direction.

25 THE VICE MAYOR: What would preclude us

1 from agreeing to this and still bind the
2 property if --

3 I mean if your implication which is what I
4 am making from your comments is that they are
5 just posturing with the six million dollar
6 offer and not having had the charter yet and
7 their end game is to sell it doesn't hurt us to
8 have this case stayed or released from court
9 with this agreement in place.

10 If their end game is to sell it and that's
11 what they rather do then they are going to sell
12 it to us.

13 If it's not they are going to move forward
14 with this any way.

15 MS. BOUTSIS: You can do two tacts. The
16 only thing I would say we have a stay right now
17 through at lest the end of April, maybe a
18 little bit longer because we have to do a
19 status report by April twenty-fifth.

20 So in that sense we have time. And if we
21 came to a settlement we certainly could go to
22 the court and ask for just another stay because
23 of that.

24 The only thing I don't want to start is
25 that time kicking for staff. Because then you

1 are investing staff time getting the notices
2 out which is a two thousand five hundred foot
3 radius to --

4 And the time periods for the 30 day notice
5 and that all starts triggering. Then we have
6 an obligation to meet those time requirements
7 and spend that administrative staff time that,
8 that cost to the Village.

9 But other than that you can definitely
10 take both tacts.

11 MR. WILLIAMS: And he may be true to his
12 position.

13 Right?

14 I don't know that. We tried to wrangle.
15 We tried to find where we might get a clearer
16 view.

17 But he --

18 His position at that meeting was that the
19 only way as Eve said:

20 "If you wrote me a check today for
21 five million I might take it, but no
22 appraisals, no view" --

23 MR. SCHAFFER: And why --

24 MR. WILLIAMS: -- "no nothing."

25 MR. SCHAFFER: Why would --

1 Excuse me. Why would he say that if he
2 just before that said that he got a six million
3 dollar offer?

4 MR. WILLIAMS: That's what I am talking
5 about.

6 MS. BOUTSIS: He --

7 MR. SCHAFFER: Yeah. That's --

8 MR. WILLIAMS: There you go.

9 MS. BOUTSIS: -- spent over an hour
10 talking to Mr. Williams about:

11 "Let's get through this. Okay. What are
12 the steps? Why do you need this? Why do you
13 need that?

14 "Let's do it. Let's do it. Let's do it.
15 I" --

16 Never mentioned --

17 Never mentioned purchase and then --

18 Then at the end --

19 Towards the end it came up and it's just
20 like:

21 "Not interested. I could have sold this
22 property to some" -- I want to say it was a
23 Jewish charter school -- "for six million
24 dollars and whatever it is."

25 And he went on and on and on. And then

1 Mr. Williams brought it back again and said:

2 "What's going on?"

3 And he said:

4 "If you want to buy it, it's in a week.
5 Five million dollars. Quitclaim deed. No
6 title search. No nothing."

7 MR. WILLIAMS: No appraisals.

8 MS. BOUTSIS: "No appraisals. No
9 nothing."

10 MR. WILLIAMS: Which he knows that's
11 not --

12 You know, he knows that's not --

13 MR. SCHAFFER: Wasn't in the original
14 settlement offer one of the options was buy it
15 for five million dollars?

16 THE MAYOR: Or four point something.

17 MS. BOUTSIS: Well, he had several
18 different offers to purchase the property.

19 MR. SCHAFFER: But the one that we saw --

20 MS. BOUTSIS: The last one was
21 five million.

22 MR. SCHAFFER: Five million dollars.

23 So we are only saying:

24 "Okay. We offer to buy it, to sell it.
25 We are offering to buy it."

1 That's one --

2 MS. BOUTSIS: So we can decide to do the
3 appraisal any way in case you still were
4 interested in giving him the offer of the five
5 million.

6 We haven't done any title work to see if
7 there are any issues out there because that's
8 another expense.

9 And title reports are about three, four
10 thousand dollars to the title insurance company
11 and --

12 But we thought at least we could spend the
13 money on the appraisal.

14 MR. WILLIAMS: And I just don't know if
15 the reason he does not --

16 And I raise it because it is of interest
17 to me if --

18 If he so committed to getting the charter,
19 doing everything he has to do, he doesn't want
20 anymore delays why doesn't he have a charter?

21 MS. BOUTSIS: Put it this way. He --

22 I mean he was like:

23 "I don't want to waste anymore time on
24 lawyers or anymore time. And I will just go
25 take care of it."

1 That's where he left it.

2 "I will go take care of it and get the
3 charter."

4 MR. SCHAFFER: Two weeks ago.

5 MS. BOUTSIS: Three weeks later.

6 Now it may take a month. Let's be fair.
7 It can take a month to get into a School Board
8 agenda.

9 That's possible.

10 THE MAYOR: Has he changed the housing
11 units?

12 MS. BOUTSIS: He submitted a third
13 application which has not been reviewed.

14 So it has a different number. But it's
15 not over the maximum of eighteen units times
16 five.

17 MR. WILLIAMS: Yes. He's --

18 MS. BOUTSIS: It's something in the --

19 I want to say it's in the sixties. It's
20 not in the nineties. But I don't know if the
21 new configuration qualifies or not.

22 MR. WILLIAMS: Well, his position appeared
23 to be:

24 "I am going to comply with whatever" --

25 MS. BOUTSIS: That's what he said.

1 MR. WILLIAMS: -- "whatever we have to do.
2 And I am through with the" --

3 MS. BOUTSIS: "I am not going to go to the
4 maximum I could get."

5 Is what his statement was.

6 MR. WILLIAMS: Exactly.

7 MS. BOUTSIS: "I am not going to go to the
8 maximum I can get. I am going to comply with
9 whatever your planning director is" --

10 MR. WILLIAMS: "Whatever you want.
11 Whatever Darby says is what we will do."

12 Is what he said.

13 MS. BOUTSIS: So how about little by
14 little?

15 I mean you don't have to make a decision
16 tonight. But conceptually can I go back to
17 Mr. Planas about the cap?

18 Do you want to keep the one thousand four
19 hundred cap in?

20 Or do you want to leave him the option to
21 come back at a later time if things go great
22 and people love the charter school and want to
23 see and take an increase in students?

24 THE MAYOR: I would like to leave the cap
25 in.

1 MR. WILLIAMS: And that could be a
2 strategy there, too, say in -- starting at one
3 thousand four hundred. But you might end up
4 with more if we don't do something different.

5 So it's something like you said it would
6 be his angle.

7 I don't know. He --

8 He was pretty adamant about building,
9 getting all delays out of the way, complying
10 with everything that the Village asked for and
11 build a piece of property.

12 MS. BOUTSIS: You all want to think about
13 it and I can schedule another shade session and
14 come back and regroup?

15 And by then I will have the appraisal as
16 well and we can either do it intact --

17 MR. WILLIAMS: I mean --

18 MS. BOUTSIS: -- or --

19 MR. WILLIAMS: -- if the --

20 If the appraisal comes back at what I
21 think several of us think that something far
22 less than five million then I mean the issue
23 is, you know, pretty clear.

24 THE VICE MAYOR: I don't really see the
25 point of playing game period with this guy

1 going back and forth.

2 If the guy is bluffing and he wants, he
3 wants to sell it to us then as soon as we sign
4 this he is going to come to the table and ask,
5 and try to negotiate the sale.

6 Because this is --

7 Then that means it's not really what he
8 wants. If he is telling the truth and what he
9 wants is the charter school and he doesn't
10 really want to sell it at this point then, you
11 know, I don't want to sit through another two
12 or three shade sessions just going over the
13 same thing and saying:

14 "Okay. Do we want the cap? Do we not
15 want" --

16 Let's just --

17 Let's just go through it. I mean it's --
18 There aren't that many issues here.

19 Right?

20 It's the cap --

21 MS. BOUTSIS: It's --

22 MR. WILLIAMS: Yeah.

23 THE VICE MAYOR: -- and a couple other
24 things.

25 MS. BOUTSIS: It's the cap

1 understanding -- and I don't think that there
2 is a disagreement -- expedited review --

3 THE VICE MAYOR: Right.

4 MS. BOUTSIS: -- following the zoning
5 process, notice 30 days.

6 THE VICE MAYOR: Right.

7 MS. BOUTSIS: So it would be the cap, the
8 fee -- that we are waiving the fee which you
9 have previously agreed to.

10 But there is a new settlement proposal and
11 90 days to get the charter from the date of the
12 hearing.

13 MR. WILLIAMS: As a, as a condition.

14 MR. SCHAFFER: Fine with me.

15 THE VICE MAYOR: Yeah. I mean I don't
16 have a problem with the 90 days.

17 I would like keeping the cap also.

18 THE MAYOR: I just don't want any building
19 permits pulled.

20 THE VICE MAYOR: Right.

21 MS. BOUTSIS: Okay.

22 THE VICE MAYOR: Until, until after the
23 charter is issued?

24 THE MAYOR: Right.

25 MS. BOUTSIS: Okay.

1 MR. SCHAFFER: I mean the thing behind it
2 is that, you know, if we say we are still
3 chewing on it he is going to be out there
4 rambling around doing whatever.

5 If we come back and solid and say:

6 "Okay. This is" --

7 You know, we haven't really changed what
8 we have said previous stage mission, shade --

9 MS. BOUTSIS: Everything --

10 MR. SCHAFFER: -- session.

11 MS. BOUTSIS: Everything I have said to
12 you all along about the process he has agreed
13 to.

14 And it, that --

15 My position hasn't changed. So --

16 MR. SCHAFFER: Put him in a position where
17 we haven't changed, no fees, expedite --

18 MS. BOUTSIS: But I will like to strike
19 that one attorney's fees section that we talked
20 about.

21 Which is if there is --

22 MR. SCHAFFER: We are not paying those
23 fees.

24 MS. BOUTSIS: If they were to appeal that
25 they could go after attorney's fees.

1 I think everybody acts in good faith. And
2 I just don't want us to deal with it.

3 THE VICE MAYOR: I agree. Take it out.

4 MR. WILLIAMS: If he wants to --
5 If he wants to proceed here he is going
6 to, he is going to do it.

7 THE VICE MAYOR: And this gets us out of
8 Court?

9 MS. BOUTSIS: Yes.

10 MR. SCHAFFER: Yes.

11 THE VICE MAYOR: Okay.

12 THE MAYOR: Well, we don't know the number
13 of housing units he has applied for.

14 Although he says he is going to do
15 whatever we told him.

16 MR. SCHAFFER: Yeah. But I don't think in
17 the settlement it said anything, you know --

18 When we met last time we didn't talk about
19 units being part of the settlement. It was
20 always he has to meet zoning.

21 MS. BOUTSIS: And that's what this
22 agreement says.

23 Understand that Darby hasn't reviewed the
24 application because he was waiting for us. He
25 looked at it briefly.

1 I can't tell you that it meets or not.
2 But it's within the 18 per acre. It's less
3 than the maximum he could be doing if he just
4 did 18 per acre.

5 And --

6 But it's not the 34 of the original
7 application. It's --

8 I think it's about 60. But I don't
9 remember the exact number because I haven't
10 looked --

11 I haven't wasted time to look at that.

12 MR. SCHAFFER: Yeah. If he all of a
13 sudden put in -- you know -- one hundred ninety
14 units, well, he is going to get shut down in
15 zoning any way.

16 MR. WILLIAMS: Right.

17 MS. BOUTSIS: Yeah.

18 MR. SCHAFFER: So it's not something we
19 have to worry about here.

20 MR. WILLIAMS: Correct. Correct.

21 THE MAYOR: Well, he doesn't know because
22 then you go right back into a denial in zoning
23 which goes back to court.

24 MR. SCHAFFER: But if he denies it based
25 on not meeting --

1 He is not --

2 He is being denied not because of what we
3 offered. He is being denied because of --

4 THE MAYOR: He is not following the
5 zoning.

6 MR. SCHAFFER: -- he is not following the
7 zoning.

8 THE MAYOR: But the not following the
9 zoning would --

10 MR. SCHAFFER: But he can go back into
11 court. Yeah.

12 MS. BOUTSIS: Yes. He could.

13 THE MAYOR: Because what was up for, for
14 discussion before because he wanted 18 per five
15 acres.

16 And what I am trying to clarify is how is
17 the design being done so that either he has
18 modified the design to meet the code or he
19 hasn't so the number is less.

20 MS. BOUTSIS: No. He has modified the
21 design to try and get 60 something units.

22 It looks on a superficial level that it
23 meets the requirements. He covered it by the
24 gymnasium basically and so -- the multipurpose
25 gymnasium room.

1 And it looks like it meets it superficial.
2 But, again, I didn't want staff spending time
3 if we didn't have an agreement.

4 And that is an administrative review.
5 And, yes. He could go to court if he
6 disagrees.

7 But after all this time and not wanting to
8 go to court on this other decision I doubt that
9 he is going to want to waste more time and
10 money.

11 Because that would be another year of
12 litigation with another year of him not being
13 able to build.

14 It's possible. Can't say to you it isn't.
15 But I don't see it as happening at this point.
16 I think he wants to get something done.

17 Whether it's purchase or build he wants
18 something done.

19 So do I have a consensus to basically try
20 and finalize this agreement and --

21 THE VICE MAYOR: Scratch the attorney's
22 fees?

23 MS. BOUTSIS: Scratch the attorney's fees,
24 put, leave the -- negotiate to leave the cap
25 in.

1 MR. WILLIAMS: Cap.

2 THE VICE MAYOR: Right.

3 MS. BOUTSIS: Expedite review like we said
4 and 90 days --

5 THE MAYOR: No building permit.

6 MS. BOUTSIS: And yes. And I put building
7 permits after the 90 days.

8 THE VICE MAYOR: All right.

9 MS. BOUTSIS: All right. It seems like I
10 have a consensus.

11 MR. SCHAFFER: Fine with me.

12 MR. WILLIAMS: Okay.

13 MS. BOUTSIS: Thank you everyone. We are
14 done.

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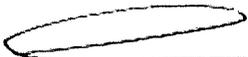
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REPORTER'S CERTIFICATE

I, Elias Martinez, Reporter, hereby certify that the foregoing transcript of 41 pages is a complete, true and accurate transcript of the Village of Palmetto Bay Council meeting held on April 1, 2013 at 6:10 p.m. in the matter of: SHORES AT PALMETTO BAY, LLC, VERSUS THE VILLAGE OF PALMETTO BAY.

I further certify that this proceeding was recorded by me, and that the foregoing transcript was prepared under my direction.

Date: April 14, 2013
Official Reporter: Elias Martinez



ELIAS MARTINEZ
Court Reporter
My Commission # EE 091152
Expires: June 6, 2015

