

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON NOVEMBER 20, 1996**

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order by President Lesly Smith. On roll call, the following Elected Officials were found to be in attendance: Mayor Paul Ilyinsky, President Lesly Smith, President Pro-Tem Jack McDonald, Councilmen Sam McLendon, Leslie Shaw, and Allen Wyett. Also attending the meeting were: Town Manager Robert Doney, Town Attorney John Randolph, Police Chief Joseph Terlizzese, Fire-Rescue Chief Ken Elmore, Public Works Director Al Dusey, Town Engineer Jim Bowser, Director of Planning, Zoning & Building Robert Moore, Zoning Administrator Paul Castro, Town Consultant William Brisson, and Town Clerk Secretary Jackie Reedy.

II. APPROVAL OF THE AGENDA

Motion made by Mr. Wyett and seconded by Mr. McLendon to approve the agenda. On roll call, the motion carried unanimously.

**III. CONTINUATION FROM SEPTEMBER 16, 1996, AND OCTOBER 10 AND 11, 1996, OF
CONSIDERATION OF APPLICATION FOR SPECIAL EXCEPTION NO. 18-96 WITH SITE PLAN
REVEIW, MAR-A-LAGO CLUB, 1100 SOUTH OCEAN BOULEVARD, WITH REGARD TO AMENDING
THE "DECLARATION OF USE AGREEMENT"**

(The following is a verbatim transcript prepared by Mudrick, Witt, Levy, & Consor Reporting Agency, Inc.)

TOWN OF PALM BEACH

TOWN COUNCIL MEETING

Volume IX
360 South County Road
Palm Beach, FL 33408
Wednesday, November 20, 1996
9:30 - 2:45 p.m.

APPEARANCES:

Lesly Smith, President

Paul Ilyinsky, Mayor

Allen Wyett, Councilman.

Leslie Shaw, Councilman

Jack McDonald, Councilman

Samuel McLendon, Councilman

Robert Doney, Town Manager.

Robert Moore, Director, Planning, Zoning & Building

John Randolph, Town Attorney

(Thereupon the meeting was called to order at 9:30 a.m.)

MRS. SMITH: I would like to reconvene the special Town Council meeting that started October 10. Today, as we all know, is Wednesday November 20. Call the roll please.

(Thereupon the roll was called and all members of the Council are present).

MRS. SMITH: May I have a motion please to approve the agenda.

MR. WYETT: So moved.

MR. MCLENDON: Second.

MRS. SMITH: Mrs. Reedy.

(All Council members vote to approve.)

MRS. SMITH: Item No . 3, continuation from September 16 and October 10th and 11th of 1996, consideration of Application for Special Exception No. 18-96 with site plan review, Mar-A-Lago Club, 1100 South Ocean Boulevard, with regard to amending the Declaration of Use Agreement.

I have a brief statement. The last letter from Mr. Rampell requests I recuse myself because I am a judge. Now don't laugh. I also was interested when I read this and I am sure that there are many, many lawyers that are here present today and many, many members of the public that would swear on the bible that I am not a judge. So for that reason I will not recuse myself. At the end of the October 11 meeting I stated, and it is in the transcript that the Town Council will reconvene in executive session and that's what we'll do today. The Council members have the right to discuss anything among themselves, but there will be no public comment.

I totally concur with the comments made by my fellow Council person Mr. Shaw at the October 11 meeting. It is a simple issue of zoning, an agreement by two or three willing parties and they've come before us to amend this agreement. They've asked to change it and that's what it is. We're here today to review this matter. It is a zoning matter. There is no other issue on the table before us. The Council will analyze the evidence we received, we'll review the facts and we'll come to a decision.

I would like to reiterate what I've said at the beginning of every meeting on this subject, that I hope it will be conducted in a professional and courteous way. It certainly will be from this side of the table.

Mr. Randolph.

MR. RANDOLPH: As with previous hearings that we've had in regard to this matter, I have some preliminary matters that I would like to address.

First, in regard to the letter I received on November 1 from Mr. Rampell. I am not sure all of you have had an opportunity to see that, but we need to deal with that at the outset of this meeting.

The letter is to me dated November 1 regarding the Mar-A-Lago Club. "On behalf of The Mar-A-Lago Club, I respectfully request that Paul R. Ilyinsky, as Mayor, Lesly S. Smith, as Town Council President and Member, and you, as Town Attorney, recuse yourselves from further proceedings in the Club's Application for Special Exception No. 18-96. "All of you are acting in quasi-judicial capacities in these hearings. In essence, Mr. Ilyinsky, Mrs. Smith and you are "quasi-judges". As quasi-judge, all of your should abide by the Code of Judicial Conduct which provides, in Canon 2, that:" A judge should not hold membership in an organization that practices invidious discrimination on the basis of race, sex, religion, or national origin."

"Since Mr. Ilyinsky is a member and equity owner of the Bath & Tennis Club, Mrs. Smith is a member and equity owner of the Bath & Tennis Club and The Everglades Club, and you are a member and co-operative owner of The Sailfish Club, and all of you are all-too-familiar with the practices of these clubs, you could avoid impropriety in the future if you recused yourselves.

"Very truly yours, Paul Rampell."

In addition, judge is specifically defined for purposes of the Code of Judicial Conduct as follows: Judge, when used herein, this term means Article 5, Florida Constitution, Judges and where applicable those persons performing judicial functions under the discretion or supervision of an Article 5 judge. Article 5 is entitled Judiciary and although Article 5 does not specifically define judge, there is an opinion which does so. In re: Code of Judicial Conduct, 643 So.2d 1037, 1061, Florida 1994.

This code applies to justices of the Supreme Court and judges of the District Courts of Appeal, Circuit Courts and County Courts.

Anyone whether or not a lawyer who performs judicial functions, including but not limited to a magistrate, court commissioner, special master, general master, child support hearing officer or judge of compensation claims shall while performing judicial functions 1, 2-A and 3 and such other provisions that might reasonably be applicable depending on the nature of the judicial function performed.

It appears to me that the code is quite clear and that the canon does not appear to apply to Council members who are acting in a quasi-judicial capacity. On the basis of that I would like to say that unless I hear from this Council that it would like me to recuse myself from counseling you in regard to this matter, I do not have any intention of voluntarily recusing myself. I guess we've heard from Mrs. Smith in regard to this matter and, Mr. Ilyinsky, we need to hear from you.

MAYOR ILYINSKY: I intend to remain here, sir.

MRS. SMITH: Before we go on, Mr. Randolph, members of the Council, would you like Mr. Randolph to recuse himself at Mr. Rampell's request?

MR. SHAW: No.

MR. MCDONALD: No.

MR. WYETT: No.

MR. MCLENDON: No.

MRS. SMITH: Please go ahead.

MR. RANDOLPH: As a preliminary matter, I received yesterday afternoon, November 19, a hand delivery from Mr. Rampell which is relevant to today's proceedings in that he delivered three drafts of potential amendments to the Declaration of Use Agreement which he says he can recommend to his clients, and that he has attached drafts of federal and state complaints which may be pursued if these compromises are unachievable.

"Dear Skip: Tomorrow, we either will arrive at a compromise in settlement of the controversies surrounding The Mar-A-Lago or enter into judicial proceedings which may prove to be the most provocative in the history of the Town of Palm Beach.

"I personally prefer the former, not the latter, of course.

"I deliver herewith three drafts of potential amendments to the Declaration of Use Agreement, all of which I can recommend to my clients. I anticipate that my recommendations would be accepted.

"In your August 16, 1996 letter to me, you asked me to provide "the legal basis" upon which our Application for Special Exception is based. Although you probably have never asked any applicant to provide the foregoing and we are under no obligation to respond, in the interest of the preventative evaluation of lawsuits, I enclose copies of drafts of Federal and state complaints which may be pursued if compromise is unachievable."

I have copies of those to deliver to you today.

MRS. SMITH: Are you delivering the copies of the lawsuits to us now, Mr. Randolph?

MR. RANDOLPH: I am handing to you the letter, along with the three proposals for an amendment to the Declaration of Use Agreement which would be satisfactory to the applicant, and the copies of the two draft lawsuits which he has referenced in his letter.

MRS. SMITH: Very interesting. If you would pass them out Mr. Randolph, thank you.

MR. RANDOLPH: I would like to point out you are now in executive session and I am not handing these out to be a part of the record for consideration by you of the evidence that's already been presented to you. I am handing it out to you for your information, because three compromises have been presented in this package, which I presume are being asked to be considered by the applicant in your deliberations today.

MR. WINTERFIELD: May I ask one question?

MRS. SMITH: No, you may not, Mr. Winterfield.

I realize that the two draft lawsuits are not part of the deliberations today, but I think it comes as a surprise to the audience and for that reason, and to give the Council a chance to look at these papers, I am calling a 10 minute recess.

(Whereupon a brief recess was taken after which the following proceedings were had.)

MRS. SMITH: I would like to reconvene the meeting.

Mr. Randolph, please.

MR. RANDOLPH: I just have some comments in regard to the procedures for consideration of the Application for Special Exception, if I might. You are here today on an Application Special Exception which is 18-96 which asks that you amend the Declaration of Use Agreement between the Town, Mar-A-Lago, Inc. and Donald Trump dated August 10, 1993.

The application itself which you have and has been presented asks for an amendment to the Declaration of Use Agreement by the Town of Palm Beach, The Mar-A-Lago Club, Inc. and Donald J. Trump dated August 10, 1993 to eliminate A, all conditions there under which have been discharged fully; and B, all regulations there under which do not apply to other private clubs in the Town of Palm Beach.

You are here today solely on this application and not on the matter of a lawsuit and I would request that you act on the basis of the application as you would with any other SpecialException.

This is a quasi-judicial hearing and as such your decision must be based upon the evidence that you've heard at this hearing. And that evidence must be competent substantial evidence. In order to assist you in your deliberations, I would like to cite to you what competent, substantial evidence is under the case law. Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. The evidence relied on to sustain the ultimate finding should be sufficiently relevant and material that a court would accept it as adequate to support the conclusion reached. To this extent the substantial evidence should also be competent.

The reason that it is important for you to understand that is this: In the event of a review by a court of these proceedings, they are going to be looking at the record. That's in the event there is a review of these proceedings, as opposed to a lawsuit such as those suggested in the materials I passed out to you. The judge in that case would not substitute his or her opinion for yours. He or she would only be looking to determine whether or not your decision was based upon competent substantial evidence.

So I urge you to look at the evidence that you have before you and make your decision on that basis.

I would like to go through with you, and I won't take a lot of time, what courts have determined to be competent, substantial evidence. First of all, in regard to professional planning staff comments, the courts have found that the opinions of zoning experts from the community or who are consultants to the community are substantial competent evidence. As a general rule, local government professional staff and advisory planning commission opinions will constitute substantial competent evidence upon which a local government may base a decision. If there are no facts on the record to support that opinion, however, it will not be adequate grounds upon which to base an opinion.

The next item that I would like to cover which relates to competent substantial evidence is professional public comment. And I think this is very important, because this essentially says that any comment that you've received from the public should be based upon facts. It should not be based upon an opinion.

The courts have said that in making a decision in a quasi-judicial hearing a local government should base its decision on fact and not participate in government by applause. This essentially was in response to cases where the public just came out and said basically I don't want it; I don't like it; it affects my comfort and repose and therefore we don't think you should grant it. Courts do not put a lot of emphasis on everything in a quasi-judicial hearing. They will look at fact witnesses, witnesses who can substantiate their commentary by way of fact. Comments of lay persons regarding very technical issues, particularly those in which impacts can be quantified, will not be sufficient upon which to base a decision. And there is many more comments, but in regard to -- as long as you understand that it should be based upon facts, such as an expert's testimony that is based upon fact, I think you will be fine in following that.

Testimony from attorneys is not normally considered competent substantial evidence. It is usually considered to be argument, unless --

MRS. SMITH: I won't say anything, Mr. Randolph.

MR. RANDOLPH: And the statement is the testimony by attorneys representing parties in quasi-judicial hearings is not generally substantial competent evidence. That's not to say that an attorney not representing a party cannot give expert testimony in regard to a matter. Those are the various types of competent substantial evidence.

As you will recall, we talked about the fact we didn't follow formal rules of evidence and therefore much of what you have received may have been hearsay. Much of what you have received may or may not have been relevant. It is going to be up to you to determine from the evidence what you consider to be relevant. Hearsay should not be relied upon solely in making a decision in a quasi-judicial proceeding. However, that's not to say that you cannot give consideration to that testimony, in conjunction with all of the other testimony that you've heard.

I'd like to go over with you briefly the relevant law to be applied in regard to the Application for Special Exception. You are regard to Section 6.40 of your zoning ordinance which reads as follows: Special Exception uses and their related accessory uses or any expansion, enlargement or modification of an existing Special Exception use or any physical expansion of an existing Special Exception use of a facility shall be permitted only upon authorization by

the Town Council, permitted that such uses shall be found to comply with the following requirements and other applicable requirements as set forth in this chapter. All Special Exception uses require site plan review in accordance with 9.60 of this chapter.

You've heard some testimony in regard to the applicability of the site plan review ordinance and we can comment on that perhaps during the deliberations, but it is my understanding in hearing from Mr. Moore that he did not require that the applicant file the information that is normally required to be filed under that, I believe because he felt that he felt he had that information in regard to the initial application.

There are a list of items that must be complied with in order to grant a Special Exception use. I will not read them at this point. If you wish, during your deliberations we can read them and we can provide copies of this to you. But those items go A through R and I don't think it is beneficial to take the time to read all of those at this time, unless you would like me to.

MRS. SMITH: Let's ask the Council. Members of the Council, would you like Mr. Randolph to read them for the record?

MR. WYETT: No, but I would like to have a copy.

MRS. SMITH: Mr. McLendon.

MR. MCLENDON: Copy is fine.

MAYOR ILYINSKY: Copy is fine.

MR. MCDONALD: Copy.

MR. SHAW: Copy.

MR. WYETT: I already have a copy.

MRS. SMITH: Perhaps we can have another copy to have put in front of you at this time. Please go ahead, Mr. Randolph.

MR. RANDOLPH: The next item I would like to point out to you is the Section 10-12 of your ordinance which provides as to your powers: The Town Council shall hear and decide special exceptions, decide such questions in determining if and whether the Special Exception should be granted and grant Special Exception with appropriate conditions and safeguards or deny Special Exception when not in harmony with the purpose and intent of this ordinance. In granting any Special Exception, the Town Council shall find that such grant will not adversely affect the public interest. In granting any Special Exception the Town Council, in addition to the standards enumerated in 6.40 of the ordinance, may prescribe appropriate conditions and safeguards in conformity with this ordinance.

I would also like to point out that, although your ordinance doesn't specifically state it, that in quasi-judicial hearings you should make findings in regard to any decision that you make. That is to allow a reviewing body or a reviewing court to -- and anyone that's interested -- to be able to make a determination as to the reason for your vote. I believe now you should determine as a Council how you wish to proceed in consideration of the application. I think there are several alternatives that are available to you.

As you know, in reading the application, the application itself is very simple and it asks that items that have already been accomplished be removed from the agreement and that conditions that are placed upon the Mar-A-Lago Club that are not conditions of other clubs be removed from the agreement.

You could, on the basis of the evidence, grant it, simply act on the application and make a determination as to whether or not the application should be granted on that basis. On the same hand, if you do not believe that the evidence supports the application, you could vote to deny. Alternatively, you could go down the Declaration of Use Agreement on an item-by-item basis and make a determination as to each item as to whether or not the evidence supports removing the condition or keeping the condition in.

I have copies for you of the Exhibit B to the application which itemizes many of the items or the conditions which are included within the application, and if you chose to deal with this on an item-by-item basis, that would be one way for you to deal with it. It is just go down that list or you can use the Declaration of Use Agreement itself.

I will pass out copies of the application.

MRS. SMITH: While you are doing that, Mr. Randolph, I will announce there are seats in the front of the chamber for the people standing in the back. There are no reserved seats. So if anyone would like to sit down, there are several seats here in the front. And we won't bite you, so sit in the front row. We're perfectly safe.

MR. RANDOLPH: Finally, because this is a quasi-judicial hearing, you've done this before, but you may want to announce whether or not you've had any ex-parte communications.

MRS. SMITH: All right. We'll do ex-parte starting with Mr. Shaw, please.

MR. SHAW: I've spoken with Mr. Ralph Lubow, Mr. Morty Shor and Mr. Michael Blank.

MR. RANDOLPH: In announcing, if you would just announce the general subject matter.

MR. SHAW: I discussed the letter that he was submitting to the Shiny Sheet. I had the same conversation with Mr. Lubow and Monday with Mr. Blank to my thoughts on that letter. MRS. SMITH: That's it Mr. Shaw?

SHAW: That was it.

MRS. SMITH: Mr. McDonald.

MR. MCDONALD: I've had numerous people make unsolicited comments to me which I have not responded to. I have received many letters, all directed to the Town Council and mailed to the Town. I received a position paper from the Civic Association and a mailing directly from the Preservation Foundation. Arthur Silverman contacted me regarding a letter he mailed to the Palm Beach Daily News and Mike Burrows (Phonetic) discussed an aspect of the matter not related to the merits of the case with me. And that's it ex-parte-wise.

I would also like to make a statement now. I think this is an appropriate time to make some public comments about my membership at Mar-A-Lago. I was a member of the Mar-A-Lago several months prior to becoming a Town Council member. I paid full price for the membership and that price is still being held by the club. I have and will have paid all of the annual dues and club charges and I've never received any free member services. Mr. Trump has always been gracious and friendly, but never has, nor has any other member, ever offered an inducement or valuable consideration to me regarding any matter, professional or social, or in regards to the club.

MRS. SMITH: All right. Thank you Mr. McDonald. Mr. Mayor.

MAYOR ILYINSKY: As we all know, it has been impossible to move around this Town without being accosted by someone asking questions about Mar-A-Lago. I have not discussed this with Mr. Rampell or any of the gentlemen sitting on the right over there. Mr. Ted Sloan and myself have discussed the beauty of Mar-A-Lago a time or two. I don't remember discussing the details of any type of arrangement and other than that I can't possibly tell you the hundreds of people that have come up to me, as Mr. McDonald said, and mentioned Mar-A-Lago. If you would like me to fill out a list, excuse me for an hour or two and I can see what I can do.

MRS. SMITH: Mr. McLendon.

MR. MCLENDON: The list would go on endlessly. The same gentlemen that Mr. Shaw discussed, the letter that appeared in the Shiny Sheet last week, I spoke to Mr. Lubow, Mr. Silverman. I talked to Mr. Hyams (Phonetic). And I guess almost everyone that you meet wants to give you their input as to what you should do with respect to Mar-A-Lago. I thanked them and tried not to be committal. And it's unbelievable, as the Mayor indicated, how much conversation that this matter has generated.

MRS. SMITH: Thank you, Mr. McLendon. Mr. Wyett.

MR. WYETT: I had the exact same experience as my fellow councilmen and women. Specifically I had a conversation with Mr. Ralph Lubow relative to the letter in the Shiny Sheet submitted by Mr. Silverman and Mr. Shaw. Yesterday night I received a position paper from the Preservation Society relative to the fact that they had a 1988 function at the Mar-A-Lago Club and declined to go there the following year because of the traffic problems. I could not verify that.

I have a position paper from the Civic Association which is public record. And just about everybody in town that you meet does have input. And I adopted the gag order and listened politely and made the comment I could not make a comment.

MRS. SMITH: All right. Thank you Mr. Wyett.

Obviously the gentlemen on the Council get around more than I do. Nobody called me. No one accosted me. Not even you Mr. Natale, you didn't call, didn't write. So I have not been asked my opinion. I've heard over the months that this process has taken, so I can state for the record I have had no ex-parte communication other than the letters of public record, Civic Association's paper came in as part of the record. The Preservation Foundation stated they did not have a thousand people at Mar-A-Lago, I got that letter yesterday. I can attest to that, I was there. And that's it. Nobody called.

MR. MCLENDON: Can I say something else?

MRS. SMITH: Mr. McLendon, please.

MR. MCLENDON: This is just a general statement. I recall my positive impression of Mar-A-Lago. It is an asset to Palm Beach, even though not all would agree with that. The present owner Mr. Trump came forward to save and to restore this magnificent landmark historical sight. I've listened or we have listened to three days of testimony, much of which was premature and unconvincing. I've reviewed the exhibits and some of the minutes. Mar-A-Lago is not like other clubs. It was an allowed land use on a Special Exception allowed in the zoning code.

Its present operation is a potential commercial use in a residential area. I have made comments on the individual items if we get involved in acting on the items individually, which I will hold back until that time.

MRS. SMITH: Thank you, Mr. McLendon. Anything else Members of the Council would like to say?

MR. RANDOLPH: Just a statement for the record. Can you, despite any ex-parte communications that you had, base your decision on the evidence that you've heard during these hearings?

MR. MCLENDON: I can.

MRS. SMITH: Start with Mr. Wyett please, we'll go down the table. Answer Mr. Randolph's question.

MR. WYETT: Yes.

MR. MCLENDON: Yes.

MAYOR ILYINSKY: Yes.

MRS. SMITH: I can attest to that.

MR. MCDONALD: Yes.

MR. SHAW: Yes.

MRS. SMITH: Mr. Randolph, were you finished with your remarks?

MR. RANDOLPH: I'm finished.

THE COURT: Mr. Wyett.

MR. WYETT: Having just read the communications of Mr. Rampell which encloses the potential lawsuit should we not satisfy their demands, I find it offensive to threaten this Council with a lawsuit and try to intimidate to give them what they want. They are entitled to the same thing the residents and citizens are and no more. I will make my determinations based without this threat.

MRS. SMITH: Any other comments from Members of the Council before we decide how to proceed? Mr. McLendon.

MR. MCLENDON: I have a question for Mr. Randolph. Skip, with regard to those three alternative compromises that's been submitted by the applicant, is that a permissible procedure or do you have to withdraw the original application and substitute one of those for it?

MR. RANDOLPH: Well, I think it's permissible for you as a Council to give consideration to those items which the applicant indicates he will settle for as a compromise. Throughout the hearing you've heard evidence on all of these issues. And I believe that the way you should proceed is to give consideration to the evidence as it relates to each of the requests, rather than necessarily looking at what he has given you as of last night. What he gave you as of last night is really outside the record, as is the -- as are the draft lawsuits. Those matters had to be called to your attention, however, because they were called to my attention. And I would simply urge you to get on with what you are supposed to do in regard to any Special Exception hearing.

As you know, there is risk involved of a lawsuit by a dissatisfied party in any application that you hear for variance, Special Exception or zoning amendment. I think that if you were to act on the basis of that, you would not be acting appropriately under your code. You are supposed to act on the evidence and on the code and confine your decisions to that. So, I won't necessarily take each one of these three alternatives that have been presented to you and go down those. I would just proceed as you would have had you not had those in front of you.

It may well be that what you come up with is coincidentally the same as something that he has asked for. But, I believe you should go through the evidence in regard to each of the items.

MR. MCLENDON: My impression is that we shouldn't even consider these things at this point. That's fine.

MRS. SMITH: Members of the Council, would you like to decide how we're going to proceed? Mr. Wyett, I was just going to say, I have not read the compromises submitted by Mr. Rampell. Everyone in town has been telling us what they think, except for the last month they haven't told me. But I am not sitting here judging this application under the threat of a lawsuit. The Town of Palm Beach is not going to make a decision under that type of threat. We are sitting here looking at a zoning application. Its pure and simple and to my mind that's the way I will address it.

Nothing else is on the table for me today. The Town has been sued before. Usually we get the suit after the fact, so -- but this is a different way of proceeding and I don't intend to let it affect my judgement.

Mr. Wyett

MR. WYETT: I just wanted to address the method of addressing all these items for consideration and I think we are probably obligated in my mind to go through them one by one. However, if there is one group of recommendations that they are asking for that I think -- just one group and that's all the conditions precedent, and I think we can vote on the conditions precedent and go on to handle the individual items one by one.

MRS. SMITH: We're going down the table. Mr. McDonald, is there anything --

MR. MCDONALD: No. Yes, I am going to stay here until it's over.

MRS. SMITH: That's a tremendous relief to all of us. Mr. Shaw.

MR. SHAW: I'll stay a little longer than that, if need be.

MRS. SMITH: You'll stay longer than Mr. McDonald. Now we can move ahead with a degree of comfort, I am sure.

MR. SHAW: I would like if possible to just go over all of the items. I understand Mr. Wyett's proposal to sort of break this into two sections; one, which is the compliance items, and another which are changes. I would like to address each of them. I think each was addressed by staff and I think they should be addressed in our deliberations.

MRS. SMITH: Clarify each of them. You want to do the ones that were part of the agreement and then the separate ones?

MR. SHAW: Right.

MRS. SMITH: Are you referring -- tell us what you are talking about, Mr. Shaw.

MR. SHAW: I would like to go over each of the items that are in what is Exhibit B of the application and not treat them as one lump issue just to say yes or no.

MRS. SMITH: Members of the Council, do you want to go through the sewage and all the rest of it one by one?

MAYOR ILYINSKY: Madam President, I respectfully disagree with my colleague Mr. Shaw on this. I will go along, which is unusual to a certain extent, with everything that Mr. Wyett said about the way it should be handled.

There are a number of things that can be grouped. To go through every single issue is not the way to proceed. We have one application in front of us and I think we vote on that application and let

MRS. SMITH: Mr. McLendon.

MR. MCLENDON: I have no problem with almost all of those items, but the one related to the sewage pumping station I do have a reservation about it not being retained. And I think anything that's removed from further consideration, there should be reference to it in a general way, recognizing the original Council position on the issue. But the sewage station, as I understand it, was designed based on fixture units and I am not sure that it would allow for the large events without some potential problems. And I would like not to see the Town stuck with a future expansion of the plant if it was underestimated in the first place. It is probably okay, but I would like to keep that condition there.

MRS. SMITH: Mr. Wyett.

MR. WYETT: These are items condition precedent and required to be completed before a certificate of occupancy could be made. It is totally unusual from my business experience to eliminate conditions that are completed from a contract later. If they are completed, I believe that the building department has certified to this Town Council that they are completed.

The only purpose I can see in eliminating them goes to the core of what appears to be an attempt to scrap the entire agreement. There is no need for this Council to be going into air conditioning, trenches, tunnels, what have you, when they are completed, and I think it is just a red herring.

MRS. SMITH: So you are saying you want to leave them in?

MR. WYETT: I make the motion we consider them all at one time and leave them in.

MRS. SMITH: Is there a second?

MR. SHAW: Second for discussion. Very simply, I don't think there was an issue of whether my position was to approve or disapprove any one of them. I just feel that if we are going to keep them in the record or in the agreement, then -- that we should include either the reasons why we feel they should be included, so there is no misunderstanding as Mr. McLendon said regarding one of the items, sewage, and I don't believe it would take that long. I believe we make a motion one by one and go through these few items.

MRS. SMITH: We have a motion already.

MR. SHAW: I know we have and I seconded it.

MR. RANDOLPH: The motion on the floor sounds like it goes beyond just determining whether you are going to hear them all in one lump sum. It also includes a motion to leave them in the agreement.

MR. SHAW: That's correct.

MR. RANDOLPH: I would ask that in making any motion that you make a finding as to the reason that you are moving that way.

MRS. SMITH: Mr. Wyett is the maker of the motion.

MR. WYETT: I mentioned the reason.

MRS. SMITH: Reiterate for the record.

MR. WYETT: It is highly unusual to eliminate conditions precedent from a contract. They just remain there forever as evidence they were proposed, accepted and completed.

There is no bearing whatsoever on the Club Mar-A-Lago as to whether they are in or not. They did complete them. They did a good job completing them. And it is a no-issue, but it shouldn't be taking the time of this Council to debate them.

MR. SHAW: I think the reason they need to be -- the reason they need to be kept in the agreement, I think it was pointed out by staff, is a historical issue. Something that's not in an agreement does not necessarily exist and therefore if something were to happen to the item, there is no way to go back to an agreement to say something has to be there, because it is not there.

So the justification in my mind that these items remain in the agreement is that if they are there, they will have to stay there. I hate to use the word in perpetuity, but have to stay there for a very long time and be maintained. It is critical. If the items were removed from the agreement, there is the potential, that may not be the intent, but there is the potential that an item that's covered could fall in disrepair and since it is not a part of the agreement, may be elected by the property owner to simply abandon it. For that reason I support the fact that these items all be kept there and that would be a finding that I would include with the motion.

MR. WYETT: I will accept that inclusion.

MRS. SMITH: Fine. Mrs. Reedy.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

Moving ahead to the question of the individual conditions starting on page 7 of the memorandum, Exhibit B. We're working from Exhibit B to application for Mar-A-Lago Special Exception 18-96.

On page 7, how would the members of the Council like to proceed with the various items? Somebody has to say something.

MR. WYETT: Okay.

MR. MCLENDON: I wasn't listening.

MAYOR ILYINSKY: He was explaining something to me.

MRS. SMITH: Something that we should know?

MAYOR ILYINSKY: No.

MRS. SMITH: Let me repeat the question. How would you like to proceed starting -- we said we're working on Exhibit B, page 7, starting with the various conditions. How would the members of the Council like to proceed to address these items?

MR. WYETT: One by one.

MR. MCLENDON: Yes.

MR. SHAW: Yes.

MR. MCDONALD: Yes.

MR. SHAW: That's what we agreed to.

MRS. SMITH: We are agreeing now.

We'll address them one by one.

The first one is the section of the agreement, and this references the agreement, it is page 2, article 2, paragraph 2 for those of you working off of the Declaration of Use Agreement.

The regulation, the number of guest suites should not be limited to 10. Kitchen or other food preparation facilities should be allowed in guest suites. The use of guest suites should not be limited to a use of three nonconsecutive seven-day periods by any one member during the year. And in parentheses it says The Everglades Club has guest suites which are not subject to any such regulations.

MR. MCLENDON: Well, my position on this is that they are limited to 10 and no kitchen. There is no justification I know of to change it.

With the kitchen a unit becomes a residential unit and we get into a multifamily situation in a single family zone. There is nothing magic about the occupancy dates. I have no strong feeling about that, but they seem fair and reasonable.

MR. WYETT: I think we have to go back to the original intent of the Council of 1993. That Council, and I was present in the audience, at that time was very concerned that this application at that time to form the Mar-A-Lago Club not be -- be a club and truly a club. And Mr. Trump made a very impassioned request at that time to be allowed to have 10 units. The 10 units were historically used by Mrs. Merriweather Post in her prior use of the facility and he asked for that continuation basically.

The Town did not intend to have Mar-A-Lago, the site, turned into a hotel. It did understand an accommodation for members and that's where the 10 guest suites came in.

To allow more than 10 to expand its hotel potential would be an infringement on a residential zone. And it is my intent to protect the residents of this Town from further commercial intrusion. This is a residential town. The Charter of the Town of Palm Beach says so and the commercial interests of the Town are here to serve the residents.

I concur with Mr. McLendon that additional units with kitchens or the existing units with kitchens would constitute a multifamily use and possibly lead to some future demand for condominiumizing them or some other purpose. I recommend and move --

MRS. SMITH: Please don't make a motion until every member of the Council has a chance to speak.

MR. WYETT: I recommend we look at this issue very carefully and I did not hear during the testimony any evidence to the contrary.

MRS. SMITH: Thank you, Mr. Wyett.

Mr. McDonald.

MR. MCDONALD: I would like some clarification on it, because I don't remember any testimony during the hearing on this matter. What was the reason for the three nonconsecutive seven-day periods by any one member during the year?

MRS. SMITH: Are you asking me?

MR. MCDONALD: I suppose you were here --

MRS. SMITH: I was sitting here. I was on the Council. This was actually a recommendation that came from Mrs. Wiener and the Council president at the time was Mr. Weinberg. And the idea at the time when the discussion was had was that Mar-A-Lago not be used as a main residence for anyone. And the seven-day stay is broken up and not to exceed a period of time was to eliminate the fact that it would be someone's permanent residence and Mr. Rampell spoke at the time.

We all spoke to this matter and there was a lot of discussion at that Council. The Mayor was also on the Council at that time.

Would you like to add anything Mr. Mayor?

MAYOR ILYINSKY: No, ma'am.

MR. MCDONALD: So it was believed there might be 10 permanent residents during the season.

MRS. SMITH: Yes. A possibility.

MR. WYETT: Mrs. Smith?

MRS. SMITH: We're going down the table.

Mr. Shaw.

MR. SHAW: I would like a clarification of the phrase limited to use of club members. Wasn't the intent that club members would use the guest suites for their guests?

MR. MCLENDON: That's my impression, but I can't quote it to you.

MR. SHAW: Because it doesn't state for the limited use of the club members and their guests. It says for the use of the club members.

MRS. SMITH: That's right.

MR. SHAW: So I am questioning who are the people that are supposed to be staying there; is it members or guests of members? I would like that defined.

MRS. SMITH: Who would you like it defined by, Mr. Shaw? I mean, we are sitting here --

MR. MCLENDON: It says what it says.

MRS. SMITH: So you interpret it however you want to.

MR. SHAW: Since you were sitting on the Council, if you can help me define what the intent of that phrase was. If not, I guess we can ask Mr. Rampell if he could add that insight.

MRS. SMITH: No. Because we can look into the minutes. I'll look into the minutes from that time, but I remember we were very clear that it was for the members of the club.

MR. SHAW: Okay.

MRS. SMITH: Only a member could use the guest suites for a guest of theirs. It was for the members of the club. Now I don't know how much clearer I can be.

MR. SHAW: The other question I have, and I don't know if this is something that should be addressed at this time. Mr. Trump and his family stay at the club quite often. And I don't know what that time frame is or how often it is on an annual basis.

But I think that it has been a question that's come up and I think it is something that we should either address at this point, and if we're going to make a modification to the agreement, possibly include something to identify what is his suite or complex, apartment, and how it is treated.

But I would want to hear what the rest of the Council feels about it.

MRS. SMITH: Mr. McDonald?

MR. MCDONALD: I have no comments about it.

MRS. SMITH: Mr. Mayor?

MAYOR ILYINSKY: We seem to keep on banging up instead of moving forward.

Mr. Shaw, you are not trying to rewrite a third agreement, are you?

MR. SHAW: No.

Mayor ILYINSKY: The facts are before you and I think you should vote on the facts as you see them. I think the time for philosophizing is over. We've all philosophized enough and now it is your job to serve the people of Palm Beach in the best way you know how and make a decision on these issues.

MR. SHAW: I think that's what we're doing and I think it is a question that's come up a number of times, what is the guest suite use at Mar-A-Lago, and if we're here to address an agreement, let's not come back next month and say how come we didn't address something else.

The way these proceedings have gone, we have not as a Council really had an opportunity to chew the fat over this thing. We haven't really sat down to discuss the issues and we don't do it elsewhere but here.

MAYOR ILYINSKY: We've had 40 hours of that.

MR. SHAW: We haven't been talking. We've been listening.

MRS. SMITH: The audience must understand, the Council is unable to discuss any matters unless it is a public hearing. We operate under the Sunshine Law, so when a question is raised, we must answer it here in the public forum.

If the Council decides they don't want to discuss where Mr. Trump lives at Mar-A-Lago, that is their decision. But this is the only forum in which Mr. Shaw can raise the question and get the opinion of the Council on it.

Mr. McLendon.

MR. MCLENDON: It very clearly says in the text of the agreement that it is members. It then depends on how you define the use of its members. Is it use by his guests, his use or his guests. That's what it boils down to.

MR. WYETT: Mr. Shaw, Mr. Trump, as owner of the Mar-A-Lago Club, constantly makes reference to the fact he would like his club treated the same as every other club in town.

However, when it comes to his personal separate desires, he ignores that and goes off on his own. At no other club does the owner, the board of directors or such reside at the club. The club has -- some clubs have some grandfathered rooms for the use of members.

Those rooms are in commercial zones, not in residential zones and having been grandfathered many years ago, these clubs having been founded in the early 1900s, those conditions cannot be looked at when we authorized a new club in a residential zone. When I looked at the use of the club sites and I was sitting in the audience, I remind you again, it was my impression it was mostly the out of town members, because it was not anticipated more than 50 odd percent of the membership would be residents of the Town. And many clubs throughout the country have out of town members and have rooms for those members to stay at whenever they are in town. That's how I interpret it.

As to Mr. Trump's use of the facility for his own personal use, it is a private club, more so than any other private club. Donald Trump is the only stockholder. You really don't have a club. You have a private business inviting people to use it for whatever purposes the club was formed for.

This is a club potentially for private profit, not a membership club as all the other clubs in town. When I refer to all the other clubs, I leave out the dining clubs. Club Collette and Poinciana Club are not really clubs, they are dining associations.

We're talking about the clubs of like nature, with the exception that this club, Trump at Mar-A-Lago, is a business.

MRS. SMITH: To keep some order you must not applaud when somebody says something you like, because then Mr. Randolph will tell us we're being motivated by the applause meter.

MR. WYETT: Since Mar-A-Lago is owned by Mr. Trump, I don't care if he lives there. I believe it is an issue between he and the people he invites to use his business.

And the purpose, as I understood it, of making sure -- it was very much in the minutes, if I remember correctly, was to prevent somebody from staying a long period of time. It was designed to prevent somebody from using Mar-A-Lago as a residence, to come for the season and stay there. I believe if we go back in the records we'll find those statements made.

MRS. SMITH: That's it? All right.

So what would you like to do about the point of the expansion of the 10 guest suites and the kitchens? We'll deal with the other question raised by Mr. Shaw. Members of the Council.

MR. WYETT: I move to deny.

MR. MCLENDON: I think we ought to include the definition of the members, if we can get it in there.

MRS. SMITH: Please remember that any motion that's made must include findings.

MR. WYETT: I move to deny based on the fact I heard no evidence of the justification for expanding the additional guest suites in a residential zone. It was not in the interest of the residents and I do not find it in the Special Exceptions -- let me just find the point. They were not compatible with adjoining development and additional units could result in economic noise, glare or odor impact on joint properties.

MRS. SMITH: The motion has been made and seconded for the record. Looking up on the discussion about the hotel suites, it is in the minutes of June 3, 1993, and it was determined after members of the Council had spoken to even different hotel representatives, that the average stay was seven to 10 days. And we believed that the club was a different situation. Mrs. Wiener speaking said she thought club members who do not live in Palm Beach would want to come and not necessarily spend two weeks and she thought some kind of control was necessary.

It is on page 6 and 7 of the June of 1993 minutes. You can read it when you like, Mr. Shaw. Would you like to read it before you vote?

MR. SHAW: I understood the justification. I was just questioning that it was members and not guests or --

MRS. SMITH: No. I don't think there is any club anywhere that's going to let a nonmember use their club. So it was specified that it was members who would determine who would use it. And that's why the phraseology was addressed as members.

MR. SHAW: All right.

MR. MCLENDON: That clarifies my position. I was going to suggest we take it literally and it be the member, not guests of members.

MRS. SMITH: You were the seconder of the motion. Do you want to include that? I frankly would oppose that.

MR. MCLENDON: Maybe I said it incorrectly. I think I agree with what you said. I agree that take the wording literally as it appears in the agreement as to the members' use only.

MR. MCDONALD: That's opposed to what Mrs. Smith said.

MR. MCLENDON: Is it?

MR. MCDONALD: What did you say, Mrs. Smith?

MRS. SMITH: I said the members would be the determining factor in who would use the suite and I didn't want to expand the wording to say members and -- it says members now.

What are we talking about?

MR. MCLENDON: I don't know.

MR. MCLENDON: As long as we agree that's the interpretation.

MRS. SMITH: We agree it is members.

MR. MCDONALD: Is it members and guests of members or just the member only who can use the suite?

MR. MCLENDON: Based on what Mrs. Smith read from the minutes relative to out of town members and the words there, I would assume it means members only, not guests.

MRS. SMITH: No. That was not the intention of the Council. I was trying to give Mr. Shaw the background on how we got into the discussion about members from out of town. But the Council did not specify that the only people that could use the guest suites would be members. Members would determine how the suites would be used. Was that not what I said?

MR. MCDONALD: That's what you said.

MRS. SMITH: Thank you.

MR. WYETT: Mrs. Smith, I happen to agree with you. It is not the business of this Council to determine who uses nine of the ten units, because Mr. Trump uses one. You keep referring to members will decide. In the case of Mar-A-Lago, members decide nothing, to the best of my knowledge. Mr. Trump decides.

MRS. SMITH: We don't know that, because we don't know who the members are, because the member list is privileged. That's it.

MR. WYETT: I am merely making the statement I can accept members, I can even accept Mr. Trump determining who stays there, because it is not a material issue.

MR. RANDOLPH: As you go through each of these items and determine what evidence you heard in argument as to each one, keep this in mind that there was an overriding argument made in regard to all of these; that being that these conditions are not conditions which have been placed on other clubs.

When a statement is made that you haven't heard any evidence to support a particular item, please keep that in mind and at some point I think you need to, during this hearing, you need to address that so that the record is clear as to how you would react to that argument.

MR. WYETT: Is the record clear on the situation?

MRS. SMITH: I don't think you've spoken to that issue yet.

MR. RANDOLPH: All I heard you say was that you didn't hear any evidence to support this and then you made some other comments in regard to what the initial intention of the Council was, and then voted to deny and then you incorporated --

MRS. SMITH: We haven't called the question yet. We're still under discussion.

MR. MCLENDON: I guess I am a little confused again. Mr. Randolph, if you are acting on removal of something rather than applying for something new, I don't quite understand why we need to get into a bunch of background and justifications for keeping something in?

MR. RANDOLPH: Your ordinance provides if you grant a Special Exception that you must find that granting it will not be adverse to the public interest. However, in quasi-judicial hearings, in order for a reviewing court to determine whether or not you understood what you were voting on, it is advised that you incorporate a finding so that the judge can look at that and make a determination as to whether or not there is evidence in the record to support your decision.

And Mr. Wyett's motion did incorporate findings, but he did make a statement he didn't hear any evidence in regard to it. I did not want you as a Council throughout these proceedings to lose the overall argument that was made in the application and which was argued during the hearing, that some of these conditions are unfair as applied to the Mar-A-Lago Club in that similar conditions are not applied to other clubs. I just didn't want that to get lost in the hearing process.

MRS. SMITH: I read the section of the agreement where it says The Everglades Club has guest suites. The difference between the Mar-A-Lago Club and The Everglades Club is that The Everglades Club is grandfathered in. And The Everglades Club is in a commercial zone and The Everglades Club guest suites are in a commercial zone.

We were told during the hearing that The Everglades Club borders on a single family residential area. However, the main building of The Everglades Club where the guest suites and the apartment across the street, they are all located in a commercial district and that is the difference between The Everglades Club and the Mar-A-Lago Club. Neither the Bath & Tennis, The Beach Club, the Country Club or the Sailfish Club have residential units for members and their guests.

Would you want to incorporate that in your findings?

MR. WYETT: I would. I would remind you I made comment to the fact The Everglades Club is in the commercial zone and your further explanation is correct and I accept it.

MRS. SMITH: Call the roll.

This is your motion.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. McLendon.

MCLENDON: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

The next item is, working from the Declaration of Use Agreement, is page 3, article 2, paragraph 4; the unique prohibitions and/or regulations of photography at the club should be eliminated. Parentheses, photography of various kinds occurs at all of the other clubs, close parentheses.

Who would like to start the discussion?

MR. WYETT: I will, if no one else wants to, but I will yield to anybody that wants to start first.

MRS. SMITH: Would this side like to start? Mr. Shaw will balance it out.

MR. SHAW: I think that the ordinances of the Town pertaining to commercial photography are well established and I feel that the existing ordinance should suffice. I think that to put the restriction that private photography for an event or whatever it is, an individual having a dinner party or a charity having an event at Mar-A-Lago, I don't see as being commercial photography. I think it is more social photography and I think that to simplify matters I would have no objection to this clause being removed.

MRS. SMITH: Mr. McDonald.

MR. MCDONALD: I understand Mr. Shaw's comments. I am not sure what the commercial filming ordinance says.

MRS. SMITH: I can give you a copy.

MR. MCDONALD: Mr. Randolph, can you perhaps state -- if events like Mr. Shaw described, such as someone having a party and a photographer being present taking pictures and those pictures being published, does that conflict with the existing ordinance?

MR. RANDOLPH: I do not believe so. The Declaration of Use Agreement and the language within it goes beyond the language that is incorporated within the ordinance. I have the ordinance in front of me if you wish to have that read. Or I can give you a copy.

MR. MCDONALD: Read it please.

MRS. SMITH: Read it for the information.

MR. RANDOLPH: This is page 20-19 of the ordinance book. This is under the RAA large estate residential district schedule of use regulations and it talks about accessory uses: No person shall use any portion of any building or accessory building or any land in this district for the purpose of carrying on or practicing any profession, occupation or calling, or for any commercial or quasi-commercial use or purpose, including but not limited to corporate meetings, banquets or entertainment, film making or movie producing, magazine feature photography and the like, and such uses are hereby declared to be a violation of the provisions of this ordinance.

MR. MCDONALD: So I presume and the like does not include the kind of event that Mr. Shaw stated?

MR. RANDOLPH: As a matter of practice, I do not believe the kind of event that Mr. Shaw stated has been looked at by the Town as being in violation of this ordinance.

MR. MCDONALD: Thank you.

MRS. SMITH: Mr. Shaw, were you referring to charity events?

MR. SHAW: Yes. Charity events.

MRS. SMITH: Private parties and things?

MR. SHAW: I was really referring to events at the club that are not in its nature a commercial venture. I don't mean somebody coming to do a fashion shoot.

MRS. SMITH: You don't think a fashion shoot is commercial?

MR. SHAW: I said it is. I do not believe that falls under the same idea as one of the local photographers taking somebody's picture at a charity ball or dinner. I believe the ordinances of the Town are strong enough to enforce that intent and that's the way it should be interpreted.

MR. MCDONALD: The in parentheses comments indicate that there is photography allowed at other clubs and not at this club. Is that correct, there is photography that takes place at other clubs that's not allowed here?

MRS. SMITH: Who knows?

MR. MCLENDON: I'm not sure what's not done at Mar-A-Lago because of the rules. I do know what happens at some of the other clubs, they do have pictures --

MRS. SMITH: Would you like to elaborate?

MR. MCLENDON: Well, The Beach Club really is the one I am familiar with. In fact, my wife and I had our wedding reception there and we had the reception there and a photographer to take pictures of our guests and the proceedings. As I say, I don't know what is excluded completely at Mar-A-Lago, but if that would be excluded, it would be beyond the scope of the ordinance.

MRS. SMITH: Well we've seen photographs taken at Mar-A-Lago of private parties, so I would gather that's not excluded at Mar-A-Lago.

MR. SHAW: Mrs. Smith, on page 3 of the agreement in the first paragraph it reads,

"Photography at the club shall be conducted in a manner consistent with the rules and regulations governing other clubs of the Town."

MRS. SMITH: Where are you reading from?

MR. SHAW: Page 3 at the top of the declaration. I believe it should read that it should be regulations governed in the ordinances and rules of the Town, not necessarily at the desire of other clubs. I think it says this shall include but not be limited to provision of film making, movie producing, magazine feature photography and newspaper photography, all of which are covered under the ordinance. And then it says photography for public relation purposes of individual members. I believe that's the phrase that needs to be eliminated, and/or guests and other commercial photography and the like. That should all remain in the agreement. The modification I would feel comfortable with would be the removal of the phrase photography for public relations purposes of individual members.

MRS. SMITH: What do you interpret that to mean?

MR. MCDONALD: I think he is probably wanting to know what the Council at the time meant that to mean.

MRS. SMITH: Let's not go back to the Council at the time. What does Mr. Shaw think about that today?

MR. MCDONALD: He thinks it should come out.

MRS. SMITH: Are you helping him?

MR. MCDONALD: Yes.

MRS. SMITH: Thank you. I've never noticed of all the members on the Council that Leslie Shaw has had a problem speaking. So I am sure he is relieved you are helping him.

You think people should be able to have public relation photos taken at Mar-A-Lago?

MR. SHAW: I think we need to modify the phrase, photography for charitable or social purposes should be permitted. And if it needs to be clarified, then add it as an exemption to the event, if we want to be specific as to what we're permitting. I think a charity event or guest member should be allowed to have a photograph taken and it to be published as a part of the social character of the Town of Palm Beach.

MRS. SMITH: Good. That's what you thought he meant, Mr. McDonald?

MR. MCDONALD: I knew what he meant. He asked if it should be removed and I was clear all the time.

MRS. SMITH: Mr. McLendon?

MR. MCLENDON: No comment.

THE COURT: Mr. Wyatt.

MR. WYETT: I believe the freedom of speech guaranteed by the United States Constitution protects publications that are social, charity, private in nature. But from day one Mar-A-Lago was violating this agreement as regarding photography and it is so documented in the code violation notice served to him shortly after he opened. I thought that would be enough, sufficient, because Mr. Trump responded my new inexperienced staff wasn't totally acquainted.

Well, now about a year later, I have this magazine thing that was just published in the Shiny Sheet last week. Unfortunately I can't enter this as evidence because it wasn't part of the hearings. But here is the publication On the

Town and here is all these shoots listing prices of gowns, people who are selling the gowns, and a statement photographed at Mar-A-Lago. I think that this is a clear violation. Mr. Trump has from day one ignored his agreement in this respect and I think it behooves us to remind him he has an agreement and I think it behooves us to clarify the agreement.

I have no intention or belief that a wedding, charity event or all the other things that are normally done at other private clubs in this Town should be denied to Mr. Trump. I think he should have all those rights and I think it is stated in the Declaration of Use Agreement. The Declaration of Use Agreement is a little confusing and I think it behooves this Council to rewrite that little section to make sure it is clear.

MRS. SMITH: So?

MR. WYETT: You want me to make a motion?

MRS. SMITH: No. Are you suggesting that the ordinance be rewritten or are you going to say that this --

MR. WYETT: Either way.

MRS. SMITH: That this regulation should stay in or come out?

MR. WYETT: I would say it needs clarification. Whatever the technical method of doing it, I would leave that to Mr. Randolph and Mr. Rampell, because I don't want to deny Mr. Trump, Mar-A-Lago or its members the use of photography.

As a matter of fact, I was a guest at the Mar-A-Lago during a private party thrown by -- at a private party given by the Blanks and Mr. Trump on a number of occasions attempted to have me photographed with his arm around my shoulder. I deferred and told him I did not wish to be photographed. He asked me if I wanted to hide and I said I couldn't very well hide, there are 300 people here and I know 150 of them at least.

So it was well documented I attended a private function and I thought that my photograph wasn't taken. It so happens the last hearing, it wasn't presented, but a large blowup of Donald with me was there. Why he wanted to have this at the last hearing I don't know.

MR. MCDONALD: I didn't see it. What does it look like?

MRS. SMITH: I didn't see it either. You are a very important person.

MR. WYETT: Maybe Mr. Rampell can address that, I don't know, but it is not terribly important.

MRS.. SMITH: Whether or not there is a picture?

MR. WYETT: The only reason I resisted the photographing, since the situation was not quite clear as to what his rights as to photography were, as a member of the Town Council I didn't think I should appear in a photograph. Mr. Trump thought I should and he won.

MRS. SMITH: Well, I think if you are in a public place, you are going to be photographed. You have no control over that Mr. Wyett. I am sorry we didn't get to see your blowup.

MR. WYETT: I would like a copy -- my wife might like it.

MRS. SMITH: Members of the Council, how would you like to go on the photography thing; it appears to me from the discussion Members of the Council have no problem with photography at private parties and charitable events.

The only testimony we've heard is from Mr. McLendon as to The Beach Club. I don't know what the policies are at the other clubs.

MAYOR ILYINSKY: You can have your wedding photographed.

MRS. SMITH: I can have my wedding photographed?

MR. MCLENDON: Does that confirm it?

MRS. SMITH: No, no, no. But prior to this they heard I was doing something with the Cincinnati Bengals. I am not a football fan, I am a baseball fan.

I am not quite finished. So if you wish to change the provision in the Mar-A-Lago agreement, it should be done on the basis of what your reaction is today, because we have had no evidence about what is the policy of photography at other clubs.

Mr. Wyett.

MR. WYETT: I move we eliminate this provision as it is totally covered in the zoning provisions and expect Mr.

Trump to live up to the regulations that he can read in the zoning provisions that prohibit commercial photography. They are quite well spelled out. I move removal.

MRS. SMITH: Is there a second?

MR. MCLENDON: I will second that.

MRS. SMITH: Is there further discussion?

MR. SHAW: We're saying to eliminate the entire paragraph; not to modify?

MR. WYETT: It is covered in zoning.

MR. SHAW: Fine, no problem.

MRS. SMITH: Mr. Moore, what are the provisions for enforcement of the ban on commercial photography according to code enforcement?

MR. MOORE: It would be a violation of the zoning ordinance and punishable by Code Enforcement Board action or Circuit Court if the Town so chose.

MRS. SMITH: The Code Enforcement Board action, it seems to me, usually takes a year, by the time --

MR. MOORE: By the time it is served.

MRS. SMITH: 30 days to the hearing, 30 days to be put on the agenda, 30 days to notify the officer, the officer goes ahead.

What happens after that?

MR. MOORE: 60 to 90 days the case is brought before the Code Enforcement Board, depending upon the timing of the publication of the meeting itself.

MRS. SMITH: What are the fines associated with that if the party is found guilty?

MR. MOORE: Up to \$250 a day, as long as the violation exists. If it is a repetitive violation, then the board has the ability to go back and institute fines for prior offenses, if the person has been found guilty of the first offense.

MRS. SMITH: That's a difficult provision to enforce for pictures at a party. \$250 a day from what? From the time the pictures were taken? I think that the regulation in the agreement should be clarified, but I don't think the code enforcement procedure works when it comes to commercial photography of this nature.

MR. MOORE: I misunderstood your question. If you were asking pictures at a party, they are not subject to Code Enforcement Board action or zoning violation.

MRS. SMITH: What about the pictures of Madonna?

MR. MOORE: That's a commercial shoot, not a party.

MRS. SMITH: You see pictures taken in a commercial shoot. How would the --

MR. MOORE: That would be a violation.

MRS. SMITH: What would they be charged, \$250 for the one day of the shoot?

MR. MOORE: That is the maximum fine.

MRS. SMITH: You see, I don't think that that is sufficient to deal with this problem and that's why I don't think this regulation should be eliminated. I think it should be clarified. Mr. McLendon.

MR. MCLENDON: What is the penalty, if you will, for violating the use agreement? How does that compare to the penalty for violating the code?

MR. MOORE: Identical.

MR. MCDONALD: Mr. Randolph, why couldn't you obtain an injunction?

MR. RANDOLPH: We can.

MR. MOORE: I mentioned that earlier, Circuit Court action.

MR. RANDOLPH: You might want to, along that line, if you just incorporated the language of the code which is

applicable to other clubs within the Town, you could through injunction attack that provision within the Declaration of Use Agreement. So there is some merit in our incorporating the language of the code within the agreement.

MRS. SMITH: I think that is more important than eliminating the paragraph, because I have no problem with pictures taken at a party or at a charity event. That's what happens in the Town and that is the norm.

And as far as the charities are concerned, they raise a lot of money and there are always photographs taken at the balls and charitable events. But, I think the language should be incorporated, rather than eliminating the regulation from the agreement.

MR. SHAW: Back to my original statement, which was to eliminate that phrase and to put in that photography for social and charitable purposes is permissible.

MR. MCLENDON: I withdraw my second.

MRS. SMITH: Mr. Wyett, would you like to withdraw your motion?

MR. WYETT: I am amenable to anything that concurs that Mr. Trump and his members having the right to have social, charity or what have you rights to photography, the same as any other club. And I might like to hear from Mr. Rampell as to how he would word this. I am going to withdraw that.

MRS. SMITH: The Mayor would like to make a statement.

MAYOR ILYINSKY: Having been deeply involved with photography in this Town, I can assure you one thing: Photography has changed violently over the last few years. We live in an electronic age these days that gives everybody with a video camera the opportunity to make photographs. These can be transferred to full VHS size so any one of you can play them. You can take them to the local television station, which happened the other day and here are pictures of someone's house taken originally with an 8-millimeter movie camera by a 16-year old man. What's wrong is the ordinance of the Town is written, the way it is.

I happen to live in an original Fatio house. The house he built for himself. It is landmarked. Has it been photographed by various magazines; yes, it has. Am I in violation of the code; yes, I am. How many houses in this Town are right now being photographed by Town and Country. That's a very accepted magazine, we all look at it, we grew up with Town and Country. Does that mean they can't do anything with some of the lovely houses? There is one this afternoon. Are they in violation of the code?

We have to define specifically, we cannot just drop great sections of this code. It has to be rewritten and come up to the year 2000. People are changing again, people have cameras on their wrists. We'll all have one soon. We have to take a look at the Town's ordinances.

The answer to do clubs permit photography, no they don't. The Bath & Tennis permits photographs for private parties; if you publish them you are in violation. I belong to three clubs in the world, not very many, but the best, and I can honestly tell you that not a single one of those clubs allow photography, not one. One of them is in England, the Royal Thames Yacht Club.

You cannot go in there and have a camera shoot. If somebody doesn't understand what the law is all about, they contact Mr. Bob Moore and ask him. My house was done by Vogue magazine once. Was I in violation; I guess I was. It is not Oh, my God. You have to change the ordinance and you have to bring it up to date. No, you can't have movie cameras at Mar-A-Lago and naked ladies jumping in the parrot fountains. That's easy to get rid of.

MR. MCDONALD: Speak for yourself.

MAYOR ILYINSKY: This is a complicated issue and one the Town needs to rewrite its own ordinance. Television shoots, commercial shoots and movies are not allowed any place. If the Mar-A-Lago Club wants to be like any other club, then no commercial shoots. None of the other clubs permit it. The Sailfish is the center of sailfishing on the eastern United States and holds some of the most prestigious tournaments. They will not permit one single picture of the winners standing on club property. On the back of their boat, yes.

Having so said, I will shut up.

MRS. SMITH: So what you are saying then, if the Mar-A-Lago Club wants to be treated like all other clubs, there should be a ban on photography across the board?

MAYOR ILYINSKY: Other than weddings and things like that. No other club permits it.

MR. SHAW: I would make a motion to --

MR. WYETT: There is a motion on the floor.

MRS. SMITH: You withdrew it.

MR. SHAW: I would make a motion to amend page 3, article 2, paragraph 4 of the agreement to read photography

in the club shall be conducted in a manner consistent with the rules and regulations and in accordance with the ordinances of the Town of Palm Beach. This shall include, but not be limited to the prohibition of film making, movie producing, magazine feature photography and any other commercial photography and the like. Photography for the purpose of the individual members and charitable events is permitted.

MRS. SMITH: Is there a second?

MR. WYETT: Can we have that in writing? It is a complicated motion.

MR. SHAW: It is not complicated.

MR. MCLENDON: Read it again.

MR. SHAW: Do you have the original text?

MR. MCLENDON: I have it here.

MR. WYETT: What page is it on?

MR. MCLENDON: Page 3 of the Declaration of Use Agreement.

MR. WYETT: I have it.

MR. SHAW: I am replacing governing other clubs with in accordance with the ordinances of the -- and then you pick up the word town. Further down I am eliminating the words -- the part of the sentence that reads newspaper photography, photography for public relations purposes for individuals.

MR. MCLENDON: Eliminating what?

MR. SHAW: Newspaper photography, photography for public relations purposes of the individuals, I guess it would be and/or guests, and picking back up other commercial photography and the like. I am adding a sentence that reads photography for the individual members and charitable events is permitted.

MR. MCLENDON: Did you make a motion?

MRS. SMITH: That was his motion.

MR. MCLENDON: I'll second it.

MR. WYETT: I have one question?

MR. RANDOLPH: I have a question. I heard comment here today and this, of course, isn't the day to amend your ordinance, but your ordinance may be amended in this regard in the future and I am questioning whether you want -- whether the intent of your motion is to require anything in addition to or more restrictive than what is provided by the ordinances of the Town? If that's your intent, I don't feel that your additional language, beyond saying that the ordinances of the Town, is helpful. Because if you amend your ordinance at a later time to do something other than the way it reads now, and you have incorporated the language of the ordinance, then you have a question again whether or not this is intending to be more restrictive than the Town's ordinances.

I guess the question is what is your intent. Is it that they only abide by the ordinances of the Town? If so, my suggestion would be that you simply stop where you say the photography at the club shall be conducted in a manner consistent with the rules and regulations of the other clubs.

MR. WYETT: That was my original motion.

MR. SHAW: But I think the ideas we want to confirm, regardless of what Town ordinances may do in the future, that we are imposing further limitations and these are the limitations that we want to impose.

MRS. SMITH: Mr. Wyett.

MR. WYETT: I have to concur with the Town attorney. Because, if the Town so adopts a photography ordinance, it should apply equally to all clubs. Mar-A-Lago or any other club should not have special restrictions. That can be argued at another Council meeting, what the photography regulations are, in accordance with the Constitution of the United States.

I want to pick up on a comment by Mrs. Smith. She had questions concerned the code enforcement situation in this Town as to photography is inadequate. I have this magazine thing here. It's been published the 4th. What is a fine of \$250 after the publication? It has no value. If I wanted all this publicity, I would gladly pay a \$250 fine in cost of doing business.

MRS. SMITH: They pay more than that to their public relations man.

MR. WYETT: I would like to address how we enforce not only the situation at Mar-A-Lago, but any place in this Town?

MR. RANDOLPH: But you would like to do that another day?

MR. WYETT: I would accept another day.

MRS. SMITH: It will not be today.

MR. MCDONALD: If I can respond.

Councilman Wyett, you can obtain an injunction and enforce an injunction, other than fines. You can actually have someone held in contempt, put them in jail. There are substantial remedies there I think that could move quicker than a code enforcement fine. So whatever is in the use agreement can be enforced in that manner and Mr. Randolph can correct me if I am wrong.

MR. MCLENDON: That was my first impression and that's why I withdrew my second to Mr. Wyett's motion.

MAYOR ILYINSKY: To confuse things further. I didn't mean to have that ordinance changed this afternoon. That's something to come way into next year.

MR. WYETT: We can't do it this afternoon. It is not on the agenda.

MRS. SMITH: As far as the injunction procedure is concerned, for some people looking for publicity, any kind of publicity is the best. If it is an injunction, court order, trial, they would think they've died and gone to public relations heaven.

I think we have a motion by Mr. Shaw; we've had a second by Mr. McLendon and if I could ask, is everyone clear on what the motion is? Are you going to clarify it, Mr. Shaw, after incorporating Mr. Randolph's remarks?

MR. SHAW: Mr. Randolph's remarks takes the wording of this motion and changes it drastically. So either we go along with Mr. Randolph's suggestion, which means to withdraw the motion as it is basically and redo it --

MRS. SMITH: I think we know your intent and so that a future Council doesn't sit here six years from now saying what do you suppose they meant by the photography motion, why don't you try and clarify. If you don't want to incorporate Mr. Randolph's remarks and leave it open ended, considering that the photography ordinance may be changed, would you state that as your intent for the record.

MR. SHAW: Let me ask Mr. Randolph if this is read -- you are saying that it refers to the Town ordinance. Does not the shall include, but not be limited to, take it a step beyond?

MR. RANDOLPH: Yes. Your language would take it a step beyond the ordinance.

MR. SHAW: So that in the event the ordinance did not address movie making at clubs, but just said movie making is permissible in the RAA estate district --

MR. WYETT: Oh, boy.

MR. SHAW: Then this would still preclude that.

MR. RANDOLPH: Yes. You are being more limiting by the language that you include than you would be in the ordinance. Because, if the ordinance ever changed, this language would be more of a limitation.

MR. SHAW: Then obviously an ordinance that would say movie making is prohibited at clubs would not change the intent of this phrase. So basically this is a greater protection to the Town by leaving it in than by eliminatin

MR. WYETT: But you are leaving yourselves open.

MRS. SMITH: Mr. Randolph, do you want to speak to this and then I will call the question.

MR. RANDOLPH: First of all, on any of these things I don't know what evidence you heard in regard to photography during this hearing. However, the application itself does include a phrase, photography of various kinds occurs at all of the other clubs. I want you to remember that you should include something within your motion that addresses the evidence, if you can find it.

If you can't find any evidence, you should state that you are acting on your own motion, not necessarily based upon the application, but based upon your concerns, including that within the agreement. I want to correct something. I am not suggesting any language to you. I am just trying to figure your intent so that I know if I am going to be drafting this what -- and so that everybody is clear, what the purpose of the motion is. I was simply stating that I believe your motion is more limiting than what it would be if you just simply reference the Town's code.

MR. SHAW: Can I ask you one question. Anything we do today can be accepted or rejected by the applicant?

MR. RANDOLPH: I don't know --

MR. SHAW: We can sit here and come up with all these ideas that we want to do and he can say thank you very much, I'm not interested and go home.

MR. RANDOLPH: I think you are here today to either approve or deny what he has asked for. If you are going to go beyond that and start incorporating additional provisions, I think that you may have some problems.

MR. SHAW: We are not denying or approving. If we're making modifications to something, does not the applicant have the right to accept or deny those modifications?

MRS. SMITH: If he doesn't like them, the original terms stand.

MR. RANDOLPH: He is asking for a Special Exception.

MRS. SMITH: It is yes or no. We are not negotiating a deal here.

MR. SHAW: If we make a change to this and the applicant says I am not interested in that change, it stays where it is.

MR. RANDOLPH: You are entertaining a Special Exception pursuant to your code. Your code allows you to place conditions upon the granting or denial of a Special Exception and I read that language to you.

So, if for any reason you are going to modify something in the agreement, that's going to be interpreted as a condition on the granting of the Special Exception. If he doesn't accept that, I guess it will remain as it was.

MR. SHAW: Can they reject items motion by motion or do they have to reject the entire document?

MRS. SMITH: Why don't you wait and see what happens. I think we have a pretty good idea of what is going to happen, because we had it dangled in front of us before we started this morning.

MR. SHAW: I'm not clairvoyant.

MRS. SMITH: I'm not clairvoyant either. Mr. Shaw is still speaking.

MR. SHAW: I would like to leave it the way I made the motion, unless you are saying it is adverse to our position. If you feel from the standpoint of the balance of allowing the zoning or the regulations in the code to control this is a far better way than to have it specifically in the agreement, then I would modify it. If you feel that this gives us the protection that we want, then I would like to see that protection left in.

MRS. SMITH: Who are you asking?

MR. SHAW: Mr. Randolph.

MR. RANDOLPH: My concerns with this particular provision relate to First Amendment rights and enforcement, and I believe that was a concern that I stated the first time that this matter was addressed. I think you can address it, but by keeping language in which in any way can be interpreted as violating or impeding their First Amendment rights, I have a concern.

MR. SHAW: In light of that and not trying to jeopardize anybody's First Amendment rights, I would request that the second be withdrawn and I would modify my motion to read photography at the club shall be conducted in a manner consistent with the rules and regulations in accordance with the Town of Palm Beach.

MR. WYETT: That was my original motion, Mr. Shaw. One hour ago, to get back to ground zero.

MRS. SMITH: Just a minute. The seconder of the motion, are you withdrawing your second?

MR. MCLENDON: Yes.

MRS. SMITH: All right Mr. Shaw. Let's tie this up.

MR. SHAW: Let Mr. Wyett take the motion.

MR. WYETT: You may have it, Mr. Shaw.

MRS. SMITH: Mr. McLendon.

MR. MCLENDON: We've gone around the loop on this thing. It seems to me any change we make in the language in the agreement we're going to have a potential problem with. Until such time as other things dictate it, why don't we leave it the way it is. It gives you additional protection by being able to go to court rather than just code enforcement, and why not just leave it the way it is, period, in the agreement? I haven't heard anything they want

us to change.

MR. RANDOLPH: The statement about the First Amendment concerns what Mr. Wyett mentioned.

MRS. SMITH: Mr. Wyett.

MR. RANDOLPH: I agree with what you are stating in the beginning. You are going to complicate this hearing process today if you attempt to do anything other than affirm or deny the application. Because then we're going to get into a situation that Mr. Shaw talked about as to whether the modifications are going to be agreed to.

MR. MCLENDON: Has the First Amendment thing changed from six months ago?

MR. RANDOLPH: It hasn't changed in some time.

MRS. SMITH: The First Amendment to the Constitution has not changed.

MR. MCLENDON: Facetious question.

MRS. SMITH: The Council is aware of what we're looking at. Mr. Wyett.

MR. WYETT: I believe Mr. Shaw made a motion to vacate the original language and to substitute the Mar-A-Lago Club will abide to the zoning rules and regulations as it refers to photography. And the conversation went further that the Council will reach at some future time to review the photography regulations of the Town --

MRS. SMITH: There must be a second.

MR. SHAW: Second.

MRS. SMITH: You want to go on and urge some more.

MR. WYETT: I was confirming Mr. Shaw's motion. I thought he withdrew his motion?

Speak, Mr. Shaw.

MR. SHAW: The motion has been made.

MR. MCLENDON: Second.

MR. RANDOLPH: The request of the applicant was the unique regulations and prohibitions should be eliminated. That's the request for you.

I guess your motion can be interpreted that you are granting that request that those unique prohibitions be excluded and that the zoning ordinance of the Town be complied with?

MR. MCLENDON: Yes.

MR. SHAW: Yes.

MRS. SMITH: Mrs. Reedy.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. McLendon.

MR. MC LENDONN: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

Five-minute break.

(Whereupon a brief recess was taken after which the following proceedings were had.)

MRS. SMITH: If you will all please take your seats. If we can do the TV interviews outside please.

We're on page 7, referencing item No. 3 which according to the Declaration of Use Agreement is page 3, article 3. The club should not be singled out by the Town of Palm Beach to maintain unity of title. Parentheses, the Town need not address title unity since any subdivision is now subject to approval by the National Trust For Historic Preservation.

MR. RANDOLPH: I need to clarify something before we lose it. Because I was confused by the questions being asked by Mr. Shaw regarding modifications.

You have before you applications to remove conditions. And so you can either vote to approve the request or deny the request. You can also modify it. But, keeping in mind that if you modify it, that is on your motion, not on the request necessarily of the applicant.

So the applicant would not necessarily have to accept your modification to the Special Exception. He would not have to sign the Declaration of Use Agreement with the modification, which would mean the provision as it currently exists within the Declaration of Use Agreement, unmodified, would remain.
Did I confuse everybody more?

MRS. SMITH: More --

MR. SHAW: You said what I thought I understood.

MR. RANDOLPH: Under the ordinance you have the right when you entertain a Special Exception application to approve, reject or approve with conditions.

MRS. SMITH: That was the understanding of the Council. Now as to the unity of title question. Members of the Council, let's start discussing it. I see no reason to change it.

MR. WYETT: I concur.

MR. MCLENDON: Same.

MRS. SMITH: Motion please.

MR. WYETT: I make a motion to deny.

MR. MCLENDON: Second.

MR. RANDOLPH: Based upon?

MR. WYETT: Upon the lack of evidence and based upon the fact when the club was established it was determined at that time that the entire club was one parcel.

MRS. SMITH: Mrs. Reedy.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

Item No. 4, page 5, article 7, paragraph 1

1. The limitation of membership in the club to 500 members should be abolished. Club Collette, the Bath & Tennis, Everglades Club and Sailfish Club each have over 500 members. Parentheses, some, on information and belief, have over a thousand members. The Mar-A-Lago Club has more covered square footage and land area than most of these clubs, close parentheses.

Mr. Wyett.

MR. WYETT: Again, I think you have to look back to the original intent of the Council of 1993. The Mar-A-Lago Club is in a residential area. Beyond that it is in a very delicate area of the Town. It is serviced by a two-lane road. It borders on Southern Boulevard Circle which is subject to the bridges going up and down. In season that area is often backed up from 3:00 or 4:00 o'clock in the afternoon until well past 6:00 o'clock, depending on the amount of traffic, and that's usually pretty consistent.

During the presentation it was alleged that the traffic count was down. But it was further reminded that the bridge was closed during this period of time which would have reduced the traffic.

I didn't find sufficient evidence at this time to make any changes in the limitation of the 500 members, because the 500 member limitation was put in to guard against undue traffic. It is too early. The club is only open a year and its membership has far from reached its maximum. They have represented that their membership is 314, I accept that number. Informally, I've been told that it is less. But, that leaves them almost 200 members to go.

So their claim they are being impeded in their growth pattern or financially hurt doesn't hold any water at the moment. Because they haven't gotten to their membership. If the club wishes to have what's called summer memberships, as I believe I heard testimony, they can have their summer memberships, let them sell them up. By denying today does not preclude Mar-A-Lago from coming back and saying we have almost 500 and the conditions have not given for traffic problems. But for them to come now with only 314 at the beginning of this year and during the last season, I would like to have some numbers, and I am not asking for them because of the nature of these proceedings, but I would say the average membership is well under 200.

Well, the traffic conditions at 200 members is a lot different than the traffic that will be generated by 500 members. I cannot speculate what the membership and traffic will be, but I have to guard this Town against undue traffic and guard the residents of the area, not only the residents of the R-AA area, but residents on the far south of Town all the way down to South Palm Beach, which depend on this two-lane road to reach the center of Town.

If traffic is backed up by any action of this Council, then this Council will have to answer to those residents. It is not only the residents south -- in the area referred to south of Sloan's Curve. There are residents that want to reach the north end to go to the various hotels and functions and they, too, do not want to be backed up on this narrow road.

So at this particular time I think it is premature for Mar-A-Lago to come in and ask for a change. Let them first sell up their membership and come in and say look, we've been good, there has been no traffic problems, we'd like to increase it.

MRS. SMITH: Mr. McLendon.

MR. MCLENDON: I don't think there is anything magic about the number of members. I think it is the traffic created. The trips per day I think is what should be the limiting thing. I see no reason to address changing the 500 number until such time as they get nearer to the top. If the need is to permit a substantial number of summer memberships without violating the 500, that I would have no problem with. But I haven't heard that. I haven't had that submitted as an application. But until the club is nearer to 500 membership, I would be opposed to change it.

MRS. SMITH: I listened to all the testimony. I was not convinced by Mr. Barr and Mr. Pollock, the applicant's traffic experts. I concur with Mr. Brisson's report. I realize the County has come in and has said that the club is not over capacity on the roads.

However, I still believe that there is a correlation between people, cars and traffic, no matter what they say. And there were six or seven hours where they bombarded us with all these facts about concurrency and I still think that common sense should prevail. I feel the changing the membership at this time is also premature. I have no concern about what type of membership he wishes to sell. That's his problem. He is running a business. If he wants to sell inexpensive memberships, that's his business. It has nothing to do with me. But I see no reason to lift this cap because we have not seen the facility operating at full capacity.

Mr. McDonald.

MR. MCDONALD: No comments.

MRS. SMITH: Mr. Shaw.

MR. SHAW: I have a hard time supporting the elimination of a membership cap.

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MR. MCLENDON: I didn't hear that.

MR. SHAW: I said I have a hard time supporting an elimination of a membership cap.

MRS. SMITH: He said he has a hard time eliminating the membership cap. Would you like to take some action on this?

Mr. McLendon.

MR. MCLENDON: I move we deny the request to change.

MR. WYETT: Second.

MRS. SMITH: Further discussion? Mrs. Reedy.

MR. RANDOLPH: I assume in that motion you are incorporating the statements that have been made by the Council members?

MR. MCLENDON: Yes, sir.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

Item No. 5. This is on page 5, article 7, paragraph 3, advance reservation for the uses of club facilities should not be required.

Mr. Wyett.

MR. WYETT: There is no way to enforce that regulation. The advertisement that Mr. Trump placed in the Shiny Sheet saying reservations can be made one minute in advance, I don't agree -- but there is no way to enforce whether a reservation is made one hour or one day in advance. It's like the 18th Amendment telling people they can't drink. It is not enforceable. Let's eliminate it.

MRS. SMITH: Mr. McDonald.

MR. MCDONALD: I am convinced by your eloquence and I second that amendment.

MRS. SMITH: Mr. McLendon?

MR. MCLENDON: No comment.

MRS. SMITH: Mr. Shaw?

MR. SHAW: No comment.

MRS. SMITH: Call the question, please.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

The next one is page 5, article 8, paragraphs 1 and 2. The limitation of automotive trips at the club and traffic monitoring should be eliminated. Parentheses, since its opening the club has not caused traffic problems of any kind on either South Ocean Boulevard or Southern Boulevard, close parentheses. Before I open up for discussion, I would like to say obviously we are not going to finish before lunch. We have approximately 12 other items, I believe, to deal with and what time would the Council like to break so that everyone can get an idea?

MR. MCDONALD: Let's just work straight Through.

MR. SHAW: Let's see what happens by 1:00 o'clock.

MRS. SMITH: We'll work up until 1:00 o'clock, if that gives you an idea how we stand.

Would you like to talk about traffic.

MR. WYETT: I would, but I yield to anybody first.

MR. SHAW: I would ask that we wait until after we discuss the limitation on individuals. I think it becomes a governing factor. If there is a limitation on special events attendees, then there needs to be a way of controlling or monitoring. So we need to address that first.

MRS. SMITH: Members of the Council.

MR. WYETT: That has to do with concurrency and needs to be addressed as an independent item.

MR. MCLENDON: I have some opinions on the traffic.

MRS. SMITH: I think we know we have just left on the 500 member cap. So let's start discussing it using that figure.

Mr. McLendon.

MR. MCLENDON: Well, I guess I need to comment about the testimony that was presented on traffic. My comments are there are more than enough long-winded testimony and questions and statements presented during the second day.

There has been much too speculation and interpolation for the future. You have the bridge outting on Southern Boulevard. The bridge was closed for part of the study period. Membership is only 60 percent. I don't know how many of the staff are being vanned back and forth. I guess none, but I am not sure about that. I just don't think that it is anything but premature to conclude what traffic is going to be at full development.

MRS. SMITH: Who would like to go next? I think since we heard two days of traffic and about seven hours there has to be some comments.

Mr. Wyett.

MR. WYETT: I've been holding back to allow somebody else to talk. This was testimony relative to concurrency. Concurrency I believe is part of the state statutes in which the Town participates. The only way that the Town can understand the traffic count going in and out of Mar-A-Lago is to refer to the monitoring equipment. The monitoring equipment is there and it may be a little cumbersome on the part of Mar-A-Lago to maintain the records, but that's what they promised to do and a promise is a promise, and a contract is a contract. I see signs out in the audience that say a deal is a deal and Mr. Trump should understand that, since he understands the art of the deal.

So based on the fact that we need this for monitoring purposes and that concurrency -- it will maintain the concurrency agreements, and I incorporate Mr. McLendon's comments about membership being 60 percent and the bridge closing, it is much too premature to look at this.

Unless anybody else has any more conversation, I move to deny.

MRS. SMITH: Is there a second?

MR. MCLENDON: Second.

MRS. SMITH: Let's hear from this side of the table. Mr. McDonald?

MR. MCDONALD: No comments.

MRS. SMITH: Mr. Shaw?

MR. SHAW: I think the traffic monitoring is something that needs to be maintained. Without it there is no way of knowing how the club is performing as far as meeting the concurrency limits. As far as limiting the number of trips, I think that it is important to have some controls over it and I think that the traffic patterns are not so much governed by the number of members, but the number of events that can be held at the club. And that the limitation has not jeopardized the club's ability to function for special events, charity events, over the last year, which has nothing to do with the membership or completion of the club. I think until both of those are operating at their maximum, we should hold on to these controls.

MRS. SMITH: Mr. McLendon.

MR. MCLENDON: I don't remember the justification and the origination of the 313 trips. I can only assume that was done in concurrence with the County traffic people. I would like to make a comment regarding the Preservation Foundation reference, which is not -- well, that's not part of the evidence, so I guess I don't need to talk about that. The 313 trips per day I think is something that would be verified, as Mr. Shaw said, and see how that number, when reached, affects the traffic.

MRS. SMITH: Are you asking staff and the Town's experts to reeducate us on where the 313 came from?

MR. MCLENDON: That's part of the agreement and I don't have a problem with it otherwise.

MRS. SMITH: I believe we're not even close to seeing what impact Mar-A-Lago will have on the residential community in which it sits. Since the agreement was done there have been new tennis courts, a spa, none of which have been in operation to this time.

As far as the monitoring is concerned, why shouldn't we know about it? There has been construction trucks. I understand whether they are member's trips or not there is no way we can differentiate and I think the limitation should stay in effect until we see that the club is operating at full capacity.

And, once again, I didn't hear any testimony presented by either Mr. Barr or Mr. Pollock that I felt was compelling to change my mind on what the situation is at Mar-A-Lago. So therefore I would concur.

If there is no further discussion, I am calling the question.

MR. WYETT: I move to deny -- vote to deny.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

Item No. 7, page 5, article 8, paragraph 4. The utilization of a shuttle van to transport a portion of the club's staff should not be mandated.

MR. SHAW: I don't know that the method of meeting compliance is relevant. I think the issue is you meet the numbers that are required, and if it involves shuttling staff or shuttling guests, shuttling whatever you want to do.

The Poinciana Playhouse has a problem because of parking and traffic and they've managed to bring their patrons in. I believe that's a management decision and don't believe it should be part of the agreement.

MR. WYETT: I concur with that. This issue really goes to the concurrency. As long as they are within the concurrency limit, the right to have individuals bring their own cars in, fine. When they run up against the concurrency, the next step is not to come to the Council, but institute the situation of busing people in.

I do not wish to have the Town involved in the actual operation of the business. It is the business's responsibility to comply with the laws and statutes of the Town. I therefore move to eliminate.

MRS. SMITH: Is there a second?

MR. SHAW: Second.

MRS. SMITH: Mr. McLendon.

MR. MCLENDON: I agree with both Mr. Shaw and Mr. Wyett.

MRS. SMITH: Mr. McDonald?

MR. MCDONALD: I agree.

MRS. SMITH: I don't. Sitting here this morning I listened to members of the Council asking what was the Council thinking in 1993 when they put this restriction on. This question has just come up and not one person sitting here asked what we were thinking and there was a very long discussion on this.

What it doesn't say in the application is that it was not a question of shuttling guests. It was a question of shuttling employees and it was to be used to meet the concurrency standards. The original idea came from the County that this should be incorporated as employee shuttling. Now, I would assume that the applicant has been complying with this condition because it was part of the agreement, and we all know that we all meet all the terms of the agreement and we're in accord.

So if he has been complying and they are meeting the standard of 313 trips, it is because 40 percent of their employees are being shuttled. Now, if this restriction is lifted, who knows how many more cars and how much more traffic will be generated by it and I did not hear any compelling evidence from the applicant that this restriction should be lifted.

I think it is a big mistake to lift anything that might create more traffic in this residential area until we see the full operating capacity of the club. And therefore I see no reason to take out this condition that was originally initiated by the County itself. And that was the thinking of the Town Council in 1993 when we put this condition on and it was agreed to by all the parties.

MR. WYETT: I withdraw my motion.

MR. RANDOLPH: Haven't you voted?

MRS. SMITH: No. I didn't call the question, Mr. Randolph. The motion has been withdrawn.

MR. SHAW: Mrs. Smith, I understand your point --

MRS. SMITH: Excuse me. I want to bring up a point right now. Mr. McDonald says that I cannot be an advocate and -- without giving up the chair. Am I correct, Mr. Randolph, can I not give my opinion?

MR. RANDOLPH: You are allowed to give your opinion. Under Roberts' rules, normally the position of the chair is to run the meeting and to call on others for their opinions. But we've always allowed every member of the Council to state their opinion.

MRS. SMITH: Right. I don't think I should have to be asked to relinquish the chair just because I disagree with the Council.

MR. WYETT: You expressed a justified opinion, not disagreed with the Council.

MRS. SMITH: Is what you are saying, Mr. McDonald, because I didn't agree I have to give up the chair? Even Mr. Natale is shaking his head. I guess you agree or you don't. If that's going to be the position, then I would be very happy to pass the gavel to Mr. McDonald so that I can feel free to express my opinion.

However, I am very complimented that it is probably the first time, Mr. McDonald, that you've been sitting here that you've called me an advocate. So I decided I will not relinquish the gavel and I will continue to give my opinion.

Mr. McLendon.

MR. MCLENDON: Can I ask Mr. Moore a question. Do we have any evidence or knowledge that, in fact, Mar-A-Lago has been shuttling staff?

MR. RANDOLPH: I'd ask that you confine your deliberations to evidence that has come before you at this point.

MR. MCLENDON: I take that back.

MR. WYETT: I don't think there was very much discussion about shuttling during the three days of hearings. It

doesn't seem to be a very strong position on the part of Mar-A-Lago. It cuts both ways. Based on the concurrency reports that we have, assuming that they are shuttling 40 percent of their employees, the cessation of shuttling 40 percent of their employees merely moves them closer to the 313 limitation.

So, from that particular point of view, they probably want to voluntarily do this at some particular point, even if they are not doing it now. It is not important whether they are doing it now or not. If they are not doing it, then it is affecting the concurrency number and it is really moot which way you go. It is six of one, half dozen of the other.

I respect Mrs. Smith's comments and I do respect the Council of 1993 and if Mrs. Smith feels strong about that, I would not oppose her.

MAYOR ILYINSKY: What Mrs. Smith said was absolutely true. We didn't spend terribly much time on that issue. I forget who proposed it, but it was accepted by both parties very quickly.

MRS. SMITH: Gentlemen, what would you like to do?

MR. WYETT: Mrs. Smith, why don't you pass the gavel?

MRS. SMITH: I am going to keep a really tight hand on that gavel Mr. Wyett.

MR. WYETT: With or without velvet glove?

MRS. SMITH: With a velvet glove and broken finger.

MR. MCLENDON: I move we deny the request to remove this as it would be in the best interest of the applicant to keep it.

MRS. SMITH: Is there a second?

(No response.)

Okay. The motion to approve was withdrawn. The motion to deny dies for lack of a second. Gentlemen, do not bog down here, it has to be one way or the other.

MR. SHAW: I'll second.

MR. WYETT: Did you make a comment?

MR. SHAW: I am trying to understand where the shift of the burden goes if the van is not utilized. What we're concerned about is impact in a residential district by a venture. And the traffic that is generated coming in and out of the facility.

If the employees use it, just for argument's sake let's say there are 150 employees, each one coming in with a car. That takes 300 of their 313 trips. So they are not going to have much more to do but play volleyball. I don't know if that isn't a better arrangement than having members coming back and forth and the public coming in and out, and everybody else going in and out. The issue is that we still have the controls. If the concern is at some later date there may be some consideration to -- you need to reconsider the traffic, that becomes a motivating fact by saying we still want to keep the number of employee trips down. If that is the forward thinking of the Council, back three years ago, then I can support that approach. I think today it is not applicable, but it could very possibly be applicable in the future as a controlling factor and I reconsider it and will second the motion.

MRS. SMITH: The motion has been made and seconded. Is there any further discussion?

MR. WYETT: Can I have the motion again?

MR. SHAW: To deny.

MR. MCLENDON: To deny and to add on it would be to the applicant's advantage to have it denied.

MRS. SMITH: To keep the shuttle.

MR. WYETT: I believe it is neutral whether you deny or keep the shuttle. It is six of one, half dozen of the other. Why make a change when it has no effect.

MRS. SMITH: Mrs. Reedy, please.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

Item No. 8, page 6, article 8, paragraph 6. The regulations pertaining to special events should be eliminated, including without limitation the limit of 390 individuals per special event. Parentheses, Mar-A-Lago easily accommodates more than 390 individuals and no other clubs' events are subject to such a limit, close parentheses.

MAYOR ILYINSKY: Is that a true statement, no other clubs are limited in numbers?

MRS. SMITH: I am reading the exhibit as submitted by the applicant. Mr. Wyett.

MR. WYETT: Again, I think we have to look back to the Council in 1993 and why the 390 limitation was put in and why Mr. Trump agreed to it. The events, when you hold a charity event or private event and you call it for 7:00 o'clock at night, 390 people, actually it is more when you consider all the staff coming in to service these people. It all occurs in a very narrow period of time for arrival.

Similarly, departure is a very narrow period of time. In between there is no traffic. So the 390 limitation first was put in to control the traffic because we had the Council at that time had seen some major jam ups at Mar-A-Lago and could anticipate a problem.

There hasn't been a problem so far because of the 390 limitation is being easily handled by the club, there is no denial of that. Aided by the fact that we've imposed a large parking requirement. However, an unlimited access for a private function would give us tremendous potential for traffic problems. Can you imagine a thousand people trying to get in between 7:00 and 7:30 and leaving between 11:00 and 11:30? No one would move from north to south.

If there was a fire, the fire trucks couldn't get through. If there was a medical emergency at say 2000 South Ocean and they wanted to get to St. Mary's Hospital, they couldn't get through.

All kinds of public safety issues are at stake. I heard no evidence that this -- to support their position. Furthermore, in order to accommodate--the house itself has a hard time accommodating this number of people. That's a lot of people. And a thousand people, just to use a number, because unlimited it could be a thousand or two thousand, requires tenting, which is often done at Mar-A-Lago. But one of the considerations of the Special Exception is that noise should be taken into consideration. Tents do not contain noise. The more people at a function, the more noise. And residents in this area, while they have made no -- they were not informed -- let me take that back. They weren't able to present the fact that they were subject to noise, it is in many of the letters to the Town. And I certainly do not want to support a situation with the neighbors where they are subject to increased noise.

As a matter of fact, I think one of the things we should be looking at is monitoring of noise, but that's a separate issue. So, unlimited access cannot be supported by the zoning regulations and the traffic problems that are potential and therefore after due discussion I think we should deny.

MRS. SMITH: Mr. McLendon?

MR. MCLENDON: I agree.

MRS. SMITH: Mr. McDonald.

MR. MCDONALD: Mr. Randolph, from your memory, perhaps you can tell me originally when this was passed if you had 500 members, which is the cap, and 500 members were allowed to be there at the same time, so you have 500 people. Why was there a restriction on the number of people for a special event, at whatever this number is, which is considerably less than the membership cap? Would it make any difference if you had 500 members there at one time or 500 people at a special event?

MR. RANDOLPH: I hesitate myself to comment on the evidence as it related to this. I think the minutes that are in evidence do deal with it and --

MR. MCDONALD: Does anyone on the Council have a recollection whether 500 members there at one time or 500 people for a special event made any difference?

MRS. SMITH: We had a long discussion on it and I am trying to find it in the minutes.

Go ahead Mr. Wyett.

MR. WYETT: The Council in 1993 met shortly I believe after a very large party at Mar-A-Lago and the Town did experience just what I was fearful of in my prior comments and I believe that's why it was incorporated.

MR. MCDONALD: Other than that comment, was there any other sort of I suppose objective criteria for that?

MR. WYETT: You are assuming that you have 500 members, which you don't --

MR. MCDONALD: I am assuming nothing. The cap is 500 and if you had 500 members and they were there at one time, how would that differ?

MR. WYETT: I don't know of a club in the world that has had a hundred percent of its members there at one time. That's 500 memberships and most people have spouses and that's a thousand people that could be there at one time.

MR. MCDONALD: I am trying to draw the comparison -- I don't understand the logic that was used at the time that differentiated between the membership cap and the number of members that could be there at one time, as opposed to number of people attending a function.

MR. WYETT: I don't think there was a relationship.

MRS. SMITH: There was and I'll find it.

MR. MCLENDON: I thought it was related to the ability of the place to handle.

MR. MCDONALD: It may have been. If you can handle 500 members and their spouses

MR. MCLENDON: But they wouldn't be there at one time, I guess.

MR. SHAW: The question is half the membership came up at once. What is the definition of a special event? Is that a charity event?

MR. WYETT: It could be a wedding.

MRS. SMITH: Let's ask Mr. Moore. What would special event be defined as?

MR. MOORE: There is no definition of special event. As I understand the application, the use of special event in this case and others would be a charity function, a party that would be given, an event for entertainment of club members and/or their guests. That would be a special event. Other than the normal dining, tennis, spa, now, facility, beach facilities that would be available to club members on an in and out basis.

MR. SHAW: If the special event cap, is that considered an addition to the membership use of the facility?

MR. MOORE: It was contemplated that special events would occur after 6:00 o'clock p.m. in the evening in the Declaration of Use Agreement and I do not believe in 1993 that it was distinguished that there could be more than 390 members and/or their guests. I don't think it was distinguished.

MR. SHAW: So, based on that, there could easily be five or six hundred people?

MR. MOORE: No. That's not what I said. If I misspoke, I apologize. I said there was no differentiation in the 390 between members and guests or an event that would draw members or their guests to the charity function, for instance. Obviously it has to be sponsored by a member. So assuming that the charity function would have both members and guests, it is the interpretation of our office 390 is a cumulative total of the number of folks that would be permitted under that provision of the Declaration of Use Agreement.

MR. SHAW: What I am trying -- what I see this as saying is there could be a limit of 390. Again, I don't know why it wasn't 400; there must be some reason for the number.

MRS. SMITH: It was tied to concurrency.

MR. SHAW: That there be 390. At the same time there are 75 dining, because the 390 are not using the dining room, and there is another 50 or so that are just having drinks at the club at 6:00 o'clock or 7:00 o'clock. So by the time we finish we have a number of people there, we could easily have 500 people.

MR. MOORE: I understand your question now. As the Declaration of Use Agreement is interpreted by our office, there is no prohibition of other club functions to be prohibited during the application of a special event after 6:00 o'clock p.m. or on weekends. So your hypothetical is correct.

MR. SHAW: And the special event is considered charities?

MR. MOORE: No. A charity event is considered a special event. I would like to make sure you have that

distinction.

MR. SHAW: Is the charity event on Tuesday at 3:00 o'clock p.m. part of the agreement, Mr. Moore; is that a permitted use?

MR. MOORE: You haven't given me enough information on that. That's a loaded question, Mr. Shaw, and I would prefer that you give me total information to totally answer. I do know that charity events, special events, excuse me, are precluded from happening prior to 6:00 o'clock p.m. or on weekends. If you are talking about a charity event, that's a luncheon at 3:00 o'clock p.m., for instance, that has a member and a group of members, then it is a member event that happens to be charity, that would not be in violation. But you haven't given me enough information on the hypothetical.

MR. SHAW: It is a pay-to-attend.

MR. MOORE: A pay-to-attend would be in violation.

MR. SHAW: I think there's leeway in the interpretation of the 390 in light of the fact the club still can be used by its members. And that if based on the fact that club activities are still ongoing and a special event can be happening simultaneously, we have to realize we're not talking about 390 people. We could be talking about a total impact of 500 people. It could be more.

We now get into the question if there are -- parking requirements and we use the restaurant criteria of one-for-three. You need approximately 130 spaces just to handle the people that are coming to a special event. And most people don't come in a car with three. I would say the average is two. So that gives you 200 parking spaces just to fit the need of 390 people.

MR. WYETT: Are you saying yes or no to this?

MRS. SMITH: Well, he's getting there.

MR. SHAW: I didn't bring newspaper articles. I'm just working this through. I feel that -- I guess to answer Mr. Wyett's question, I am saying no. But I am trying to get a basis for the no. I think the 390 in itself, because of the number of cars that it generates and the parking spaces that are available, the fact that the club generally, other than the one night I believe it is closed or two nights it is closed, it has the option to have these events all the time.

I think the impact on a residential neighborhood of what is not even club member generated traffic was not the intent of the granting of a club. This is not a question of the members trying to come and as Mr. McDonald pointed out the members can come. This is in addition to members. This is a special event. I think that it is compounding it and I think it looks minimal when you segregate the two. But, when you put them together and understand the total impact, what the club can handle, it is far greater than 390 individuals. And therefore I would move to deny it.

MR. WYETT: I second that and add the provisions, with your permission, to say it would be in violation of Section 6.40, Special Exceptions C, D, G and K. And in my opinion to increase it would smack of creating a commercial nature of the club.

MRS. SMITH: Mr. McDonald?

MR. MCDONALD: No comment.

MRS. SMITH: Mr. McLendon?

MR. MCLENDON: No comment.

MR. WYETT: Did you accept my provisions?

MR. SHAW: Yes, I would accept those.

MRS. SMITH: If there is no further discussion, Mrs. Reedy.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

Article 9, page 6, article 8, paragraph 8. The provision for 252 parking spaces should be eliminated. Parentheses, the club shall always meet parking requirements within the code of ordinances. One parking space for every four members, close parentheses.

Mr. Wyett.

MR. WYETT: I don't really understand why the club wants this removed. With 390 people plus staff coming in, they don't have enough parking. There are times that they would be happy that we impose this parking requirement. The parking facilities are there. I don't believe they intend to rip them up and it is beyond my understanding. I also heard no testimony that would support the removal of the parking spaces and I am just looking in Mr. Brisson's report if he has any comments on that. I don't see it.

Mr. Brisson, did you have any comments?

MR. BRISSON: I don't believe I addressed that issue as far as parking.

MR. WYETT: I rest on what I already said.

MRS. SMITH: Are you finished, Mr. Wyett?

MR. WYETT: Yes. I said I rest.

MRS. SMITH: I didn't hear you.

Mr. McLendon.

MR. MCLENDON: I don't have anything to say, except I don't see any reason to remove it.

MRS. SMITH: Mr. McDonald?

MR. MCDONALD: Again, since it obviously exceeds the ordinance, what was the provision intended to do at the time it was passed? Mr. Randolph, do you recall? It exceeds the ordinance so -- just so it would be a smoother flow of traffic.

MR. RANDOLPH: Again, I don't recall without referring to the minutes of that I believe that the -- I believe that that number, just as the 390 may have come to us from the applicant, as to the number of parking spaces. But I can't recall and I hesitate again to comment on the evidence without checking what's in the record.

MRS. SMITH: Let's go back and look, because these numbers, while they seem as odd numbers, there was a great deal of discussion on the numbers with the applicant starting members and we bounced between 475 for the initial membership list and 611. The 252 parking spaces we can certainly find -- I don't want to sound too bright here and sound like an advocate or anything. Let me just go ahead and find it and perhaps I can answer your question.

MR. MCDONALD: Mr. Moore, do you recall any other instances where we would require someone to exceed the ordinance in terms of parking spaces, where we're entered into an agreement requiring in excess of the code for parking spaces?

MR. MOORE: I do not recall. Except when it was requested by the applicant that there would be additional parking spaces. If I might, I think the 252 parking spaces came from the initial application for a number of around a thousand members in 1993. I think this was the multiplier that came to 252.

MR. MCDONALD: If that's correct and they offered to do it and they don't want to do it any more, I don't have a big problem with that, as long as they still comply with the ordinance. I don't have any strong persuasion either way.

But if it was something they indicated and said they were going to do and now they want to change their mind and they still meet the ordinance, I have no problem.

MR. WYETT: I would suspect having an adequate number of parking spaces facilitates the taking of cars in a rush period of time and I just don't know why we're even hearing this. And I didn't hear any evidence either, other than the fact that it exceeds what we would impose upon everyone else.

You have to remember, Mar-A-Lago is something special we did. We allowed a commercial operation to infringe upon a private residential zone. And we put special provisions in to protect the balance of this residential zone. This has invaded the buffer concept. And we must protect the residents of the Town of Palm Beach against

commercial intrusion and we put this provision in and I urge that it remain.

MR. MCDONALD: I understand that and certainly agree with that. My question is: was it something that they offered and the Council didn't care one way or the other whether it was 252 or whether it just met the code under the ordinance?

MR. MOORE: Mrs. Smith --

MRS. SMITH: Please. But do clarify the Council cared about everything.

MR. MOORE: Absolutely. They did care about it. The 252 -- I should have perhaps given you a more complete answer Mr. McDonald. The 252, originally the number came about by the original application and then the number of members was negotiated back and forth between the Council and the applicant.

The 252 stayed in to help accommodate the special events that were contemplated. So there was a nexus between the 252 and the special events as well. But the originality of the original 252 came from one-per-four members, plus some loading zones and so forth.

MRS. SMITH: Right. And it is covered in the minutes of the June 3, 1993 meeting where the discussion on the number of memberships was between the Council and Mr. Rampell. And they initially started -- and that's where the figure came from of 1,008 and that's how we got the 252. We tied it in, because the main concern of the Council at that time, and it still remains, was the impact of the first private club to be established in a residential area.

I could go on, but I might sound too strong and advocarial, so I think I'll stop.

Is there any further discussion?

MR. MCLENDON: I need to say something.

MRS. SMITH: Mr. McLendon.

MR. MCLENDON: Mr. Wyett mentioned about the Town previously approving a commercial venture. I don't think that was the intent at all.

MR. WYETT: I didn't say it was intent. I said preventing further intrusion.

MR. MCLENDON: I think it turned out to be in that direction, but I certainly don't think this was the original intent.

MRS. SMITH: Is there any further discussion?

MR. WYETT: I move to deny.

MR. MCLENDON: Second.

MRS. SMITH: And you gave your findings?

MR. WYETT: There is no evidence to support the change.

MRS. SMITH: Call the question.

MR. WYETT: No compelling evidence, I would say.

MRS. SMITH: Mr. McLendon seconded.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

Item No. 10, page 6, article 9, paragraph 1. The provision regarding the payment of real estate taxes, maintenance, insurance and expenses by Donald J. Trump. Parentheses, the Town of Palm Beach should not regulate the internal operation of the club. Mr. Trump has and will continue to pay all such expenses, close parentheses.

Mr. McLendon.

MR. MCLENDON: This is a juggling ball in my opinion. I don't think that anyone here or elsewhere that I know would agree to pick up the shortfall of revenue to expenses and not own the property. And yet I think that's what has created what appears to be a commercial situation with one owner; that the members do not really own anything except a piece of per recognizing the deposit.

It truly would be a private club if the transfer of club decisions would be given to the members. And yet I can understand why it is not, if Mr. Trump is having to pick up all the expenses. I don't know why this was in there in the first place.

MRS. SMITH: Mr. Wyett.

MR. WYETT: I think you could make some comments on that, you were the president at that time.

MRS. SMITH: You are looking at me?

MR. WYETT: Yes. I do suppose it was a recommendation, possibly it was a recommendation. I can't really speak for the Preservation Society group, to make sure Mar-A-Lago was preserved forever. If it wasn't their idea, it was still a good idea. Because if the premise for this club being established was this was a means of preserving the building and grounds, and without some financial guarantees, what was the guarantee worth? I don't believe that the present members would have joined this club as freely -- many would have joined, but not as freely, should they think they would have to pick up the tab.

MAYOR ILYINSKY: Why?

MR. WYETT: I don't know if they would join as freely if they had to pick up the tab.

MAYOR ILYINSKY: You're right. That's why that was in there.

MR. WYETT: The provision is provisional, because if the club operates for three years at a profit, this provision is dropped.

MR. MOORE: Break even or profit.

MR. WYETT: So it is premature and unnecessary. If this club is going to be a success, as Mr. Trump claims almost every day of the year, why is he asking to be relieved of the financial obligation?

MRS. SMITH: Perhaps he would like the members to pay the taxes.

Mr. McDonald?

MR. MCDONALD: I have no comments.

MRS. SMITH: Mr. Shaw?

MR. SHAW: No comments.

MRS. SMITH: So, gentlemen, what would you like to do?

MR. WYETT: I move to deny.

MRS. SMITH: Is there a second?

MR. MCLENDON: Second.

MR. WYETT: I move to deny because I heard no evidence to support the request, no substantial evidence.

MRS. SMITH: That's fine. Call the question.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

Item No. 11, page 6, article 9, paragraph 2. The requirement of a separate fiduciary account into which 10 percent of all gross revenues from guest suites shall be deposited and used for maintenance and restoration shall be eliminated. Parentheses, again the Town should not regulate the internal financial operation of the club, close parentheses.

Who would like to start? This has to do with preservation aspects of the property.

You all know that.

Mr. Wyett.

MR. WYETT: Since there are really nine guest suites, because one is occupied full-time by Mr. Trump and his family, the total number of dollars involved are very insignificant. And I happen to agree that we shouldn't be involved in worrying how the rooms should be maintained. The rooms will be maintained as long as the club is maintained. If the club isn't maintained, the rooms wouldn't be maintained.

Therefore for discussion, I would agree to eliminate the provision.

MRS. SMITH: Mr. McLendon.

MR. MCLENDON: I agree. It doesn't have any place in the agreement.

MR. SHAW: I don't think it should be part of the agreement and I don't think that the dollar value that is generated by it would even come close to any form of maintenance or restoration of Mar-A-Lago. It becomes more of a -- sort of a petty cash fund almost. It is like loose change in comparison to what the overhead is. So I don't think it is necessary.

MRS. SMITH: Do you know how much is in the account?

MR. SHAW: Well, I don't. But I did some math. If you take 10 percent of the rooms that are rented, on the basis even if they were rented all the time, we're not looking at a great deal of money. The rooms go between \$500 and a thousand dollars a night.

MRS. SMITH: I had no idea what they were getting.

MR. SHAW: If you take out the nine rooms, again, just if you go to the extreme with it, it is not going to cover an expense issue and I don't think it changes whether he draws 10 percent out of a fiduciary account to pay for the restoration and then meets the balance of it under the agreement to maintain the club, unless there is some outside body that is going to stipulate how the money gets spent.

In other words, if there is money that's being put in a trust that allows a third party to come in to do restoration, that may not be maintained by him, then I think it has a valid claim. But, if he is the controller of the funds and spender of the funds, it is the same person.

MRS. SMITH: Once again, the Council didn't ask what was the background on this provision from 1993. And it was put in because the Council at that time was very concerned about the preservation of Mar-A-Lago and the preservation easements had not been donated to the National Historic Trust at that time.

The recommendation was brought up by Mrs. Douthit. The Council had no idea of the membership or what would happen and this was tied in with what was going to be a preservation board that would be members of the Mar-A-Lago Club. And it would be used for the restoration and preservation of the property as a landmark. And that was the reason it was put in and it was agreed to by all parties. If I could find it in the agreement I could tell you that Mr. Rampell accepted the condition very, very happily.

MR. MCLENDON: Do you mean the agreement?

MRS. SMITH: The discussion from the minutes. I think it is in the June 1, 1993 minutes. And that was the reason it was put into place. It was not put in to involve ourselves in the financial dealings of the Mar-A-Lago Club, any

more than the discussion on the unity of title and payment of the bills.

Is there any further discussion?

MR. SHAW: Was the money to go --

MRS. SMITH: It was 10 percent of the money from the guest suites was to go into a separate account that would be used for the maintenance and preservation of Mar-A-Lago as a National Historic Landmark.

MR. SHAW: But who administered that money? If it is the same person that's fixing the building anyhow, then I don't see -- I understand what you are saying. If 10 percent goes into a trust that is set aside, that is building annually for preservation, that they have to pick up in the event that it is not maintained, I can see the purpose of it.

MRS. SMITH: But the Council at that time was looking at the overall picture of the Club Mar-A-Lago in the years to come, that it would be established. It was not looking at something that would happen the next year or year after. So it did not feel necessary with the agreement of the applicant, Mr. Trump and Mr. Rampell, that we were all trying to preserve the property, to really specify who was paying the bills.

It was stipulated that this was to be a club owned by the members and that the members would all be shareholders and there would not be one shareholder. So the question of Mr. Trump doing it by himself was not something that the Council --

MR. SHAW: Now that is not the case. Now it is a one owner --

MRS. SMITH: Mr. Shaw, I don't know what the case is at Mar-A-Lago. I don't. I don't know if the shareholders or the members own the club. I understand you and Mr. McDonald are not shareholders. That was in the letter that came in. But I don't know who is and who isn't, but that was the intent of the Council to, as a preservation fund, to protect a National Historic Landmark.

MR. WYETT: Mrs. Smith, what is your position? I am a little confused.

MRS. SMITH: I wasn't expressing a position. I was giving the background, because this is one of the questions that the Council did not ask -- did not ask why the Council had decided to do this in 1993 and I was merely giving you the background. Because this one I happen to remember.

You will find out my position when I call the question and vote. But I am in favor of preservation of any landmark and anything I can do to help that I will continue to support.

MR. SHAW: I asked before, does the fund exist and is it a fund that is simply building or is it something that is being used as a part of the ongoing maintenance of the facility? That's what I don't -- I don't see in this document where that's defined.

MRS. SMITH: Did you hear any testimony during the three days?

MR. SHAW: None.

MRS. SMITH: Any testimony about this fund?

MR. SHAW: No.

MRS. SMITH: Did anybody ask any questions about this fund?

MR. SHAW: No.

MRS. SMITH: So did you hear any testimony that would lead you to believe that this should be eliminated?

MR. SHAW: I guess I am saying I don't have any testimony to believe that it really exists. If it is a fund that may be there, but the money goes in and comes out on an annual basis to maintain the club --

MR. WYETT: I think I see one reason to retain it. And that is in the event that the club becomes member-owned and at that time the Council I think believed the club was going to become member-owned. It was only after Mr. Trump decided not to have it member owned. It therefore imposed upon the club the obligation to maintain the rooms from a preservation point of view. I do agree with Mr. Shaw that if money goes from pocket A to pocket B, the only down side to Mr. Trump is that he has to maintain a separate fund, which he may not need, having restored the club just and it should stay in pretty good shape. As broad as it is long, keep it. If you want to impose it upon future ownership, that provision. Eliminate it if you think it is just transferring money from pocket A to pocket B.

MRS. SMITH: Any further discussion? Call the question.

MR. MCLENDON: What's the motion?

THE CLERK: We don't have a motion.

MR. WYETT: No, I made no motion.

MRS. SMITH: I'm sorry.

Gentlemen, did you make a motion,

Mr. Shaw?

MR. WYETT: I'll make a motion.

MRS. SMITH: Just a minute, Mr. Wyett.

MR. SHAW: I didn't. If you don't want to, Mr. Wyett, I will.

MR. SHAW: Either way.

MR. WYETT: I'll make a motion to eliminate the provision as long as Donald Trump remains sole owner and the provision shall remain should the club be membership owned.

MR. MCLENDON: Say it again.

MR. WYETT: Eliminate the requirement of a separate fund as long as the club is owned by Mr. Trump. And in the event the members own it, the provision should be restored.

MRS. SMITH: Is there a second?

MR. MCLENDON: I'll second, but I thought somebody else might.

MRS. SMITH: There is only so many of us up here.

Is there any further discussion?

MR. SHAW: I think it should be redefined what the fund is for. Is it set aside annually?

I think it should be in the custodial care of the National Trust, if that's who is responsible for it. And the way it reads right now it is pocket A to pocket B. So I would rather see it be amended to accomplish what was the intent.

MRS. SMITH: I don't believe that --

Mr. Wyett, are you making that motion on the basis that you know there actually is a fund with money in it?

MR. WYETT: I have no idea whatsoever. I don't know there was any requirement they should notify us of the amount of money in the fund. Mr. Trump has been -- I guess he has been pushed for answers; he doesn't volunteer them.

MRS. SMITH: Do you know that Mr. Trump is still the only shareholder of the club?

MR. WYETT: I think that has been represented in the paperwork that has come in here.

MR. SHAW: Maybe Mr. Moore knows.

MR. MOORE: Not unless asked.

MRS. SMITH: Consider yourself asked.

MR. MOORE: There is an independent fund that was set up. It was required to be set up. It is for 10 percent of room revenues achieved from the use of the guest suites that are on the property. It was verified by CPA to the Town that the fund did exist and 10 percent of the revenues received were placed in the special fund.

So the answer is that it does exist. A percent was placed into it as per the agreement and the amount of that 10 percent was not indicated to the Town, nor was it required to be.

MR. SHAW: Did exist and then you said does exist?

MR. MOORE: Does exist as of the Town serving letter this past April.

MR. SHAW: Those monies are not spent on an annual basis?

MR. MOORE: There is no indication how the monies are spent.

MRS. SMITH: If the motion to eliminate this provision is passed, what would happen to the money that's in the account? Are you guessing? Of course you are guessing.

MR. WYETT: I would say except Mr. Shaw's comment that it is pocket A to pocket B as long as Mr. Trump owns the club, he doesn't need a fund. Let's say he had a fire in one of the rooms. He is going to restore it. He is certainly not going to leave a damaged room or any damage at the club.

If you feel the need based on the 1993 decisions, it was more aimed at a membership owned club, rather than a privately owned club.

MRS. SMITH: So you are allowing the abolition of this fund and the money to go to Mr. Trump?

MR. SHAW: I ask that you reconsider and say this fund be established, but it needs to be established with a trustee and possibly the National Trust as trustee and make sure the monies are there.

MR. WYETT: I don't really disagree with you, Mr. Shaw. I have to ask Mr. Randolph whether we can impose that provision as something new. It is not part of the petition.

MR. RANDOLPH: If you are going to grant any part of the Special Exception with modifications, the modification is going to have to be acceptable to the applicant. And, if not, the provision as it exists will remain.

MRS. SMITH: Gentlemen, is there further discussion? You are leaving the motion stand the way it is?

MR. WYETT: Yes.

MR. MCLENDON: What's the motion again?

MR. WYETT: To allow Mr. Trump to discontinue and recoup the amount of money in the fund, but imposes upon a future change of ownership to a member-owned club to restore that fund, should such exist and commence.

MRS. SMITH: Is the motion clear to everyone?

MR. SHAW: Yes.

MRS. SMITH: Mrs. Reedy.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: No.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: No.

Motion passes. The fund is abolished until future notice. That covers the 11 requests for regulation changes in the Mar-A-Lago application.

MR. RANDOLPH: May I?

MRS. SMITH: Mr. Randolph, please.

MR. RANDOLPH: The application you have before you is to eliminate all conditions which have been discharged fully, which you dealt with when you talked about the various items that needed to be complied under item A.

But item B is to eliminate all regulations there under which do not apply to other private clubs in the Town of Palm Beach.

The list that the applicant attached to the application is a list of examples of the types of regulations which apply to the Mar-A-Lago Club, which allegedly do not apply to other private clubs in the Town of Palm Beach. In fact, the application says such as the following, and then it goes down the regulations that you've just acted upon.

Mr. Castro attempted to get a more specific list of all of the regulations that the applicant was attempting to deal with in the application and received a letter back dated September 3 from Mr. Rampell which indicated that the Mar-A-Lago Club seeks the elimination of all conditions in the Declaration of Use Agreement which have been discharged fully, which I believe you've dealt with.

And then it says at the beginning, "I am in receipt of your August 16 letter in which you seek an itemization of requirements in the Declaration of Use Agreement which we request be terminated."

As to the regulations that you've just dealt with, the letter states, "We seek the removal of any and all regulations which apply to the Mar-A-Lago Club, but do not apply to any other club in the Town of Palm Beach. This equality in treatment can be accomplished by a one sentence statement, "The club shall be subject only to the same regulations presently governing other private social clubs in the Town, notwithstanding any other provisions of this agreement."

"The exact itemization of regulations is unnecessary toward the paramount objective of equality in the application. Some regulations in the agreement already apply to all clubs. Some regulations, especially the prohibition of discrimination, could and should apply to all clubs."

The reason for my saying this is that you haven't dealt with everything that has been requested in the application. You have dealt with the examples of the type of regulations that the applicant sought to have eliminated.

You could attempt to go through the Declaration of Use Agreement and identify each and every other restriction or regulation, or you could simply deal with the remaining regulations and restrictions within the Declaration of Use Agreement, I suppose, by one discussion. That's up to you. There are many, many regulations within the agreement that have not been addressed.

MR. WYETT: It is 1:00 o'clock. If this is going to take a lot of time, we need to have lunch.

MRS. SMITH: This is going to take

I am going to call a lunch break. We'll be back at 2:15.

(There upon the lunch recess was had.)

MRS. SMITH: I would like to reconvene the Town Council meeting of November 20.

Mr. Randolph, please.

MR. RANDOLPH: I would like to attempt to clarify what I said at the end of the meeting, in case there has been any misunderstanding in regard to it.

You have gone through examples listed by the applicant of provisions that should be removed from the agreement because they apply to the Mar-A-Lago Club alone and no other private club in the Town of Palm Beach. They were listed only as examples, however. And I would like to read a portion of the application. First, the Special Exception requested is an amendment to the Declaration of Use Agreement by the Town of Palm Beach, the Mar-A-Lago Club and Donald J. Trump dated August 10, 1993 to eliminate, A, all conditions there under which have been discharged fully. I believe you've dealt with that item. B, all regulations there under which do not apply to other private clubs in the Town of Palm Beach. And then the following paragraph is included: "The club is subject to multiple regulations which apply to it alone and no other private club in the Town of Palm Beach. These regulations as imposed upon the club over time are discriminatory, unfair and unconstitutional. Moreover, they bear reasonable relationship to public policies of the Town of Palm Beach. The regulations only applicable to the Mar-A-Lago Club exist throughout the agreement. The following are examples of such regulations which should be terminated."

You have dealt with all of those examples in item B. However, I believe the application is more inclusive and asks you to remove any and all conditions and regulations which the applicant believes should not be applied to the Mar-A-Lago Club alone, for the reasons stated in the application.

Therefore, if you, in reviewing the Declaration of Use Agreement, can identify regulations which you believe should be eliminated on the basis of the request in the application, you should identify those and deal with them.

If, on the other hand, you've reviewed the Declaration of Use Agreement and you do not believe that the evidence supports removing those, you can do it in that manner. So you can do it -- does that make it any more clear than the first time?

MRS. SMITH: Yes, it does.

Mr. McLendon and Mr. Wyett.

MR. MCLENDON: I believe it would be appropriate to recommend and move that any provisions of the use agreement not be separated at this point remain unchanged.

MRS. SMITH: We have a motion. Do I have a second?

MR. WYETT: Second.

MRS. SMITH: Discussion, Mr. Wyett, please.

MR. WYETT: I quickly have speed read the agreement, just coming back from lunch, I am not an expert. If we were to drop specific recommendations in the agreement, then the owners of Woodbridge Road residences shall have guest privileges, which they don't have guest privileges by agreement with any other club. I have three or four or five items, valet parking would be used at all club events. That's not required of the other clubs. I think they just do it. But basically all the provisions, including the ones we just reviewed, were the lubricant that allowed Mar-A-Lago to exist in the first place. Without this lubricant in the provisions of the Declaration of Use Agreement, Mar-A-Lago would never have been passed. It was an insertion into a residential zone and the provisions in the Declaration of Use Agreement, totally agreed to after many days of negotiation and public hearings, were arrived at to allow this club to exist in the first place.

It is absolutely ridiculous for Mr. Trump to claim discrimination based on a privilege that we gave him in the first place. There is no discrimination by the Town of Palm Beach and I know that Mr. Trump's attorney, especially his constitutional attorneys, will disagree, but I think all the residents of this Town are perfectly satisfied that there is no discrimination against Donald Trump and his conditions that he puts forth are a phoney argument as far as I am concerned.

MR. MCDONALD: No comment.

MRS. SMITH: Mr. Shaw?

Mr. SHAW: I don't have anything.

MR. RANDOLPH: The maker of the motion, can you include a reason for the motion and a finding.

MR. MCLENDON: Well, there has been no evidence to address any of these other issues almost concluded that it wasn't necessary. But, for the record, I think it should be done so that there is clarity.

MRS. SMITH: All right. Thank you, Mr. McLendon.

MR. MCLENDON: I would like to make one other comment. It sort of echoes what Mr. Wyett said. And, for the record, I have seen no evidence of this Council, nor do I think there was any of the previous Council that displays any discrimination and I think that's an inappropriate discussion.

MRS. SMITH: Thank you Mr. Wyett and Mr. McLendon.

I think we all agree the Mar-A-Lago Club is unique and unique in where it is located and unique in its being organized only three years ago. The various clubs are under various controls due to history and the grandfathering.

And the Council, both today and three years ago, looked at the applications and gave the applicant due process and a fair hearing. And there was never any discrimination towards the Mar-A-Lago Club or its owner by this Council, I believe, or the previous Council. I was very happy to be sitting on both.

Any further discussion? Call the motion.

THE CLERK: Mr. McLendon.

MR. MCLENDON: Yes.

THE CLERK: Mr. Wyett.

MR. WYETT: Yes.

THE CLERK: Mr. Shaw.

MR. SHAW: Yes.

THE CLERK: Mr. McDonald.

MR. MCDONALD: Yes.

THE CLERK: Mrs. Smith.

MRS. SMITH: Yes.

Is there anything else, Mr. Randolph, that we should cover on this item on the agenda which is Special Exception 18-96?

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON 11/20/96

MR. RANDOLPH: I believe you've addressed the application, each of the individual items, and then you made a motion that you basically -- basically which denies a request to change any of the other conditions which exist within the agreement, thereby ratifying those conditions.

So other than that, I don't know of anything else that's before you today.

MRS. SMITH: Thank you very much. That concludes item No. 3 on the agenda.

MR. SHAW: I would like to say something sort of as a follow-up to Mr. McDonald's opening comments. From the on start of this meeting I've received a number of letters, all of which are public record, indicating that I couldn't vote and I shouldn't vote. I think that this Council has shown the fact that, regardless of our personal lives are, that we understand our obligation to the community and the reason we were elected to serve on the Town Council.

I hope that this stands as a -- I guess a standard for future councils and for the public as a whole to have faith in the people that you elected to do the job you elected us to do, and don't rely on the fact that you think we don't know how to do it. We know what we committed for, I will say specifically I know what I committed for, and I know my responsibilities to myself and to the Town, and I take them very seriously. And I hope I never have to do this again, but if I do, please be assured I know how to vote and how to address the issues that are confronting the Town.

MRS. SMITH: Mr. Mayor.

MAYOR ILYINSKY: Let me say this: There is no question in my mind that this has become or was the most controversial wings of a dilemma that I've ever been on since I've even lived in Palm Beach. I would thank everyone for their behavior today.

As you know, I was deeply hurt personally, because of Jewish members of my family, when I was accused of being anti-Semitic and I said some things a gentleman shouldn't say, for which once again I apologize in public, if that gentleman is here.

There was never a question in my mind that this Council would behave exactly as it should, the way it was supposed to behave, when you elected them. You are responsible for every single person sitting up here, including myself. And as such, regardless how this worked out today, you should be proud of these ladies and gentlemen, because they've done precisely what Palm Beach intended to have happen years and years ago. And I say again that, while I was very happy not to have a vote during these hearings, I am extremely proud, not necessarily of the way this thing came out, I am not going to commit myself to that, but I am very proud of the fact Leslie Shaw, who has once again given my speech for me, and I am getting tired of that Leslie, is absolutely right.

So, my congratulations to everyone involved in this, including the Town's Attorney, who is expected to behave beautifully and, of course, he did. He has been enormous help and I thank him very much. To the rest of you, have faith in your Council. They are not going to let you down.

MRS. SMITH: Thank you, Mr. Mayor. If there are no other comments and there are no other matters, I will take a motion to adjourn.

MR. WYETT: So moved.

THE COURT: Thank you very much. We are adjourned.

Thereupon the meeting was adjourned at 2:45 p.m.

(The foregoing minutes were prepared from information provided by Murdock, Witt, Levy & Consor Reporting Agency, Inc.)

Mary A. Pollitt, Town Clerk