

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON APRIL 15, 1999, APRIL 16, 1999,
AND APRIL 20, 1999 REGARDING MAR-A-LAGO**
SPECIAL EXCEPTION NO. 9-99

I. CALL TO ORDER AND ROLL CALL

The Special Town Council meeting regarding the Mar-A-Lago Special Exception No. 9-99 was called to order at 9:34 A.M. on Thursday, April 15, 1999, in the Town Council Chambers. On roll call the following Elected Officials were found to be in attendance: Mayor Paul Ilyinsky, President Lesly Smith, President Pro-Tem Allen Wyett, Councilman Jack McDonald, Councilman Samuel McLendon, and Councilman Leslie Shaw. Also in attendance for all or a portion of this meeting, which was reconvened on Friday, April 26, 1999, which meeting was reconvened on Tuesday, April 20, 1999, were Town Manager Robert Doney, Town Attorney John Randolph, Planning, Zoning & Building Director Robert Moore, Zoning Administrator Paul Castro, Planner/Projects Coordinator Timothy Frank, Fire-Rescue Chief Vincent Elmore, Police Chief Frank Croft, Public Works Director Al Dusey, Town Engineer James Bowser, and Deputy Town Clerk Susan Eichhorn.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Deputy Town Clerk Susan Eichhorn. President Smith led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

President Pro-Tem Wyett moved approval of the Agenda. The motion was seconded by Councilman McLendon. On roll call the motion carried unanimously.

IV. SPECIAL EXCEPTION NO. 9-99 WITH SITE PLAN REVIEW - MAR-A-LAGO CLUB, 1100 South Ocean Boulevard, located in the R-A and R-AA Zoning Districts. To allow modification to Special Exception Approval No. 11-93, establishing the club, and to the Declaration of Use Agreement, a condition of the Club's approval. Applicant proposes: to add 14 oceanfront cabanas, swimming pool, deck, snack bar, changing rooms, and restrooms on the bulkheaded beach area; to replace the tent with a permanent pavilion building; to exclude 124 Woodbridge, a 6,250 sq. ft. parcel, from the previous Special Exception approval; and to allow elimination or amendment of operational limitations imposed including Club membership limitation, limitation on attendance at special events, the on-site trip limitations and traffic monitoring requirements, and the dining area seating limitation. A proposed Master Plan is on file at the Building Department.

The Town Clerk administered the oath to all those who would be testifying.

Attorney Ray Royce addressed the Town Council clarifying that he would address all of the items requested separately, requesting that the application and all exhibits be made part of the official record.

Attorney Ron Kolins commented that he believed that all of the items should be dealt with collectively, since many responses to the plans would be on a collective basis, suggesting that the entire presentation be made.

President Smith polled the members of the Town Council, who agreed that the items would be heard on a separate basis.

Attorney Royce stated that the Town of Palm Beach had approved the Mar-A-Lago Club in 1993 by Special Exception 11-93, and that today an amendment to that Special Exception was being sought. He explained that the terms and conditions of that approval were set forth in the Declaration of Use Agreement dated August 1, 1993. The Club

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had opened in 1995, and in 1996 an application was filed to amend and eliminate a number of conditions; a few were granted; most were not. Litigation ensued, and was subsequently withdrawn. It was suggested to the Club that a comprehensive plan for the future operation of the Club would be in order. Such a plan had now been prepared, and was attached to and made a part of the application today, setting forth the intentions and the plans of the Club over a 5-year period.

Attorney Royce explained that the Declaration of Use Agreement contemplated changes, and that any changes would require a new application. He commented that the sole concerns of the Town should be the external impact of the proposed requests, and that evidence would show that the Club met concurrency requirements of Palm Beach County and of the Town of Palm Beach. He maintained that the Club was willing to work with the Town to address any concerns, and make reasonable efforts to minimize adverse impacts in the community. He advised that the Club had been quite satisfied that it had not caused any serious traffic problems in the community. There were unique circumstances that had caused a traffic problem with a Celine Dion charitable event, however, the Club had addressed those problems. He expressed that there was a need to address the limitations on the numbers of people attending events, which was no longer realistic, and was not in concert with other clubs operating in residential areas. Attorney Royce introduced Mr. Wes Blackman, Director of Projects at the Mar-A-Lago Club.

At this time ex-parte communication was declared by Councilman McDonald, who stated that he had never discussed the merits of the project with anyone, however, many people had talked to him about the project; by President Pro-Tem Wyatt, who stated that he had communicated with the Town Building Department and with Attorney Royce; by President Smith who had spoken with Attorney Royce on the merits of the application, as well as with Attorney Kolins, and general discussions with numerous residents; by Mayor Ilyinsky who had talked to many residents, and had discussed the application with Attorney Royce via telephone; by Councilman Shaw with Attorney Royce to discuss the merits of the application, with Attorney Kolins to visit the property of his client and consider its relationship to the Mar-A-Lago Club, and also had heard from many residents; by Councilman McLendon, who had met with Attorney Royce and Mr. Blackman on site to review the plans, and had met with Attorney Kolins to listen to his comments and views, and had heard many comments from the public.

Mr. Wes Blackman, Mar-A-Lago Director of Projects, addressed the Town Council, stating that the Club was completing its fourth full season of operation, and that certain needs had become apparent. A master plan had been assembled, which was included as part of the Special Exception Application, and included two main parts: the Club's physical development, and operational considerations included in the Declaration of Use Agreement. There were 12 objectives included in the master plan that helped guide the operations of the Mar-A-Lago Club. He explained that the physical needs of the Club included the 14 beach cabanas, snack bar, restrooms, and the pool east of A-1-A; the pavilion building; and the elimination of the Woodbridge Road lot from the Mar-A-Lago property. Mr. Blackman explained that he would make a general presentation discussing the problems being solved in the design development process for each of the three items; at the end of each item the experts would be presented for testimony.

Mr. Blackman presented graphics of the areas being discussed, noting that the beach east of A-1-A consisted of approximately one acre, and the request for beach cabanas included opaque second floor windows, which were not operable. The proposed building would be L-shaped and contain 13 cabanas, two on the top floor and 11 on the bottom. The southern building was proposed to be a two story building containing the snack bar, restrooms, changing rooms, and one cabana on the second floor, with a large pool in the center of the property. The buildings would be lower in height than adjacent buildings. There would be a triple layer of landscaping to screen the north and south buildings from adjacent properties. All air conditioning related equipment would be enclosed within both of the buildings. No eating would take place east of the southern cabana. The cabanas would be offered on a daily basis.

Planner Henry Skokowski, of Urban Design Studio, addressed the Town Council, submitting his resume for the record, stating that he would comment on the requirements of the Town for the approval of a special exception and the approval of a site plan review, both of which were before the Town Council for consideration today. He explained that there were six primary elements to consider: 1) consistency with the Comprehensive Plan; 2) consistency with the land development regulations; 3) compatibility with the neighborhood; 4) consistency with health, safety, and welfare objectives; 5) the provision of adequate ingress and egress; 6) that the special exception be Town-serving. Mr. Skokowski maintained that all of these elements were properly addressed in the proposal submitted, explaining in detail. He concluded that approval of the request would not affect the public interest, and that all zoning requirements had been met, and that satisfactory provision had been made for the 11 requirements in the Zoning Code for site plan review.

Mr. Kieran Kilday, Vice President of Kilday & Associates, Inc., Landscape Architects/Land Planners, addressed the Town Council, submitting his resume for the record, and commenting on the Comprehensive Plan issues. He stated that the Comprehensive Plan of Palm Beach was unusual in the predominance of discussion of private club uses within the Plan. He addressed the three elements of the plan that most pertained to the application today: the land use element, the recreation element, and the historic element.

Ms. Diane Jenkins, State Certified Real Estate Appraiser, and a State of Florida Licensed Real Estate Broker, addressed the Town Council, stating that she had conducted an analysis by looking at properties in close proximity to the Club, as well as adjacent properties to the North, comparing them as to values to see whether properties closer to the Club sold for lesser value than those further north. She did not find that there was any differential in the valuation. She noted that she had also spoken to other brokers, and their reaction was that they had not encountered any negative reaction from their clientele. She advised that she did not believe that the proposed improvements would have any negative impact on the neighborhood.

Attorney Randolph requested that all those giving expert testimony provide a resume, or brief explanation of their experience and expertise.

Zoning Administrator Paul Castro provided the following staff comments relating to the beach cabanas: the outside activities related to the beach cabanas had been screened and buffered from the neighboring property to the north and to the south with the cabana buildings themselves. He noted that all staff comments were detailed in a memorandum dated April 13, 1999. He stated that concurrency was based on membership, and not facilities, since the facilities were related to the membership amenities themselves. Comments from the Building Department: the bulkhead did not meet the minimum requirements of the Town Code. Applicant would need to provide a structural bulkhead at an elevation of 14.43' above sea level, a structural analysis of the existing bulkhead. Access gates would need to be relocated to provide an 18' setback from South Ocean Blvd. The gate and access drive would need to be widened; said gate and drive should not be used for vehicular access. All pedestrians should be required to use the pedestrian tunnel for access to the beach. Physically challenged people should be provided with access from the main property via a widened pedestrian tunnel. A utility plan would need to be provided to indicate all utility service would be provided to the beach property. The plan should also indicate how the construction of said utilities would be accomplished without interruption of traffic on South Ocean Blvd. Lighting requirements would need to meet the requirements of the Department of Environmental Protection for the protection of nesting turtles. The hours of use of all facilities on the beach property should be addressed. If the application was approved, access for construction and the loading and unloading of construction material should be worked out at a pre-construction meeting with the staff. The beach property improvements, other than the bulkhead, should not be started until the temporary middle bridge was completed. Construction should be limited to occur only between May 1st and November 15th, so that construction traffic would not negatively impact the segments of South Ocean Blvd., and the Southern Blvd. bridge adjacent to Mar-A-Lago during peak season. There should be no open air entertainment on all of the Mar-A-Lago property itself that would exceed the acceptable noise decibels in the Town. Town Engineer: the service driveway on the beach side of South Ocean Blvd. was not a suitable location for the proposed automobile handicapped access; there was insufficient site clearance for a vehicle to safely leave the property; service carts could continue to utilize this access safely; the plan did not identify how waste water was to leave the beach site; there were no Town owned gravity mains adjacent to the site, and a pump station would be required; a structural analysis was needed on the seawall; the storm drainage calculations on the beach site must be provided; Town standards for concurrency must be met; a Florida Department of Transportation (FDOT) permit must be secured for discharge, if discharge is made onto South Ocean Blvd.; discharge to the beach would not be permitted; sewage blows generated by the property must be re-calculated; pumps must be verified in the existing pump station to be adequate; verify that floats are set at a proper elevation; facilities need to be updated as required; garbage and recycled material must be transported from the beach site to the main site for pick up by the Public Works Department; during construction there should be no blocking or obstructing of South Ocean Blvd. Fire-Rescue Department: all new structures should be protected by an approved fire-sprinkler system; a fire stand pipe system should be installed on the east side of South Ocean Blvd. to protect the oceanfront cabanas and other structures; the entry gates for emergency personnel should be installed at the north and south ends of the property on the east side of South Ocean Blvd.; parking shall be provided for emergency vehicles to service emergencies on the property east of South Ocean Blvd. Police Department: the development plans for the Mar-A-Lago property east of South Ocean Blvd. must include accessibility of the area to public safety personnel of the Police and Fire-Rescue Departments, and must provide a location to park their emergency vehicles; the design should include facilities for pedestrian access and the delivery/removal of equipment and supplies without crossing South Ocean Blvd.; significant pedestrian or golf cart traffic across South Ocean Blvd. from the main part of the Club to the beach area would be unsafe. Town Manager: concurs with the above comments. Comprehensive Plan: activities seem to generate an intensification of use, which should be studied and evaluated as to the affect on the infrastructure itself.

Attorney Royce suggested that a wider tunnel was not necessary, as the tunnel was 6' wide, and a wider tunnel would be tremendously expensive, would disrupt traffic, and would not be worth the effort. He proposed that the staff condition for the access gate be met, and that when a non-ambulatory person wished to use the facilities, he/she could come to the front door of the Club and then be taken through the access gate by Club staff. He suggested that the applicant could work with staff via a pre-construction meeting and would abide by staff direction.

Zoning Administrator Castro responded that staff had considered the proposed activities on the east side of South Ocean Blvd., and had believed that the tunnel would not be wide enough; staff had recommended that handicapped access not be provided across South Ocean Blvd., but through the tunnel. Staff had also recommended that all service provided to those amenities on the east side of South Ocean Blvd. go through the tunnel, as well as all of the membership.

After providing a brief description of his experience and expertise, Town Engineer Bowser commented that there was concern with the sight clearances for vehicles to safely leave the property. He noted that all of his comments were included in a memorandum to the Building & Zoning Department dated April 9, 1999.

After giving a brief resume, Fire-Rescue Chief Vincent Elmore commented that his concern was with the parking of emergency vehicles; the new plan did have the positioning of a single vehicle, but most responses would require at least two vehicles.

Police Chief Frank Croft, after giving a brief resume, commented that there were serious concerns regarding the impact of traffic, and that he was opposed to allowing pedestrian traffic to cross South Ocean Blvd. He stated that he thought the revised plan for off-street parking was insufficient.

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Attorney Royce responded that this issue was more of a technical issue, and should not preclude the use of the property. He advised that the applicant would work with staff in any way that was reasonable.

Attorney Frank Chopin, on behalf of the Preservation Foundation, commented that the 390 cap on special events had been exceeded in the past, resulting in traffic problems, and questioned how that had happened?

Attorney Royce replied that the circumstances had been unique at the charitable event featuring Celine Dion, and that the valets had not been efficient. He commented that it had been thought that the 390 cap did not apply to charitable events.

Attorney Doyle Rogers, representing Mr. Edward G. Watkins, 1067 South Ocean Blvd., commented that his client opposed the petition of Mar-A-Lago to modify the previous Special Exception.

Attorney Ron Kolins, on behalf of Mrs. Alyne Massey, commented that a special exception could only be granted if it was not contrary to the public interest, and that the requests of the applicant today would impact the value of the home of Mrs. Massey, as well as the quality of her life. Mr. Kolins distributed a list of conditions that he suggested on behalf of his client, if the requests of the applicant were approved today.

Attorney Michael Tamarrow, of the law firm of Carlton Fields, representing the Bath & Tennis Club, commented that suggestions for incorporation into their plans had been made to the applicant, some of which had already been incorporated into the plan. He noted that he would address the traffic situation later in the meeting, and that the distinction between the social club, charitable events, special events, etc., as related to other clubs in the town was a subject of concern.

Mr. Robert Sterling, 200 Regent Park, immediately south of Mar-A-Lago suggested that anything that would increase traffic would exacerbate an already impossible situation. He stated that he believed property values would be affected by the increase in traffic and noise. He noted that he had called the Police Department at 1:00 A.M. on February 27, 1999, to complain of the noise at Mar-A-Lago. He put an article from the New York Observer into evidence relating to the activities of Mr. Trump in Westchester, which he indicated was a parallel case.

Mr. William Guttman, 216 West Indies Drive, chief executive of the Palm Beach Civic Association, read a brief statement from the Palm Beach Civic Association into the record. He commented that the proper way to address the application was to look at the potential nuisances created as the club approached its existing caps, and urged that the membership cap be retained. He noted that the permitted use of the property was as a private club, and not as a nightclub. He mentioned that it was very unusual that the club was owned by Mr. Trump, who lived there and treated the facility as if it was his own home; profiting from the dual operations of the club as a recreational facility and as a nightclub.

Mr. Martin Klein, 1060 North Ocean Blvd. commented that he disagreed with Mr. Guttman, and supported Special Exception 9-99. He stated that he believed Mar-A-Lago had been a good neighbor, and urged the approval of the Town Council.

Attorney Ron Kolins submitted two documents into the record regarding the various purchases and sales of the beach property, as well as the conditions he had previously requested.

*****The luncheon recess was taken at 12:45 P. M.*****

*****The meeting was reconvened at 1:55 P.M.*****

Attorney Royce advised that he would submit the Administrator's Deed ORB 2342, Pg. 773 between the estate of Marjorie M. Post and Jack Massey into the record, which did not show any restriction whatsoever. He explained that in a second deed, Mr. Massey had sold the property to Mr. Trump, which also did not contain any restrictions as to what could/could not be built, and he made that deed part of the record, ORB 4746, Page 1473. Mr. Massey had purchased 403' of property from the Post Estate, and had sold only 358' of property to Mr. Trump. He had therefore left a buffer of 45' for his home.

A power outage was experienced at 3:15 p.m., and the meeting was adjourned to be reconvened at 11:00 a.m. on April 16, 1999.

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The Special Town Council Meeting regarding the Mar-A-Lago Special Exception Application No. 9-99 was reconvened at 11:10 a.m. on April 16, 1999 in the Town Council Chambers. The following Elected Officials were found to be in attendance: Mayor Paul Ilyinsky, President Lesly Smith, President Pro-Tem Allen Wyett, Councilman Jack McDonald, Councilman Samuel McLendon, and Councilman Leslie Shaw. Also in attendance for all or a portion of this meeting, were Town Manager Robert Doney, Town Attorney John Randolph, Planning, Zoning & Building Director Robert Moore, Zoning Administrator Paul Castro, Planner/Projects Coordinator Timothy Frank, Fire-Rescue Chief Vincent Elmore, Police Chief Frank Croft, Public Works Director Al Dusey, Town Engineer James Bowser, and Deputy Town Clerk Susan Eichhorn.

Attorney Royce stated that the real problem was not an increase in members, but how to handle traffic associated with particular events. He stated that the membership increase could be accommodated, and the real question was how to handle traffic.

Mr. Blackman commented that the 313 number of trips was based on ancient figures taken in 1993. He stated that it was the goal of the Mar-A-Lago Club not to create a problem outside of its walls, and that there had been only one significant traffic snarl; the limit of the 75 seats in the dining area seemed appropriate in 1993, however, the club was now 4 years old, and needed to respond to the needs of a broad portion of the Town of Palm Beach.

Director of Planning, Zoning & Building Robert Moore introduced Mr. Phil Tokich, of Frederic R. Harris to comment on the traffic issues, with William Brisson, of Adley, Brisson, Engman, Inc. commenting afterwards.

Mr. Tokich commented that the daily average traffic count in the 1995-96 season, was 249, the following year it was 308, and this year about 320. There had been a fairly sizeable increase from 96-97 and a smaller increase to 98. He maintained that the traffic problem was not a concurrency problem, but was an event problem, and he suggested a good traffic management plan.

Mr. Brisson submitted his curriculum vitae for the record, commenting that the primary arguments for modifications of the Club were that it met all traffic concurrency requirements and that there was adequate parking, and that no other Club in the Town had been subject to similar limitations. He stated that traffic concurrency was the threshold over which development may not be permitted. The Town also had the right to look at ingress, egress, traffic flow, safety, etc While no other private club has had these types of conditions imposed, it was primarily because the other clubs were in existence before the Town considered them special exceptions and if they did have special exceptions the Town had a record running on them and could consider all impacts. The past few years experience did provide a basis to assess the original caps from 1993, and there had not seemed to be any traffic problems, other than the one incident. He recommended that the Club membership be allowed to increase gradually some number per year, probably automatically - - it would be automatic unless the Town Council found a traffic problem; the second recommendation: allow a ceiling on the special event attendance to increase as there was the capacity to handle an increase. He explained that he saw no problem in eliminating the dining room seating, as that had been a very minor traffic generator. He agreed that the trip monitoring was no longer necessary, nor the 313 limit. While they had exceeded the 313 trips, the only problems that had arisen had been only during peak periods of special events. He stated that he did feel, however, that many significant relaxations should have a condition where they would not be implemented until the temporary bridge was built and in operation.

President Pro-Tem Wyett commented that he had been involved in traffic problems in the area, and that there was a major traffic problem in the location, a significant safety problem, and should the area become more heavily impacted it would affect both the Fire and Police Departments.

Traffic Consultant Yvonne Zeal commented that the Mar-A-Lago project met concurrency of both Palm Beach County and the Town of Palm Beach; the major traffic problem was with the special events and she agreed that a traffic management plan was required. She explained that at the Celine Dion event there were several operational issues: the limousines, and the valets, and the problem with the limousines had been addressed with the solution to have limousines make only a left turn from South Ocean Boulevard, and at events of more than 400 to use the north exit as an entry. The other problem was the valet area, and she suggested that the valet staff be increased as well as become more efficient.

Attorney Ron Kolins, on behalf of Mrs. Massey, commented that while a great deal had been heard from the Mar-A-Lago representatives saying that there had been no trouble outside the walls of Mar-A-Lago, he suggested that the reason why that was true was because of the limitations that had been imposed on the Club in 1993, and that the removal of those limitations would spell the end of there being no difficulties outside the walls of Mar-A-Lago, which presented the question of why the meeting was being held today. He maintained that this application was a special exception request, and the Town Council was entitled to and had the duty to impose any conditions necessary for the protection of the public. There was no imperative to modify or change the conditions that already existed if they should be retained to protect the public. The impacts on the Town and those living nearby must be considered. Attorney Kolins stated that if there was no upper limit on the membership there could not then be concurrency, and requested that the application be dismissed.

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Attorney Randolph stated that he was not sure that Mr. Royce had finished presenting his case, and that the Town Council had indicated that all evidence would be heard before a final determination was made. He advised that he did not feel it would be appropriate for the Town Council to act summarily on such a motion to dismiss at this time.

Attorney Kolins then questioned Traffic Consultant Zeal regarding concurrency, and maintained that the applicant had the obligation to go back to Palm Beach County in relation to today's application, based upon the new additional uses.

Attorney Frank Chopin, on behalf of the Preservation Foundation, commented that the Preservation Foundation had never opposed the idea of Mar-A-Lago being a private club. In fact, Mar-A-Lago was such a special property it may well have been the best use of that property, but it must be a regulated, controlled, and balanced use of the Club and the people who were affected by the use of it as a club. He maintained that Mr. Trump had violated the rules - he had a contract and had violated it. In addition, he added that the pavilion, which they wanted to build, would, by any standards of commercial application in the Town, house many hundreds of additional people over and above the number of people suggested in the application.

Mr. Vince Bytner commented that he was a certified tennis umpire, and that tennis had been raised to its highest level since Mar-A-Lago was instituted as a club.

Mr. Allen Manning commented that Mar-A-Lago was a credit to the Town, and commended Mr. Trump for taking a run-down landmark and making it a show place for Palm Beach. He suggested that Mr. Trump build the pavilion in West Palm Beach at his golf course.

Mr. Jay Whitesman, member of Mar-A-Lago, commented that he lived on South Ocean Blvd. 3 doors north of Mar-A-Lago. He had moved there only because of Mar-A-Lago, and that he saw traffic on a daily basis; ever since the bridge problems traffic had increased tremendously. He stated that none of this, in his opinion, was caused by Mar-A-Lago.

*****The luncheon recess was taken at 12:55 p.m.*****

*****The meeting was reconvened at 1:40 p.m.*****

Attorney Michael Tamarrow, representing the Bath & Tennis Club, commented that there was concern with the traffic situation at Mar-A-Lago, especially with special events. He noted that even under current limitations there had been traffic problems, and that Mar-A-Lago, as well as the Bath & Tennis Club should be permitted to have special functions for their membership, however, he maintained that Mar-A-Lago was being operated in a qualitatively different manner, as attendance at special functions was attended mainly by non members. Thus it was not being operated as a private social club for its members, which was specifically prohibited by the Declaration of Use Agreement. He concluded with the statement that both the Bath & Tennis Club and the Mar-A-Lago Club should operate as private social clubs, and for that reason the limitations should be retained. He stated that he would include by reference the entire record of proceedings of the 1996 Mar-A-Lago hearings, on the basis of relevancy, as the 1996 record established the foundation from which substantial change would be measured.

Attorney Royce objected to having the record of prior proceedings made a part of the record today, as the record of the proceedings today should be the testimony, as well as exhibits, discussions, and reports pertaining to this meeting, not a prior meeting conducted three years ago.

Attorney Randolph responded that the record of a previous meeting may relate to arguments that have been made today that there have been no change of circumstances since the last meeting. He noted that it had been stated that there had been no change in circumstances from the last meeting until now, and he advised that it would be important to incorporate the record from the last meeting so that anyone reviewing the record could make a determination as to whether or not there had been a change since the last record.

Mr. Hans Richter, General Manager of the Bath & Tennis Club, addressed special events held at the Bath & Tennis Club, stating that all events were basically membership related, and there were approximately eight major events, varying from 250-500 people, all member related. There were also some social gatherings on the beach, which were all strictly member related, and from time to time some members held weddings.

Mayor Ilyinsky asked Mr. Richter if the Bath & Tennis Club had ever held a special event with a great pop singer performing, with no limit on the number of people in attendance?

Mr. Richter replied that the Bath & Tennis Club only advertised to its membership for any special event, and had never featured special entertainer, with the event restricted to the membership, with a maximum of 500.

Attorney Ken Graves, of the law firm of Carlton Fields, addressed the Town Council, representing Mrs. Nancy DeMoss,

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whose home was located on the northwest corner on the lake side of Mar-A-Lago. He requested that the proceedings of the original approval in 1993, as well as the 1996 proceedings be incorporated into the record, including the Declaration of Use Agreement.

Attorney Royce objected to the incorporation of the 1993 proceedings into the record.

Attorney Graves suggested that there had been no evidence of changed circumstances, as required by law relating to these types of quasi-judicial proceedings. He maintained that the average daily trips had been exceeded, and that the caps should not be changed accordingly.

Public comments was heard at this time. The following people spoke in favor of the Mar-A-Lago Club:

Ms. Jacqueline Abrahms
Mr. Richard Burnstein
Mr. Adam Donner
Mr. Michael Blank
Mrs. Robin Bernstein
Mr. Kenny McDougal
Ms. Monique Matheson
Mr. Gerald Sugar
Mr. Jeff Greenwald
Mr. Irving Stein

Mrs. Elise McIntosh urged that caution be used by the Town Council.

Attorney Randolph noted that the letters that had come in recently to the Town Council relating to the Mar-A-Lago application should also be made part of the record. President Pro-Tem Wyatt submitted a letter that had been sent to his home, as did Councilman McDonald.

Attorney Royce began his summary, submitting letters of support for the record, the qualifications of Mr. Blackman, Mr. Skokowski, Ms. Jenkins, Ms. Zeale, the technical memorandum of Mr. Brisson, the letter of December 5, 1997 to Mar-A-Lago from the Palm Beach County Engineering Department, the memorandum from Mr. Brisson to Zoning Administrator Castro dated April 7, 1998, the letter from Frederick R. Harris, dated April 7, 1998, the Administrator's Deed dated July 10, 1974, the Deed from Mr. Massey to Mr. Trump dated November 7, 1985, and the Mar-A-Lago Declaration of Use Agreement.

Attorney Royce maintained that any decision of the Town Council must be based on competent, substantial evidence; the testimony of experts had given a firm legal foundation, and had indicated the reasons that all required criteria had been met. He noted that the Mar-A-Lago Club often hosted charity events, which were sponsored by members; the contributions had amounted to \$439,500 in benefits, donations, etc. He referred to a chart in a 1995-96 Zoning report that had reflected that the Bath & Tennis Club, located adjacent to the Mar-A-Lago Club, had 900 members on ten acres, which was approximately 90 members per acre; the Beach Club had 800 members on five acres, roughly 160 members per acre, the Sailfish Club had approximately 500 members on three acres, which was approximately 167 members per acre. He then pointed out that the Mar-A-Lago Club had 360 members on 18 acres, which resulted in approximately 20 members per acre. He noted that he was not objecting, but merely pointing out comparisons regarding intensity.

Attorney Royce stated that he appreciated the fair way in which this proceeding had been handled, and the patience of the Town Council in dealing with the application. He apologized for any undue behavior on his part that may have made the job more difficult. He stated that Mar-A-Lago would accept reasonable conditions, and wanted to work with the Town in respect to traffic, and would accept some phasing in of the membership. He urged the Town Council to continue to act in a fair manner, which he stated he believed would result in approval of the application.

Ms. Vilda DePorro, resident and merchant in Palm Beach, commented that she had made an observation that many people were afraid of the unknown, and that she believed that people should not make a commitment on the behavior of another person without knowing that person. She stated that she knew Donald Trump, was a member of the Club, and had been a consultant to Mar-A-Lago for the antiques and restoration of the property. She observed that Mr. Trump was very careful not to damage the integrity of the property.

President Smith now declared that the Town Council was in executive session.

Attorney Randolph commented that the criteria for granting a special exception were set forth in Section 134-229 of the Town Code. He pointed out that decisions must be based upon substantial competent evidence heard today by virtue of the witnesses that had come forward, and upon the testimony heard today.

Mayor Ilyinsky left the meeting at 3:10 p.m.

Councilman Shaw commented that he was concerned as to what the ultimate membership number would be if there were not some limits, and how that would affect neighborhood and traffic, and that there would need to be a limit on the capacity of the facility, perhaps based upon the time of day.

President Smith asked Town Engineer Bowser and Police Chief Croft for clarification of the service gate and servicing of the facility for emergency vehicles?

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Police Chief Croft replied that increased pedestrian traffic would result in more likelihood of an accident, requiring public safety personnel, and that there was concern regarding inadequate space to park any of the units. Parking the vehicles on the west side of A-1-A would result in a problem with efficiency.

Town Engineer Bowser replied that he did not believe there would be adequate site vision to exit the driveway on the east side.

President Smith asked Mr. Blackman the height of the present wall between the proposed beach property and the property of Mrs. Massey?

Mr. Blackman responded that it stepped down from approximately 6' to 3 ½ '. The current application had proposed an 8' wall going up to 10'

Councilman McDonald asked for clarification of the concurrency issue.

Mr. Phil Tokich, Frederick R. Harris, responded that the Club did meet the concurrency standards of Palm Beach County, as well as the Town standards. He stated that he did not think that the beach cabanas would create more traffic than currently, and saw it as being an amenity for the enjoyment of the Club members, rather than an expansion of the Club itself.

Discussion took place regarding the access to emergency vehicles, and the amount of space necessary for both fire and police vehicles to respond to an emergency, and the elimination of a pedestrian gate so that there would be no pedestrian traffic across the street.

Attorney Kolins commented that he had submitted a number of suggested conditions if approval of the application was granted.

Councilman Shaw stated that he believed the conditions suggested by Attorney Kolins to be reasonable and logical, and many of them had been agreed to by the applicant.

Attorney Kolins asked for clarification of the unity of title on the Mar-A-Lago property, requiring the property to be treated as one piece of property for determination of issues such as setbacks, etc., wherein the R-AA standards would prevail.

Director of Planning, Zoning & Building Robert Moore stated that he would defer to Town Attorney Randolph, however, he believed that there was a provision in the ordinance that stated if the property was divided by a road, regardless of a unity of title, it would stand on its own merits. In other words, if the property was in the R-A Zoning District, it must comply with R-A Zoning regulations.

Town Attorney Randolph suggested that the issue of separate properties should be reviewed/researched, as a single property could be in two different zones, however, when the property was unified the entire property would be treated as one property. He stated that he would need to review the ordinance in order to make a determination regarding setbacks, etc.

Attorney Royce suggested that if it was determined that a variance was required, a condition could be applied stating such, and that the applicant would abide by the law.

At this time, President Smith reminded the members of the Town Council, and the audience that she had mentioned that she would need to leave the meeting at 4:30 p.m.

Attorney Royce responded that if there was not a full Council sitting, he would request postponement until the earliest possible date next week, and also requested that no member of the Town Council discuss this matter with themselves, staff, read any letters, or obtain any input from the public or any lawyer of any kind whatsoever, until the opening of the next meeting. He explained that delay of this matter would give everyone, both pro and con, the opportunity to meet with Council people to make suggestions, and that should not be allowed.

President Smith clarified that the Town Council was in executive session, and when the next meeting was held there would be no public comment.

Town Attorney Randolph commented that he believed the suggestion of Mr. Royce was a bit too strict, and that the Town Council should have the ability to discuss issues with staff, as usual. He noted that those issues may be considered ex-parte communication, and would be made public at the next meeting.

Attorney Royce responded that he had no problem with the Council discussing issues with the staff, with the condition that he could also talk to staff to determine the nature of the discussions. He explained that his major concern was further lobbying. He noted that he would ask each member of the Council exact details of any ex-parte communication.

President Smith assured Mr. Royce that the Town Council members were not going to do anything that would break the law, and anything that was said to them would be revealed. She clarified that the Town Council was presently in the middle of discussion regarding the ocean cabanas, and the meeting would be continued as such; the public comment portion would be closed and the Town Council would be in executive session.

The continuation of the meeting regarding Mar-A-Lago Special Exception Application No. 9-99 would be continued on

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Tuesday, April 20, 1999, at 9:30 a.m. in the Town Council chambers.

V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

The meeting was adjourned at 4:30 p.m. on April 16, 1999, to be continued on Tuesday, April 20, 1999.

The Special Town Council Meeting regarding the Mar-A-Lago Special Exception Application No. 9-99 was reconvened at 9:37 a.m. on April 20, 1999. The following Elected Officials were found to be in attendance: Mayor Paul Ilyinsky, President Lesly Smith, President Pro-Tem Allen Wyett, Councilman Jack McDonald, Councilman Samuel McLendon, and Councilman Leslie Shaw. Also in attendance for all or a portion of this meeting were Town Manager Robert Doney, Town Attorney John Randolph, Planning, Zoning & Building Director Robert Moore, Zoning Administrator Paul Castro, Planner/Projects Coordinator Timothy Frank, Fire-Rescue Chief Vincent Elmore, Police Chief Frank Croft, Public Works Director Al Dusey, and Town Clerk Mary Pollitt.

The following is a summarization of all motions made from the continuation of Special Town Council Meeting held on April 20, 1999 (continued from April 15, 16, 1999) Regarding Special Exception No. 9-99: (A verbatim transcript of the entire meeting will follow this summarization).

- 1) Councilman McDonald moved conceptual approval of the project, assuming that all conditions could be worked out. The motion died for lack of a second.
- 2) Motion of Councilman McDonald to approve, seconded by Councilman Shaw, finding that the application for special exception meets the 14 criteria under 134.229, certifying that the zoning requirements have been met or will be met if the conditions are implemented, and that the site plan itself would be considered in a separate motion. Said motion to approve to include:
 - * Incorporating the building and zoning staff comments and conditions
 - * Six events per year
 - * the hours of 10:00 to sunset
 - * Change of the building height to 4' below Mrs. Massey's house
 - * Garbage collection will be done at the same pickup spot for the public
 - * No amplifiers, safe security lighting
 - * No entertainment lighting
 - * No boating, no electrical boats
 - * No motorized vehicles will be used on the beach
 - * No sleeping in the cabanas
 - * No cooking in the cabanas
 - * No diving more than six feet
 - * Re-design elimination of the porch on the second floor
 - * Re-design for public safety vehicles
 - * Elimination of the pedestrian gate
 - * Entrance for construction vehicles to be placed as far south as possible.
 - * Subsequent approval of the utilities by the Public Works Department (sewage, waste water, bulkhead and sanitary waste station)
 - * Construction schedule to be returned to the Town Council for detailed approval
 - * Fire sprinklers in all structures
 - * Applicant to provide staff with the assurance, through a report or through discussions, that the tunnel will be wide enough not only for access to the property from the members, but also for the service of the property for all the facilities, and handicapped or physically challenged access.

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Upon roll call the motion carried 4/1:

Councilman McDonald - yes
Councilman McLendon - yes
Councilman Shaw - yes
President Pro-Tem Wyett - no
President Smith - yes

3) Motion to approve the site plan, by Councilman Shaw, seconded by Councilman McLendon, finding that all of the items set forth in Section 134.329 of the Town Code had been met.

Upon roll call the motion carried 4/1:

Councilman Shaw - yes
Councilman McLendon - yes
Councilman McDonald - yes
President Pro-Tem Wyett - no
President Smith - yes

4) Motion made by Councilman Shaw, seconded by Councilman McLendon to eliminate the traffic counters at Mar-a-Lago.

Upon roll call the motion carried 4/1:

Councilman Shaw - yes
Councilman McLendon - yes
Councilman McDonald - yes
President Pro-Tem Wyett - no
President Smith - yes

5) Motion made by President Pro-Tem Wyett to deny any increase in the membership cap, seconded by Councilman McLendon.

After discussion, President Pro-Tem Wyett withdrew the motion.

6) Motion made by Councilman Shaw, seconded by Councilman McDonald to eliminate the counting limitation, by amending the Declaration of Use Agreement to remove the 313 trip cap.

Upon roll call the motion carried 3/2:

Councilman Shaw - yes
Councilman McDonald - yes
Councilman McLendon - yes
President Pro-Tem Wyett - no
President Smith - no

7) Motion made by President Pro-Tem Wyett to deny increase to membership cap of 500; seconded by Councilman McLendon. Mr. Wyett incorporated the language suggested by Mr. Randolph as follows: "The specific finding that you would have to make to deny would be to make a finding that the approval of the site plan will adversely affect the public interest and it doesn't meet the requirements - you haven't heard substantial competent evidence that it meets the requirements set forth in 134.329 for site plan and 134.229 for special exception."

Upon roll call the motion carried 5/0

President Pro-Tem Wyett - yes
Councilman McLendon - yes
Councilman Shaw - yes
Councilman McDonald - yes
President Smith - yes

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The luncheon recess was taken at 1:00 p.m.
The meeting was reconvened at 1:55 p.m.
President Pro-Tem Wyett was not in attendance until 2:00 p.m.

8) Motion made by President Pro-Tem Wyett to defer lifting the 390 cap limitation for attendance at special events to the June meeting, as well as the pavilion project; seconded by Councilman Shaw.

Upon roll call the motion carried 5/0:

President Pro-Tem Wyett - yes
Councilman Shaw - yes
Councilman McLendon - yes
Councilman McDonald - yes
President Smith - yes

9) Motion made by President Pro-Tem Wyett to remove the restriction on the dining room seating capacities, to approve a 150 seating capacity from the existing dining facilities, provided that they do not expand beyond the physical plan that was now existing. The motion was seconded by Councilman McLendon.

Upon roll call the motion carried 5/0:

President Pro-Tem Wyett - yes
Councilman McLendon - yes
Councilman McDonald - yes
Councilman Shaw - yes
President Smith - yes

10) Motion made by President Pro-Tem Wyett to approve the exclusion of 124 Woodbridge, a 6,250 sq. ft. parcel, from the previous Special Exception approval, allowing it to become a portion of the existing single family lot to which it was a part, which was the property to the east, with a unity of title being provided. The motion was seconded by Councilman Shaw.

Upon roll call the motion carried 5/0:

President Pro-Tem Wyett - yes
Councilman Shaw - yes
Councilman McLendon - yes
Councilman McDonald - yes
President Smith - yes

Verbatim transcript:

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PRESIDENT SMITH: I'd like to reconvene the Town Council of Thursday, April 15. Today is Monday, April 20, is that not right?

VOICE: It's Tuesday.

PRESIDENT SMITH: It's Tuesday. Same week, right?

When we adjourned we were in executive session. I see Mr. Collins standing at the microphone. Are you going to stand, Mr. Collins, or are you going to keep on standing?

MR. COLLINS: I thought we were discussing the conditions of cabanas.

PRESIDENT SMITH: I was going to ask the Council do you want to go back to the conditions of the ocean front cabanas? We are talking about the ocean front cabanas, but whether or not they want to pick up exactly at that point, I don't know.

MR. WYETT: Mrs. Smith.

PRESIDENT SMITH: Mr. Wyett.

MR. WYETT: I'm a little confused. If this is executive session, why is the dialog going

back and forth, rather than between --

PRESIDENT SMITH: Because the members of the Council had asked questions of Mr. Royce as to the conditions on the paper that he had presented to

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us. We're not having dialog; we're having questions and answers.

Mr. Royce, are you pointing at me?

MR. ROYCE: I'm not pointing at you. I'm trying to get your attention.

PRESIDENT SMITH: You got it.

MAYOR ILYINSKY: Sounds like a Virginia lawyer.

PRESIDENT SMITH: Don't listen to what old what's his name has to say. He's being ignored today. I'm ignoring him.

MR. ROYCE: We were going back and forth on conditions. I have put together a list of what I think a lot of things we talked about, a lot of the issues incorporated, a lot of suggestions that Mr. Collins made. It may not be complete, it may not satisfy everyone, but it might at least expedite the proceedings if we had a somewhat comprehensive list to look at. And I would like to hand that out to you to see it will bring organization.

PRESIDENT SMITH: Why don't you hand it out?

MR. ROYCE: I've given a copy to Mr. Collins. He has a list, and he's given me a copy of his list.

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PRESIDENT SMITH: Let the Council look at it. And perhaps the Council may have a list of their own.

MR. ROYCE: Yes, Ma'am, I'm sure.

MR. RANDOLPH: Madam President.

PRESIDENT SMITH: Mr. Randolph.

MR. RANDOLPH: While that is being handed out, might we ask, have there been any other ex parte communications between the last meeting and now?

PRESIDENT SMITH: I realize that I assumed there had to be. Starting with Mr. McLendon, please.

MR. MCLENDON: Yes, I've had several people come to me to want to give me advice on the issue, and --

PRESIDENT SMITH: Could you tell us who they are? I think you have to tell us who they are.

MR. MCLENDON: I don't think so. Do I?

MR. RANDOLPH: If you've had ex parte communications, you have to indicate with whom you had them and what the subject matter of the conversation was.

MR. MCLENDON: Well --

MR. WYETT: Is communication a two-way

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communication, or if you stand mute and listen, or is that communication?

MR. RANDOLPH: Well, if you listened to someone outside these proceedings, then the

listening may have an effect on your decision. It's something you have got to listen to. You got to keep in mind it's your decision on this issue, and it has to be based upon what you hear at this public hearing.

In fact, often we ask even if you have ex parte communication, will you agree that the decision that you reach will be based upon the testimony that you've heard at the hearing rather than ex parte communications. So that is the purpose of revealing ex parte communication, so that the applicant and others, if you've had such communications, can inquire of you to make a determination whether or not you've been prejudiced at all in regard to your opinion.

PRESIDENT SMITH: Go ahead, please, Mr. McLendon. You have to state who you talked to.

MR. MCLENDON: I'll give it a shot and trust my memory, I guess. I had a discussion yesterday, I guess, with Mr. Loftland Reid of Park Avenue, on Saturday with Mr. and Mrs. Michael Blank,

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and also Mrs. Jena Rumbaugh; I had a conversation relative to it. I don't remember others. There may be one or two others, but I don't remember them offhand.

PRESIDENT SMITH: All right, thank you. Mr. Shaw.

MR. SHAW: Heeding the request of counsel, I made it my business not to discuss it with anybody, and I didn't.

PRESIDENT SMITH: Mr. Mayor?

MAYOR ILYINSKY: I ran into Mr. Collins in the elevator this morning and I asked him about the setback between Mrs. Massey and the proposed development, as to how big it was.

PRESIDENT SMITH: I had no communication. Mr. Wyett?

MR. WYETT: I had a communication with John Randolph as to the setback. Probably 30 or 40 people came up to me in the last short period of time. I cut people off and said I could not discuss it.

MR. MCDONALD: I had none.

MR. COLLINS: Madam President, may I try to get your attention for one moment?

PRESIDENT SMITH: I'm looking at you,

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Mr. Collins.

MR. COLLINS: I, too, in an effort to expedite your considerations and simplify it, prepared a revised set of conditions that I would like to pass out. And there are 19 conditions, and I will, after you get your copy, recite for you which numbers are conditions that either were agreed to in prior weeks between Mr. Royce and myself or, in my judgment at least, have already been pretty well discussed and determined by the Town, of which there are 12 of the 19, leaving really only seven of these for us to discuss today. I thought this would be helpful to all of us.

So with your permission, I'd like to pass this around and then I'll tell you which items.

PRESIDENT SMITH: Thank you, Mr. Collins.
Have you given the list to Mr. Royce?

MR. COLLINS: Yes, I have given him a
list.

PRESIDENT SMITH: Thank you. While you're
passing them around, since you each have each
other's list, have you looked them over and come up
with a consolidation so that we don't have to go
through all 19? You have to give the Council a
chance to look at the two, please.

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MR. COLLINS: I would only say to you I'm
trying to do that now while you're talking, because
I just got his and he got mine. There are
differences that need to be discussed. Perhaps he
and I, if you want, could take a few minutes alone
and work some things out. Or else you'll do it
yourself.

PRESIDENT SMITH: I'd appreciate it,
Mr. Royce. Give me a minute, please.

MR. ROYCE: Yes, Ma'am.

PRESIDENT SMITH: Give the Town Council a
chance to look at the two papers that you've just
given us. Mr. Randolph.

MR. RANDOLPH: I would like to go back, if
I might, to the ex parte communications. And
listening to them all, I think Mr. McLendon
neglected to reveal the subject matter of the
communications, although he did reveal -- since
we're making a record of this, I want everyone to
have the full benefit of any ex parte
communication. So, Mr. McLendon --

PRESIDENT SMITH: Mr. McLendon, if you
will, please, because we are in a quasi judicial
hearing. This is not a joke. The Town Council must
be specific. We know that it's the law, so we're

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doing our very best to comply, all of us.
Mr. McLendon, please.

MR. MCLENDON: Yes. Mr. Reid and
Mr. Rumbaugh spoke negatively regarding the
application of the petition at Mar-a-Lago. And the
Blanks were positive in their opinions as to what
they would like to see happen.

MR. RANDOLPH: Madam President, I also
think there may have been one or two letters that
had come into the Council since our last meeting,
and those are probably ex parte communications and
should be made part of the record.

PRESIDENT SMITH: All right.

MR. MCLENDON: Incidentally, I'd like to
add one thing. I obviously made no commitments to
anyone.

PRESIDENT SMITH: Thank you.
Mrs. Pollitt, are there any letters that have come
in since the last Council meeting?

THE CLERK: I apologize. I haven't seen
any this morning. If there were, maybe they're
previous. Maybe Mr. Moore or Mr. Castro might --

MR. MOORE: I may be wrong. I saw one or
two letters in my box. Maybe they were dated before
the last meeting.

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MR. DONEY: Mrs. Smith.

PRESIDENT SMITH: Mr. Doney.

MR. DONEY: I believe that Cindy distributed several of them yesterday afternoon to the Mayor and Town Council. I don't have them with me.

PRESIDENT SMITH: I have to tell you that I have not gone into my box, so if there are new letters that came in, they will be made part of the record and we will go back and look at them. If you, either Mr. Royce or Mr. Collins, are going to allude to them, you better pass out copies of them, because I haven't seen them either.

MR. RANDOLPH: Mrs. Pollitt has handed me a stack of letters, and these should be made part of the record. And I think Mr. Royce and any others who are interested in looking at that should have an opportunity to look at them.

PRESIDENT SMITH: Do you want to pass them down so Mr. Royce can see them, because we want to move this process along. I would like to conclude the hearing today.

MR. RANDOLPH: I'm sorry.

PRESIDENT SMITH: No, I want you to do this, Mr. Randolph, but I don't want anyone to

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suddenly say at the last minute there is something they haven't seen.

MR. RANDOLPH: As a procedural matter also, at the last meeting I think we left with a question being raised as to what setbacks applied on the beachfront parcel.

PRESIDENT SMITH: Right.

MR. RANDOLPH: And I have looked at the ordinance, and I have reviewed that with Mr. Moore and with Mr. Brisson. And I have made a determination that the Building Department's interpretation is correct, and that the setbacks in the RA district are the appropriate setbacks for this RA lot.

PRESIDENT SMITH: And that would be how many feet, Mr. Randolph?

MR. RANDOLPH: 15 feet.

PRESIDENT SMITH: Is that not what was on the proposed building? Was it a 15 foot setback? Yes? They're nodding. I take that as a yes.

MR. RANDOLPH: Yes.

PRESIDENT SMITH: Thank you. Anything else, Mr. Randolph?

MR. RANDOLPH: No.

PRESIDENT SMITH: Give us a minute to look

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over the papers.

Mr. Mayor.

MAYOR ILYINSKY: I want to ask Mr. Collins and you, sir, Mr. Royce, these two submitted papers, gentlemen, did I understand you to say you have discussed the differences?

MR. COLLINS: No, we have not.

MR. ROYCE: No. May I say, I think there are a lot of things in common. My list takes into

consideration not only matters that will affect Mrs. Massey, but also matters that might affect the Bath and Tennis, and matters that were raised regarding driveway access, handicap access, and those kinds of things that are not peculiar to Mr. Collins' concerns, although he may have them.

MAYOR ILYINSKY: I don't want to use up the Council President's position in leading these issues, but wouldn't it be a good idea for you two to get together right now and also decide on some of these things? Why should I waste my time or anyone's time discussing number 52, if we know right now that there is nothing that anybody can do to ameliorate the situation?

MR. ROYCE: I think mine is more comprehensive, only because it addresses issues in

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addition to those of Mr. Collins. But I think if we can take my list and go down it, we could identify very quickly from my list the matters in which we are in agreement and the matters in which we are not in agreement, or the matters in which you all need to say, well, we like A instead of B.

MAYOR ILYINSKY: I'll let Mrs. Smith decide on the process. But I think that might be -- forgive me for saying so, Madam President. That is a good way to proceed while we're being silent.

PRESIDENT SMITH: Mr. Shaw.

MR. SHAW: With due respect to Mr. Collins and his client, we're not here to mediate between the two of them. This is a dialog that is going to take place between this Council and the applicant. If anybody wishes to provide us with their thoughts or information, I have no problem in receiving it, reading it. But I don't believe that we are supposed to sit here and mediate between the applicant and those that are either for or against it.

MR. RANDOLPH: That is a good point.

MR. SHAW: So my feeling is that, although Mr. Collins was very kind to update a list, I don't know whether we as a group have our own list, or we

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individually have points that we have made on the application and have taken into consideration what has been discussed. But I really think this dialog should be between us. And if we have an issue, then we should address it to Mr. Royce. That should be the direction.

MR. COLLINS: May I respond to that, Madam President?

PRESIDENT SMITH: Yes.

MR. COLLINS: Certainly, this hearing will be conducted however you determine it to be conducted. This being a special exception, you have the ability to impose conditions. And what we are talking about are various conditions that my client, being the most immediately affected party for this beach club, requires.

Mr. Shaw is quite correct. It's not an issue of you mediating between Mr. Royce and myself. I think I would like to participate in the dialog for the singular purpose of making clear to you the difference between what Mr. Royce either

wants or is willing to accept, and what my client wants or is willing to accept. And then, of course, you will decide what is the appropriate condition in the best interest of the Town. And that is the role

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that I see for myself here, and I think it's a role that has been filled by one person or another in various other hearings, including other Mar-a-Lago related hearings.

MR. WYETT: Mrs. Smith.

PRESIDENT SMITH: Mr. Wyett.

MR. WYETT: I substantially agree with Mr. Shaw, with one exception. This dialog should be between members of the Council, and only if we need a point of information or point of clarification should we ask direct questions of anyone, including Mr. Royce or Mr. Collins or anyone else that may be an expert witness. I think the Council is quite capable of reading the two sets of comprehensive suggestions and seeing if they're acceptable to us, between ourselves. We have gone through two days of listening, and listening, and listening, and I caution this Council to realize if we start the dialog going again, you are not in executive session and you'll be here until 6:00.

PRESIDENT SMITH: We are in executive session, Mr. Wyett.

MR. WYETT: I said if you start the dialog again.

PRESIDENT SMITH: We are not in dialog, we are in question and answer. This is not open dialog, this is not public comment.

MR. WYETT: That is what I said, it's question and answer. It's fine.

PRESIDENT SMITH: Exactly. So whatever time it takes, we're going to get through this and we're going to do it. Mr. Randolph, do you want to add something? Please, go ahead.

MR. RANDOLPH: Just briefly, I think what Mr. Shaw has stated is a very good point. Your decision as a Council is not to mediate considerations between two parties, but to see how the application relates to the criteria that are set forth in your Code. And you do have the right to impose considerations, but in considering those considerations you must consider them in regards to the criteria that are set forth in your Code. However you decide to consider the criteria is up to you, as long as you have the appropriate goal in mind, and that is to meet the criteria set forth in the ordinance, as opposed to mediating an issue between the two parties.

PRESIDENT SMITH: All right. Thank you, Mr. Randolph. Members of the Council, how would you like to proceed at this point?

MAYOR ILYINSKY: I'll follow.

PRESIDENT SMITH: All right. Let's not all speak at once. We have two papers in front of us, and I'm sure you all are going through them. I think that whatever action the Council decides they are going to take on the oceanfront cabanas, if you decide you're going to approve them, you're going to approve them with conditions; this would be the time to start listing the conditions. If you're not going to approve them, then it would be appropriate to have a motion to deny and give the reason for the

denial. It's not that this is a new subject to us.
Let's move ahead and decide what you're going to do here, please.

MR. WYETT: May I suggest?

PRESIDENT SMITH: Yes, Mr. Wyett.

MR. WYETT: Mrs. Smith, if we decide the cabanas and not allow subject conditions that we oppose, that is first, because if we don't approve the cabanas there are no conditions.

PRESIDENT SMITH: Obviously.

MR. WYETT: So which procedure would you prefer to do?

PRESIDENT SMITH: What is the intent of Council, to move ahead with the cabanas or deny the cabanas?

MR. WYETT: I have a suggestion.

PRESIDENT SMITH: Go ahead, Mr. Wyett.

MR. WYETT: I'm going to suggest a compromise. And the last two days of hearings I became aware of a presentation of photographs submitted by the Mar-a-Lago Club by their attorney, Ray Royce, which showed Mrs. Post enjoying her beach, it showed Mrs. Massey's house in the distance, and it showed tent-like cabanas on the beach. Since this is traditional, and we're keeping with Mrs. Post's idea of keeping -- not developing her beach, I suggest the following: That we allow the south building for rest room facilities, changing, snack bar, for storage, and that we allow tent-like cabanas on the balance of the property, set back some feet from Mrs. Massey's property so as to minimize the impact of the beach, maximize the exposure of the beach, and keep in the tradition that Mrs. Post established in the 1920s.

MAYOR ILYINSKY: 60.

PRESIDENT SMITH: What is 60, feet?

MAYOR ILYINSKY: We're talking about the setback is 60 feet, is it not?

MR. ROYCE: No.

MAYOR ILYINSKY: What is it?

MR. COLLINS: Mrs. Massey's automobile court is 40 feet, and then you got the 15 feet minimum setback that they have. So between her actual physical house she's got about a 40 foot automobile court to the wall and then there is a 15 foot setback that they would have.

MR. ROYCE: 60 feet from her house to the wall.

PRESIDENT SMITH: From her house to the wall, Mr. Royce, and then the proposed north building was to be 15 feet from the wall, is that correct?

MR. ROYCE: Yes.

MR. WYETT: I forgot to mention that the pool and the surrounding decks and the capacities for umbrellas or shade areas would be included in my suggestion.

PRESIDENT SMITH: All right. So would somebody like to respond to Mr. Wyett's suggestion?

MAYOR ILYINSKY: Council --

PRESIDENT SMITH: Okay, maybe my question wasn't clear. Would somebody like to say something, please? I mean, we have to have dialog here.

MR. MCLENDON: I agree with Mr. Wyett's basic concept, yes.

MR. SHAW: Putting up tents?

MR. MCLENDON: Of letting the pool and the beach facilities with the setbacks.

MR. SHAW: But the picture dealt with tents.

MR. ROYCE: We didn't ask for tents.

PRESIDENT SMITH: I know you didn't ask for tents.

MR. COLLINS: When we talk about tents, are we talking about the kind of cabanas that you find on beaches today in front of hotels?

MR. WYETT: We're talking about what shows on this photograph right here.

MR. SHAW: Tents.

MR. WYETT: The traditional cabana type -- they are traditional cabanas that are normally found on many beaches throughout the country. They can be removed off there, probably, off the pad for hurricane purposes.

PRESIDENT SMITH: I don't think you can construct a pad on the beach. Mr. Moore, can you construct concrete pads on the beach? These were never done.

MR. MOORE: Yes, you can on the private property upland. With the Department of Natural Environmental Protection's permission, you may do that, yes.

PRESIDENT SMITH: Mr. Royce, can I ask that you put up the elevation, please, of the proposed buildings on the beach, put them up on the board please so I can see them?

MR. ROYCE: Yes, Mr. Blackman is getting them as quick as we can. Do you want them at the easel?

PRESIDENT SMITH: Sure. And then the one of the -- Mr. Skokowski, can you point out to us which one is the south building?

MR. ROYCE: Let me give the portable microphone to Mr. Blackman. He can point out whatever you wish, Ma'am.

PRESIDENT SMITH: Thank you.

MR. ROYCE: If he can step up there so he can see them and point them out and answer any questions.

MR. BLACKMAN: We have an array here. This is a cross section view north-south, looking both east and west. This is an east-west cross section looking to the north. This is the prospective view showing the south building on the left side and the L shaped building on the north side, again creating their own buffer against the properties to the north and south. This is an elevation of the southern building, a smaller building. And this is the northern building.

PRESIDENT SMITH: So, Mr. Wyett, your idea is to allow the plan as we're looking at it, with the exclusion of the entire north structure, is that right?

MR. WYETT: Correct, that is right. I would still -- the south structure should be a one story building. And it may be slightly larger than the existing suggestion, because the storage capacity might want to be added in to it. Basically, that would look like a private residence in a residential zone, an oversized cabana, so to speak, attached to a private residence, which Mrs. Post originally had. And this was placed -- even though it is a club, it's suppose to maintain -- to look at this particular plan, it looks like Boca Raton; it looks commercial.

PRESIDENT SMITH: Members of the Council, would someone like to speak now?

Mr. McDonald.

MR. MCDONALD: Assuming that the

conditions can be worked out, I would move approval
2 on the project. I think the 60 foot, it's not the
3 setback, but the distance between the north building
4 and Mrs. Massey would seem to be sufficient. The
5 buildings are no taller than Mrs. Massey's house.
6 Assuming the conditions can be worked out, I can
7 conceptually approve of it as it's presented.
8 PRESIDENT SMITH: All right. Is there a
9 second?
10 (No verbal response.)
11 PRESIDENT SMITH: Motion dies for lack of
12 second.
13 MR. SHAW: Mrs. Smith.
14 PRESIDENT SMITH: Mr. Shaw.
15 MR. SHAW: I don't disagree in principle
16 with what Mr. McDonald said, but I think there are
17 some points that I would rather have discussed
18 before seconding the motion. I'd rather, than do it
19 as a second, with discussion from my own list of
20 points, and I think they come back at other people's
21 lists. I said at the last meeting I think the hours
22 of use of the beach facility to me are critical. I
23 see in Mr. Royce's notes that he has put down a
24 rather late hour. And what that really means is
25 that as soon as you go beyond sunset you now have to

25

1 have a lighted facility. That obviously has some
2 use or activity that is going to be planned, and I
3 don't know that that really is in the best interest
4 of all of the neighbors, and I think it's a
5 detriment.
6 MR. MCDONALD: Mr. Shaw, you said that the
7 other day. I agree with you, I think that should
8 be --
9 MR. SHAW: That is why I couldn't just
10 second your motion without going through
11 discussions. So if we are looking, I guess, at a
12 list that has been provided by Mr. Royce, which I
13 take is a part of the application now --
14 PRESIDENT SMITH: Both lists actually
15 are --
16 MR. SHAW: The second one handed to us
17 today, unfortunately it's not dated or identified.
18 PRESIDENT SMITH: Put a date on it.
19 MR. SHAW: I am. Item number I, I feel,
20 needs to be adjusted to sunset. Now we can put an
21 hour.
22 PRESIDENT SMITH: I don't know which form
23 you are on.
24 MR. SHAW: I'm on page 2 letter L.
25 PRESIDENT SMITH: Of whose letter?

26

1 MR. SHAW: It's the last list, which seems
2 to be part of the application.
3 PRESIDENT SMITH: From Mr. Royce?
4 MR. SHAW: From Mr. Royce. It says at the
5 top, the Mar-a-Lago Club on the right hand -- or the
6 left hand side of the page. On page 2 item L, I
7 said sunset, and I did not put a time because it is
8 very easy to determine sunset. It's listed in every
9 newspaper, it's not negotiable, it's not a question
10 of what time it is. We don't get into the issue
11 that today the sun sets at 8:00 and last month it
12 set at 7:00. We're now dealing with the issue it's

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13 a beach club, and the beach should be used in
14 daylight hours.
15 I believe further on item number N, in
16 light of that probation or limitation of use, I
17 would modify N to read, amplified music of any kind
18 shall be prohibited. However, speakers may be used,
19 you know, on the premises as required for safety
20 communications, if that is determined. In other
21 words, because it's a beach facility, if they need
22 some means of communicating with people in the event
23 of an emergency, I don't want to be told that we
24 said they can't have a loud speaker or communication
25 system. So if it's required by Code or the Fire

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1 Department for safety purposes --
2 PRESIDENT SMITH: I never heard that loud
3 speakers were required by Code.
4 MR. SHAW: I don't know that they are.
5 PRESIDENT SMITH: Mr. Moore?
6 MR. MOORE: Not that I'm aware of.
7 PRESIDENT SMITH: Then there is no reason
8 for loud speakers.
9 MR. MOORE: I might want to defer to the
10 Fire Rescue folks and the beach control people.
11 PRESIDENT SMITH: Chief Elmore, is there
12 any reason?
13 MR. MOORE: There is an enunciator system
14 for sprinklers, but I'm not sure.
15 PRESIDENT SMITH: Any reason that you have
16 to have loud speakers for a public safety reason?
17 CHIEF ELMORE: No -- Ken Elmore, Fire
18 Rescue Chief -- we wouldn't. I don't know about
19 lifeguards or beach patrolmen, but certainly the
20 Fire Department wouldn't require it.
21 PRESIDENT SMITH: The Town of Palm Beach
22 doesn't have a speaker system, do they, on the
23 public beach?
24 CHIEF ELMORE: Not that I'm aware of, no.
25 They may use bull horns.

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1 MR. MOORE: Bull horns.
2 PRESIDENT SMITH: Thank you.
3 MR. WYETT: Are you talking about paging
4 speakers, is that what you had in mind?
5 MR. SHAW: No, I'm not talking about pager
6 speakers. I think it has been defined that there is
7 no need for it so, therefore, item N is simply
8 modified to read, amplified music of any kind shall
9 be prohibited. No concert should be held on the
10 beach property at any time. Under item N, I do not
11 feel that it should be an open ended issue for
12 scheduled club events.
13 PRESIDENT SMITH: Where are you?
14 MR. SHAW: I'm on page 3, item N. In a
15 purely subjective manner, I would just say there
16 should be four events not less than eight weeks
17 apart, and that they would be held as indicated in
18 cooperation with the Bath and Tennis Club, and not
19 in conjunction with any other events or activities
20 at the Mar-a-Lago Club, so that it does not turn
21 into a beach party, pavilion party, pool party, but
22 that if it would be permitted, it would only be so
23 many events.

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24 I think that I would ask Council to
25 consider a termination hour that would be suitable

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1 to the neighborhood. And I don't know what the Bath
2 and Tennis Club hours are, and I'm not trying to
3 have them wag this dog. I feel we looked at this
4 application as it affects the applicant and the
5 neighborhood. So if 10:00 is an appropriate time,
6 then the issue is going to be, how do you light a
7 beach that is not being lit? How do you deal with
8 the safety issues required? So I don't have an
9 answer to that item.

10 With that, I drew a line at the end of
11 item R, which is the last part of the beach, and
12 would move approval with those conditions. And this
13 is a part of the record.

14 PRESIDENT SMITH: Is there a second?

15 MR. MCDONALD: I'm not sure I agree on
16 number N.

17 PRESIDENT SMITH: I think that you all are
18 moving too fast for each other. You're not allowing
19 the dialog between the members of the Council before
20 you make your motion. So if you withdraw your
21 motion, please. Or it's dead anyway.

22 MR. SHAW: It's dead anyway.

23 PRESIDENT SMITH: Okay. I think
24 Mr. McLendon has something he wants to say; then
25 Mr. Wyett.

30

1 MR. MCLENDON: I was going to ask Mr. Shaw
2 a question, and maybe Mr. Royce even, on the
3 clarification of N. There is an existing agreement,
4 I believe, between Mar-a-Lago and the Town, that you
5 will not have events at the same time as the Bath
6 and Tennis Club. Does that mean you won't have
7 beach things at the same time, or are you going to
8 do things together at the same time?

9 MR. ROYCE: If I may, Madam?

10 PRESIDENT SMITH: Yes, please, Mr. Royce.

11 MR. ROYCE: In response, I think in the
12 existing Declaration of Use Agreement you are
13 correct, Mr. McLendon. I think the existing
14 Declaration of Use Agreement indicates that we are
15 to coordinate major events with the Bath and Tennis
16 Club and to avoid conflicts with them, and we
17 certainly have no problem with that.

18 The same concept here, that we would not
19 have significant events on the beach that would
20 conflict with their beach events or other major
21 events they have. I didn't exactly understand
22 Mr. Shaw's spacing and timing and so forth, but I
23 think we can work that out, yes, sir.

24 MR. MCLENDON: I didn't understand.

25 PRESIDENT SMITH: You don't understand

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1 Mr. Shaw's statement? We'll get to that.

2 MR. ROYCE: Was it four events, eight
3 weeks apart?

4 MR. SHAW: Four events per year. This is
5 obviously meant to be a year round club. Four
6 events, and they would be not less than eight weeks

MINUTES OF SPECIAL TOWN COUNCIL MEETING HELD ON APRIL 15, 16, AND 20, 1999 - MAR-A-LAGO
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7 apart. So you're not going to have one a month or
8 one a week.
9 MR. ROYCE: And I thought you said
10 10:00 p.m., or something like that. I'm not trying
11 to put words in your mouth, but are you saying those
12 events would be in exception to the other
13 prohibition of sunset?
14 MR. SHAW: Yes.
15 MR. ROYCE: If that is all we can get, I
16 guess we'll have to take it.
17 MR. MCDONALD: If you want to have a
18 monthly cookout, I don't see a problem with doing
19 something once a month.
20 MR. WYETT: It's too cold.
21 MR. MCDONALD: If you want to have
22 something from 5:00 to 7:30 once a month, I don't
23 see that as a big problem for anyone.
24 MR. SHAW: I may not either. That's why
25 we're discussing it.

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1 PRESIDENT SMITH: Mr. Collins.
2 MR. COLLINS: May I give you a few
3 thoughts? I think we're moving in the right
4 direction, and there are just a few points I'd like
5 to make. One, given the direction that you're
6 talking about, I'm very concerned about anything
7 going beyond sunset, because it does raise that
8 lighting issue. It will then cause the installation
9 of lights, and once lights are installed there is
10 going to be the issue of when they can be used or
11 not, and I would like you to not have anything go
12 beyond sunset.
13 There are a couple of issues that I think
14 I may have missed, because I read this only quickly.
15 MR. ROYCE: I think it would help if we
16 could stay on one issue at a time.
17 MR. COLLINS: That is fine.
18 MR. ROYCE: I'd like to say this about the
19 lights: there is a County ordinance and State
20 ordinance that relates to having minimal lighting
21 because of sea turtles. And we have a building to
22 the north and we agreed not to put any lights on the
23 north side of the building that would spill over on
24 Mrs. Massey's property. I think the lighting is
25 well restricted by the State and County law, in

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1 addition to whatever requirements you all might put
2 on it.
3 We have no problem with any kind of
4 lighting restrictions and avoiding any lights on
5 Mrs. Massey's property. Mrs. Massey has a lot of
6 lights out there, and that is fine, but we're not
7 proposing to have the same amount of lights as she
8 has and have them shining in all directions. I
9 don't want to argue about her lighting, but we'll
10 have lot less lighting than she will, I suspect.
11 PRESIDENT SMITH: But you don't want to
12 say that she, in a private residence, isn't entitled
13 to the lights she needs for security, because the
14 turtle season is in effect for both Mrs. Massey and
15 she's not violating that law either, Mr. Royce.
16 MR. ROYCE: That is correct.
17 PRESIDENT SMITH: No beachfront property

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18 owner has their lights shining on the beach after
19 right now, April 1, and we are looking into making
20 it a shorter season. I believe when you're talking
21 about the Bath and Tennis, you must remember all of
22 their events are held in the wintertime when they
23 have their cookouts, and I think they are usually
24 over by 9:00. They are very -- they are for
25 children.

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1 PRESIDENT SMITH: Mr. Moore.
2 MR. MOORE: By 10:00.
3 PRESIDENT SMITH: What time did you say?
4 MR. MOORE: 10:00.
5 PRESIDENT SMITH: 10:00, so we're not
6 looking at anything here in the summertime as far as
7 the Bath and Tennis is concerned. I think Mr. Shaw
8 said that the Mar-a-Lago Club is now going to be a
9 year-round operation?
10 MR. ROYCE: We don't --
11 PRESIDENT SMITH: Does he know that, or is
12 this something put into the record, or are you
13 saying, no, it isn't?
14 MR. ROYCE: I don't know the answer to
15 that, I'm not aware. Could Mr. Blackman answer
16 that?
17 PRESIDENT SMITH: Please. I'd like
18 someone to answer that, because it has not been a
19 year-round club. As I understand, it has closed on
20 Mother's Day. Now is it going to stay open?
21 MR. BLACKMAN: Last year we tried a pilot
22 program where we actually kept the spa open, because
23 a lot of members felt that fell into their routine
24 and we didn't want to disturb their routine. The
25 same for the swimming pool and two of the tennis

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1 courts. Foreseeably, this could be true for the
2 beach, but it's something we really haven't
3 discussed.
4 PRESIDENT SMITH: Let me rephrase my
5 question. If you receive permission for the
6 beachfront cabanas, would you anticipate having the
7 beach open in the summer?
8 MR. BLACKMAN: It's likely.
9 PRESIDENT SMITH: I would think so.
10 MR. SHAW: It was not with knowledge, but
11 just with, I guess, using some reason, that since
12 that has been one of the --
13 PRESIDENT SMITH: We're just trying to
14 clarify the situation. You stated it as a fact, and
15 whether it is a fact or not we just want to know.
16 MR. SHAW: A reality that will probably
17 come forward, if not when this is completed in a
18 year or two, but something that would come forward
19 as time progressed. Rather than have to re-address
20 the issue, I want to make it very clear at this
21 particular point. And I said four was a number; it
22 may be a different number. I don't know that it
23 should be a monthly event. And if it's not monthly,
24 then what controls it? So if you say not more often
25 then X number of weeks, you're establishing when

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1 you're going to do it. If it's every eight weeks,
2 that obviously would lend to six a year, if you did
3 it every year.

4 So I guess the thing I'm concerned about
5 is from a turtle standpoint. Mr. Moore, what
6 activities are permitted on a beach during turtle
7 season? I know you cannot have lights that are
8 shining into the water, but --

9 PRESIDENT SMITH: Into the sand.

10 MR. SHAW: Into the sand. That makes it
11 worse, if it's not into the sand. That's what
12 you're lighting by having an activity on the beach.
13 Is that a violation of the County Code?

14 MR. MOORE: The intent of the County Code
15 talks about from April 1 -- strike that -- from
16 March 1 through October, and ours is April 1. We're
17 studying that right now. But the County Code is
18 more severe, and they may have to take precedent.
19 But you would not be permitted to shine any type of
20 lighting that would attempt to attract the turtles,
21 and you cannot disturb them while they're laying.
22 Their trek is from the water to lay their eggs, and
23 then back to the water. Watching is permitted, but
24 from a distance.

25 MR. SHAW: It would have to be clear

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1 specifically, because of the turtles, if there is
2 any activity that cannot be permitted east of the
3 bulkhead. Because I think that is a very important
4 point, because no one is going to be able to see
5 where the turtle nests are in the dark.

6 MR. ROYCE: That is the reason I was
7 waving my hands trying to get Mrs. Smith's
8 attention, to point out that there is a bulkhead
9 here, and the improvements that are proposed are
10 west of the bulkhead. The events would be
11 essentially west of the bulkhead. Yes, there is a
12 stairway, or would be a stairway, and someone can go
13 down, but there is a three or four foot drop-off to
14 the beach. And I think any organized activity would
15 obviously be west of the bulkhead and not on the
16 beach area.

17 PRESIDENT SMITH: Mr. Royce, you
18 understand that you cannot have lights shining on
19 the beach even west of the bulkhead, because the
20 turtles go to the light. They would go to the
21 bulkhead if the light was shining on the beach.
22 There can be no lights.

23 MR. ROYCE: I understand. We fully intend
24 that part of the order of the DDP, when they approve
25 the costal construction line, requires compliance

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1 with State regulations. There is a County
2 regulation. We appeared before a County Board, and
3 they made it very clear that the County regulations
4 would also be applicable, and we full well
5 understand that and we'll have to comply with all of
6 those requirements.

7 PRESIDENT SMITH: Thank you.

8 MR. MOORE: They don't have a choice, in
9 other words.

10 PRESIDENT SMITH: Turtle season is on now.

11 MAYOR ILYINSKY: When does it end?

12 PRESIDENT SMITH: The end of October.
13 MR. MOORE: It ends October 31.
14 MR. ROYCE: We fully intend to comply. I
15 have no argument as far as that is concerned. I
16 think the only question is eight weeks apart or four
17 weeks apart, in terms of --
18 PRESIDENT SMITH: That is one of
19 Mr. Shaw's thought. We haven't gotten to that yet.
20 Before we do go on, I think this is the time,
21 Mr. Moore, do you want to put the staff comments in,
22 please?
23 MR. MOORE: As you're going through these
24 listed items that Mr. Royce has given, and assumably
25 some that Mr. Collins has given to you, we think it

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1 might be appropriate to remind you, although we've
2 given you staff comments prior to that, the ones
3 that are germane, we also have the Chief of Police
4 and Fire Chief Elmore here, and Al Dusey. If they
5 have any specific remarks they wish to make, other
6 than what is in the staff report, regarding this.
7 One of the main issues I know that they
8 had was a concern of how safety -- fire safety
9 vehicles were going -- and public safety vehicles
10 per se, not just fire, but police, how they would
11 attend the calls that would be related to either a
12 heart attack or an accident or drowning. And so I
13 think it should be put back on the record that they
14 have their concerns regarding that. Paul Castro has
15 the rest of staff comments, along with a baby girl.
16 PRESIDENT SMITH: What did you have,
17 Paul?
18 MR. CASTRO: We had a baby girl, 7 pounds
19 5 ounces.
20 PRESIDENT SMITH: Very nice. What is her
21 name?
22 MR. CASTRO: Her name is Casey Mae Castro.
23 PRESIDENT SMITH: Congratulations,
24 Mr. Castro.
25 MAYOR ILYINSKY: Good for you, Paul.

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1 MR. ROYCE: We got Mr. Skokowski here.
2 We've done research.
3 PRESIDENT SMITH: When Mr. Castro finishes
4 his staff comments we're going to get into the
5 question of the emergency vehicles, the way they'll
6 park onsite, because I'm sure you were working over
7 the weekend.
8 MR. ROYCE: Yes, we were.
9 PRESIDENT SMITH: Mr. Castro, please.
10 MR. CASTRO: As was previously discussed
11 earlier in our staff reports, we have several
12 different issues that we'd like to discuss relative
13 to the cabanas. First of all, if the cabanas are
14 approved in any form, staff recommends that
15 construction be limited to only May 1 and
16 November -- to occur between May 1 and November 15
17 so construction traffic does not negatively impact
18 segments of South Ocean Boulevard and Southern
19 Boulevard adjacent to Mar-a-Lago during peak
20 season.
21 And Mr. Royce has agreed to this, that if
22 the bulkhead is below our minimum standard of 14.43,
23 they agreed they will raise the structure, provide

24 us a structural analysis also, to insure that the
25 bulkhead does meet the standards that exist to

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1 provide integrity to the structural bulkhead
2 itself.

3 They mentioned that they are relocating
4 the access gates to meet the 18 foot setback, and
5 are addressing the widening of the gate and
6 providing a staging area for emergency vehicles,
7 with another pedestrian access gate further to the
8 south. And also, our comments are related to the
9 tunnel and handicap access to the property.

10 Staff believes that there should be no
11 access to the property for pedestrians across South
12 Ocean Boulevard, and that the tunnel be looked at
13 closer to determine if the tunnel needs to be
14 widened to meet the needs for service to the cabana
15 property or the ocean property relative to garbage
16 pickup, membership access, handicap access, and we
17 believe that needs to be looked at closely.

18 Also, the applicants need to provide us
19 with a utility plan, to make sure they do not
20 interrupt traffic with running of utilities across
21 South Ocean Boulevard, and make sure there is
22 adequate service to the beach cabanas and other
23 amenities related to the property.

24 And as was discussed previously, they are
25 going to be required to meet the lighting

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1 requirements of State and County in terms of turtle
2 nesting.

3 The only other comment we have related to
4 this is related to the open air entertainment and
5 the hours of operation, and the Council discussed
6 that. And we do believe that there should be a
7 limit in terms of hours of operation on cabanas, as
8 well as addressing the issue of noise, to make sure
9 that it does not negatively impact the neighbors to
10 the north, the residential neighbors.

11 And that completes our comments.

12 PRESIDENT SMITH: Thank you, Mr. Castro.
13 Chief Elmore, Chief Croft, would you come up? While
14 he's coming up, can you tell me, Mr. Royce, are
15 there stairs in the tunnel?

16 MR. ROYCE: Yes, at both ends.

17 PRESIDENT SMITH: How do you get a golf
18 cart up and down the stairs for using it for the
19 handicapped? How would that be done?

20 MR. ROYCE: I guess if we have to do that,
21 I guess we'd have to take the steps out and build
22 ramps, one of the stairs, both the east end of the
23 tunnel and the west end. We think if we can take
24 non-ambulatory people once in a while, it's going to
25 be very infrequently, across the street. And we

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1 have a drawing of having a parking place for trucks
2 and so forth, if that is what you want, and I know
3 we can handle the other things like garbage and so
4 forth, and service and stuff using the stairways.
5 If we can't do that, I guess we'll have to take the

6 steps out and try to build a ramp.
7 PRESIDENT SMITH: Have Chief Elmore and
8 Chief Croft seen the drawings?
9 CHIEF ELMORE: Yes, we have.
10 PRESIDENT SMITH: Yes? Thank you.
11 MR. MOORE: Mrs. Smith, one comment on
12 handicapped, disabled, if it's all right to do
13 that?
14 PRESIDENT SMITH: Go ahead.
15 MR. MOORE: They are talking about
16 ramping. There are two types of ramps I'd like to
17 make the Council aware of. One ramp would be a
18 pitch or slope, that would permit golf carts to
19 simply operate on their normal procedure. The other
20 would need to meet a minimal slope of one and 12;
21 for every one inch of rise they need 12 inches of
22 length. They are continuing to offer to bring
23 non-ambulatory people across the street, and that is
24 what you just heard Mr. Royce said, by way of golf
25 carts. They may not be able to get a ramp long

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1 enough to do the handicapped, and meet the
2 handicapped facilities. So you really need to take
3 that into consideration when you're making your
4 decision, as to whether you want to require them to
5 have a ramp for the handicapped or non-ambulatory,
6 or whether you permit them to go across the street
7 by golf cart.
8 PRESIDENT SMITH: Thank you. Chief
9 Elmore, Chief Croft, has the Council seen it? No?
10 MR. SHAW: Mr. Moore, what is the ramping
11 requirement for non-challenged?
12 MR. MOORE: I'm sorry?
13 MR. SHAW: What is the ramping requirement
14 for non-challenged?
15 MR. MOORE: It would be considerably
16 shorter, because of the vehicle strength to be able
17 to make the incline, an incline such as 45 versus an
18 incline almost flat for the one and 12.
19 MR. SHAW: 45.
20 MR. MOORE: Whatever the golf cart would
21 require. I don't know the answer to that.
22 MR. WYETT: Mr. Moore, providing
23 transportation from the main building to the beach
24 for the handicapped to satisfy the handicap
25 requirements -

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1 MR. MOORE: It would satisfy the handicap
2 requirement, as long as the other facilities would
3 handle it. In other words, they have the right as a
4 private club -- churches and private clubs have
5 exceptions to ADA. Under Florida Statute 553, which
6 is also the handicapped statute, they would have to
7 provide or make available transportation. The
8 answer is they would have to get their plan approved
9 of how they were going to do that, by the State
10 Department of Community Affairs and not the Town.
11 The Town would interfere.
12 MR. WYETT: Does the transportation
13 include a handicapped vehicle for people?
14 MR. MOORE: I can tell you that they do
15 these type of things around the State, but I don't
16 know the type of vehicle. But it would have to be
17 approved by the Department of Community Affairs, not

18 the Town.

19 PRESIDENT SMITH: Can we hear from Chief
20 Elmore and Chief Croft, please, since you all have a
21 plan?

22 CHIEF ELMORE: Ken Elmore, Fire Rescue
23 Chief. The drawing you have before you in regard to
24 the vehicle parking certainly is satisfactory from
25 that regard, yes.

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1 PRESIDENT SMITH: All right. Chief Croft.

2 CHIEF CROFT: I would echo Chief Elmore's
3 comment. However, with regard to the handicapped
4 issue, I'm still opposed to having any sort of
5 vehicle crossing back and forth, and I would
6 recommend that you consider not giving in on that
7 issue until such time as you're presented evidence
8 that they can't make the one and 12 grade.

9 PRESIDENT SMITH: All right, thank you,
10 Chief Croft. Mr. Dusey, as far as trash and garbage
11 and servicing of the beach?

12 MR. DUSEY: Al Dusey, Public Works. For
13 the record, Mr. Bowser, in his review, has reached a
14 number of issues that are important to us. One is
15 that the waste water leaving the facility has to
16 make its way down to the station that exists now.
17 That is not showing how that is going to occur.

18 The storm drainage has to meet with
19 Council currency regulations on the east side of
20 Ocean Boulevard; those calculations have not been
21 presented. No discharge to the beach is permitted.
22 We're very concerned that the overall improvements
23 to the facility do not overwhelm the existing
24 sanitary sewer pump station.

25 PRESIDENT SMITH: How would you find out

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1 if it does overwhelm?

2 MR. DUSEY: They have to do the
3 calculations to show us. Those are fairly standard,
4 but they have not done them yet, to my knowledge.

5 PRESIDENT SMITH: Are those done,
6 Mr. Royce?

7 MR. ROYCE: No, Ma'am. I believe it would
8 be putting the cart before the horse to start doing
9 engineering work before we have approval. But
10 obviously, we will comply with all the engineering
11 requirements. If we have to build pump stations and
12 put in pumps and do all that stuff and size things
13 correctly, we understand that we'll have to comply
14 and we'll do that.

15 PRESIDENT SMITH: So you don't know yet
16 whether the pump station can handle this? Or you
17 will -- if necessary, you will build a new pump
18 station?

19 MR. ROYCE: We will have to do whatever is
20 necessary to meet the Town staff engineering
21 requirements. Yes, Ma'am, we will do that.

22 PRESIDENT SMITH: Mr. Wyett.

23 MR. WYETT: Regarding the tunnel, do you
24 consider steps a problem for moving trash and
25 garbage and also moving food in two different

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1 directions there? A ramp make it seem easy. There
2 are towels that have to come off that thing, trash,
3 et cetera.

4 MR. DUSEY: We wouldn't service that
5 facility with respect to garbage and trash. That
6 would have to be brought down to the place that we
7 do service. The personnel I'm sure can get up and
8 down the stairs. It would be somewhat difficult.

9 PRESIDENT SMITH: If they have to, they
10 have to.

11 MR. ROYCE: I'm not asking the Town to
12 pick up the garbage. The Town would continue to
13 pick it up at the current location. It would be
14 incumbent upon the club.

15 PRESIDENT SMITH: That was last week that
16 the Town said it would not service it.

17 MR. ROYCE: We understood that.

18 PRESIDENT SMITH: Members of Council, any
19 other questions? Anything else, Mr. Moore? From
20 staff, Mr. Castro?

21 MR. DONEY: We've had a very important
22 series of meetings with the staff, and I think both
23 Chiefs and Mr. Dosey, Mr. Moore and Mr. Castro have
24 accomplished what the staff comments are of what
25 needs to be in place. But I think there are several

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1 issues that the Council obviously now has to address
2 as far as what it believes is appropriate.

3 PRESIDENT SMITH: Thank you.

4 MR. COLLINS: May I ask a question?

5 PRESIDENT SMITH: Mr. Collins, then
6 Mr. Royce.

7 MR. COLLINS: I never did get a chance to
8 go through the things I started to go through. We
9 did lighting and stopped, and we didn't even finish
10 that. I have a few items, they're not many, and I
11 don't think they are difficult and I don't think
12 they will take a lot of time. But I would like the
13 opportunity to go down these five things,
14 thereabouts.

15 PRESIDENT SMITH: You will get the
16 opportunity.

17 MR. COLLINS: That is great.

18 PRESIDENT SMITH: Mr. Royce, then
19 Mr. Wyett.

20 MR. ROYCE: I just wanted to add that if
21 it's ramps versus steps, then we can -- Mr. Wyett
22 brought up a good point the other day, and that was
23 the chair lift thing, and that is also an option in
24 terms of handicapped people. So I think -- and I'm
25 not playing engineer here, but I think we could

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1 probably not meet the 12 to one slope because of the
2 distances involved, and you'd have to go hundreds of
3 feet, I think.

4 So if we have to go to a ramp situation,
5 it will not be a handicapped qualified ramp but more
6 of a 30 degree type ramp, or something like that, if
7 we have to do that. But if we have to do that, we
8 have the option of taking Mr. Wyett's suggestion,
9 which is the chair lift arrangement, and making that
10 work in some manner, too.

11 So I would not like to not be bound into

12 what the slope of the ramp is. Let us work with the
13 appropriate State officials and see what we need to
14 do vis-a-vis handicapped.

15 MR. WYETT: Mr. Royce, relative to that
16 subject I have to ask Bob Moore, we talked about a
17 ramp, we talked about it going in a straight line,
18 which is probably a great distance, but couldn't
19 that ramp be U-shaped?

20 MR. ROYCE: There is only one way to go on
21 the east side; it pretty much has to go straight
22 north. It's possible. We can certainly look into
23 design.

24 MR. WYETT: You could use a combination of
25 a U ramp on the west side and an elevator on the

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1 east.

2 MR. ROYCE: There are probably a lot of
3 conclusions, but I'm asking a little flexibility to
4 let us work that out with the appropriate
5 authorities.

6 PRESIDENT SMITH: I don't think,
7 Mr. Royce, this is the biggest problem. I think
8 whether there is a ramp or steps, it would obviously
9 be something that the engineers would work out.
10 It's not going to be a condition. The building is
11 working on it. If you modify the tunnel, does that
12 need State approval? A tunnel will be modified if
13 they have to add a ramp?

14 MR. ROYCE: I don't know the answer to
15 that.

16 PRESIDENT SMITH: Mr. Moore, do you know?

17 MR. MOORE: I'm sorry?

18 PRESIDENT SMITH: If the tunnel is
19 modified with the addition of ramps, does that take
20 State approval?

21 MR. MOORE: I'm sorry, do you mean the
22 Department, for ramping? No, I don't think the
23 State would have a problem with ramping.

24 PRESIDENT SMITH: Is it not east of the
25 coastal construction setback on the Town?

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1 MR. MOORE: But the ramps would not be.
2 It's not a foundation system. Anything with a
3 foundation system requires their approval.

4 PRESIDENT SMITH: Mr. Royce, just for my
5 clarification, what is the height of the north
6 building?

7 MR. ROYCE: 18 feet, I'm told.

8 PRESIDENT SMITH: To the tie beam?

9 MR. ROYCE: To the tie beam. What is the
10 height of the top of the roof? 22 feet.

11 PRESIDENT SMITH: 22 feet. And on the
12 second floor of that north building you have -- what
13 is up there? What is proposed to be up there?

14 MR. ROYCE: Two cabanas.

15 PRESIDENT SMITH: Two cabanas. So the
16 majority of cabanas are going to be on the first
17 floor?

18 MR. ROYCE: Yes.

19 PRESIDENT SMITH: Did you give any thought
20 to having the north building just a one story
21 building? Because my thought is that it's almost,
22 according to the way I looked at it, across the

23 street from the main entrance to the club, and a one
24 story building would not be as intrusive as you're
25 looking from the right or left as you approach the

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1 main gates of Mar-a-Lago.
2 MR. ROYCE: Mr. Blackman will have to
3 answer that question. He's the one involved with
4 the design.
5 PRESIDENT SMITH: Thank you.
6 MR. BLACKMAN: This is something we looked
7 into, and I think it's an unique condition of the
8 site and Mar-a-Lago, dealing with the National
9 Trust. We felt it important, and they agreed with
10 us that it's important, to claim the beach as an
11 extension of Mar-a-Lago. And to do that best is to
12 establish a two story building on the north and
13 south in order to bracket what is between them. By
14 doing that, too, we provide a more significant
15 buffer to the properties to the south and to the
16 north. Having the second floor helps in that
17 regard.
18 PRESIDENT SMITH: Having the second floor
19 does what on the north side?
20 MR. BLACKMAN: Helps frame the view and
21 also create a buffer to the property to the north
22 and the property to the south, more of a substantial
23 buffer. And really, the north and south buildings
24 are residential scales.
25 MR. ROYCE: Let me try and elaborate on

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1 that. I think a lot of concerns that Mr. Collins
2 has, and rightly so, is noise, to the extent that a
3 swimming pool or people splashing and jumping around
4 a swimming pool creates that sort of noise. The two
5 story building acts like a wall between Mrs. Massey
6 and the swimming pool area, whereas if you have a
7 one story building and a large pool and open area,
8 it might not provide the same buffer, if you will,
9 that a two story building will. So we really think
10 that a two story building, particularly since we're
11 willing to put opaque windows that are non-operable
12 on the north side, it really becomes in the nature
13 of a buffer, to buffer away from the area that the
14 people are going to be at the beach.
15 PRESIDENT SMITH: If you're talking about
16 opaque windows, why have any windows if they are
17 going to be opaque? What is the difference?
18 MR. BLACKMAN: They let a degree of light
19 in, and they're consistent with the Mediterranean
20 style, a certain window spacing, a Landmarks
21 condition.
22 PRESIDENT SMITH: I'm sorry, what about
23 Landmarks condition?
24 MR. ROYCE: We're also anticipating -- the
25 architect is anticipating comments from the

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1 Landmarks Commission. They like to see windows, as
2 I recall, even if they are opaque.
3 PRESIDENT SMITH: Thank you. Mr. Wyett.
4 MR. WYETT: While we're on the one story-
5 two story, I am in favor of the one story. I'm

6 looking at what you're putting in the second story
7 with the three gigantic cabanas. Not three, two and
8 one, I believe.

9 MR. ROYCE: Two on the north and one on
10 the south.

11 MR. WYETT: So, I'm right, three. You can
12 have a higher one story building that wouldn't reach
13 a total of 22 feet, but it also wouldn't be squat
14 and it would be less intrusive on the property.

15 I think the Council ought to consider
16 restriction of alcohol use on the beach; it could be
17 dangerous. No motorized boats coming in; another
18 safety factor.

19 MAYOR ILYINSKY: That is State law.

20 MR. WYETT: You can bring a motorized
21 boat --

22 PRESIDENT SMITH: Not with the ordinance
23 that we have, you can't.

24 MR. WYETT: Boating safety, lighting at
25 night. I suggest a slightly different plan to

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1 Mr. Shaw's idea. I suggest that a party at any time
2 for children under 14 during daylight hours
3 certainly is reversible. Children tend to do more
4 of those things than adults do.

5 MR. SHAW: I didn't address that at all.

6 MR. WYETT: No. I just added to it. And
7 I particularly would mention the specific holidays,
8 Memorial Day, Labor Day and Fourth of July, which
9 some of you can pick up the orders.

10 PRESIDENT SMITH: You done?

11 MR. WYETT: Sunset is too nebulous. Who
12 is going to keep looking to see where the sun is? I
13 think the hours during season 5:00, it's dark pretty
14 close to 5:00 anyway during season; and 9:00 off
15 season, because sunset is about 9:00. But time
16 certain rather than time nebulous.

17 PRESIDENT SMITH: I know, Mr. Collins, you
18 have concerns. Rather than go through your list,
19 could you list your concerns?

20 MR. COLLINS: Yes, Ma'am. I'll do this
21 rather quickly. And I think they're, in concept,
22 simple, and I hope you will entertain them and bear
23 with me as I try to do this in an organized
24 fashion. We were talking about lighting, and I
25 would hope there would be no lighting other than

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1 required security. And turtles and whatnot, if
2 there is to be lighting allowed.

3 Because if you determine they can have
4 four parties a year, or whatever we're talking
5 about, I would ask that lighting all be turned off
6 except for security lighting, except for those
7 perhaps four occasions, or whatever you decide when
8 an activity is actually going on, so there is as
9 little lighting going on on the property as possible
10 when it's not necessary to have that lighting.

11 I would refer you, if you can use my list
12 for referral purposes for my discussion, my item
13 number 2 I thought was agreed to, and I think that
14 it should be in the list of conditions and added as
15 a permanent prohibition, of people staying overnight
16 in cabanas and things of that nature. My item 2

17 deals with that. I don't believe that is in
18 Mr. Royce's list. I think it's agreeable to
19 everyone and I ask that you incorporate my number 2.
20 Next I would refer you to my number 5,
21 which goes to the issue of one story-two story. You
22 will notice on my list an alternative, which is the
23 opaque windows and non-operative windows, if it is
24 to be two story. If it is to be two story, I take
25 it we're in agreement on that aspect of it.

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1 But I would request on behalf of
2 Mrs. Massey that it be one story for the reasons
3 that Mrs. Smith enunciated. And clearly, a one
4 story building, particularly with a pitched roof, is
5 well tall enough to provide any screening from noise
6 or what have you, pretty much to the same extent as
7 a two story building.

8 My next point goes to my number 12, and
9 that goes to the location of the construction
10 access. Mr. Royce's condition says they'll work
11 that out with Town staff. I would like a condition
12 that says the construction access is to be as far to
13 the south end of the property as possible. Now,
14 there may be reasons that the staff has that it
15 can't be at the absolute south end, but I'd like the
16 choice of the location to be as far south as any
17 other legal requirements would allow.

18 My number 13, if it is to be two stories,
19 and I hope it wouldn't be, but Mr. Royce the other
20 day agreed, or advised us, that the two story
21 structure that they planned in overall height will
22 be four feet lower than the overall height of
23 Mrs. Massey's house, but his condition says it shall
24 be no higher than her house. If at most it's to be
25 four feet lower, then let that be the condition that

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1 it can't be any higher than four feet lower.

2 Just two more and I am finished. And by
3 the way, I'm assuming that some of the things that
4 are being discussed, such as daylight limitations
5 and all that, will be imposed. I'm not going to
6 reiterate them now; you seem to be going in that
7 direction.

8 There are two conditions, 18 and 19 at the
9 end of my list, that I would call procedural rather
10 than substantive positions. Nobody mentioned them
11 yet; you're seeing them for the first time. I think
12 they're important, and I'd like to explain why one
13 says that whatever conditions are imposed here run
14 with the land, so that any successor in interest to
15 Mrs. Massey can be assured of the same protections
16 that she has.

17 And the last one, I'd like to read it out
18 loud. These restrictions imposed on the
19 construction and operation of the Mar-a-Lago beach
20 facility were designed to consider and protect the
21 quality of life of surrounding Town residents and
22 the public interest of Palm Beach's future -- that
23 should be, future Councils are urged not to
24 eliminate any of these conditions unless such change
25 is agreeable to the -- agreeable to the abutting

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1 residents, or urgent circumstances justify the
2 change.

3 I ask you to put something like that in
4 here for two reasons. One, we know Mr. Trump's
5 modus operandi. I happen to like him; I admire him
6 in many ways. He's a tenacious son of gun. And you
7 know as I know, as he's proven in the past, he'll be
8 back to modify these things as soon as he can, and I
9 don't want them modified unless it's a real urgent
10 reason to do so.

11 And many times a Town council such as
12 yourself will say, I don't know what was in the mind
13 of that prior Council when, for example, they
14 excluded the cabanas in the original approval, I
15 don't know why they did it. This kind of condition
16 will make it clear to a future Council that you felt
17 it was doggone important and they shouldn't change
18 any of this stuff except in the most significant of
19 circumstances. So I would ask you to add conditions
20 consistent with my numbers 18 and 19.

21 And I know I've gone over that fast, so if
22 there is anything you want reread, or have a
23 question, I'll be happy to deal with it. But those
24 are the remaining things I think I need for you to
25 deal with.

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1 PRESIDENT SMITH: Mr. Mayor.

2 MAYOR ILYINSKY: Mr. Randolph, can you
3 leave -- can we say that? Can you bind future
4 Councils, in other words?

5 MR. RANDOLPH: Well, it appears to me that
6 Mr. Collins was very careful in the way he worded
7 this, and he indicated that future Councils be urged
8 not to make this change. And I don't think it's
9 intended, nor could I agree that you could bind
10 future Councils in that regard. But if you chose to
11 incorporate this kind of language, it would not be
12 inappropriate as long as it's clear that you're not
13 attempting to bind the future Council.

14 MAYOR ILYINSKY: Thank you.

15 MR. ROYCE: Can I comment briefly?

16 PRESIDENT SMITH: Mr. Royce.

17 MR. ROYCE: I don't think we are that far
18 apart now.

19 PRESIDENT SMITH: Please comment on what
20 Mr. Collins said.

21 MR. ROYCE: There are a couple of items
22 you are talking about, Mr. Collins, and I
23 essentially retired from, and that is the operation
24 of events and so forth.

25 PRESIDENT SMITH: You retired because

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1 you're in agreement?

2 MR. ROYCE: No, I think -- I haven't
3 retired and given up, but I think you all are pretty
4 much -- I'm talking about special events hours of
5 operation. You know I'd like to have it longer, but
6 you all are discussing that. You're discussing the
7 four events eight weeks apart, and Mr. McDonald is
8 saying more frequently than that. We're going to
9 abide by your decision. Obviously I'd like it to be
10 later, he'd like it to be earlier.

11 MAYOR ILYINSKY: I'd like to go home.
12 MR. ROYCE: Let me address the points that
13 Mr. Collins raised. The lighting, we're
14 substantially in agreement on, and I won't repeat
15 all that about the turtle lighting and so forth.
16 But I think that we are essentially in agreement on
17 that.
18 His number 2, about people spending the
19 night and having kitchens, I think your ordinance is
20 clear. We designed this so there are no kitchens or
21 overnight facilities. I think your Code takes care
22 of that, that is fine.
23 Two story, I guess there is a
24 two story-one story question. We'd like two stories
25 in the north building with the opaque windows and

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1 the other things we agreed to.
2 Construction access, we have no problem
3 with that in working out that, moving that
4 construction access away from Mrs. Massey's
5 property, whatever your staff says. And we can put
6 it squarely in the middle of the property, we can
7 put it south. I think you start to get into curbs
8 and some other problems with the south, but we'll
9 abide by your staff's recommendation and concede and
10 agree in principle that it should not be that north
11 access gate, but should be moved south, consistent
12 with whatever the Police and Fire Department think
13 is appropriate and your staff thinks is
14 appropriate. So we don't have an issue there.
15 Mr. Blackman confirms to me that
16 Mrs. Massey's building is four feet taller than the
17 height of the two story cabanas, so we would agree
18 with Mr. Collins in that regard; it would be four
19 feet lower than the height of her building, even if
20 it's two stories.
21 In terms of number 18 running with the
22 land, I would presume, and I have not discussed this
23 with Mr. Randolph, but I would presume that if this
24 is approved and conditions are done, this, in
25 effect, is an amendment of the Declaration of Use

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1 Agreement, all these terms and conditions that we
2 set forth in the Declaration of Use Agreement, and
3 this would be placed as a matter of public record
4 and would run with the land and would be something
5 that would be a permanent restriction on the
6 property.
7 In terms of number 19, I don't have
8 anything to say about that. Obviously, you can't
9 bind future Councils. I suppose there could be a
10 change of circumstances; we don't anticipate it.
11 We're trying to bring a five year plan to show you
12 everything that was on the horizon, so we're not
13 anticipating trying to get anything changed. I know
14 how difficult it's been to go through this the first
15 time. I can tell you I certainly wouldn't be
16 anxious to run back in here seeking the changes.
17 MR. COLLINS: We agree with Mr. Wyett's
18 suggestion about the alcohol. I think that was a
19 good point.
20 MR. WYETT: I asked for prohibition. If
21 people want to drink, they have a pool in the main
22 part of the property. And at the beach there is

23 always a problem with alcohol.
24 MAYOR ILYINSKY: Does that include a good
25 bottle of Heinekin?

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1 MR. SHAW: I don't think that's realistic.
2 MR. WYETT: Limit --
3 MR. MCLENDON: I don't think it's
4 realistic.
5 PRESIDENT SMITH: Just before Mr. Shaw, I
6 think we are in the phase we have to remember, in
7 looking at the application, if you put prohibitions
8 on and we can't enforce them, we are not going to
9 have a code enforcement officer on the premises for
10 some of the things. It just would be impossible.
11 Now, Mr. Shaw.
12 MR. SHAW: As I started off this meeting,
13 who is in control?
14 PRESIDENT SMITH: Just a minute,
15 Mr. Shaw. Would you like five minutes to talk to
16 each other?
17 MR. SHAW: If I can say what I was going
18 to, I'd like to put something on the record with
19 regard to item number 18. Mrs. Massey is not
20 controlling this document, Mrs. Massey is not
21 controlling the Council. If there is any
22 stipulation as to the conditions, it is not to
23 Mrs. Massey, it is to the residence. And if that is
24 to be considered, it would be then modified to say
25 that it is to the benefit of the land owner. And if

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1 we wish to put in a circumference of 500 feet or
2 200 feet, or whatever our Code generally deals with
3 land owners that are involved in an application,
4 then that is how it should be.
5 MR. COLLINS: I agree with you. This is
6 poorly written on my behalf, and you're quite right
7 and I don't have a problem with that.
8 MR. SHAW: Thank you.
9 MR. ROYCE: What Mr. Collins indicated to
10 me, in a couple of places in paragraph F and G, I
11 talk about access to the property through a gate on
12 the western side of the property, I refer to the
13 western side of the beach property which is
14 adjacent. That is the intent, that is to say --
15 PRESIDENT SMITH: We understood that,
16 Mr. Royce.
17 MR. WYETT: Do we have incorporated in
18 there no coordination with other events held at the
19 Mar-a-Lago property? The purpose of the comment was
20 to prevent undue traffic.
21 MR. ROYCE: We have coordination of events
22 with Bath and Tennis.
23 MR. WYETT: I also -- somebody else
24 mentioned, and I thought it was a good idea, that
25 the beach facility -- any function on the beach

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1 facility should not be in conjunction with other
2 events on the main property.
3 MR. ROYCE: Well, you mean major events.
4 Someone may be playing tennis or in the spa.

5 MR. WYETT: Tennis and spa are not events.

6 PRESIDENT SMITH: But if you have the
7 pavilion and you decide to have a beach party that
8 night at Mar-a-Lago, that would in effect bring the
9 entire Town to a screeching halt.

10 MR. ROYCE: I understand that.

11 MR. SHAW: That is the point I was making,
12 that you cannot have an open location event on the
13 property.

14 PRESIDENT SMITH: Mr. Blackman.

15 MR. BLACKMAN: That would not prove a
16 problem for us. Right now we're very careful in
17 scheduling events in the house and on the property
18 so we don't have conflicting events, and we also
19 have the ability to service them appropriately.

20 PRESIDENT SMITH: All right, Mr. Randolph.

21 MR. RANDOLPH: A concern was mentioned
22 about motorized boats being launched from the beach,
23 and the response was that we have an ordinance
24 against that. I'm not sure the extent to which our
25 ordinance deals with private beachfront properties.

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1 I know we have prevention of launching of vessels
2 from public beaches and that sort of thing. I'm
3 suggesting that if that is a concern of yours -- I
4 don't know that it is because it was only mentioned
5 by one person -- that you not simply rely on the
6 ordinance, that you state specifically what you want
7 in that regard in the Declaration of Use Agreement.

8 PRESIDENT SMITH: I thought that was a
9 given, because the property below the high water
10 mark is public.

11 MR. RANDOLPH: I don't know that at this
12 time, so I think you ought to discuss it.

13 PRESIDENT SMITH: Good point.

14 MR. WYETT: It is normal to have
15 sailboats.

16 PRESIDENT SMITH: Wind surfers.

17 MR. ROYCE: I know of no plan to use
18 motorized boats.

19 MR. WYETT: All well and good. Mr. Trump
20 has the most vivid imagination; it would be wise for
21 this Council to out guess him, but we never will.

22 PRESIDENT SMITH: All right. Mr. Royce,
23 do you and Mr. Collins have anything else you want
24 to talk about together?

25 MR. ROYCE: No. I think there are a

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1 couple of loose issues, and if we can wrap this up
2 we would certainly like to move on.

3 PRESIDENT SMITH: What are the loose
4 issues, as you see them?

5 MR. ROYCE: I think there is, obviously,
6 the one story-two story thing.

7 PRESIDENT SMITH: I feel rather strongly
8 myself about the one story on the north side. There
9 would be nothing to preclude you from coming back to
10 put a second story on at a later date if it proves
11 that there is no problem. I don't have -- I would
12 definitely prefer to see a one story on the north
13 building. It's not that it has to look like a
14 square. I mean, you're building cabanas. Not
15 everything has to be the same height. Go ahead,
16 Mr. Royce.

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SPECIAL EXCEPTION NO. 9-99

17 MR. ROYCE: There was some discussion
18 earlier about pulling the second story back on the
19 north building, and I think the cabanas on the
20 second story has like a room out front. We can
21 remove that second story, so that just became a
22 terrace on top of the ceiling or roof of the first
23 floor, so the second story does not go all the way
24 out to the ocean, but came back 15 feet or so.
25 Would that be acceptable to you?

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1 PRESIDENT SMITH: That would alleviate my
2 concerns, yes.

3 MR. COLLINS: That would be a real problem
4 for us, because on that terrace there would be
5 people out here looking right into Mrs. Massey's
6 property, as opposed to a building that has opaque
7 windows.

8 PRESIDENT SMITH: Mr. Blackman, do you
9 want to come up? Do you have an actual plan?
10 Perhaps if you can take the site plan, can we look
11 at the site plan? Mr. Blackman, can you pull that
12 out so we can look at the site plan? Thank you.

13 Now, if you can describe what you're
14 talking about? Or Mr. Gonzales, if you want to
15 describe it?

16 MR. BLACKMAN: The northern building is an
17 L shaped building on your right. What we're talking
18 about is the second story portion of the building
19 facing east, facing the ocean, which is now a
20 covered terrace, and it's open now.

21 PRESIDENT SMITH: Mr. Collins, were you
22 aware that it was already an open --

23 MR. COLLINS: Well, it's like a little
24 balcony and it extends forward at a point where --
25 that is not as much of a problem.

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1 PRESIDENT SMITH: But it's already open,
2 so people could be standing out there under the
3 present circumstances.

4 MR. COLLINS: That is correct, for the one
5 cabanas upstairs. As I understood Mr. Royce's
6 comment, that would be expanded west to be a much
7 larger terrace.

8 MR. ROYCE: I was going to take the roof
9 and walls off, so that from a view standpoint, if
10 the concern is Mrs. Massey's view to the south
11 southeast, that it would be only a one story
12 building as far as the 15 feet.

13 PRESIDENT SMITH: I think that would --
14 you have an open terrace of usable space there that
15 would be a site for a giant cocktail party, and that
16 could turn into a very noisy event. And that was
17 not the direction I was headed with my concerns
18 about the two story building.

19 MR. WYETT: How about moving on the north
20 side, eliminating the second floor finger entirely
21 and have it a long the room there. There are only
22 two cabanas up there, so you're losing one.

23 MR. BLACKMAN: What we're suggesting again
24 is not increasing the size of the patio area at all,
25 just removing the roof so the apparent mass of the

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1 building is decreased. If you look at the lower
2 right hand corner of this particular board that I'm
3 holding, that eastern area on the second floor would
4 have the roof removed and essentially create an open
5 terrace, but it would not increase the size of the
6 terrace itself.

7 PRESIDENT SMITH: What we were just
8 talking about, what Mr. Wyett just said was remove
9 the second floor on the north section of the north
10 building.

11 MR. WYETT: I didn't say that. I said the
12 finger section of the north.

13 PRESIDENT SMITH: That is the north side
14 of the building.

15 MR. ROYCE: If we have to make some
16 adjustment, which I'm beginning to sense we do, I
17 would. We worked long and hard with National Trust
18 and others, and I understand you're not bound by
19 their requirements. But we would much prefer to
20 keep -- for a variety reason to keep two stories.
21 And we think it does provide some buffering, not to
22 reargue that point. I understand your position,
23 Ma'am, but if we had to pull it back from the second
24 story, eliminate the terrace out there on the east
25 end, and just pull the second story back 10 or

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1 15 feet and not have a terrace where one could step
2 out on and have a cocktail party on, we can do
3 that. I'm trying to reach accommodations with you.

4 PRESIDENT SMITH: All right. That would
5 be better.

6 MR. SHAW: There would be the pitched roof
7 on the one story addition, so that really prevents
8 anybody from coming out because you're not going to
9 have a flat roof out there.

10 PRESIDENT SMITH: So that eliminates the
11 outside terrace.

12 MR. MOORE: Yes, and it address
13 Mrs. Massey's concern to the southeastern view, too.

14 PRESIDENT SMITH: All right. If we can
15 sort of put it all together here, what you're
16 looking at is two letters, one from Mr. Royce, one
17 from Mr. Collins. The main thing that should be
18 incorporated in any action the Council is going to
19 take are the building and zoning staff comments; you
20 have that document in front of you.

21 One of the things that I'm not sure we
22 have agreed on are the hours that the facility will
23 be used, and I think sunrise to sunset is too
24 nebulous. I want to come up with specific hours.
25 Whoever is going to make a motion on this, for the

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1 use of it and the amount of time that can be used,
2 that is item 8 on the building and staff comments.

3 MR. SHAW: Mrs. Smith.

4 PRESIDENT SMITH: Can you speak to the
5 hours, Mr. Shaw?

6 MR. SHAW: I'm strictly speaking to the
7 hours. I think the Town already uses the definition
8 of sunset, and it is enforceable. I think sunset is
9 a very specific time published in multiple books.
10 It has been proven useful even within the Town,

11 where we close beaches at sunset. It is published
12 every day. And all the club has to do is simply put
13 the notation beach closes at sunset, sunset is at,
14 just like they write high tide is at and low tide is
15 at. I don't think there was a discussion of
16 sunrise. I think we are very specific that we are
17 not looking to having it opening at 6:00 in the
18 morning.

19 PRESIDENT SMITH: That is part of the
20 thing where you said sunrise to sunset.

21 MR. SHAW: No, I never said that.

22 PRESIDENT SMITH: I made the statement,
23 Mr. Shaw, not you. Keep going.

24 MR. WYETT: Mr. Shaw, would you like a
25 library attached so we can have printed books,

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1 time-wise?

2 MR. SHAW: The world has survived very
3 well knowing what the word sunset is, and it's not
4 complicated.

5 PRESIDENT SMITH: What time would you
6 start, Mr. Shaw, 9:00, 10:00?

7 MR. SHAW: 9:00.

8 MR. COLLINS: I ask 10:00. The likelihood
9 of people using the beach at 9:00 isn't great, and
10 for the sake of the neighbors.

11 PRESIDENT SMITH: 10:00 is fine.

12 MR. SHAW: I'm fine with 10:00.

13 PRESIDENT SMITH: 10:00 is fine, to sunset
14 every day?

15 MR. SHAW: So in the summer months --

16 PRESIDENT SMITH: What about the special
17 events you're talking about, six a year?

18 MR. SHAW: I say four. You have to
19 realize in the summer months, with sunset being as
20 late as it is, as Mr. McDonald indicated they could
21 probably have some activity that would be there that
22 would be concluded by sunset.

23 MR. ROYCE: How about once a month?

24 PRESIDENT SMITH: He said four a year.

25 MR. ROYCE: He said four, eight weeks

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1 apart, and Mr. McDonald was saying perhaps more
2 frequently than that, but I don't recall.

3 MR. MCDONALD: I said one a week.

4 MR. WYETT: The Bath and Tennis tends to
5 have about three or four in the whole year.

6 MAYOR ILYINSKY: The whole thing is that
7 they are not open the whole year.

8 PRESIDENT SMITH: Bath and Tennis is only
9 open six months a year. You can't compare the
10 Mar-a-Lago Club to the Bath and Tennis Club. That
11 is apples and oranges.

12 MR. ROYCE: How about six a year, but do
13 away with some spacing. Eight weeks is two months.
14 You might want to have something in season.

15 PRESIDENT SMITH: There isn't even eight
16 weeks between Memorial Day and Fourth of July. It's
17 an impossible formula to work with. Mr. Collins.

18 MR. COLLINS: Let me offer a suggestion,
19 and that is that you stay with the four events.
20 Whether you do it eight weeks apart or not, I leave
21 it to you. If it turns out that Mr. Trump would

22 like to have more after a year's experience or
23 whatever, and if it turns out that those events have
24 not caused a big problem to my client and others in
25 the neighborhood, then there might be mutual

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1 agreement to come back in here without a big problem
2 to add a couple of events. Why don't we give it a
3 year or two to experience it and see what happens?

4 MR. WYETT: I'm concerned with any
5 additional traffic on that road, especially in the
6 high season and the holidays when our road, North
7 and South A1A, is jammed.

8 MR. ROYCE: We're just asking for some
9 fairness here. I'm not really totally opposed to
10 what Mr. Collins says. On the other hand, you got a
11 condition, you got a condition that says we can't
12 come back and ask for changes, and now we're already
13 asking --

14 MR. COLLINS: Without the agreement of the
15 folks around.

16 MR. ROYCE: I just don't like the eight
17 weeks. Maybe if it was like X number of events a
18 month apart, then that would be better, I think,
19 than eight weeks, because as she pointed out in the
20 beginning, you couldn't do Memorial Day and Fourth
21 of July.

22 PRESIDENT SMITH: Let's not be
23 ridiculous. There are events held in the summer and
24 it's not so crowded. Events held in the summer are
25 not going to cause as much chaos and confusion. It

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1 is open in the summer. But I do want everybody to
2 remember that the Building Department has said that
3 none of this is even going to start until the
4 temporary bridge is in place, so we're talking a
5 year and a half away, right?

6 MR. ROYCE: We would like to start prior
7 to that time.

8 PRESIDENT SMITH: I suggested that the
9 conditions of the Building Department be
10 incorporated in any action Council takes, and I do
11 feel strongly about that.

12 MR. COLLINS: That place won't even be
13 built for a year.

14 MR. MOORE: They may need to do
15 exploratory work, but we can work that out. We're
16 talking about issuance of new permits to do any
17 construction.

18 PRESIDENT SMITH: The temporary bridge
19 will be finished by next fall, and they can't start
20 working until next April, right, a year from now.
21 Or they shouldn't be starting.

22 MR. ROYCE: We got two separate issues
23 here. One is starting and one is construction
24 timing. And what I would respectfully suggest is
25 that if we get at least in there and start some of

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1 the demolition and start to take some of the stuff
2 out --

3 PRESIDENT SMITH: Demolition of what?

4 MR. ROYCE: Existing swimming pool.

5 PRESIDENT SMITH: One lousy pool. I mean,
6 what else is on the beach that maybe I'm not aware
7 of?

8 MR. ROYCE: Concrete taken out, and so
9 forth.

10 PRESIDENT SMITH: I wouldn't want to see
11 that done in the wintertime.

12 MR. ROYCE: Let me say something. I
13 understand the sensitivity in terms of traffic, I
14 fully understand that. I simply point out to you at
15 the present time, to the best of my knowledge, there
16 are at least two construction jobs north of us on
17 South Ocean Boulevard proceeding full blast during
18 season, and there are two that I know of south of us
19 on South Ocean Boulevard, both of which are major
20 jobs, big mansions being built during the season.

21 And we're not trying to cause a problem.
22 I know it's a sensitive piece of road, but it's
23 going to take us a year to put this all together.
24 And if we can work it out with your staff and make
25 certain roads aren't blocked, and agree to whatever

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1 conditions they put on us about trucks and traffic
2 and all that, we'd like to be able to move forward.

3 PRESIDENT SMITH: Mr. Castro, please.

4 MR. CASTRO: Thank you, Mrs. Smith. We
5 certainly believe that they can start the
6 construction on the bulkhead and do the necessary
7 work related and the studies required by the Public
8 Works Department to insure that the bulkhead is
9 going to be adequate for the cabana facilities. In
10 addition, we believe that they have substantial work
11 to do related to the utilities, as Mr. Dusey pointed
12 out. They want to see what the requirements are
13 going to be for these facilities based on the
14 existing infrastructure in place.

15 In terms of the swimming pool itself, we
16 have no -- I don't believe -- I think I can speak
17 for the Department that we have no problem in terms
18 of them taking out the swimming pool, the demolition
19 related to the swimming pool itself. It's just the
20 construction and the construction vehicles related
21 to that, that we feel might impede traffic during
22 the season, and that is why we recommended that.

23 MR. SHAW: Do you have a problem if they
24 were to do the ramp work? You're saying to allow
25 them to do the seawall, the pool demolition, the

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1 utilities. Would you also consider that if they
2 were to do the ramp work at this time that that
3 would be agreeable?

4 PRESIDENT SMITH: Mr. Moore.

5 MR. MOORE: I would like to make a
6 suggestion here, rather than go piece, by piece, by
7 piece on this, that if you're inclined to put a
8 condition upon them that would be a little bit
9 different from what Mr. Castro had read, and that
10 that would be that any construction related work on
11 the east side of the road would be brought to you as
12 a Council, at a regular Council meeting, with their
13 plan of how to do it. That let's the staff have
14 their comments from Police and Fire and from Public
15 Works, and let's you determine it like you would any

16 other construction project that would want to work
17 outside of the normal hours. If you don't want
18 that, that is fine.
19 PRESIDENT SMITH: I think we did it for the
20 Nieman Marcus, project and I certainly can't believe
21 that we wouldn't do it for this one. I know you
22 don't want it, Mr. Shaw, I heard you mumble that you
23 don't want it, but I think it's too important that
24 the Council shouldn't look at it.
25 MR. MOORE: Let me give you an example.

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1 Each and every piece of it --
2 PRESIDENT SMITH: They want us to look at
3 it.
4 MR. MOORE: Because we can say, sure, the
5 seawall, then the pool. But then what about the
6 ramp? That is just a question you just asked. But
7 what about the next one? And it's going to be
8 creeping and creeping, and I think you ought to take
9 a comprehensive look at it yourself to make sure
10 that you're satisfied that there is no problem.
11 MR. SHAW: I just want to move on.
12 MR. WYETT: Mrs. Smith is right when she
13 mentioned Nieman Marcus. Nieman Marcus is
14 restricted to off season construction, due to the
15 point that it may take two years with a hiatus in
16 between. It's on Worth Avenue; it doesn't affect
17 the Town the way A1A does. If you strangle A1A in
18 the vicinity of Southern Boulevard, you have broken
19 the Town in half, and created a lot of security, a
20 lot of safety factors. This construction is not
21 that great. It can wait until off season. And I'm
22 very concerned that a plan has to be devised so that
23 the two lane traffic is maintained.
24 MR. ROYCE: We'll work with your staff,
25 work with you, and come back, if that is what you

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1 wish, and work it out. Because we fully recognize
2 the points have been made very clear that we cannot
3 shut down that road, and we fully agree with you.
4 MR. COLLINS: Mrs. Smith, are we at four
5 events no closer than four weeks apart, is that
6 where we are?
7 MR. MCDONALD: No, we're at one event a
8 month.
9 PRESIDENT SMITH: No.
10 MR. COLLINS: I'm asking to find out.
11 PRESIDENT SMITH: Members of Council,
12 Mr. McDonald said once a month, Mr. Shaw said four a
13 year. So come up with a -- one a year is 12, so
14 maybe the answer would be six.
15 MR. SHAW: May I, just for
16 clarification?
17 PRESIDENT SMITH: Maybe between four
18 and 12. Maybe we can start with six.
19 MR. SHAW: Just for clarification, are we
20 discussing that an event be one that operates beyond
21 sunset? Is that what you're definition of the event
22 is?
23 MR. WYETT: No.
24 MR. ROYCE: If the question is to me, I
25 missed it.

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1 PRESIDENT SMITH: I would consider, in my
2 understanding it would be an event would be
3 something that would take place after dark.
4 MR. ROYCE: Like a clambake or a barbecue.
5 MR. SHAW: If they are going to be in
6 summer months, because of sunset you're already at
7 9:00.
8 PRESIDENT SMITH: Let's not cut hairs on
9 this. That is why you're going to have do what
10 you're going to do.
11 MR. ROYCE: Let's discuss six, at least a
12 month apart; sunset on all the other activities, but
13 on the special events at a different time, like
14 10:00.
15 PRESIDENT SMITH: No later than 10:00. No
16 amplifiers.
17 MR. ROYCE: No concerts.
18 PRESIDENT SMITH: Obviously no concerts.
19 MR. COLLINS: One other thing on this
20 general point.
21 PRESIDENT SMITH: Just a minute. Did we
22 agree on six?
23 MR. WYETT: Six is too many.
24 PRESIDENT SMITH: What would you like to
25 see, Mr. Wyett?

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1 MR. WYETT: I believe that four is an
2 adequate number.
3 MR. MCDONALD: Six is not enough.
4 MR. ROYCE: Balance out.
5 PRESIDENT SMITH: So far it's four, six
6 and 12. It may be that the whole cabana thing is
7 shut down because this Council can't agree on how
8 many events to have.
9 MR. ROYCE: Let me urge compromise.
10 PRESIDENT SMITH: Mr. McLendon?
11 MR. MCLENDON: Six.
12 PRESIDENT SMITH: Mr. Shaw?
13 MR. SHAW: Are we polling?
14 PRESIDENT SMITH: Yes.
15 MR. SHAW: Six is fine, and it's four
16 weeks apart.
17 PRESIDENT SMITH: Mr. Mayor?
18 MAYOR ILYINSKY: I couldn't give any.
19 PRESIDENT SMITH: Mr. Wyett?
20 MR. WYETT: Four.
21 PRESIDENT SMITH: Mr. McDonald?
22 MR. MCDONALD: Eight.
23 MR. ROYCE: I think anything over six can
24 be counted as a vote for at least six. I'm hoping
25 you won't vote against the whole thing because it's

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1 only six.
2 PRESIDENT SMITH: No, I'll go for six.
3 MR. COLLINS: One point. I am very
4 concerned that the concept of sunset is an argument
5 waiting to happen, and I would like to offer to call
6 it a compromise or another suggestion, rather than
7 something that is a bit amorphous. I know it can be
8 determined each day from the newspaper, but each day
9 it's a different time, and it's a problem.

10 If you look at my number 1, I divide the
11 hours into two times of year, basically the Daylight
12 Savings when it's light out until late, and I put
13 down 10:00 to 5:00 from October 1 to March 31. And
14 if 5:00 is too early, I have no objection to you
15 making it something later, 6:00, whatever is
16 appropriate. By 6:00 that time of year it's dark
17 anyway. And the rest of the year, which would be
18 from April 1 to September 30, I suggest 7:00;
19 perhaps it can be 8:00.

20 And that way we have times certain which
21 are reasonably close to -- I mean, sunset varies
22 from one end of that six month period to the other,
23 so I would urge 10:00 to 6:00 October 1 through
24 March 31, and 10:00 to 8:00 from April 1 to
25 September , 30 and give some certainty to this

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1 rather than this sunset thing.

2 PRESIDENT SMITH: Mr. McLendon.

3 MR. MCLENDON: I don't understand the
4 argument about confusion with sunset. I mean, you
5 know --

6 PRESIDENT SMITH: Just a minute,
7 Mr. McLendon. Mr. Randolph, will you come back?

8 MR. RANDOLPH: Yes, I'm back.

9 PRESIDENT SMITH: Thank you.

10 MR. MCLENDON: I don't understand the
11 confusion. If sunset is at 6:37, who cares whether
12 you stop at 6:39 or 6:42 or 6:31. It's an exact
13 time, if you care to look it up. But no one will
14 care if there is no problem existing, so I don't see
15 what the problem is with sunset.

16 PRESIDENT SMITH: Perhaps you can work
17 around it, because so many of the activities taking
18 place on the beach would involve food and drink. So
19 if there is no food or drinks being served after
20 sunset, that is the end of it. They are not going
21 to be using it anymore.

22 MR. COLLINS: Whether you use sunset or
23 you use time certain, either way that is when the
24 club should be closed. Nothing going on there at
25 all except for the six activities.

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1 MR. MCLENDON: As Mr. Shaw mentioned, you
2 got Daylight Savings and Eastern Savings Time to
3 confuse the whole issue, too, so why not leave it at
4 sunset? I don't understand the argument.

5 MR. MCDONALD: It looks like there are
6 three votes for sunset.

7 MR. ROYCE: May I just ask --

8 MR. COLLINS: I know when to quit,
9 Mr. McLendon.

10 MR. ROYCE: At the six events is it
11 10:00?

12 PRESIDENT SMITH: Gentlemen, what hours
13 did you decide on? Make your decision, please. I'm
14 asking the members of the Council.

15 MR. MCLENDON: 10:00 to sunset.

16 PRESIDENT SMITH: 10:00 to sunset, except
17 for the six special events that would end at 10:00.
18 Is that clear?

19 MAYOR ILYINSKY: That is great.

20 PRESIDENT SMITH: All right?

21 MR. MCDONALD: Yes.

22 PRESIDENT SMITH: Speak, say something.
23 MR. SHAW: Yes.
24 MR. MCLENDON: Yes.
25 PRESIDENT SMITH: Allen?

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1 MR. WYETT: No.
2 PRESIDENT SMITH: All right.
3 MR. WYETT: I can't handle the sunset.
4 MR. MCLENDON: Take a lesson.
5 MR. WYETT: I like things certain.
6 PRESIDENT SMITH: Well, the sunset time
7 will be the hour designated in the paper, so that
8 will be the certain time and that will be certain,
9 all right? What else, members of the Council?
10 MR. SHAW: We did include that there will
11 be ramping provided?
12 PRESIDENT SMITH: Yes. We're not going
13 back.
14 MR. SHAW: That was agreed.
15 PRESIDENT SMITH: There is going to be
16 ramping. If they can possibly do it, they would
17 agree to comply with the ADA specifications. Please
18 do not go back.
19 MR. ROYCE: We will comply with ADA.
20 There may be a way to use those little elevators,
21 little elevators.
22 PRESIDENT SMITH: Mr. Moore.
23 MR. MOORE: If you make a compliance with
24 ADA, the burden is on them at that point to comply,
25 and you don't need to -- we don't need to get into

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1 that point any further.
2 MR. SHAW: But there was a point made that
3 ramping for ADA is not necessary.
4 MR. MOORE: They may be able to comply
5 with chair lifts, they may be able to comply with
6 different vehicles.
7 MR. SHAW: But the issue was should there
8 be ramping for general service?
9 MR. MOORE: There is ramping for general
10 service. They agreed to it.
11 MR. SHAW: They agreed to ramping and to
12 comply to ADA.
13 PRESIDENT SMITH: It would appear that the
14 Council is moving toward approval of the oceanfront
15 cabanas. This would perhaps be the appropriate time
16 for someone to make a motion incorporating all the
17 conditions that we have now discussed for two hours.
18 MR. MCDONALD: So moved.
19 PRESIDENT SMITH: So make it.
20 Mr. McDonald, are you not going to mention --
21 MR. COLLINS: May I offer a way to do this
22 that may be help the Council?
23 PRESIDENT SMITH: Please, if you would
24 please, Mr. Collins, let Mr. McDonald, who is also
25 an attorney, do his motion.

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1 MR. MCDONALD: I don't want to take time
2 away from you, Mr. Collins.
3 MR. COLLINS: Thank you very much. I also

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4 respect you're requesting me to go get concurrence
5 approval for them, but that is a different story.
6 MR. MCDONALD: I'm going to move approval
7 and find that the application for special exception
8 meets the 14 criteria under 134.229, certifying that
9 the zoning requirements have been met or will be met
10 if the conditions are implemented.
11 MR. RANDOLPH: Are you going to treat the
12 site plan in the same motion or by a separate
13 motion?
14 MR. MCDONALD: I think a separate motion.
15 I don't know that I'm going to do it, but separate
16 motion.
17 PRESIDENT SMITH: And are you
18 incorporating the building and zoning staff comments
19 and conditions?
20 MR. MCDONALD: Yes, all the conditions.
21 PRESIDENT SMITH: And the discussions as
22 to the hours?
23 MR. MCDONALD: The hours, six events a
24 year, the hours 10:00 to sunset.
25 PRESIDENT SMITH: The building height is

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1 changed.
2 MR. MCDONALD: To four feet below
3 Mrs. Massey's house.
4 PRESIDENT SMITH: Garbage collection.
5 MR. MCDONALD: Garbage collection will be
6 done at the same pickup spot for the public.
7 PRESIDENT SMITH: No amplifiers and no
8 lights.
9 MR. MCDONALD: No amplifiers, safe
10 security lighting.
11 PRESIDENT SMITH: Security lighting, but
12 no --
13 MR. MCDONALD: Entertainment lighting.
14 PRESIDENT SMITH: No entertainment
15 lighting, no boating, no electrical boats.
16 MR. MCDONALD: No motorized vehicles will
17 be used on the beach; no sleeping in the cabanas; no
18 cooking in the cabanas; no diving more than six
19 feet. Any other ones I've missed?
20 PRESIDENT SMITH: Are there any others?
21 MR. COLLINS: Moving the building back to
22 15 feet porch.
23 MR. MCDONALD: The redesign.
24 PRESIDENT SMITH: We already said the
25 redesign elimination of the porch on the second

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1 floor, the pitch roof on the first floor, so that
2 the existing second floor that was proposed will not
3 be able to be used. That was pulled back.
4 MR. MCDONALD: The proposed emergency
5 access as shown on the latest drawing.
6 PRESIDENT SMITH: The redesign for the
7 public safety vehicles.
8 MR. MOORE: That would be in the site plan
9 also.
10 PRESIDENT SMITH: Part of that plan I did
11 notice is the elimination of pedestrian gate. Yes,
12 it was eliminated.
13 MR. ROYCE: There is a gate for emergency
14 vehicles.
15 PRESIDENT SMITH: On the first plan there

16 was a pedestrian gate.
17 MR. ROYCE: The existing gate near
18 Mrs. Massey's property would be eliminated.
19 PRESIDENT SMITH: And the entrance with
20 the construction vehicles would be placed as far to
21 the south as possible?
22 MR. MOORE: As far south as possible.
23 PRESIDENT SMITH: Mr. McDonald?
24 MR. MCDONALD: Yes, as far south as the
25 Police Chief and Fire Chief feel it can be used.

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1 MR. RANDOLPH: Subsequent approval of
2 Public Works of the utilities.
3 PRESIDENT SMITH: Of the sewage and waste
4 water, Mr. Dusey and Mr. Bowser seeing that the
5 plans comply.
6 MR. MCDONALD: And the bulkhead and the
7 sanitary waste station.
8 MR. MOORE: Construction schedule to be
9 returned to you for detailed approval.
10 PRESIDENT SMITH: Right, at a regular Town
11 Council meeting.
12 MR. MCDONALD: Yes.
13 PRESIDENT SMITH: Is there a second?
14 MR. MCLENDON: I'll second it.
15 PRESIDENT SMITH: Thank you. Mr. Shaw.
16 MR. SHAW: Very quickly, will we see this
17 document before it's finalized?
18 MR. RANDOLPH: Yes, I think that is a good
19 point, particularly from the standpoint of the
20 motion, so that you're clear on what you're
21 approving. I would suggest that Mr. Royce and I get
22 together, put together an amended Declaration of Use
23 Agreement for your final approval.
24 PRESIDENT SMITH: If I don't see it, I
25 vote no. I don't see conceptual approval.

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1 MR. WYETT: Ray, I have a question.
2 MR. ROYCE: And I understand and agree
3 with Mr. Randolph. I'll get the reporter to type up
4 this morning's discussion in particular, so we
5 can -- Skip and I can go over it and know pretty
6 precisely what is agreed to.
7 PRESIDENT SMITH: And the document will
8 come back to the Council at a regularly scheduled
9 meeting.
10 MR. COLLINS: Do I take it --
11 PRESIDENT SMITH: Just a minute,
12 Mr. Collins. Mr. Wyett.
13 MR. WYETT: I have a question. The fire
14 trucks, police cars, are all very well located and
15 they are adjacent to it. Now fire Rescue have to
16 walk around the building or spa, or to the north to
17 get to the pool, where potentially there could be a
18 problem, or are you providing this pass through
19 approximately where you have written 12 foot wide
20 gates and setback on your building?
21 MR. ROYCE: I need to look at the --
22 PRESIDENT SMITH: Chief Elmore, please.
23 Chief Elmore, you've seen the plans -- no, this is
24 on the new plan. Mr. Royce, on the new plan it's
25 different. Chief Elmore.

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1 CHIEF ELMORE: Ken Elmore, Fire Rescue
2 Chief. I visited the property, and it's really not
3 a large piece of property and it's not going to be
4 difficult for us to access through the gate.

5 MR. WYETT: That wasn't the question. I
6 was concerned after you access through the gate you
7 would have to walk -- your team has to walk from
8 here, it looks to me, like all the way around here
9 to get to this point right here (indicating). I
10 want to know if they can provide an access coming
11 straight through.

12 PRESIDENT SMITH: Is there an access
13 through the building? Okay, there is a set of
14 stairs on the west side of the building. On the
15 east does that access into the building?

16 MR. ROYCE: Yes, it goes into the
17 building.

18 PRESIDENT SMITH: The 12 foot wide gate,
19 does that go into the building?

20 MR. ROYCE: The 12 foot wide gate goes
21 through the wall, it does not go into the building.
22 There is a set of stairs that can go north or south.

23 PRESIDENT SMITH: I'm looking at the
24 stairs.

25 MR. ROYCE: The stairs go upstairs.

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1 MR. WYETT: Do they go through? How do
2 you get through it?

3 MR. ROYCE: You can go north, you can go
4 south. Upstairs you can go around here
5 (indicating).

6 PRESIDENT SMITH: Chief, if you've looked
7 at the plan, do you see that there would be a
8 problem for the Fire Rescue?

9 Chief ELMORE: I don't see it as a
10 problem, quite honestly. We go to eight story
11 buildings.

12 MAYOR ILYINSKY: It's not a problem.

13 PRESIDENT SMITH: Thank you, Chief.
14 Anything further, Mr. Randolph?

15 MR. RANDOLPH: Two points we would -- in
16 order that we not have to advertise another meeting,
17 I think at some point you should set a time at which
18 this document would come back to you for your
19 consideration.

20 PRESIDENT SMITH: How long would it take
21 to get it ready, Mr. Randolph? You're saying set a
22 time. What is a time?

23 MR. RANDOLPH: Two weeks.

24 MR. ROYCE: Two weeks.

25 MR. RANDOLPH: What do you want, two

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1 days?

2 MR. ROYCE: How about two months. I
3 thought you were saying two months. It's going to
4 take two or three weeks. We're going to have get
5 the material from the reporter.

6 PRESIDENT SMITH: June is packed.

7 MR. ROYCE: Whenever you want to do it.

8 MR. RANDOLPH: Give ourselves enough time
9 to get it together. Four to six weeks.

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10 MR. ROYCE: Maybe we can like the second
11 meeting of next month, or something like that.
12 PRESIDENT SMITH: The June meeting? We're
13 packed at the June meeting.
14 MR. RANDOLPH: You want to do it a week or
15 two --
16 MR. MOORE: Excuse me. May we're packed.
17 June would be okay.
18 PRESIDENT SMITH: May is full, June.
19 MR. RANDOLPH: June meeting.
20 PRESIDENT SMITH: Set a time to come back
21 with one of the petitions for the June meeting on
22 the agenda. Anything else?
23 MR. RANDOLPH: Yes. I presume it's the
24 intent in your looking at it to make sure that you
25 have covered all of the conditions that you're

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1 concerned with, even though it may not have been
2 specifically mentioned, unless you're sure you have
3 picked up all the conditions that you --
4 PRESIDENT SMITH: How could we possibly be
5 sure?
6 MR. RANDOLPH: I want to make sure that
7 nobody bind the Council to a point where they say
8 wait a minute, that wasn't a condition that we
9 discussed.
10 PRESIDENT SMITH: That is why we're going
11 to look at it again.
12 MR. ROYCE: I think we can draft it, but
13 we can look at what the record shows. We can draft
14 it in good conscience and present it back, and if it
15 has to be some --
16 MR. RANDOLPH: I don't want an estoppel
17 question.
18 MR. ROYCE: They're going to come back and
19 look at it. If they see something that they don't
20 like, they are going to say that is not what I meant
21 or that is not what I said. We'll have to make some
22 judgment.
23 MR. WYETT: Can I ask you to step to the
24 podium?
25 PRESIDENT SMITH: Mr. Dusey, good morning.

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1 MR. DUSEY: Excuse me. I was doing
2 homework.
3 MR. WYETT: One question. There will be
4 some excavation of the beach for the pool. Is that
5 sand that has to remain on the beach?
6 MR. DUSEY: By Town Code, that has to
7 remain on the beach and be placed on that beach.
8 MR. MOORE: I don't think they would
9 object to that.
10 PRESIDENT SMITH: That is part of the
11 conditions, that the sand be placed on that beach.
12 MR. MCDONALD: I don't recall stating that
13 all the structures had to have fire sprinklers.
14 I'll include that.
15 PRESIDENT SMITH: We are or we are not
16 talking about widening?
17 MR. ROYCE: There are some staff comments
18 about possibly widening the tunnel. I'm hoping that
19 we're not including that as a condition.
20 MR. MCDONALD: I did not include that as

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21 a condition.
22 MR. MOORE: We thought the original
23 tunnel, quite frankly, was three feet in width, and
24 it turns out it's twice that.
25 PRESIDENT SMITH: Six feet one inch.

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1 MR. RANDOLPH: The staff recommendation
2 was amended by Mr. Castro to say that you should
3 come back with a study to prove to the Building
4 Department that it is wide enough to accommodate his
5 purposes.
6 MR. ROYCE: That is fine.
7 PRESIDENT SMITH: That is also in there.
8 MR. ROYCE: Yes, ma'am. I'm just trying
9 to make sure something wasn't accidentally included.
10 MR. MCDONALD: What is in here is
11 considered providing a wider tunnel so there is
12 adequate access for service.
13 PRESIDENT SMITH: Mr. Castro modified his
14 remarks on that today by talking about coming back
15 with a study. Would you like to state it again,
16 Mr. Castro, for the record so there is no confusion?
17 MR. CASTRO: Yes, Ma'am, thank you. The
18 condition is that the applicant provide staff with
19 the assurance, through a report or through
20 discussions, that the tunnel will be wide enough not
21 only for access to the property from the members,
22 but also for the service of the property for all the
23 facilities, and handicapped or physically challenged
24 access.
25 MR. MCDONALD: So incorporated.

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1 PRESIDENT SMITH: That is fine. Okay,
2 anything else? Okay. Mrs. Pollitt.
3 THE CLERK: Mr. McDonald?
4 MR. MCDONALD: Yes.
5 THE CLERK: Mr. McLendon?
6 MR. MCLENDON: Yes.
7 THE CLERK: Mr. Shaw?
8 MR. SHAW: Yes.
9 THE CLERK: Mr. Wyett?
10 MR. WYETT: No. This is a further
11 intrusion into the residential area and not in the
12 interest of the Town. Two stories is excessive.
13 THE CLERK: Mrs. Smith?
14 PRESIDENT SMITH: Yes.
15 THE CLERK: 4 to 1.
16 PRESIDENT SMITH: Site plan, Mr. McDonald?
17 MR. MCDONALD: Thank you. I'm going to
18 let someone else do the site plan.
19 PRESIDENT SMITH: Would somebody please do
20 the site plan? Oh, come on, let's not fool around.
21 You're going to tell me you're going to approve the
22 cabanas and you're not going to approve the site
23 plan?
24 MR. RANDOLPH: Just to clarify, before any
25 site plan shall be approved or denied, the Town

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1 Council should make a finding that the approval of
2 the site plan will or will not adversely affect the
3 public interest, certify that the zoning

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4 requirements for the various individual uses have or
5 have not been met, and the satisfaction provision
6 has been made in regard to all of the items set
7 forth under 134.329. You could adopt such a motion
8 and attach the same conditions that you've attached
9 to the previous rule.

10 MR. SHAW: I move that we approve the site
11 plan as Mr. Randolph has indicated and with
12 compliance with section 134.329.

13 PRESIDENT SMITH: Is there a second?

14 MR. MCLENDON: Second.

15 PRESIDENT SMITH: Mrs. Pollitt.

16 THE CLERK: Mr. Shaw?

17 MR. SHAW: Yes.

18 THE CLERK: Mr. McLendon?

19 MR. MCLENDON: Yes.

20 THE CLERK: Mr. McDonald?

21 MR. MCDONALD: Yes.

22 THE CLERK: Mr. Wyett?

23 MR. WYETT: No.

24 THE CLERK: Mrs. Smith?

25 PRESIDENT SMITH: Yes.

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1 THE CLERK: Four to one.

2 MR. ROYCE: Thank you very much.

3 PRESIDENT SMITH: Now, the next thing

4 we're doing is the pavilion, but I'm exercising my

5 right, according to what the Mayor said I did

6 yesterday, and I'm taking a five minute break.

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PRESIDENT SMITH: Please take your seats,
members of the Council. Before we start, we thought
that if we are not finished with the rest of the

Mar-a-Lago proposal, we will break for lunch at

1:00. If it looks like we're going to finish, we'll

6 finish up.

7 The next item is the proposed pavilion.

8 Mr. Wyett.

9 MR. WYETT: Part of the discussion with

10 the pavilion, the other request would be appropriate

11 for this Council to review the numerous and frequent

12 abuses of the existing Declaration of Agreement. Us

13 to make considerations today or tomorrow or 1996

14 which should pertain to today, and not enforce them,

15 not to review them to see why they are violated, I

16 think makes a mockery of making any decision other

17 than yes or no. Do as you damn please.

18 PRESIDENT SMITH: All right. Mr. Royce,

19 have you got an elevation of the proposed pavilion?

20 MR. ROYCE: Yes, Ma'am. Let's me ask

21 Mr. Gonzales and Mr. Blackman to show you those

22 boards.

23 PRESIDENT SMITH: Thank you.

24 Mr. Gonzales.

25 MR. SHAW: While the boards are being put

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1 up, is it just a matter of the order of the
2 application that we're sort of diverting from real
3 issues to a conceptual, instead of just going
4 through the three real issues and leaving the
5 concepts to the last?

6 MR. ROYCE: That was the order of the
7 application. I'll do it however you wish to do it.
8 Obviously, the answer to your question is yes.

9 MR. SHAW: I'd like to deal with it today,
10 which are the three items that are precedent. And
11 unless I misunderstand it, this is a conceptual
12 approval that basically may or may not even require
13 a motion. It's just you're presenting something and
14 asking for feedback and our thoughts on it.

15 PRESIDENT SMITH: He's asking for
16 conceptual approval. That is very different from
17 feedback.

18 Members of the Council, just stop for a
19 minute. Mr. Shaw, please, would you rather discuss
20 the membership and attendance and lifting the cap
21 before you discuss the pavilion? We were going with
22 the way of the pavilion.

23 MAYOR ILYINSKY: I would.

24 PRESIDENT SMITH: You would what?

25 MAYOR ILYINSKY: Discuss the caps. We can

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1 get rid of those very quickly, I think.

2 PRESIDENT SMITH: Mr. McDonald? Polling
3 the Council.

4 MR. MCDONALD: I don't care. The boards
5 are up here. It makes no difference to me.

6 PRESIDENT SMITH: Mr. Wyett?

7 MR. WYETT: Definitely discuss the
8 limitations, because if you don't lift the
9 limitations this whole thing is impractical.

10 PRESIDENT SMITH: Mr. McLendon?

11 MR. MCLENDON: I shouldn't say I don't
12 care, but I don't. It doesn't matter either way.

13 PRESIDENT SMITH: It would appear,
14 Mr. Royce, that we'll leave the boards up, because
15 perhaps we should move forward and discuss the cap
16 and lifting the cap on the membership, and the cap
17 on the special events.

18 MR. ROYCE: The application -- in the
19 application we requested that the current membership
20 cap of 500 be removed or amended. I don't want to
21 start making or repeating the presentation, but you
22 will recall that we've got an existing problem with
23 the existing Declaration of Use Agreement as it
24 says, in terms of trip count, freezing membership
25 and those things. So it is critical that it be

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1 addressed.

2 I do recall Mr. Brisson's report in
3 which -- I don't want to speak for him or be
4 presumptuous, but I believe he indicated that -- if
5 I can put my hands on it maybe in a second here --
6 he indicated in his report that the cap -- perhaps
7 membership cap is what we're talking about now, if
8 we can take the issues one at a time -- be increased
9 from 500 to 1,008 on some sort of gradual or phased
10 basis, as I recall. I may have that mixed up with

11 something else. But I think in one of his written
12 reports he suggested 100 a year, commencing after
13 the new bridge, temporary bridge, is built, which
14 would essentially be next year.
15 Then I think in his verbal comments
16 perhaps Mr. Brisson said there might be other
17 alternative ways, rather than 100 a year. We would
18 be amenable -- we request that the cap be increased,
19 and we would be amenable to some phasing or gradual
20 process to do that.
21 PRESIDENT SMITH: Since you're bringing
22 Mr. Brisson into it, he said there may be a better
23 way to raise the cap. It was to allow the ceiling
24 on special event attendance be equal to twice the
25 allowable club memberships, and then you said there

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1 might be a better way to do it. Mr. Brisson, if
2 there are, why did you suggest this one? And if
3 there are, what are they?
4 MR. BRISSON: Initially, my thought, and
5 it tied to some likely attendance and the number of
6 members and what seemed to be the number generation,
7 but after I wrote the report I have given some
8 thought and also gotten input from the staff, who
9 mentioned a possibility might be the capacity of
10 facilities being used. And not knowing those
11 capacities, I really couldn't have suggested that.
12 But it sounds to me like the capacities of the
13 facility being used may be more appropriate than
14 getting into a numbers game, whether it should be
15 twice or one and a half.
16 MR. ROYCE: How come we're mixing that?
17 PRESIDENT SMITH: Mr. Royce.
18 MR. BRISSON: But that is a different item
19 that only dealt with special events. The
20 membership, you'll recall what I said, was
21 essentially it should probably increase gradually
22 and automatically, and I suggested perhaps by 100.
23 Again, I have no special feel for how much you
24 should increase each year. 100 seemed reasonable.
25 It would take quite a while to get up to some

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1 maximum number.
2 PRESIDENT SMITH: But the second part of
3 the sentence in which you said about the club
4 membership, you said to allow the club membership
5 ceiling to gradually and automatically increase each
6 year by some specific number of members, for example
7 perhaps by 100, unless the Town Council shall
8 specifically determine that the experienced or
9 preceding year has indicated that the scheduled
10 increase will result in unacceptable traffic or
11 other identifiable impacts.
12 We've already hit increased unacceptable
13 traffic, and I'm not sure, Mr. Royce, that you
14 responded to why the Council should overlook the
15 unacceptable traffic element in increasing the
16 number of memberships. When the present membership,
17 as I understand during the discussions of the last
18 two days, is only at 360, why increase it? You have
19 a membership cap of 500.
20 MR. ROYCE: Well, I have to believe the
21 membership cap question, getting to the other
22 questions now, but they are all interrelated, and by

23 virtue of the numbers in the Declaration of Use
24 Agreement, including the trip limitation, which we'd
25 like to ask you to eliminate, again, an internal

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1 operational thing under the current language in the
2 Declaration of Use Agreement, membership is frozen
3 once we went over 313. So we need to address the
4 313 and eliminate that.

5 I don't want to see us lapse into advocacy
6 here, but that goes back to concurrence here, and
7 our willingness to address traffic flow issue
8 questions. And indeed, I think I was up front by
9 saying that we had a problem at the Celine Dion
10 concert. We're sorry about it; we've taken action
11 to correct it.

12 I think the testimony was that a lot of
13 those problems have been corrected. It would seem
14 to me that if we could have a gradual increase in
15 membership, if we could have, assuming we get the
16 new pavilion building going in and so forth, have a
17 more realistic limitation on numbers of people that
18 could be at that.

19 For example, I think someone may have
20 suggested that the Code could cover that. Then, if
21 there are other traffic questions that need to be
22 addressed, I even addressed some of those in the
23 thing I handed out in terms of making an exit drive
24 and entrance drive and so forth. We tried to come
25 to you with a five-year plan. We tried to come to

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1 you and say here is where we think we're going. We
2 don't think you really want us back in here all the
3 time, understanding we're going to have to come back
4 on some of these things we talked about this
5 morning.

6 We tried to take a long range look at it
7 and say that, rather than come back here with a
8 myriad of pieces, here is where we think the club
9 needs to go. Let's address it once. If you want to
10 face it, then fine. But if we're going to be
11 building facilities and so forth, we need some
12 certainty, too, to know that we can be bringing in
13 additional members as we go along.

14 If you recall, in my closing comments I
15 pointed out the membership in other clubs,
16 presumably there are not tremendous traffic problems
17 with those other clubs. So the issues are all
18 related together. I think we do have to address
19 membership now, and I would hope that we could
20 provide some gradual increase over a period of years
21 of allowable membership. If we don't get there, we
22 don't get there.

23 In other words, if you were to say, for
24 example, commencing the year 2000 -- presumably the
25 temporary bridge is in by then -- we'll let you go

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1 up in your allowable membership, say 100 a year
2 until you reach 1,008, and then, by God, you got to
3 stop. If we don't get there, we don't get there. I
4 mean, if we only have 5, 6 or 700 five years from

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5 now, at least the allowable is there. But if you
6 want to say okay, it's only going to go up a certain
7 number per year, it would be a slow gradual phase-in
8 process.

9 MR. MCLENDON: Mrs. President.

10 PRESIDENT SMITH: Mr. McLendon.

11 MR. MCLENDON: As I understand it, they
12 are already exceeding the trip cap of 313, and I
13 think the number was 320 experienced. Does that not
14 already cap your membership at existing membership
15 of 360?

16 MR. ROYCE: Yes, it does. So there is a
17 need to address all these issues, bearing in mind
18 that we meet concurrence, bearing in mind, however,
19 that we had one problem with Celine Dion that we
20 fixed. The issues before the Town I think would
21 relate to traffic access, ingress, egress, and I
22 indicated a willingness to address those issues and
23 put in lanes and so forth, as you see fit. But we
24 do need to be able to move forward and increase or
25 eliminate the trip thing, and take Mr. Brisson's

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1 advice vis-a-vis the membership.

2 PRESIDENT SMITH: Mr. Shaw.

3 MR. SHAW: I spoke a little prematurely at
4 the last meeting, and started to discuss this issue
5 of membership and traffic and concurrence. And
6 although I specifically said I do not comprehend
7 something granted under conditions in 1993 or '96,
8 when it was revisited, when it can hold water, when
9 reevaluated in the year 2000 or 2005, when the
10 impact of traffic in the entire community changes as
11 time goes on, I think that the issue of compliance
12 or concurrence is something that almost should be
13 reviewed on an annual basis as circumstances
14 change.

15 If I agree to do something, I'm granted
16 permission to do it based on a set of circumstances
17 today. Five years from today, if traffic throughout
18 the Town changes, issues outside of the community
19 change, I think these all have different effects,
20 which is one of the reasons we get an annual report
21 on the compliance of our roadways.

22 You know, what may be a level B service
23 this year, in five years could be a level F, at
24 which point something has to be done about it. So I
25 have a hard time saying that concurrence has been

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1 met because it was met three years ago. But I also
2 think there is another issue, and that is the reason
3 we're discussing this 313 cap. And correct me, and
4 I'm sure you will if I'm wrong, it has nothing to do
5 with members, it has to do with cars. If you had no
6 special events, and let's call them what they are,
7 no charity events on site, you probably would not be
8 at 313. So it has nothing --

9 MR. ROYCE: That is not -- Mr. McLendon is
10 correct, because the trip count -- and Yvonne Ziel,
11 our traffic engineer, will correct me if I'm wrong,
12 I think the charity events, the things held on the
13 weekends, are not even counted on the weekends, am I
14 correct?

15 MR. WYETT: Where is that in the
16 agreement?

17 MR. ROYCE: We can find it; it's part of
18 the -- let me ask Ms. Ziel to address it, just
19 answer Mr. Shaw's -- relate to Mr. Shaw's question.
20 MS. ZIEL: Good morning. For the record,
21 Yvonne Ziel. As part of concurrence, concurrence is
22 measured on weekdays from Mondays to Fridays, 5:00
23 p.m., so, therefore, special events are not
24 considered in the trip count, because the trip count
25 was a concurrence issue, not a special event --

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1 MR. SHAW: If I may, just for
2 clarification, the monitoring equipment is not --
3 you're telling me that the monitoring equipment is
4 only used weekdays?
5 MS. ZIEL: No. It is there seven days a
6 week. But the trip count, the trip of 313, is
7 measured based on weekday numbers. We take out the
8 weekend number.
9 MR. SHAW: I don't mean do you physically
10 remove the equipment but, basically, the trip count
11 system is only tabulating cars in the daytime hours
12 Monday through Friday?
13 MS. ZIEL: No, it's 24 hours a day Monday
14 through Friday, 5:00 p.m.
15 MR. SHAW: You only use it Monday through
16 Friday?
17 MS. ZIEL: Yes.
18 MR. SHAW: Therefore, what happens to the
19 events that are happening during those hours? Are
20 they removed?
21 MS. ZIEL: You mean during the weekend or
22 during events?
23 MR. SHAW: Weekdays.
24 MS. ZIEL: During the week it has --
25 weekdays the events are counted always, everything

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1 during the weekdays is counted. Only on the weekend
2 it is not counted.
3 MR. SHAW: I was not aware that that
4 was --
5 PRESIDENT SMITH: You're telling us they
6 are turned off?
7 MS. ZIEL: No, they are on. It's just not
8 used in measuring the 313.
9 MR. SHAW: If they are not used, they are
10 off. It's the same answer. I mean, they're not
11 part of the number?
12 MS. ZIEL: Correct.
13 MR. SHAW: So, if you had 10,000 people
14 every Saturday and every Sunday and every night at
15 10:00, none of those would be registered within the
16 numbers?
17 MS. ZIEL: The 313, that is correct.
18 MR. SHAW: That is very interesting. I
19 guess we all learned something.
20 PRESIDENT SMITH: Mr. Wyett.
21 MR. ROYCE: I think the 313 is almost
22 meaningless, frankly.
23 PRESIDENT SMITH: So I think it makes it a
24 little bit more difficult if you're not counting
25 special events in the 313, which is exceeded by such

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1 a great number, without the special events. It
2 makes my concerns about the traffic greater.
3 MS. ZIEL: If I may?
4 PRESIDENT SMITH: Please.
5 MS. ZIEL: Yvonne Ziel. The 313 and the
6 320 that we're comparing are one of the items that
7 we did not duly subtract out construction traffic,
8 which is quite prevalent, or was prevalent. So if
9 you take that out, chances are we could be at 313.
10 PRESIDENT SMITH: I can take that out, but
11 there hasn't been a lot of major construction at
12 Mar-a-Lago in the past year.
13 MS. ZIEL: Not really. A little.
14 PRESIDENT SMITH: But not a great deal,
15 unless you're doing something we don't know about.
16 I don't think you are. Mr. Wyett.
17 MR. WYETT: Do I understand that the
18 traffic you have at the 313 number is a mean average
19 between the first and third quarters of the year?
20 MS. ZIEL: Yes.
21 MR. WYETT: So in essence, so the public
22 should understand, it's mean average 320 in season.
23 It looks to me like 640, even though that's the 320
24 number you're giving me; I accept that number. But
25 the public should understand it's not 320 in season,

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1 it's 640 because out of season. The third quarter
2 you're not open.
3 MS. ZIEL: I'm not sure of the number 640.
4 MR. WYETT: Some number substantially
5 higher than 320. I have a lot of trouble with your
6 explanation. It sounds to me like double talk --
7 let me finish -- it sounds to me like double talk.
8 It sounds to me like the way the Mar-a-Lago Club has
9 violated this agreement, and it hasn't violated the
10 agreement by 313 or 320; it's probably, when you add
11 in the weekends, much higher.
12 Now, there is nothing in the agreement
13 that I remember, and unless you can quote it to me,
14 that says that the 313 is tied to concurrence. The
15 313 is tied to -- we want to know and limit how many
16 cars are going to go in and out of Mar-a-Lago. That
17 is all we wanted to know by it, and we gave you a
18 restriction to hold it down. For you to come in
19 here with a new explanation is not the intent of
20 Council at this time, or that time.
21 MS. ZIEL: I agree with that. However, I
22 believe the agreement does stipulate the weekday
23 measurements.
24 MR. ROYCE: Let me read it. Total trip
25 generation of the club -- I'm reading from the

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1 Declaration of Use Agreement. The total trip
2 generation of the club shall be limited to 313 daily
3 trips, based on a annual average of daily trips of
4 the club.
5 MR. WYETT: That is what I said. You
6 averaged first and third quarter. Nothing about
7 concurrence.
8 MR. MOORE: Mrs. Smith.
9 PRESIDENT SMITH: Mr. Moore.
10 MR. MOORE: We do have Mr. Tokich here,

11 who is our traffic engineer, who I believe is going
12 to try to --
13 PRESIDENT SMITH: Mr. Tokich, if you want
14 to put some light on this, please.
15 MR. TOKICH: Phil Tokich with Frederic R.
16 Harris, Incorporated. As far as the 313 number, I
17 believe where that came from was in their initial
18 application they had -- it was determined that there
19 were 200 vehicle trips available in this little
20 capacity bank that they could make use of. In
21 addition, they took credit for I think 113 trips
22 that applied to the former use of the project before
23 it became a club, and that is where the 313 came
24 from.
25 MR. WYETT: Is there anything in our

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1 agreement that ties us to it, that ties 313 to the
2 concurrence side without latitude that they don't
3 have to count weekends?
4 MR. TOKICH: I'm not aware of anything.
5 MR. WYETT: So, therefore, the
6 contention --
7 MR. TOKICH: I think they do count
8 weekends. The reporting, they probably have a full
9 year's data.
10 MR. WYETT: They have the data, but they
11 don't put that in the figure that gives 320, the 320
12 count.
13 MR. TOKICH: Your earlier comment about
14 how many are in the peak season, that 320 number
15 that was reported to you, there were 518 in the
16 first quarter and 121 in the second quarter, average
17 of 320.
18 PRESIDENT SMITH: Right. And I remember
19 the discussion at that time that it was going to be
20 average. We did know that.
21 MR. WYETT: Yes, I accepted that.
22 PRESIDENT SMITH: Mr. Castro.
23 MR. CASTRO: I'd like to read on page 5 of
24 the Declaration of Use Agreement, article 8, traffic
25 and specific events. It says the total trip

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1 generation of the club shall be limited to 313 daily
2 trips based on an annual average of daily trips of
3 the club. Traffic monitoring by a method approved
4 by the Town for the club shall be performed by the
5 club on a daily basis and shall be available to the
6 Town upon request. Monitoring devices approved by
7 the Town shall be in place prior to the issuance of
8 a Certificate of Occupancy. Results of the
9 monitoring during the first and third quarters of
10 each year shall be averaged to determine the average
11 daily trips of the club. Then it just talks about
12 reimbursement, and says the monitoring shall be
13 supplied to the Town and Palm Beach County Traffic
14 Division to assure compliance.
15 PRESIDENT SMITH: So it doesn't specify
16 that it's only on a weekday. Mr. Tokich.
17 MR. TOKICH: And they have been submitting
18 those annually and we have been reviewing annually.
19 PRESIDENT SMITH: Because the Council and
20 myself certainly included, or foremost had no idea
21 that they didn't count weekends, because it says

22 daily, not daily weekdays. Were you aware that
23 weekends were excluded and, if you were, why? Is
24 that how it's commonly done?
25 MR. TOKICH: It's commonly done on

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1 weekdays. Most are taken on Tuesday, Wednesday and
2 Thursday.
3 PRESIDENT SMITH: Most are done to see how
4 much traffic is on the road because it's daily.
5 Palm Beach is unique, and certainly Mar-a-Lago is
6 unique. It never occurred to me that even when you
7 were doing the averaging on the first and third
8 quarter -- and naturally the summer didn't count;
9 the club is closed -- and you were still able to
10 average it. But it didn't take in the weekends when
11 the major special events took place at the club, so
12 you learn something new every day.
13 MR. WYETT: Also, traffic in our Town on
14 weekends are maximum. If I had to contend with
15 traffic I'd rather contend with weekday traffic than
16 weekend traffic.
17 MR. SHAW: What is interesting about this
18 revelation, and I don't know if this is playing into
19 your hand, the reality of it is that the majority of
20 the traffic generated is not by the members from
21 9:00 to 5:00 five days a week, but the overall
22 impact of the club seven days a week, and especially
23 in the later part of the day, then it almost becomes
24 a moot point to even be discussing it because we
25 have no idea what portion of the traffic is

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1 attributed to the 313 versus the overall picture.
2 You may actually be averaging 1,000 cars a
3 day, and that is the number that we're dealing
4 with. If you take every car that goes in for every
5 event on a 24 hour a day basis 365 days a year, we
6 have a number, and if you divide that number you
7 would come up with an average. We don't know what
8 that average is. So proportionately, the membership
9 impact of 313 against the other use may be
10 insignificant. And I don't have the slightest idea
11 what it means other than I don't know. I don't have
12 a count. I don't know.
13 MR. MCLENDON: I don't understand why, if
14 the data is available, why was it written up in the
15 agreement the first and third quarter? If you have
16 the data every day, why not use it including
17 weekends?
18 MS. ZIEL: If I may clarify a little bit
19 of history, the 313 limit that was developed was
20 developed because of concurrence, and concurrence is
21 measured on weekdays. Therefore, the weekday
22 numbers were used. Concurrence is never measured
23 anywhere that I know of on weekends, because
24 traditionally on Friday -- I am sorry, on Saturday
25 and Sunday you do not have the business traffic, you

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1 do not have a lot of service traffic that you have
2 during the week, so traffic volumes are a lot lower
3 on Saturdays and Sundays.
4 PRESIDENT SMITH: Except in Palm Beach.

5 MR. WYETT: While the number that gets to
6 the 313 may have been based on some concurrence
7 concepts, if it was to be used in the contract it
8 has special exceptions. And if the people that you
9 represent here had any idea that they wanted to
10 interpret it a different way, they should have come
11 to this Council and told us it's different.
12 Anything else to me was deception.

13 MS. ZIEL: I don't believe it was
14 deception. It was very clear between the Town and
15 the applicant how it had to be done, and it's
16 standard procedure.

17 PRESIDENT SMITH: I don't believe at that
18 time the Council thought there was any deception of
19 it. I think that it was just that we were not aware
20 that when you did the traffic counts it was Monday
21 through Friday from 9:00 to 5:00.

22 MR. MOORE: No, 24 hours.

23 PRESIDENT SMITH: I think we were just
24 simply not aware of that, since the major events do
25 take place, and I think we all agree, on the

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1 weekends. So I'm not saying there was anything
2 wrong, I'm just saying that perhaps we didn't ask
3 the right questions. And you were not here as their
4 traffic expert, so you were not to blame for
5 presenting it.

6 MR. ROYCE: I point out I could have stood
7 silent when Mr. Shaw made his statement.

8 PRESIDENT SMITH: You could have.

9 MR. ROYCE: But in the interest of being
10 honest and forthright, I laid it all out there. I
11 think what it ultimately proves is that on-site
12 traffic monitoring serves no purpose. You need to
13 look at concurrence, you need to look at membership
14 numbers, and perhaps a limit on special events
15 numbers in the pavilion or tent, and not worry about
16 what the trip counter says.

17 PRESIDENT SMITH: How do we keep track of
18 those number of trips, Mr. Royce, unless there is --

19 MR. ROYCE: I don't think you need to keep
20 track of on-site trips. And the County and/or State
21 or somebody monitors the streets.

22 PRESIDENT SMITH: Mr. Tokich, please.

23 MR. TOKICH: I was going to say, just to
24 address again the concurrence issue, the reason they
25 count the way they do, or the reason they report the

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1 way they do, is that is the kind of number they are
2 comparing against for the concurrence. They are
3 comparing apples and apples. As far as knowing the
4 number of trips that come in and out, that, I think,
5 is perhaps less important than having a management
6 plan in place that will accommodate the attendees of
7 a major event, or to smaller events.

8 PRESIDENT SMITH: Obviously, there is no
9 difference. If there is 313 trips and 1,000 cars
10 blocking the road, the figure is wrong. So
11 obviously, who needs a traffic count? Mr. Moore.

12 MR. MOORE: Also, I'd like to point out,
13 and certainly Mr. Brisson speaks for himself, but
14 he's also told you that whether or not concurrence
15 has been met is irrelevant, because you have a

16 special exception in front of you today, and you
17 have the ability and the authority to deal with
18 traffic under that special exception. And that was
19 also in his report.
20 PRESIDENT SMITH: One of the figures that
21 you gave us, Mr. Tokich, is in '97, '98, 356. That
22 puts them way over the 313 trips. Do you think,
23 Mr. Royce, the 356 was due to an increase in
24 membership from '95, '96 to '97, '98?
25 MR. ROYCE: He's asking if he can answer

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1 that.
2 MR. TOKICH: We furnished this table, and
3 you're reading down the column that says '97, '98.
4 Then you see an average of 320, then you see three
5 other numbers. There was some trouble, and I think
6 Mr. Blackman alluded to it the other day, processing
7 the data out of the counters.
8 PRESIDENT SMITH: I see that somehow it
9 was lost from the counter to laptop. So what?
10 MR. TOKICH: We had to kind of reconstruct
11 that data.
12 PRESIDENT SMITH: But the number came in
13 higher, and I'm trying to find out why.
14 MR. TOKICH: If we assume a certain
15 assumption, we got 356. If we assumed another
16 assumption, we got something less.
17 PRESIDENT SMITH: If you assumed another
18 assumption, could you have gotten something higher
19 than 356?
20 MR. TOKICH: I think we used three or four
21 reasonable assumptions, and 356 was the highest.
22 PRESIDENT SMITH: I think it makes it very
23 difficult to be dealing with assumptions as opposed
24 to exact numbers. I believe that the traffic
25 counters are actually showing no purpose at the

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1 moment, since the information we're getting is not
2 accurate as far as whether the County needs them for
3 concurrence. I wouldn't know. But we do know there
4 is a major traffic problem existing on the site,
5 whether you have traffic counters or not.
6 MR. TOKICH: Just as an item of
7 information, I think in the last two years the data
8 we received had some problem in transferring data.
9 PRESIDENT SMITH: All right. Mr. Shaw.
10 MR. SHAW: I concur. What you're saying
11 is that they are not serving any purpose since the
12 issue being presented in the clarification is to be
13 able to eliminate them. I think, since what we're
14 getting is not providing us with anything of
15 substance, and that the issue of the club's traffic
16 is not 9:00 to 5:00 Monday through Friday but on a
17 far more expanded basis, that it is not serving the
18 intent, it's not accomplishing anything, and I don't
19 believe under the circumstances that we should
20 continue. I would move that we eliminate that
21 restriction.
22 PRESIDENT SMITH: On the traffic counter?
23 MR. SHAW: I'm strictly dealing with the
24 traffic counter, nothing else. Monitoring the
25 traffic counter.

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- 1 PRESIDENT SMITH: Is there a second?
- 2 MR. MCLENDON: I never understood it, and
- 3 I'll second it.
- 4 PRESIDENT SMITH: Any further discussion?
- 5 MR. WYETT: Yes.
- 6 PRESIDENT SMITH: Yes, Mr. Wyett. We're
- 7 just talking about a traffic counter. Don't make a
- 8 long speech, please.
- 9 MR. WYETT: Just the traffic counter.
- 10 It's the only means this Town has of knowing what is
- 11 going in and out, and the basis of either increasing
- 12 or decreasing the activity there. We have a very,
- 13 very sensitive area. Council of '93 recognized
- 14 that. And it's one of the safeguards, and no need
- 15 of dropping it at this point, especially where it's
- 16 been violated. It's like rewarding them for a
- 17 violation.
- 18 PRESIDENT SMITH: Yes, but we're getting a
- 19 traffic counter on the inside; it's on the
- 20 Mar-a-Lago driveway. I'd rather see the traffic
- 21 counter put on by the Town outside on the road than
- 22 on the driveway at Mar-a-Lago. The Mar-a-Lago
- 23 information is inaccurate. It's like turning back
- 24 an odometer. It's not accurate.
- 25 MR. WYETT: How can you put it on the

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- 1 road?
- 2 PRESIDENT SMITH: You can put a traffic
- 3 counter on the road. You go over them all the time
- 4 when they're taking traffic studies.
- 5 MR. WYETT: It gives you a mean average of
- 6 traffic. It doesn't tell the peak hours of which a
- 7 lot of cars are coming into this place and causing
- 8 congestion. And I have to object to one thing. It
- 9 is not one night. It's been many nights, it's many
- 10 times.
- 11 MR. ROYCE: We all work within the
- 12 concurrence laws, and we all obey the rules.
- 13 PRESIDENT SMITH: We all agree. The
- 14 motion was made to eliminate the counter.
- 15 Mrs. Pollitt.
- 16 THE CLERK: Mr. Shaw?
- 17 MR. SHAW: Yes.
- 18 THE CLERK: Mr. McLendon?
- 19 MR. MCLENDON: Yes.
- 20 THE CLERK: Mr. McDonald?
- 21 MR. MCDONALD: Yes.
- 22 THE CLERK: Mr. Wyett?
- 23 MR. WYETT: No.
- 24 THE CLERK: Mrs. Smith?
- 25 PRESIDENT SMITH: Yes.

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- 1 THE CLERK: Four/one.
- 2 PRESIDENT SMITH: We're back talking about
- 3 the membership cap. Members of the Council, we're
- 4 talking about the membership cap. Membership is
- 5 currently capped at 500 members.
- 6 MR. SHAW: Membership, like traffic
- 7 counting, sometimes is a very ambiguous statement.
- 8 I've always asked the question how many people are
- 9 members. If you're dealing with traffic, if you're

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10 dealing with the number of people, if you're dealing
11 with capacity of a room, of a facility, it's not
12 based on members, it's based on people. And I think
13 that if we want to have a better handle on how many
14 people are at Mar-a-Lago and how many people are
15 utilizing the facility, membership should then be
16 broken down into either family membership versus
17 single members. And I think there are a lot of
18 single members at Mar-a-Lago.
19 And I don't know that when you're looking
20 at membership we're not talking about people
21 attending an event, we're simply discussing the
22 concept of members. I don't know if to say that
23 500 members means that there could be only members
24 attending. There are 1,000 people that are coming.
25 Is it 1,500 people or is it really only 750, because

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1 there are so many single members. I would rather
2 deal with a number that I feel comfortable with.
3 And if you're going to get this increase
4 that you make a proposal, or we make in our
5 proposal, that says there is an ability to increase
6 the number of members, but that when we count
7 members there will be couples or family members, and
8 they will count as two, and single members obviously
9 count as one. And I think most clubs also deal with
10 members. I don't know if Mar-a-Lago has an age
11 limit as to how old the child is before they are
12 considered no longer a child and a part of the
13 membership.
14 MR. MCLENDON: There are guests, too.
15 MR. SHAW: That gets to coming to
16 capacity. That is how many people fit in the room
17 versus how many people you say we're going to have
18 on our roster. And I think that would be something
19 that I would like to see incorporated. I would be
20 very agreeable to seeing an increase in the
21 membership. And whether it's 50 people per year,
22 and again, we're counting if we're saying a family
23 is two and a single is one.
24 However you want to equate that number,
25 that becomes up to the club to analyze it. But say

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1 if you're at 500, recalculate the actual number of
2 members based on what I said. Come back to us with
3 a number of where you stand under that formula, and
4 then say we're going to increase it by 50 a year up
5 to maximum which right now I believe is a 1,008.
6 Again, we're back to concurrence and how you come up
7 with numbers, which I find very strange. But you
8 need to have a ceiling. It cannot be the word
9 elimination of it. It has to be a specific number.
10 PRESIDENT SMITH: You're speaking as if
11 you know how many members there are now. Do you
12 know?
13 MR. SHAW: The statement has been made
14 that there are 360. We do not know.
15 PRESIDENT SMITH: But we don't know
16 whether they are married or single.
17 MR. ROYCE: Mr. Blackman tells me --
18 estimates that about three-quarters of the members
19 constitute married couples, man and woman.
20 MR. SHAW: Then we are probably at 500.
21 MR. ROYCE: You know, I understand your

22 formula. I don't -- I just think it's into another
23 level of complication, that perhaps the solution or
24 the cure becomes not as bad or worse. You know, I'd
25 be more willing to say -- I mean, rather than break

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1 that down and put a premium on us getting single
2 members, I think it would be better -- again, you're
3 starting to get into all kinds of internal
4 operations here.

5 I'd rather have fewer than 100 a year, but
6 phase them in slower if you want to, but not make us
7 break it down between whether this guy is married,
8 divorced, or if a woman gets a divorce does she
9 revert back to a number one. We'd have a gigantic
10 system that -- it's just awfully complicated. I
11 don't think it's accomplishing much. For instance,
12 some members are going to come frequently to the
13 club, some are going to come two, three times a
14 year. We could factor all that in, how many times a
15 person comes in, because some members are more
16 active than others. It's just so unnecessarily
17 complicated.

18 MR. SHAW: Maybe it would be easier --
19 because I say something does not mean that others
20 agree with it. You may be better off letting
21 everybody say their piece, and there may be
22 consensus. It may be quicker.

23 PRESIDENT SMITH: Yes, Mr. McLendon.

24 MR. MCLENDON: I wanted to ask a question.
25 Are there records available that would tell us

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1 day-to-day how many attendees are at the facility?

2 MR. BLACKMAN: We do have reservation
3 books, and we have records of special events and so
4 forth, so the information is there. I'm not sure
5 what use it would be, but we do have that
6 information.

7 MR. MCLENDON: I would hope that there
8 would be some correlation between those numbers and
9 when there are problems that existed. I think the
10 biggest thing that Mar-a-Lago needs to satisfy --
11 correct the problems is, it's been mentioned before,
12 is a traffic management plan. I heard the excuses
13 of limousines not being able to make the turn, and a
14 lousy valet system.

15 I think you need a firm, established
16 procedure, and some changes to the traffic plan that
17 needs to be probably more use of using the Southern
18 Boulevard gate in both directions. And there I can
19 understand the problem is where would those people
20 be dropped off coming in without being second class
21 citizens, if you will. So I think that needs a lot
22 of attention.

23 MR. BLACKMAN: I think you'll find during
24 the presentation of the pavilion building, and as we
25 get more detail regarding the pavilion, we're going

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1 to look at, property-wise, at least global traffic
2 management issues related to getting people to the
3 pavilion. And it also speaks to the need to look at

4 this comprehensive plan, it's master plan, as no one
5 segment can stand alone. But I would agree with
6 your comment.

7 MR. MCLENDON: You got a master site plan,
8 but I don't hear a master traffic plan.

9 MR. ROYCE: Mr. McLendon, to follow up on
10 that, that handout that I gave you earlier, item 1
11 related to the cabanas, and we certainly went
12 through that subject. Item 2 related to the
13 pavilion building, and in that, I believe, somewhere
14 we talked about -- yes, in item 2-E -- and I'm not
15 trying to jump around, Mrs. Smith. But just to
16 answer his question, I actually put a condition in
17 there that a separate pavilion building traffic
18 management plan be submitted to the Town Council for
19 review and approval, anticipating just this.

20 We may or may not get into more detail
21 about the pavilion; I'm not trying to get off the
22 subject on that. But I think that is true,
23 Mr. McLendon, that particularly in conjunction with
24 the pavilion building, we need a plan. Item A on
25 the list I handed out was a traffic management plan

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1 in general, and incorporated some of the issues and
2 suggestions that I heard from staff and other folks
3 and everything to address. I got items 8-A
4 through D, which were specific items without regard
5 to the pavilion, just in any event.

6 But I think what all this -- and maybe I
7 think we should go to the pavilion first, and maybe
8 we should go to the traffic plan first. But I think
9 the problem has not been -- the problem, to the
10 extent there is a traffic problem, does not relate
11 to the number of members really; it relates to the
12 special events. That is my statement. I think that
13 is generally true.

14 Therefore, I would like to suggest that we
15 try to uncouple the two of them and talk about the
16 membership, and be allowed to have a gradual
17 increase in membership, in accordance with your own
18 consultant's recommendation, on some phased basis.
19 And we address the question of the number of people
20 that can go to special events, which might be the
21 capacity of the building, if nothing else. And
22 then, to the extent you want us to address traffic
23 issue, items 8-A through D might be the place to
24 start.

25 PRESIDENT SMITH: Thank you.

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1 MRS. YAEGER: Madam Smith, and members of
2 Council, I would like to have --

3 PRESIDENT SMITH: Excuse me. We're in
4 executive session. The public part is over. We're
5 in executive session. I'm sorry.

6 MRS. YAEGER: Yes, I know, but I've been
7 here since 9:00, and we're spending a great deal of
8 time unnecessarily. I am a member. I have been a
9 member. I have lived in this town since 1942. I
10 know all about the traffic problems. So if you wish
11 to hear me, I shall speak. Otherwise, I'll be
12 seated.

13 PRESIDENT SMITH: I'm sure you do, and we
14 appreciate it very much and we thank you for your
15 input. But we are in executive session, and unless

16 the Council asks a question of you --
17 MRS. YAEGER: The executives, with due
18 respect, they do not know what I know about the
19 traffic situation, having lived next to -- a
20 neighbor of Mr. Trump on the avenue.
21 MR. WYETT: I will ask the question.
22 PRESIDENT SMITH: If you stop for just a
23 minute, because we have to have a procedure here.
24 You do understand that. Mr. Wyett, as a member of
25 the Town Council, is asking you for your information

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1 on the traffic, so if you state your name and
2 address for the record please, and answer his
3 question. What are the traffic concerns? Thank
4 you. Were you sworn in?
5 MRS. YAEGER: I haven't been sworn. I'll
6 be happy to.
7 PRESIDENT SMITH: Mrs. Pollitt.
8 Whereupon, having been duly sworn to tell the truth.
9 PRESIDENT SMITH: Go ahead.
10 MRS. YAEGER: I have lived on South Ocean
11 Boulevard for 15 years.
12 PRESIDENT SMITH: Your name and address?
13 MRS. YAEGER: My name is Mrs. Betty Lou
14 Yaeger, and at the moment I do have a residence on
15 Brazilian Avenue, having sold 974 and 975 South
16 Ocean Boulevard. I have lived on that avenue for
17 many years and I've lived in Palm Beach since 1942.
18 However, this club is a club of mostly senior
19 citizens. There are no wild cocktail parties, there
20 is not a great deal of traffic. You may come at any
21 day at 5:00 to 6:00, you will not see people
22 cocktailing. It is a rather quiet place.
23 Mr. Donald Trump is a very generous, kind
24 man, has done a great deal to enhance the beauty of
25 the area, other than the club. I think that some of

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1 these people have been too harsh and too strict.
2 They don't understand that the people in this
3 village, in this hamlet, wish to have a pleasant
4 time when they're here. They are in the twilight of
5 their lives, most of them, we hope for many, many --
6 MR. WYETT: Excuse me. I only asked you
7 about traffic.
8 MRS. YAEGER: The traffic on South Ocean
9 Boulevard is mostly at between 4:00 and 5:00, when
10 all the staff are going back to West Palm Beach. It
11 is a rather quiet area. Mr. Trump has done
12 everything to accommodate your wishes, and I think
13 you will cooperate with him in the future and be
14 more lenient, because he means well for the people.
15 He works very hard. He is not making a profit.
16 He's giving --
17 MR. WYETT: Excuse me. We only want to
18 hear about traffic. That is all I asked you about.
19 MRS. YAEGER: What was that?
20 MR. WYETT: I only asked you about
21 traffic. That is all you can comment on.
22 MRS. YAEGER: The traffic there is
23 minimal. It is not a busy place. The Bath and
24 Tennis is down the road, and it doesn't interfere
25 with Mar-a-Lago. And they are different hours of

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1 operation, different aged people, and that is it.

2 Thank you very much for your attention.

3 MR. ROYCE: Mr. Wyett, aren't you glad you
4 asked? You see, as a lawyer you learn not to ask
5 questions unless you know the answer.

6 MR. WYETT: I asked because I don't
7 believe anybody should not be heard at least once.

8 MR. ROYCE: I'm glad you asked her, and
9 I'm glad her testimony became part of the record.

10 PRESIDENT SMITH: If we possibly go back
11 to executive session. Thank you, Mrs. Yaeger.

12 MR. TOMMARO: Madam President, I just want
13 to ask if we were going to have an opportunity at
14 some point today to address the new submission, the
15 concepts contained in the conditions submitted by
16 Mr. Royce. This was a submission today; we do have
17 some comments on this, some new concepts that are a
18 little different than the application. So if there
19 is an opportunity today as we go through these
20 briefly to address, we'd like to.

21 PRESIDENT SMITH: Well --

22 MR. MCDONALD: Mr. Randolph, when we go
23 into executive session does that mean we're in
24 executive session for good, or we can break out any
25 time we want to and entertain --

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1 MR. RANDOLPH: You can ask any questions
2 you feel are pertinent during executive session.

3 PRESIDENT SMITH: If there is new
4 submissions that the public has not had a chance to
5 see or comment upon, I would guess that perhaps if a
6 member of the Town Council asks you if you have
7 impact in some of these submissions, that would do
8 it. But the public session is over, and I assume
9 both Mr. Collins and Mr. Royce knew that when they
10 made their submissions after we went into executive
11 session. Is that right, Mr. Royce?

12 MR. ROYCE: Yes, Ma'am. The list was
13 prepared simply in response to the discussions and
14 things I heard, to try and expedite the situation.
15 Obviously, Council can ask any questions or make any
16 suggestions it wishes.

17 PRESIDENT SMITH: Perhaps any member of
18 the Council will ask it.

19 MR. TOMMARO: Yes, Ma'am. With all due
20 respect, there is a lot of discussion and argument
21 amongst the party -- the applicant. There are other
22 parties to the proceedings, as well.

23 PRESIDENT SMITH: I do understand that.
24 If I had to guess, I would assume you might have the
25 opportunity to say something. It's only a guess.

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1 MR. TOMMARO: Thank you.

2 MR. ROYCE: We were addressing membership.
3 Our application asks that the cap be eliminated or
4 amended; I know you're not going to eliminate it. I
5 asked for all the reasons. Without restating my
6 case, and arguing perhaps paying attention to your
7 own consultant that the membership cap be lifted, or
8 amended, rather. In the interest of fairness, you
9 recall the membership of other clubs is much

10 higher. And when we get to special events or
11 attendance or the traffic, we can address those
12 issues. But I think in terms of the membership,
13 Mrs. Yaeger is absolutely right and we should be
14 able to increase the membership, please.
15 PRESIDENT SMITH: I have not been
16 convinced by what you said, Mr. Royce, that the cap
17 should be lifted. The present membership, we've
18 been told, is at 360. That gives you 140 members to
19 go to the 500 member cap. I have my concerns with
20 the expansion of use. We just approved the cabanas.
21 The question has been raised about whether or not
22 there would be honorary or reciprocal memberships
23 with the new golf club, which I understand is a
24 separate entity. And those concerns would lead me
25 to say that I don't believe that the cap should be

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1 lifted at that time. Perhaps I want to do that just
2 so you'll come back and see us again, Mr. Royce, but
3 that would be my feelings on lifting the membership
4 cap of 500 at this time. Mr. Wyett.
5 MR. WYETT: I substantially agree. You
6 have 360. We don't know what 500 are going to do to
7 this Town. The only thing I am concerned about is
8 not breaking this Town into two pieces, those that
9 live north and south of Mar-a-Lago, because you
10 can't get back and forth. There is no reason at
11 this early time to change the cap, because it has no
12 meaning to you, it doesn't hurt you, it doesn't hold
13 you back. And I suggest when you have 460, 475,
14 come back here and we'll be able to see what is
15 going on at Mar-a-Lago. And if it's not causing a
16 problem, if the worst fears of mine about too much
17 traffic are not justified, this Council will be
18 justified in making a change. But the evidence is
19 not in.
20 Furthermore, we do not have sufficient
21 information from you. We know that special events,
22 i.e. charity events -- this Council, at an earlier
23 session, told you that charity events are special
24 events; we don't know where you got the idea they
25 weren't. But the so-called special events, that has

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1 turned Mar-a-Lago not into a membership club, but an
2 entertainment and function center, has caused you a
3 problem with these number of cars to enter or
4 leave. If you eliminated that, if you constantly
5 refer to other clubs, well, there is no other club
6 in this Town of your nature, which would be B and T,
7 the Everglades, the Palm Beach Country Club and the
8 Beach Club, that have special events of the concept
9 that are practiced at your club. And in 1993 we did
10 not conceive that you would do so, because it was
11 represented then you wanted a club like everybody
12 else.
13 In 1996 the other Council said you want a
14 club just like every one else. If you want to be
15 like everyone else, act like everyone else and we
16 won't have a problem. Eliminate this excessive
17 number of events and pay attention to whatever cap
18 we put on going forward. You're in violation. I'm
19 talking about capacity and size, the number of
20 people on the premises. If we keep it at 390, I

21 want this Council to consider how we're going to
22 enforce whatever number we go forward, because from
23 day one Mar-a-Lago has violated the 390. And I'd
24 like to have a list how many people, besides days,
25 weekends, how many people at every event that you

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1 list.
2 PRESIDENT SMITH: Mr. Royce.
3 MR. ROYCE: I understand your concern
4 about the special events. I said earlier, however,
5 and I started off this hearing -- it seems like a
6 long time ago -- by telling you that we had a
7 problem at the Celine Dion event, and I understand
8 that. And I understand that there should be better
9 traffic management, and maybe the exit should be an
10 entrance, and all those things those are the
11 concerns. But day in, day out, for every special
12 event there are dozens and dozens and hundreds of
13 members that come and go, have breakfast or lunch,
14 play tennis and do all those things.
15 We're talking about giving the opportunity
16 for an increase of Town residents, bearing in mind
17 that the majority of the members must be residents
18 or employed in the Town, so it's Town serving. And
19 that is a restriction that I'm not certain other
20 clubs have. Maybe they do, maybe they don't, I
21 don't know. But we've never argued with that.
22 And I'm saying if we could expand the
23 number of club members, do what you're going to do
24 when we get to special events, or when we get to the
25 pavilion building or something. I understand that.

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1 But as to membership, I'm suggesting to you that the
2 more club members it provides a service, it provides
3 a facility for members, a majority of which must be
4 residents of the Town. I'm trying to suggest to
5 you, respectfully, that we separate things Mr. Wyett
6 says are problems from the ordinary, everyday
7 membership, and give these people an opportunity to
8 come and be members of the Mar-a-Lago Club.
9 PRESIDENT SMITH: Thank you. Mr. McLendon.
10 MR. MCLENDON: Mr. Royce, I believe in
11 1996 there were approximately 315 to 20 members, if
12 I remember. We never really got a good handle on
13 it. But that was my recollection of the estimate.
14 And it's now gone, within three years, up to 360,
15 which is probably 15 a year. I guess I'm having a
16 problem understanding what your problem is in
17 keeping the 500 membership until a point that you're
18 actually nearer that.
19 And I have another question. I understand
20 that the club has met the Town serving regulation,
21 and either you or maybe staff can tell me how that
22 was presented to the Town so that we know that is
23 the case.
24 PRESIDENT SMITH: Mr. Moore, please.
25 MR. MOORE: They submit it on an annual

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1 basis, as do all Town serving operations.
2 MR. MCLENDON: A statement from an
3 accounting firm, is that used?

4 MR. MOORE: CPA, yes, sir.
 5 PRESIDENT SMITH: Are you done,
 6 Mr. McLendon?
 7 MR. MCLENDON: He's going to answer my
 8 question, I hope.
 9 PRESIDENT SMITH: You're going to answer
 10 Mr. McLendon's question?
 11 MR. ROYCE: I have to apologize. I was
 12 asking a question when I should have been listening.
 13 MR. MCLENDON: Well, my original question
 14 was, why the big concern over removing the 500 when
 15 you're nowhere near that? I think Mrs. Smith
 16 alluded to it also. If you only increased 45 people
 17 in three years, what is going happen?
 18 MR. ROYCE: We're trying to lay out one
 19 long range plan. We're trying to tell you where we
 20 want to go with the club, or -- where we want to go
 21 with the club. That is the whole purpose of this
 22 five year plan. One of the concerns we had may be,
 23 albeit because there was a freeze at 313, and if the
 24 313 number is off, then that immediate concern is
 25 gone.

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1 But I think in some orderly, allowable
 2 progression to at least a 1,008, then to some other
 3 number, so we can make plans, so we can do some
 4 marketing among the Town of Palm Beach residents, so
 5 we can try to get people to enjoy these facilities,
 6 if need be.
 7 I don't mean that we're not going to go
 8 out and market necessarily and encourage people. I
 9 didn't mean market, so we can be available, so we
 10 can let it be known that people can come and enjoy
 11 the facilities, so we build a new pavilion building,
 12 we build these cabanas. We got facilities for
 13 people. I think there will be people that want to
 14 join because there are beach facilities, and so
 15 forth. Are they all going to join this year? No.
 16 Would we wait until after the temporary bridge is
 17 complete? Yes. Can we phase it in? Yes. But
 18 while we're here, and while we have a plan, we just
 19 would like to address it.
 20 PRESIDENT SMITH: Thank you. Mr. Shaw,
 21 then Mr. McDonald.
 22 MR. SHAW: I think there was an indication
 23 that phasing is obviously acceptable, and that
 24 possibly even 50 is the number that is maybe viable
 25 up to the limit, 1,008. I think the thing that sort

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1 of concerns me is not the issue of members, as much
 2 as the activities that may be taking place at the
 3 club. If you look it from the premise that it is a
 4 club, and that it also is not negative when I say it
 5 is run as a business, because I think every club in
 6 Town is a business, if it cannot generate the money
 7 necessary to keep its doors open, what it means is
 8 it has to come back on its members in order to fund
 9 the deficit.
 10 I think to some degree, with the wisdom of
 11 Council, there were stipulations made in the
 12 original agreement that said Mr. Trump would be
 13 financially responsible, so as not to be put the
 14 burden directly on the members. At the point that

15 this was granted and it was done, so that in the
16 event that funding was not there, that there was
17 recourse, and we'd never see the property and the
18 facilities to go in disrepair for lack of funding.
19 What I'm driving at is if, at the
20 beginning of the club's creation, special events, in
21 the term of charity events, were the driving
22 financial need to keep the club in some element of
23 solvency, as the membership increases the need for
24 the charity events should start to decrease, because
25 there is a swap.

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1 To get to the end of my thinking that
2 possibly there should be a voluntary agreement by
3 the club as to the number of charitable events, and
4 what that relationship will be, it is one thing to
5 say that a member sponsors versus a member chairing
6 and actively a part of an event, and that possibly
7 it should only be one event per year, per member
8 that they can sponsor. So that you start to make an
9 offer as to how to reduce the impact of large events
10 to the benefit of the members who come in dribs and
11 drabs, different hours, different days, and say to
12 us we will eliminate, ultimately, the charity events
13 at which point we have our 1,000 members. And there
14 is an equitable financial relationship that comes
15 from that formula. Done.
16 PRESIDENT SMITH: You are done, all
17 right. Mr. McDonald.
18 MR. MCDONALD: I'm not sure what he said,
19 but Mr. Royce, at the risk of throwing you into a
20 great depression, I also don't agree that the cap
21 should be changed, and I haven't really heard a good
22 reason to change it. I may feel differently about
23 some attendance events, but I don't see any
24 compelling reason to change the cap.
25 MR. WYETT: I move denial.

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1 PRESIDENT SMITH: Is there a second?
2 MR. MCLENDON: Second.
3 PRESIDENT SMITH: Thank you. Is there any
4 further discussion? Mr. Randolph.
5 MR. RANDOLPH: I didn't say anything on
6 the last motion, where there was simply a motion
7 made to approve eliminating the counter. I had
8 thought that perhaps the best way to deal with a
9 reason for each one of these would be to maybe have
10 an overall motion at the end dealing with the
11 ordinance itself. But you should keep in mind that
12 each one of these is part of the special exception
13 request and site plan review request, so I think
14 with each one, perhaps the best way to deal with it
15 is for you to track the language of your ordinance.
16 Particularly in the event that you are going to make
17 a motion to deny, you would want to cite the reason
18 for the denial.
19 And if I may, again, in referring to the
20 ordinance, if you're going to in a special exception
21 you need to make a determination that the use shall
22 be found by the Town Council to comply with the
23 requirements in this ordinance, et cetera. But in a
24 site plan review, before any site plan shall be
25 approved, approved with changes or denied, the Town

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1 Council shall make a finding that the approval of
2 the site plan will or will not adversely affect the
3 public interest, and certify the specific zoning
4 requirements have or have not been met, and that
5 satisfactory provision and arrangement has or has
6 not been made concerning the following. So I would
7 ask that you take that into account in any motion
8 that you make.

9 But as a second point, I would like to get
10 a clarification in regard to the last motion that
11 was approved by the Council, which was to approve
12 the removal of counting the trips. Did that motion
13 imply that you were also going to remove the cap on
14 313 daily trips?

15 PRESIDENT SMITH: No. The motion was to
16 eliminate the counter, not to eliminate the cap.

17 MR. RANDOLPH: Mr. McLendon is saying
18 something different.

19 MR. MCDONALD: I understood to remove the
20 cap, because it didn't make sense.

21 MR. MCLENDON: That was my understanding.
22 It doesn't mean that they couldn't continue to
23 count, but I don't know why we go ahead and count.

24 MR. MCDONALD: Eliminate the counter and
25 the number 313.

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1 MR. WYETT: Mrs. Smith specifically said
2 we count at the road, not having to count in
3 Mar-a-Lago. She specifically mentioned that.

4 MR. MCDONALD: That didn't have anything
5 to do with the other.

6 MR. ROYCE: Right now we're at existing
7 membership.

8 MR. RANDOLPH: That is why I'm bringing
9 this up. In the agreement, and they were two
10 different things said on this of the dais, then by
11 Mr. Royce. Mr. Royce had indicated that we don't
12 have a problem with this provision of the ordinance
13 relating to 500 if you eliminated the 313 cap,
14 because what the Declaration of Use Agreement says,
15 in the event the trip generation limitation set
16 forth in Article 8, which is 313 trips, is reached,
17 membership at that time shall be frozen until
18 measures are taken to reduce daily trips.

19 That means if you not have not eliminated
20 the 313 cap, that they can't have 500 members, now
21 they are frozen at 360 members now. So that is why
22 I need -- I think we all need a clarification of the
23 motion that was made.

24 MR. MCDONALD: That is why I thought it
25 was to eliminate.

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1 MR. MCLENDON: I thought the 313 was
2 eliminated as a cap, and I seconded.

3 MR. MCDONALD: You're right, because
4 otherwise it's frozen right now; they can't have one
5 new member.

6 MR. RANDOLPH: Does our traffic engineer
7 agree that from a concurrence standpoint that the
8 313 trips can be eliminated?

9 MR. TOKICH: From a concurrence standpoint
10 what we were, I think, talking about is just the
11 monitoring.
12 MR. RANDOLPH: I'm asking you from a
13 concurrence --
14 MR. TOKICH: At that point we wouldn't
15 have any way of knowing.
16 MR. WYETT: I move we reconsider the
17 previous motion.
18 PRESIDENT SMITH: Allen, we have a motion
19 on the floor.
20 MR. WYETT: I made a suggestion. I
21 suggest you do it.
22 PRESIDENT SMITH: Wait a minute. We
23 presently have a motion on the floor right now that
24 Mr. Randolph was clarifying. The maker of the
25 motion was Mr. McDonald.

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1 MR. MCDONALD: No, I didn't make it.
2 PRESIDENT SMITH: Mr. Wyett, you can
3 withdraw your motion that is presently on the floor
4 and we'll go back and reconsider on the traffic
5 counter, because my vote then was incorrect. I was
6 voting to eliminate the counter because I felt the
7 machinery was defective and no reason to have it,
8 but I was not voting to eliminate the cap of 313.
9 MR. TOKICH: Excuse me. If I could, I
10 didn't finish answering Mr. Randolph's question.
11 PRESIDENT SMITH: All right.
12 MR. TOKICH: They meet concurrence now, so
13 they don't need the 313 any longer to demonstrate
14 concurrence.
15 MR. WYETT: He met concurrence way back in
16 1993. We put the 313 to guarantee the Town would be
17 protected.
18 MR. RANDOLPH: Let me tell you, in
19 reviewing the minutes from last time, the 313 that
20 we were dealing with was a major formula. At the
21 time it dealt with 200 trips and 113 trips, to come
22 up with 313, and that was to meet concurrence at the
23 time. I guess I'm asking you, from a standpoint of
24 a traffic engineer, whether or not there continues
25 to be a need to have a 313 trip limit in order to

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1 meet concurrence?
2 MR. TOKICH: Well, concurrence is based on
3 1,008 members, which was calculated from that 313.
4 MR. RANDOLPH: So the answer is what, to
5 my question? Do they -- in order to meet
6 concurrence, is there a continued need to have a
7 313 trip limitation in the agreement?
8 MR. TOKICH: No, there is not.
9 MR. MCDONALD: That is what I thought we
10 were getting rid of.
11 MR. WYETT: Mrs. Smith, can I recognize
12 the gentleman who is going to represent B and T, and
13 the questions I'd like to have answered.
14 PRESIDENT SMITH: We have a motion on the
15 floor, we have a second on the floor, we have a
16 thought to go back and reconsider another motion.
17 Mr. Tommaro is going to have to wait until we finish
18 with housekeeping matters here.
19 MR. WYETT: First of all, I can withdraw
20 the motion to allow somebody else to make the

21 motion.
22 PRESIDENT SMITH: Does the Council want to
23 go back and reconsider the traffic counter thing?
24 And can I change my vote if we do not go back and
25 reconsider, Mr. Randolph?

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1 MR. RANDOLPH: No. I think you have to
2 have a motion to reconsider made by someone who is
3 on the prevailing side of that motion. But I think
4 also it would be helpful for you to rehear what the
5 motion was. If indeed the motion was simply to
6 approve limiting the counter, if that meets your
7 satisfaction then maybe you don't need to.

8 PRESIDENT SMITH: Mrs. Pollitt, would you
9 go back and read the earlier motion, please?

10 THE CLERK: The way I have it down.
11 Mr. Shaw moved to eliminate traffic counters at
12 Mar-a-Lago.

13 PRESIDENT SMITH: And nothing was said
14 about the count, so it was my understanding, and I
15 was voting, to remove the traffic counter, and
16 consequently my vote will stand.

17 MR. SHAW: As the maker of the motion, I
18 don't want to sit here and split hairs, but if you
19 don't --

20 PRESIDENT SMITH: You'd better split
21 hairs, because this is not clear.

22 MR. ROYCE: Make a new motion.

23 MR. SHAW: If you're not monitoring the
24 traffic, then how do you know what the traffic is?
25 This is not the tree falls, nobody heard it.

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1 PRESIDENT SMITH: No, Mr. Collins, we're
2 not getting into it.

3 MR. SHAW: I think the reason we felt this
4 was because the overall impact on the area is not
5 being felt by the member traffic that comes in from
6 9:00 to 5:00, that the traffic that is being
7 impacted is not even considered in the 313. And if
8 there wasn't a member at the club at all, and they
9 shut it down from 9:00 to 5:00 and only operated at
10 night, we'd have exactly what we have today, which
11 is late afternoon or early evening and weekend
12 traffic. So what we're monitoring is not relevant
13 to what the issue is, and that was the reason why my
14 intent was to eliminate the limitations.

15 So since the original motion was to
16 eliminate the monitoring requirements, I'll take it
17 a step further and move that we can, in addition,
18 eliminate the counting limitation as under the
19 conditions that it only applies to Monday through
20 Friday daytime counting and not relevant to the
21 overall impact of the neighborhood and, therefore,
22 it's not going to have an inverse effect on the
23 neighborhood, and I think it meets the requirements
24 of 134.329.

25 MR. RANDOLPH: 134.329 as far special

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1 exception and 134.329 as it relates to site plan
2 review, to clarify, would be to amend the

SPECIAL EXCEPTION NO. 9-99

3 Declaration of Use to remove the 313 cap.
 4 MR. SHAW: That is the translation.
 5 PRESIDENT SMITH: Was that a motion? We
 6 couldn't tell, Mr. Shaw, you talked so long.
 7 Mrs. Pollitt.
 8 THE CLERK: Mr. Shaw?
 9 MR. SHAW: Yes.
 10 THE CLERK: Mr. McDonald?
 11 MR. MCDONALD: Yes.
 12 THE CLERK: Mr. McLendon?
 13 MR. MCLENDON: Yes.
 14 THE CLERK: Mr. Wyett?
 15 MR. WYETT: No.
 16 THE CLERK: Mrs. Smith?
 17 PRESIDENT SMITH: No.
 18 THE CLERK: Three to two.
 19 PRESIDENT SMITH: Now, we had the motion
 20 from Mr. Wyett to deny lifting the cap on the
 21 members, which was seconded, and you wanted to ask
 22 Mr. Tommaro something.
 23 MR. WYETT: Yes. What questions do you
 24 have proposed to us to consider?
 25 MR. TOMMARO: Well, actually, it would

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1 have been helpful -- Michael Tommaro with Carlton,
 2 Fields, representing the Bath and Tennis Club. I
 3 think it would have been helpful before the
 4 reconsideration, but I just want to pass on
 5 something about the forest and the trees, and why we
 6 count the trips out there, and why we have caps, to
 7 consider before this vote.
 8 I was here for these proceedings when it
 9 was mansions at Mar-a-Lago that we were considering.
 10 And all the way through the process, the caps, the
 11 390 and 500 caps, were created out of the 313
 12 trips. The 313 trips were 113 residents --
 13 residential trips that might have been presumed for
 14 our residents, plus 200 diminuends. When this
 15 club -- when the residence became a club, they were
 16 assigned a cap for different types of events,
 17 membership and special events, based upon the fact
 18 that with these limitations it would be just like a
 19 residence. That is why you count. All projects
 20 have concurrence, they still have to have
 21 concurrence. They don't have to have a counter, but
 22 they all have to have a cap based upon concurrence.
 23 That is 313, which I think you just did away with.
 24 MR. ROYCE: That is not what their
 25 consultant said. He just said 1,008 members is a

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1 concurrence number, not the 313. I'm sorry to
 2 interrupt you, but you just said something that
 3 disagrees with their expert.
 4 MR. TOMMARO: Yes, it does. I can tell
 5 you -- I don't know how we got to 1,008, but I can
 6 tell you that when the 313 was established it was
 7 because your staff believed that with 313 trips you
 8 could have up to 390 people at special events,
 9 because two cars for every -- excuse me. There was
 10 a difference. Your expert said that 200 to 400
 11 people at a special event would have 200 cars. They
 12 also said -- they created the numbers 390, 500 out
 13 of 313. And it was for two reasons: concurrence,
 14 and to protect the RAA zoning district to keep it

15 like a residence.
16 So that is all I have on the caps. I just
17 want to get this in at an appropriate point in the
18 conversation, because I think we were losing
19 something.
20 PRESIDENT SMITH: Thank you. You answered
21 Mr. Wyett's question. You were talking -- was there
22 something you wanted to ask?
23 MR. MOORE: We were talking about your
24 lunch, and that was it.
25 PRESIDENT SMITH: Thank you for your

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1 concern. Mr. Randolph.
2 MR. RANDOLPH: Again, that is why I asked
3 the question of our traffic consultant, to find out
4 what was the relevant factor of 1,008 or the 313,
5 but I do know that when this was discussed in 1993
6 Mr. Widner (phonetic) from, I believe, the same
7 office, stated as follows: he advised that, based
8 on the information he has received, he has revised
9 the limited membership from 611 to 339. And based
10 on the information provided indicating the trip
11 credits, as he compared it to the Palm Beach County
12 traffic performance standards and ordinance,
13 113 plus the 200 allowable under the ordinance to
14 allow the proposed use to generate 313 trips per
15 day, which would be 339 members.
16 So I just wanted to make sure that what
17 has been said by our expert is in accordance with
18 the understanding of his firm as it relates to these
19 figures.
20 MR. TOKICH: The date of that again,
21 please?
22 MR. RANDOLPH: This was the May 13, 1993
23 Council meeting in which Mr. Widner made the
24 statements.
25 MR. TOKICH: That was prior to meeting

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1 concurrence.
2 MR. ROYCE: And that would meet
3 concurrence. I didn't read the whole letter that I
4 put in the record yesterday from the County engineer
5 that says we meet concurrence at 1,008 members, and
6 that is probably right. Palm Beach County
7 determined that, and your own consultant agrees we
8 meet concurrence at 1,008. It has nothing to do
9 with 313.
10 PRESIDENT SMITH: Mr. Royce, it wouldn't
11 be the first time that the Council disagreed with
12 their consultants. We've done it before, and I'm
13 sure we'll continue to do it again.
14 Mr. Wyett, would you like to reinstate
15 your earlier motion?
16 MR. WYETT: Yes. I'd like to move denial
17 based on no competent evidence that I've heard for
18 any reason to change it, and incorporate all the
19 findings that our Town attorney so states that we
20 have to find.
21 PRESIDENT SMITH: Who was seconding the
22 motion?
23 MR. MCLENDON: I was.
24 PRESIDENT SMITH: Mr. Randolph.
25 MR. RANDOLPH: The specific finding that

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1 you would have to make to deny would be to make a
2 finding that the approval of the site plan will
3 adversely affect the public interest and it doesn't
4 meet the requirements -- you haven't heard
5 substantial competent evidence that it meets the
6 requirements set forth in 134.329 for site plan and
7 134.229 for special exception.
8 MR. WYETT: I incorporate it.
9 PRESIDENT SMITH: All right, thank you.
10 Mrs. Pollitt.
11 THE CLERK: Mr. Wyett?
12 MR. WYETT: Yes.
13 THE CLERK: Mr. McLendon?
14 MR. MCLENDON: Yes.
15 THE CLERK: Mr. Shaw?
16 MR. SHAW: I don't think it's
17 accomplishing what we want.
18 PRESIDENT SMITH: Yes or no, Mr. Shaw?
19 MR. MCDONALD: Mr. Randolph, since there
20 are two or three other items related to the site
21 plan, by voting on this are we also denying the
22 others?
23 PRESIDENT SMITH: No, we're doing them all
24 separately.
25 MR. MCDONALD: This is just related to the

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1 membership cap?
2 PRESIDENT SMITH: Right, this is only
3 membership count.
4 MR. MCDONALD: I'm not up. Mr. Shaw
5 didn't vote.
6 PRESIDENT SMITH: Yes, we've all voted.
7 MR. MCDONALD: Yes.
8 THE CLERK: I'm sorry, Mr. Shaw, I missed
9 your vote.
10 MR. MCDONALD: I don't think he gave it.
11 MR. SHAW: It was a yes.
12 THE CLERK: Mr. McDonald?
13 MR. MCDONALD: Yes.
14 THE CLERK: Mrs. Smith.
15 PRESIDENT SMITH: Yes.
16 MR. MOORE: May I ask one question,
17 because I'm still confused on one issue. If you
18 denied the cap of 313 issue, are they now frozen
19 still at 360?
20 MR. RANDOLPH: No. That was the purpose
21 of clarifying it.
22 PRESIDENT SMITH: They are at 500.
23 Members of Council, we are obviously adjourning for
24 lunch. How long?
25 MR. MCLENDON: As short as possible. I

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1 have to leave at 3:15.
2 PRESIDENT SMITH: If Mr. McLendon has to
3 leave at 3:15, we'd better be back in 45 minutes.
4 And then we'll have to finish it up in an hour and a
5 half, Mr. Royce.
6 (Lunch recess.)
7 PRESIDENT SMITH: I'd like to reconvene
8 the Town Council meeting. Mr. Royce, which section

9 are you speaking to now?

10 MR. ROYCE: I think we have taken care of
11 item 4-A, which is the membership limitation. We
12 addressed 4-C, which is the on-site trip limitations
13 and traffic monitoring requirements. The item we
14 probably should address is the limitation on
15 attendance at special events.

16 PRESIDENT SMITH: All right, why don't you
17 start on that, then.

18 MR. ROYCE: In our application on -- I
19 think it's paragraph 4-B; it starts on page 10 of
20 the application. And we request that the cap, which
21 is currently 390 at special events, be raised,
22 because there is adequate parking, we do meet
23 concurrence, because we would like all members to be
24 able to attend special events. So we would like to
25 request that the cap either be depleted or amended

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1 to another number.

2 Now, this kind of gets into a couple of
3 other questions that I have to address, and that is
4 tent and pavilion building. We have an
5 application -- the pavilion goes first, because we
6 did not have the final letter from National Trust
7 turning into a conceptual approval.

8 In any event, discussing special events, I
9 don't know whether we want to address it in
10 conjunction with the tent or in conjunction with the
11 proposed pavilion building, but we would like to
12 increase -- or both. I guess we need to address the
13 attendance at special events, and would like to have
14 that increased.

15 And I guess I would simply say by way of
16 trying not to advocate too much, but just set the
17 thing, we meet concurrence, and concurrence is not
18 the question. It's the question of ingress, egress,
19 traffic flow and those matters. And you will recall
20 our admission as to the Celine Dion matter. Two
21 weeks later the Beach Boys, no problem. We think we
22 have plans in effect to avoid the problems that we
23 experienced on that one occasion in the future, and
24 I think we can handle it.

25 PRESIDENT SMITH: All right. Mr. McLendon.

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1 MR. MCLENDON: Ray, are the traffic counts
2 seven days of the week available for any period of
3 time?

4 MR. ROYCE: I have to ask someone. I
5 don't know the answer to that.

6 MR. BLACKMAN: We have three years of the
7 counters' data, and the counters do run seven days a
8 week, 24 hours a day, when they are running, the
9 batteries are working, and the hoses are intact,
10 et cetera, et cetera.

11 MR. MCLENDON: How is the data available?
12 Is it numbers for each day, or has anybody
13 summarized anything?

14 MR. BLACKMAN: It's done in 15 minute
15 increments, and then a total for each hour and then
16 a total for each day.

17 MR. MCLENDON: Has anyone plotted this
18 out, by any chance?

19 MR. BLACKMAN: I believe so. I think that

20 is part of the study we submit. We submit actually
21 the whole telephone book size document, the traffic
22 report, to the Town, and then it's your consultants
23 that go through that and verify the results.
24 MR. MCLENDON: We have the charts of those
25 things?

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1 MR. TOKICH: We have it, and it does come
2 in a big notebook. I don't have it with me.
3 MR. MCLENDON: It's not something I could
4 look at in five minutes and draw a conclusion from,
5 is it?
6 MR. TOKICH: No, sir, you cannot draw a
7 conclusion.
8 PRESIDENT SMITH: It would be possible if
9 you decided to go in and look at it to determine
10 what exactly was the attendance at the special
11 events or charitable events. So we're talking about
12 we could get the number from that?
13 MR. BLACKMAN: Yes. You would have to do
14 some guesstimating, because you would just see a
15 number of cars coming in, and you would assume, if
16 they were lumped in between the 5:00 to 7:00 period,
17 that they were attending an event.
18 PRESIDENT SMITH: Right.
19 MR. BLACKMAN: But you would have to make
20 some assumption. The best thing it's used for is to
21 find out the peak time of our traffic generation,
22 and that is probably where it's most helpful. That
23 has been consistently off the peak.
24 PRESIDENT SMITH: What is the peak time of
25 your traffic?

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1 MR. BLACKMAN: Usually in the early
2 evening hours, and if we have anything it may be
3 around the noon hour.
4 PRESIDENT SMITH: So early evening, you're
5 talking about sunset?
6 MR. BLACKMAN: After sunset, twilight.
7 PRESIDENT SMITH: Good for you,
8 Mr. Blackman.
9 MR. ROYCE: Try to find that in your
10 newspaper.
11 PRESIDENT SMITH: Mr. Shaw can find it.
12 He knows where to find it. He'll go on the Internet
13 to find it.
14 MR. ROYCE: I think the point he's trying
15 to make is the events you've been concerned about,
16 or that we've discussed these many days, the special
17 events and that traffic, is usually traffic that is
18 coming on Saturday at 7:00 or 8:00 at night, the
19 peak traffic hours in Palm Beach and everywhere else
20 in the free world, to the best of my knowledge,
21 having done this in a large number of places. You
22 have two peak hours; one is 7:00 to 9:00 a.m.,
23 roughly peak time when most people are coming to
24 work or to their office or whatever, and then from
25 4:00 to 6:00 p.m., or some slight variation on

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1 that.
2 In the case of Palm Beach, you can stand

3 down there and see the cars streaming solidly in the
4 morning, and you can stand out in the afternoon at
5 4:30, 5:00 and see cars, trucks, construction
6 vehicles and so forth streaming south and going out
7 in the afternoon. And the times we're talking about
8 here are for special events at the club, which has
9 been the attendance of a large number of people,
10 have been at times.

11 Other than those times -- but that is one
12 of the beauties of this whole situation, is that
13 peak traffic that everyone talks about is not
14 caused, and the jams everyone talks about, by and
15 large with the possible exception of Celine Dion,
16 are not caused by people coming to or from the
17 Mar-a-Lago Club. It's the normal, ordinary traffic,
18 so-called commuter traffic, working staff, and so
19 forth, traffic, and that is the normal jam up, to
20 the extent there is a jam up, and it's not caused by
21 people coming to or from Mar-a-Lago.

22 The Celine thing, as we indicated over and
23 over which we deeply regret, was more of an on-site
24 management problem than anything else, the
25 limousines turning the wrong direction and things of

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1 that nature. Two weeks later the Beach Boys, not a
2 traffic problem. We employed the off duty policeman
3 as required; we had our traffic engineer present,
4 Ms. Ziel. I asked her to be present at all the
5 events in the last month or so. As we got into this
6 application she's met with those officers from time
7 to time.

8 With the exception of the Celine thing,
9 we've not had any criticism. The police officers
10 have not come to us and said we have problems, we're
11 short handed, and we need this or we need that.
12 We're happy to adopt such traffic management
13 improvements, and I suggested a few in the handout
14 where, again, we're beyond the concurrence things.
15 We're certainly willing to address the turning
16 movements and the ingress and egress and valet and
17 other management things that we believe continues to
18 allow us to operate these special events without a
19 significant traffic problem.

20 MR. MCLENDON: What is the status of your
21 traffic management plan now? Is it underway, is it
22 half done? Where do we stand with it?

23 MR. ROYCE: Well, I think we've
24 corrected -- Ms. Ziel is the one that attended and
25 watched the Celine Dion situation. She made

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1 recommendations; those recommendations have been
2 adopted. For example, the way we handle limousines
3 is different now than it was then. And we have
4 proposed -- someone suggested that we take the exit
5 drive on big events and make it an entrance drive;
6 we're agreeable to doing that. And I listed those
7 items under item 8 here. And there are other items
8 that have come up from time to time. The staff and
9 others have mentioned other suggestions, like do we
10 need to extend the left turn lane, for example, and
11 we're open to all those suggestions.

12 PRESIDENT SMITH: I would think, though,
13 Mr. Royce, it would really be incumbent upon you not

14 to take suggestions from us, but come to us with a
15 five year traffic plan. I'm not going to sit here
16 and participate in restrictions or conditions on
17 your flow of traffic. It's up to you to give us
18 your plan that you feel would deal with it. You
19 keep mentioning Celine Dion, which we all
20 acknowledge was a problem. And I think one of the
21 problems was, of course, because Mr. Blackman is too
22 nice. He said that when the members come and say we
23 want to go to the event, he can't say no. Well,
24 they can say no in other places if there is a
25 capacity question. They do it in restaurants, they

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1 do it in clubs, they do it in the theater. If the
2 seats are full, they don't want them standing in the
3 aisles. So I think you have to recognize that.
4 And if you have a 390 cap, when you hit
5 390 reservations you must say no to anyone and
6 everyone. It's happened to all of us here. Maybe
7 it doesn't happen at Mar-a-Lago, but it happens
8 every other place in the world when they reach
9 capacity.
10 So I don't want to participate in your
11 traffic plan. I want you to give me a five year
12 master traffic plan for how you feel you're going to
13 deal with it, and then I'll start thinking about
14 whether this alleviates my concerns as to blocking
15 the roads with the expanded use of the facility.
16 Mr. McLendon and then Mr. Royce.
17 MR. MCLENDON: With what you have done so
18 far, what attendance number do you think you can
19 handle without a problem?
20 MR. ROYCE: I might have to yield to
21 Mr. Blackman or someone on that, but I would
22 guesstimate 6 or 700. Yvonne says more.
23 MR. BLACKMAN: Just from our experience
24 this past season, I can tell you that the Jay Leno
25 event, which was prior to the Celine Dion event, we

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1 had about 500 to 600 people, and that went very
2 smoothly. Some of the key ingredients to that --
3 and this is leading into our traffic management
4 plan, and we can write it up and present it to you
5 another time, if you wish.
6 The important thing to know is, we had an
7 event prior to the large event that drew a large
8 number of people into the property, so the period of
9 time the people were arriving on the property was
10 elongated. It was stretched over a two or three
11 hour period, instead of a one hour period. That was
12 not the case in the Celine Dion thing, so we learned
13 from that.
14 The subsequent event, the Beach Boys, was
15 a large event in the range of probably the mid-600s,
16 just a guess. But just from being there I got a
17 feel for that. The traffic flowed very smoothly, we
18 had no problem with cars getting in, and that was
19 basically because we introduced some of these
20 measures, how we handled the limousines, we had a
21 more valet staff, a healthy valet staff that wasn't
22 buckled over with the flu. So, yes, in answer to
23 your question, I think we can handle in the range of
24 6 to 700 people comfortably today.
25 PRESIDENT SMITH: Mr. Blackman, I

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1 appreciate your honesty in telling us the number of
2 occasions on which you exceeded the number which was
3 limited on you, but we knew that. I appreciate you
4 being honest about the fact that it was there. When
5 I asked on Friday whether or not you had a social
6 secretary, it was to determine who determines when
7 the reservations are cut off at these special
8 events.

9 And then I'm going to ask Mr. Royce to
10 define for me the difference between a special event
11 and a charitable event.

12 MR. BLACKMAN: Really, it varies per
13 function, according to the type of meal being
14 served, if it's a sit down dinner, if it's a buffet
15 dinner, if it's heavy hors d'oeuvres or just light
16 hors d'oeuvres, or the type of performance. It
17 really ranges the gamut.

18 PRESIDENT SMITH: It doesn't make a
19 difference whether it's inside or outside?

20 MR. BLACKMAN: No, it doesn't. I can tell
21 you that we do not book more than one major event
22 that would be anything over 100 people at a time.

23 PRESIDENT SMITH: So on each evening or
24 daytime, but mainly the evening, you wouldn't have
25 two large parties going over 100?

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1 MR. BLACKMAN: No, we wouldn't.

2 PRESIDENT SMITH: Chief Croft, can you
3 speak to the traffic thing on the different times,
4 please? .

5 CHIEF CROFT: Mrs. Smith, was there a
6 specific question that you had?

7 PRESIDENT SMITH: Mr. Blackman and
8 Mr. Royce said we all know about the problem with
9 the Celine Dion concert. Have there been other
10 traffic problems associated with big events?

11 CHIEF CROFT: There have. In my
12 estimation, when there has been more than 400 people
13 there, there has been a problem. And typically,
14 it's as a result of people arriving about the same
15 time. And there is a period of between 45 minutes
16 and an hour prior to the actual event starting that
17 there is a significant problem, which traffic is
18 impacted to the point where there is gridlock, both
19 northbound and southbound traffic is stopped. And I
20 have public safety concerns with that.

21 PRESIDENT SMITH: Is there anything you
22 feel can be done to the configuration of the road to
23 improve the traffic flow with the event cap in
24 effect that is right now, say, 400 people?

25 CHIEF CROFT: The staff has met several

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1 times and we've discussed these issues. We feel
2 like the applicant should bring forth the traffic
3 management plan, at least for our review. If you
4 all wish to review it, I mean the staff can probably
5 decide whether or not it's an efficient plan. But
6 we don't feel it's our job to do their work for
7 them.

8 PRESIDENT SMITH: No, I don't think it is
9 either. Mr. Wyett, then Mr. Shaw.
10 MR. WYETT: Mrs. Smith, I have to agree
11 with every statement you made. It is up to the them
12 to come up with a traffic plan. But I can tell you
13 a traffic plan depends upon human beings, meaning
14 valets. There is always a faulty plan. It has to
15 have a physical capacity to handle traffic, because
16 any valets can get the flu any time, they can
17 decline to come in any time, you never know. When
18 you say you scheduled X number of valets, that they
19 are going to show. There is no way you can tell
20 people to hurry up and get out of their cars. Since
21 a great many of our residents who are attendees of
22 these functions are on the older side, they don't
23 get out of a car as fast as the young people do.
24 The limitation -- I've seen it
25 personally -- driving up to that, which is

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1 beautiful, is slow; it is not a fast process. Also,
2 I have been -- I have attended functions there of
3 200 people and the traffic -- not inside the club
4 itself, that was beautiful, but the traffic outside
5 was horrendous. Why? I don't know. On certain
6 days of the week, and it's not predictable, you have
7 traffic backing up in that area, not only in the
8 morning and the evening rush hours, but you have the
9 7:00, 8:00 area and you have a problem.
10 The Southern Boulevard circle is not an
11 efficient circle. There is a lot of comments on it,
12 it backs up very easy, it confuses many of our
13 tourist drivers, and coupled with the bridge opening
14 it's a disaster. So any traffic management problems
15 that you're going to come back and show me at least
16 has to be more physical than dependent on the
17 variables of individuals who are going to operate
18 it.
19 Secondly, I want to see you prove it. You
20 have all the master plans you want. I want to see
21 the club operate for one year under the new
22 management plan, that you haven't yet presented.
23 Then I'll know whether you're right or wrong. If
24 you're right, I'll vote for you. But if you're
25 wrong, I'm going to oppose you.

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1 I also want to make this Council tell you
2 we're going to -- unless we change the number, we're
3 going to enforce the 390 rule. If you had complied
4 with the 390 rule, most of your problems, especially
5 Celine Dion, would never have occurred. And we had
6 a lot of confidence in lifting the barriers. Those
7 barriers were put there to protect the residents of
8 Palm Beach. They were put there to protect the
9 safety of other residents of Palm Beach. God forbid
10 that night of Celine Dion somebody ten houses south
11 of you needed emergency medical care, and the
12 emergency medical trucks in the south end of town
13 were busy and we had to get somebody down past the
14 club, that person would have waited a long time.
15 Likewise with fire, likewise with police. If the
16 police had to get past that light because there was
17 a major robbery going on at that peak hour when
18 things were chaotic, again, we wouldn't have caught
19 the offenders.

20 So it's up to you. You have it within
21 your power to live within the rules. Mar-a-Lago has
22 never lived within the rules. You point to one,
23 two, three functions and say we've been bad boys and
24 we're sorry. Well, if the records are subpoenaed,
25 and I suggest this Council subpoena them, you'll

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1 find that they have very rarely had less than
2 400 people; it's usually 400, 500, 600. And unless
3 this Council finds a way to put teeth into the
4 Declaration of Use Agreement, we're always going to
5 be right back here fighting. And I don't like
6 fighting. I came here to live in peace, and the
7 residents came here to live in peace. And I think
8 we're all entitled, Donald Trump, Mar-a-Lago and the
9 residents, to live in peace.
10 PRESIDENT SMITH: Thank you. Chief Croft.
11 CHIEF CROFT: Mrs. Smith, if I may, I had
12 a couple other comments I wanted to make about the
13 initial agreement. It refers -- on page 6 in
14 section 8 it refers to a plan, and traffic plan is
15 what I always thought it meant. And we were never
16 provided one. We worked with the club. I, in fact,
17 went down on several occasions and met with the
18 staff down there, and we hammered out a gentlemen's
19 agreement and it was put into writing. But I really
20 would request that it be more formalized this time.
21 And we have an opportunity to review the plan before
22 the Council gives it's final approval.
23 I would also ask that we reserve the right
24 to review the plan in the future, because what
25 happened after the original agreement was made and

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1 subsequently changed in '96, was that different
2 activities would take place down there that we
3 weren't aware of, and they created additional
4 problems that we weren't prepared to take care of.
5 One of the issues I pointed out in my own
6 staff comments was I'd like to also be able to
7 reserve a right to request more additional officers
8 to work down there, depending on the size of the
9 deal, whether it's a charity event or special
10 event. There is also language in the original
11 agreement related to the use of traffic lanes, and
12 if things didn't work out to our liking that I could
13 request an additional turn lane. I think those
14 issues are all there, they're still very pertinent.
15 I don't feel like it's our responsibility to provide
16 them with the solution. I think it's incumbent on
17 them to provide us with a plan to review, agree to
18 it, revise it, modify it and approve it.
19 PRESIDENT SMITH: Thank you, Chief Croft.
20 Mr. Shaw is going next, then Mr. McDonald.
21 MR. SHAW: Are you familiar with the Palm
22 Beach County volume traffic engineering report that
23 was part of the application or part of this packet
24 of material that I have? It seemed to have come
25 from Kimley-Horn.

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1 MR. TOKICH: Palm Beach County?

2 MR. SHAW: Yes.
3 MR. TOKICH: Yes.
4 MR. SHAW: I guess what I'm trying to
5 understand, it has on it, it says start date and
6 stop date, and then it has a start time and stop
7 time. When they refer to these times, like it says
8 it started on July 8 at 12:00, what I'm trying to
9 understand from this report is, if it's listing the
10 amount of traffic every 15 minutes on the hour, but
11 is this 12:00 midnight or 12:00 noon? Because it
12 ends at July 9.
13 MR. TOKICH: It says a start date of
14 July 8 at 11:45. I'm sorry.
15 MR. SHAW: It's just a different page.
16 MR. MCDONALD: Why don't you give it to
17 him and let him review it?
18 MR. TOKICH: These are in military time,
19 so I would presume that is 12:00 noon until 12:00
20 noon the following day.
21 MR. SHAW: So according to this, at 1:00
22 in the morning there were 350 cars?
23 MR. TOKICH: That would be 1:00 in the
24 afternoon.
25 MR. SHAW: You said it starts at 12:00.

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1 MR. TOKICH: You're really getting two
2 half days.
3 MR. SHAW: What I guess I'm trying to
4 understand, the report submitted has February 1st
5 through the 2nd, which start at 10:15. So I assume
6 this is 10:15, in the first column?
7 MR. TOKICH: No, this is 10:15, right
8 there (indicating). This is the hour, and the
9 15 minutes within the hour.
10 MR. SHAW: I apologize for having to do
11 the learning curve on your time. But I guess what
12 I'm looking at is a report that is analyzing the
13 traffic on July 8 and February 1. And if I'm
14 looking at -- which is why this can't be 5:00,
15 because there couldn't be 24 cars at 5:00.
16 MR. TOKICH: In the morning.
17 MR. SHAW: So 5:00 in the evening would be
18 1700? There is 500 cars at 5:00, and at 8:00 there
19 is 160, whereas in July at 5:00 there is 207 versus
20 119, I guess?
21 PRESIDENT SMITH: What is your point?
22 MR. SHAW: My point is, it goes back to
23 what I said before, that the issue is not so much
24 the limitation of how many people go to these
25 events. But I think if you deal with the capacity

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1 of the facilities and let that become the criteria,
2 that the real issue is to try to not eliminate the
3 number of people, but the number of events that they
4 have, which are what are creating the traffic. And
5 if the club parking, on the same point, would give
6 up the charity events and simply deal with it as a
7 club for the members, then we would not be looking
8 at these problems.
9 And a lot of what this dialog is, if the
10 members need to have a facility to hold weddings and
11 birthday parties and things, I think those work
12 themselves out. It's the constant use of the club
13 as a non-club venue location that is creating a lot

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14 of traffic that we're looking at.
15 And I have no problem in seeing you
16 increase the number of people on the basis that you
17 bring us a qualified plan that satisfies the Police
18 Department and satisfies the Planning Department to
19 show how you're going to deal with 500 or 600
20 people. It's not going to do you any good to have a
21 ballroom that can seat 750 people, and then say
22 we're not going to use it for members because we're
23 going to stick with 360 members, so we're going to
24 have a charity event every night for 800 people.
25 We're not accomplishing what I think we're trying to

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1 accomplish, which is to give the club the benefit of
2 doubt as a club, and yet allow them to expand as a
3 club without having them expand as a non-club
4 related venue.
5 PRESIDENT SMITH: Are you finished,
6 Mr. Shaw? Is that the end of your statement?
7 MR. SHAW: When I take a breath I'm
8 finished.
9 PRESIDENT SMITH: Hard to tell.
10 Mr. McDonald.
11 MR. MCDONALD: I have a few comments. In
12 fairness to the applicant, and in contrast to some
13 of the things Chief Croft said, I didn't go to the
14 Celine Dion concert or the Beach Boys, but I did go
15 to three or four of the special events before that,
16 and I never had any difficulty -- and I'm driving
17 north. I never had any difficulty getting into the
18 club this season on any of those events.
19 But I do agree that certainly with that
20 one concert there was a tremendous problem. But
21 I've never had any trouble getting into the club
22 those nights. And I probably drive south more than
23 any other Council member, because I'm the only one
24 that lives south of Mar-a-Lago. And I agree that
25 the main traffic problems are between the hours of

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1 7:00 and 9:00 in the morning and 4:00 to 6:00 in the
2 afternoon, so I don't know.
3 And I see Chief Croft's officers there,
4 and I have not had any difficulty getting in for the
5 four events that I went to. There hasn't been a
6 back-up at the gate, and I usually get about halfway
7 into the main lane going to the portcullises before
8 I slowed or stopped. But maybe it happens after I'm
9 there.
10 PRESIDENT SMITH: Maybe Chief Croft can
11 tell us whether or not there is a difference with
12 the traffic going north and south, because mainly
13 I've heard it's traffic going north -- going south
14 getting to Mar-a-Lago that had the problem. Then,
15 Mr. Royce, you're going tell me the difference
16 between special events and charitable events, as you
17 understand it. Chief Croft, please.
18 CHIEF CROFT: I can only suggest that
19 perhaps Mr. McDonald was lucky in being able to get
20 in as many times as he did. And maybe there was
21 special privileges extended to him by the police
22 officer down there. Just kidding.
23 PRESIDENT SMITH: He gets there early
24 because he likes dessert.

25 MR. MCDONALD: They were flagging me in.

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1 Is that what you mean?

2 CHIEF CROFT: I'm not going to say
3 anything. It doesn't take a whole lot of northbound
4 traffic because of the curve -- because of close
5 proximity between the left-hand turn lane and the
6 curve. Southbound traffic flows pretty well, but
7 the police officers there feel they need to
8 efficiently get the northbound traffic in. And when
9 they do that, they have to stop the southbound
10 traffic. So we contribute to the problem by trying
11 to keep that curve to the south clear. And there is
12 no easy solution to that except that inside the
13 property there has to be more space available to
14 queue.

15 MR. MCDONALD: There was one night that I
16 wasn't attending anything, but I was driving south,
17 and they were having a problem that night. I don't
18 know what night it was. It wasn't Celine Dion, but
19 it was something else, and there was a back-up. And
20 I think that the limousines have to go in the
21 service entrance. But I think the bottom line is
22 they need to provide a traffic management plan and
23 make some decisions. Until that is done, I don't
24 know how we can.

25 CHIEF CROFT: My final observation,

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1 Mrs. Smith, and not to debate this with
2 Mr. McDonald, I, too, unfortunately have been caught
3 during those events while trying to go across the
4 Southern bridge. And I, in fact, pulled my car over
5 and stopped and got my officer over to the side and
6 said what the -- is going on here? Can't we do a
7 better job of getting the traffic in there? And
8 they said take a look, Chief. And the vehicles were
9 stacked in two lanes going out all the way up the
10 roadway. Because when you don't have that space
11 available inside, there is not much I can do.

12 And one other comment I want to make for
13 the applicant's sake, I don't want to sound like a
14 real critic but they have offered some good ideas on
15 how to better manage the traffic flow in and out.
16 But I think it's going to take more than that,
17 especially with the pavilion.

18 PRESIDENT SMITH: Thank you, Chief.
19 Mr. Royce.

20 MR. ROYCE: Yes.

21 PRESIDENT SMITH: Can you define for me
22 the difference between special events and charitable
23 events? This question came up on Thursday, I
24 believe.

25 MR. ROYCE: I'm sorry, you want me to go

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1 ahead?

2 PRESIDENT SMITH: Please.

3 MR. ROYCE: Understanding that I wasn't
4 here in 1996 or 1993 and don't have the benefit of
5 the history of this thing, I will tell you that I
6 did read some of the transcripts and so forth. I
7 don't recall exactly who said it or when it was

8 said, but there was some conversation or some
9 reference to special events in some of the minutes,
10 and I think examples of special events were given,
11 it has generally been my understanding.
12 And I guess the second thing I'd say is
13 the Declaration of Use Agreement has a paragraph
14 that talks about special events, and I've always
15 thought, based on my reading the transcript, not
16 having been here then, based on my general reading
17 of the Declaration of Use Agreement, that the
18 special events were these large events such as we
19 have been talking about, where some major
20 entertainment or some major large scale event was
21 there.
22 And I've never seen any reference to the
23 charitable events. I'm not arguing with you. My
24 thinking has been focused on what I think I vaguely
25 recall from reading the transcripts and reading the

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1 Declaration of Use, and it talked about special
2 events. And in some minutes or something, examples
3 were given. And it never has registered with me
4 that charitable events and special events were the
5 same thing, not to say that somebody couldn't have a
6 different understanding or different
7 interpretation.
8 The charitable events come before the
9 Council, the Council issues a permit. And I guess
10 we just never thought of a charitable event in the
11 same context as a special event, because special
12 events were mentioned in those prior proceedings,
13 and not charitable events, because the provisions in
14 the Declaration of Use attendance limitations
15 related to these special events. So it frankly
16 never occurred to me that we were talking about
17 charitable events. That is the best I can do. I
18 wasn't here on the other occasion.
19 PRESIDENT SMITH: I tell you, Mr. Royce, I
20 believe part of the problem came because when we did
21 the original agreement in 1993, the Declaration of
22 Use Agreement for the Mar-a-Lago Club, there was no
23 tent that held 600 people, there was the house
24 itself with the limited dining area that was capped
25 at 75 in the dining room, there is the ballroom that

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1 I believe holds 150 for a seated event. So the idea
2 of having 600 people was inconceivable, because
3 there was no place to put them.
4 When Mr. Shaw talks about capacity, we
5 felt that was the capacity of the facility at 390
6 with people in and around for a cocktail party, a
7 reception buffet, some eating, some not dancing,
8 whatever. 390 was the max. So when the tent came
9 into being, and there was a lot of criticism about
10 it, a lot of questions in Town, was it legal for
11 them to have the tent, and it was determined it
12 was. That changed the whole thing, because the tent
13 holds, what, 600 people?
14 MR. ROYCE: Or more.
15 PRESIDENT SMITH: Whatever number it
16 holds. And then all of a sudden there were more
17 people spilling onto the property because the
18 property could hold them. And that is why I think

19 we're having the discussion that we're having today,
20 because of the facility that was improved. But my
21 feeling is that until you come up with a master plan
22 for accommodating the traffic back-ups, whether you
23 have the tent or whether you eventually have a
24 pavilion for events, I would want to see it managed
25 as far as the charitable events. It's a wonderful

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1 thing when they are sponsored and it's a wonderful
2 thing with the amount of money that is raised. But
3 when a charitable event happens on a very frequent
4 basis, then I get the feeling I'm looking at a
5 banquet facility as opposed to a private club, and
6 that is my other concern at the moment.
7 MR. ROYCE: I think I heard several of you
8 indicate that you want to see a management plan.
9 PRESIDENT SMITH: Traffic management plan.
10 MR. ROYCE: Traffic management plan,
11 excuse me. Before we go much further in the
12 process, and I think we understand what you're
13 saying, and we've tried to present a few items.
14 Obviously, that is not sufficient. It needs to be
15 much more detailed or thorough. We need to consult
16 your staff and Police Department. We'll certainly
17 do that, and come back to you with a plan.
18 PRESIDENT SMITH: Mr. Wyett.
19 MR. WYETT: The Declaration of Use
20 Agreement states very simply you may have a tent.
21 It really should have been spelled out, what kind of
22 tent, how big a tent, and how long it could stay up.
23 I generally thought the concept of a tent is
24 temporary, because it goes up for an event, it comes
25 down. And certainly we didn't anticipate that the

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1 tent would be almost larger, much larger, than any
2 of the capacity. Even the fact that you built a
3 tent that holds 6-, 7-, 800 people is indicative of
4 the fact that you were paying no attention to the
5 390 cap. If you were paying attention to 390, why
6 pay for a tent that is twice that size?
7 And secondly, if the tent had
8 interpretation it should have come back to this
9 Council for policy as to what a tent is. That is
10 yesterday; I want to look at today.
11 MR. ROYCE: We're trying to look forward.
12 And part of the whole concept here, as I understood
13 it, understanding, please again, that I wasn't here
14 those prior times. So, based upon reading the
15 minutes and talking to our staff, Mr. Blackman
16 knows -- not to be repetitious, but it's my
17 understanding that you all want to see a long term
18 planning.
19 That is why we suggested a pavilion
20 building rather than a tent, and that is why you
21 want to see a further detail on traffic. And I
22 understand that, and we're trying to do that. We're
23 trying to give you a plan, cabanas, facilities,
24 expanding membership at some point, and that sort of
25 thing, to provide an overall plan for the future

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1 operation of the club.

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2 MR. WYETT: If it would be permissible,
3 this is just a suggestion, I'm not making a motion,
4 that we defer all discussion of numbers and
5 admissibility as to 390, their 390, and certainly,
6 until you have this management plan, and we defer
7 any conceptual approval of this facility until such
8 time. Because even the size of it, if we stick with
9 390 it's very large; if we stick with 500 it's still
10 large; if we give you 1,000 it's about the right
11 size. So I think they're all tied together. And I
12 think the only thing I'd like to review is to
13 reevaluate the dining room capacity, the finger of
14 land used, like disposition of, and if I left
15 anything out you can add it.

16 MR. ROYCE: To answer his question, if you
17 say, in effect, before we address attendance at
18 special events, which I think is what I'm hearing
19 you saying, and before we address the conceptual
20 approval of the ballroom, the other area that is
21 unclear to us and we seek clarification on it, at
22 least there is a provision of the Declaration of Use
23 Agreement that says the dining room seating should
24 be limited to 75 seats. The dining area or areas
25 can hold more than 75 people, and we certainly don't

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1 see the need to limit it to 75 eating at any given
2 time.

3 That is the sort of thing you could
4 address. And that -- again, internal operation
5 limitation that is unlike any other club; that
6 pertains to the membership, it pertains to the
7 ordinary events. It doesn't pertain to special
8 events.

9 And, therefore, like the Bath and Tennis
10 that has 900 members, you know you don't really
11 micro manage their internal operation on how many
12 people can eat lunch, how many people can eat
13 dinner. So I think that is a reasonable request.
14 It does not get into these other kinds of issues
15 that Mr. Wyett raises.

16 PRESIDENT SMITH: Mr. Mayor.

17 MAYOR ILYINSKY: Let's see. I've been
18 sitting here for two or three years thinking about
19 these things, I guess, about Mar-a-Lago. And this
20 is with no malice aforethought. This is simply
21 someone who just don't recognize -- or rather
22 represent members of the Bath and Tennis or the
23 Mar-a-Lago Club, but probably 8- or 9- or 10,000
24 other people. And I think the one thing that has a
25 great many people confused today is they all believe

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1 that what Donald Trump has done to the building is
2 absolutely magnificent. We all agree that we had a
3 lovely piece of history there, and he came in there
4 and rebuilt it, did whatever he had to do to bring
5 it back to a first class situation.

6 But what most of my constituents are
7 worried about, is that they believe it to be a club
8 until 5:30 in the afternoon; then it becomes a
9 roadhouse. These are two entirely different things.
10 I look around the room, and there -- and there are
11 three gentlemen here who belong to the same club I
12 do, one of them in a town called New York. And I
13 checked their secretary the other day, and I checked

14 the secretary of another club I belong to, and the
15 third club I belong to, and in not one single case
16 was there ever a question of overselling the
17 premises. No clubs simply don't do that.
18 And you say, Ray, that the Bath and Tennis
19 has 900 members, or not; I have no idea. But I can
20 tell you, if you make a reservation at the Bath and
21 Tennis at a dinner party which may be advertised, in
22 terms of sending out a note to the members, and not,
23 by the way, running an ad in a local society
24 magazine -- which I find absolutely appalling that a
25 private club needs to advertise a coming event in a

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1 local magazine. And I can promise you, Ray, that I
2 don't believe there is not another club in the world
3 that does that.
4 So to say that Mar-a-Lago is a little
5 different than other clubs is probably the greatest
6 understatement I've ever heard. It's a beautiful
7 place, but how on earth can you justify wanting all
8 of these new buildings, all of these new facilities
9 for a membership of 390 at the present time?
10 MR. WYETT: 360.
11 MAYOR ILYINSKY: 360, I beg your pardon.
12 I agree with Mrs. Smith and I agree with Allen
13 Wyett, and I agree with everybody that mentioned the
14 fact -- let's go ahead and do the beach project, I
15 think it would be lovely. Let's go ahead and grant
16 you the right to increase your membership at a
17 sensible rate, just like any other club does. Let's
18 see what happens within a reasonable period.
19 But you, Ray, you're a very -- I've known
20 you for years. You're a very reasonable, honest
21 man, and that is what I'm talking to right now.
22 It's setting a principle that we're not in
23 disagreement about the beauty of this place, nor are
24 we in disagreement with that lady's attitude right
25 there, who mentioned yesterday that she thought that

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1 she should be allowed to have the same amenities of
2 other clubs. I agree with her. I agree with every
3 single member in this club. It's probably the most
4 beautiful club plan I think in the world, including
5 the three clubs that I belong to.
6 But nevertheless, I think to grant all of
7 these -- this dream list of magnificent things,
8 especially the pavilion, I have a hard time
9 justifying the pavilion. And then not having a
10 total absolute cap on the number you can have at a
11 special event. And then somebody said to me the
12 other day, said no club has that. No club doesn't
13 have that. I don't know of a single club in the
14 world that opens its doors to anybody who wants to
15 come, by reading an advertisement in a magazine. It
16 says for members of and their friends only. How
17 many members are responsible for Celine Dion? And
18 the ad for that mentioned her name, and it said for
19 club members and their friends. And you got 300
20 club members who came that night, and 800 friends.
21 It simply didn't make sense. This is not the way a
22 club behaves.
23 MR. ROYCE: I understand. I hate to
24 interrupt you. I hope I'm not interrupting you,

25 because I respect you. The Celine thing was a

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1 charitable event, and the Cystic Fibrosis Foundation
2 had more control over that. That was not members
3 and guests; it was a charitable event.
4 MAYOR ILYINSKY: It's a mighty worthy one,
5 and I don't think any of us are against this
6 happening. The facilities at Mar-a-Lago are so
7 capable of handling that sort of thing, within
8 reason. I mean, the club I'm referring to in New
9 York, and I'm excluding two members right now, we
10 can't do that. But when we do have an important
11 person, like the President of the United States, may
12 I suggest to you, to come and meet some people, it's
13 not advertised in the New York Times. It's sent out
14 in a little envelope saying on such and such a date
15 so and so will be here, and you are cordially
16 invited to bring your wife and/or one friend.
17 Please let us know within whatever it is.
18 So that is the only problem that I got,
19 is, are we talking, Ray, about a club or are talking
20 about a roadhouse? And if we're talking about a
21 roadhouse, then it's the most beautiful roadhouse in
22 the world and it should be controlled that way. And
23 we should be talking different things.
24 And when you have the Chief Of Police
25 sitting there telling you there have been problems,

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1 constant problems, you start to wonder where all
2 these figures are. You know what I mean? Exactly
3 what has been happening down? There I have no
4 idea. I wish them all the luck in the world, and I
5 hope they succeed. But by God, they have to play by
6 the same rules as the other clubs in Town do, and
7 that is really just about it.
8 PRESIDENT SMITH: Is that it, Mr. Mayor?
9 MAYOR ILYINSKY: I should say now, it will
10 occur to me later but, yes, essentially that's it.
11 PRESIDENT SMITH: We have Mr. Wyett,
12 Mr. Shaw, Mr. McLendon and then you, Mr. Royce, if
13 you'd like to.
14 MR. WYETT: I agree with the Mayor. I
15 think he was very eloquent. I do believe that every
16 member of every club, including Mar-a-Lago, should
17 enjoy the reciprocal rights enjoyed by clubs in
18 general. This is not the issue. The issue really
19 is an abuse by the management of the club. And I
20 think it's been demonstrated here that Council has
21 granted the beach facilities, and we seem to be
22 showing leniency or willingness to cooperate once
23 you provide us with substantial plans.
24 I think it behooves upon you to notify
25 your charity events that they are limited to 390.

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1 Every hotel does; you can't book over a certain
2 number. The fire code would prevent it; when you
3 pass a certain number of people the fire code alone
4 should stop you. The access to the -- checking the
5 occupancy, the break would be there, it's a public
6 facility.
7 I'd like to tell you now that I'm going to

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8 be asking you at the next meeting that you give us
9 the right to the fire and police code and Council,
10 to inspect and keep records so that we can see that
11 you're complying with whatever number we're giving
12 you. Whether it's the 390 now, or a million later,
13 the number is a maximum number.

14 As for your dining room, I agree with you
15 that you should have more dining. I never
16 understood the 75 cap. Why they did that, I don't
17 know. I will tell you what I object to. From day
18 one you violated that 75. I don't mean you
19 personally, Ray. From day one, dining room
20 facilities were put up in the living room and on the
21 terraces. From day one it was not 75, it was more
22 like 150.

23 Sometime in a recent period of time, and I
24 don't know how it got past the Zoning Department, it
25 created a tea room. And how do I? Know I was there

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1 and had dinner in the tea room, when there was no
2 capacity in the main dining room.

3 So I don't like that. Maybe I'm old
4 fashioned, in that if I make an agreement I expect
5 to live by the agreement. So anyway, I have no
6 trouble removing those restrictions, but I don't
7 want to see more violations.

8 And to back up what the Mayor says, here
9 is a book published by Mar-a-Lago. It says the
10 Mar-a-Lago Club 1999. This is the only club in
11 American I know of that is filled with ads.

12 PRESIDENT SMITH: It's commercials.

13 MR. WYETT: I want people to see it,
14 because it's got commercial functions. The only
15 thing that is missing is \$5.00 a copy, and that is
16 not what clubs do.

17 PRESIDENT SMITH: You actually ate there?

18 MR. ROYCE: You ate at Mar-a-Lago without
19 bringing a food taster with you?

20 PRESIDENT SMITH: With him, it's looking
21 iffy.

22 Mr. Shaw.

23 MR. SHAW: If you look at the number of
24 members there are now, there are 360 of them, and
25 they wish to have an event for members. If you take

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1 the position that not all members go to all events,
2 but half the members go, that is 180 people. If
3 each member brings somebody with them, we're back up
4 to 350. And if half the people that go, I think
5 which is very common at a club, that people invite a
6 guest, we're probably up to 540 people now.

7 This is -- you know, we can do anything we
8 want with numbers and we can come up with any
9 rationale, if you want to make them work or
10 discredit them. But I'm trying to be logical; I
11 don't know that that is the right way to approach
12 this. But I think, in fairness, if you're going to
13 have 360 members, or you're going to have
14 400 members, that when you have a true, honest club
15 event, that you will have more people than the
16 actual number of members, so it makes sense to have
17 a facility that can handle that quantity.

18 Now, I know Mr. Wyett made a comment that,

19 why do you need a ballroom that is quite as big? If
20 you use the rationale that the members alone, when
21 they go to club events, whether it's a Christmas
22 party, I don't know, a New Year's party, or some
23 event that is going on, 600 is probably a reasonable
24 capacity to say that the club has or should have.
25 And I think that that may be something we should

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1 focus on, instead of using 390 which, for argument's
2 sake, let's call it 400, and it can't even handle
3 the full membership of the club.
4 Maybe if we go above by 15 percent, and
5 say that this number should be modified to 600, that
6 that is a doable number. I would not be comfortable
7 suggesting that that become the new cap until such
8 time as there is a traffic management plan that
9 addresses all of the proposals that you have brought
10 forward, Mr. Royce, through the club, all of the
11 issues that have been addressed by the Police
12 Department, Fire Department, Building Department,
13 and taking into consideration -- and ratified by
14 them, before I would consider being comfortable
15 raising the limit.
16 But I would also ask that, if Council
17 would consider this idea, that we consider it with
18 the mandate that it will not be broken by any
19 definition, any new math or old math, but that if
20 they are on the premises they count, regardless of
21 whether they come for a private party, a public
22 party, a charity, a rave, an interview, whatever it
23 is. If they are on premises, there better not be
24 more than 600 people, other than staff, at any one
25 time on all venues of the club. Now, I think that

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1 is doable. I think it works with, I guess, the
2 history of the club as it's been working in the last
3 few years as far as quantity, and I think it falls
4 almost in line with the issue of what you're asking
5 for in a ballroom, which we haven't gotten to yet;
6 we don't want to get into that. We're just looking
7 at rationale for attendance to special events, and I
8 would ask the rest of the Council to voice their
9 opinion on that thought.
10 PRESIDENT SMITH: We're trying to.
11 Mr. McLendon.
12 MR. MCLENDON: Yes. Before Mr. Shaw came
13 up in that direction, it was my impression from
14 Mr. Royce and Mr. Blackman's previous statements and
15 testimony that in the neighborhood of 600 is the
16 number that you have accommodated without problems,
17 and so my thought was zeroing in on the number of
18 around 600, also. So if Mr. Shaw made a motion, I
19 would second. But I guess you want other comments
20 first.
21 MR. SHAW: I did not make a motion.
22 PRESIDENT SMITH: Did you make a motion?
23 MR. SHAW: No.
24 PRESIDENT SMITH: Mr. Wyett.
25 MR. WYETT: I suggest that we defer on

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1 numbers until we see a management plan, and the

2 Police Department and Fire Department and Public
3 Works have a chance to look at it and give us advice
4 as to what a number might be. We're coming into the
5 slow season. I believe not too many more members
6 attend functions, yet alone charity functions are
7 going to occur between now and early fall. I assume
8 you'll be back in here sometime in the early fall
9 with your plan.
10 PRESIDENT SMITH: I think he's coming in
11 June.
12 MR. ROYCE: We're coming in June.
13 MR. WYETT: You're coming back in June, so
14 I think to make any decisions before then doesn't
15 accomplish anything. And there is no competent
16 evidence to make any changes until we have that
17 plan. That plan may not be competent evidence, but
18 we should see it and it should be commented on. And
19 there is no need to rush to judgment, and at that
20 time you will know where you are.
21 PRESIDENT SMITH: Mr. Royce.
22 MR. ROYCE: Yes, I'm sorry. I spoke to
23 Ms. Ziel, and she indicated we could work out a
24 management plan by June, and that would give her
25 time to consult with the police and so forth. And

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1 not to get bogged down in technicalities, but if
2 there is -- I sense that maybe this matter may be
3 deferred based on being able to count to three or
4 four.
5 PRESIDENT SMITH: You're quick.
6 MR. ROYCE: And if that is the case, I'd
7 like to avoid another advertisement on this, and all
8 that, and find a parliamentary way to be able to
9 bring the balance of this application back in with
10 the management plan, and hopefully final plans for
11 the pavilion, and conclude this matter at a June
12 meeting. And maybe we should decide which June
13 meeting it is. But that would give us time to get
14 everything together.
15 PRESIDENT SMITH: Which June meeting?
16 There is only one.
17 MR. ROYCE: That makes that decision.
18 PRESIDENT SMITH: Mr. Randolph, would it
19 be an appropriate action to defer this part of the
20 special exception, the cap on the membership, and
21 any other item that the Council might deem fit to
22 defer to the June 10 Council meeting?
23 MR. RANDOLPH: Yes, that would be
24 appropriate.
25 PRESIDENT SMITH: So there would be no

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1 readvertising?
2 MR. RANDOLPH: As long as you specified
3 the date of the meeting, which is what?
4 MR. MOORE: June 8.
5 PRESIDENT SMITH: Tuesday, June 8.
6 MR. WYETT: Mrs. Smith, that sounds
7 great. I just suggest, for advertising purposes,
8 the June 8 meeting. Since we're going into our
9 second day, we should know what is happening.
10 PRESIDENT SMITH: We can decide if it's
11 ready for June 8, but on the 10th and 11th we have
12 the finance tax committee hearings on the budget, so

13 I assume everyone will be in town in June. But this
14 matter certainly, the cap on membership, and I would
15 suggest possibly a conceptual approval of the
16 ballroom could be deferred to June, at which time
17 you may have the approval from the National Trust
18 for the pavilion building.

19 MR. MCDONALD: I thought the membership
20 cap was voted and was denied.

21 PRESIDENT SMITH: Then we're talking about
22 the attendance at special events. I'm talking about
23 the 390 number, the lifting the cap on the 390 for
24 attendance at special events. I would make a
25 motion, if I were in a position to do so.

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1 MR. WYETT: I so move.

2 PRESIDENT SMITH: Thank you.

3 MR. SHAW: I second.

4 MR. MCLENDON: What is the motion?

5 PRESIDENT SMITH: To defer this to the
6 June meeting for the voting of lifting the cap on
7 attendance at special events, at special events, and
8 the conceptual approval of the pavilion.

9 MR. MCLENDON: Does that mean that you'll
10 deal with the dining caps today?

11 PRESIDENT SMITH: We're ready to do the
12 dining. We're just doing the two things.

13 MR. SHAW: Would the maker agree that it
14 would be the last item on the agenda?

15 PRESIDENT SMITH: We can make it at a time
16 certain.

17 MR. SHAW: No, last item. I don't want to
18 hold up everybody else.

19 PRESIDENT SMITH: We can make it at a time
20 certain, which would put it at the last item. That
21 is the way you do it on the agenda, last item.

22 MR. WYETT: I know it's forward, but I
23 move approval --

24 PRESIDENT SMITH: Wait, Mr. Wyett, please
25 wait.

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1 MR. WYETT: Sorry.

2 PRESIDENT SMITH: Mrs. Pollitt.

3 THE CLERK: Mr. Wyett?

4 MR. WYETT: Yes.

5 THE CLERK: Mr. Shaw?

6 MR. SHAW: Yes.

7 THE CLERK: Mr. McLendon?

8 MR. MCLENDON: Yes.

9 THE CLERK: Mr. McDonald?

10 MR. MCDONALD: Yes.

11 THE CLERK: Mrs. Smith?

12 PRESIDENT SMITH: Yes.

13 MR. ROYCE: That is the deferral?

14 PRESIDENT SMITH: That was the deferral
15 for the conceptual approval of the ballroom, and
16 lifting the cap on the 390 attendance at special
17 events.

18 Now, Mr. Wyett.

19 MR. WYETT: I move to remove the
20 restriction on the dining room seating capacities,
21 providing that they do not expand beyond the
22 physical plan that now exists.

23 PRESIDENT SMITH: The motion has been
24 made. Mr. Royce, how many areas are there presently

25 for dining at Mar-a-Lago under normal

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1 circumstances? How many seats?
2 MR. ROYCE: I yield to Mr. Blackman on
3 that.
4 PRESIDENT SMITH: Because, the way the
5 motion is, as I understand it, that could be for the
6 dining room, the living room, the tea room, the
7 ballroom and the tent.
8 MR. MCDONALD: And the bar.
9 PRESIDENT SMITH: How many seats would
10 that encompass, Mr. Blackman?
11 MR. BLACKMAN: Well, I don't have the
12 exact number of seats. And it does change from day,
13 to day, to day on the configuration.
14 PRESIDENT SMITH: Well, how many could you
15 seat, when pressed?
16 MR. BLACKMAN: I can tell you the 75 seats
17 came from the capacity of the main dining room.
18 PRESIDENT SMITH: That I know.
19 MR. BLACKMAN: I would say that the patio
20 would hold 25 to 30. We have the bar, which might
21 be 16. The tea house might be 35. And then --
22 PRESIDENT SMITH: The ballroom.
23 MR. BLACKMAN: The ballroom really is more
24 used for a special event, a larger party.
25 PRESIDENT SMITH: But you could eat in

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1 there if you were pressed?
2 MR. BLACKMAN: It's a very comfortable
3 place.
4 PRESIDENT SMITH: I know it is. How many
5 could you seat in there?
6 MR. BLACKMAN: 100. But that isn't used
7 for a la carte dining, day in day out dining.
8 MR. WYETT: I just added those up, and
9 there is a few over 150. Would the 150 number be
10 reasonable?
11 MR. BLACKMAN: Yes.
12 MR. WYETT: I amend my motion to move to
13 150 from existing facilities.
14 PRESIDENT SMITH: All right. Is there a
15 second to the motion?
16 MR. MCLENDON: Second.
17 PRESIDENT SMITH: Any further discussion?
18 (No verbal response.)
19 Mrs. Pollitt.
20 THE CLERK: Mr. Wyett?
21 MR. WYETT: Yes.
22 THE CLERK: Mr. McLendon?
23 MR. MCLENDON: Yes.
24 THE CLERK: Mr. McDonald?
25 MR. MCDONALD: Yes.

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1 THE CLERK: Mr. Shaw?
2 MR. SHAW: Yes.
3 THE CLERK: Mrs. Smith?
4 PRESIDENT SMITH: Yes.
5 Woodbridge Road.
6 MR. ROYCE: Yes, indeed. There is a small

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7 piece of property. I don't know how much you want
8 me to go into it, but the whole idea here is to
9 simply delete it from the special exception. They
10 prefer it become a portion of the existing single
11 family lot to which it is part, which is the
12 property to the east.
13 MR. WYETT: With unity of title.
14 MR. ROYCE: As to that other residential
15 parcel, yes. I think it's lots 20 and 21.
16 MR. WYETT: I move approval.
17 MR. SHAW: Second.
18 PRESIDENT SMITH: Mr. Moore, were there
19 any staff comments?
20 MR. MOORE: Just that they provide unity
21 of title, and he just agreed to it.
22 PRESIDENT SMITH: Any further discussion?
23 (No verbal response.)
24 Mrs. Pollitt.
25 THE CLERK: Mr. Wyett?

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1 MR. WYETT: Yes.
2 THE CLERK: Mr. Shaw?
3 MR. SHAW: Yes.
4 THE CLERK: Mr. McLendon?
5 MR. MCLENDON: Yes.
6 THE CLERK: Mr. McDonald?
7 MR. MCDONALD: Yes.
8 THE CLERK: Mrs. Smith?
9 PRESIDENT SMITH: Yes.
10 MR. ROYCE: I believe we are done.
11 PRESIDENT SMITH: Thank you, Mr. Royce.
12 MR. ROYCE: I want to thank all of you for
13 your patience and your considerations.
14 PRESIDENT SMITH: See you in June.
15 MR. ROYCE: Thank you.
16 (Whereupon at 2:55 the meeting was
17 adjourned.)

Mary A. Pollitt
Town Clerk

Prepared by:
Susan Eichhorn
Deputy Town Clerk