

1 CITY OF CORAL GABLES
2 PLANNING AND ZONING BOARD MEETING
3 VERBATIM TRANSCRIPT
4 CORAL GABLES CITY HALL
5 405 BILTMORE WAY, COMMISSION CHAMBERS
6 CORAL GABLES, FLORIDA
7 WEDNESDAY, NOVEMBER 14, 2007, 6:05 P.M.

5

6 Board Members Present:

7

8 Tom Korge, Chairperson
Eibi Aizenstat, Vice-Chairman
9 Robert Behar
Jack Coe
10 Pat Keon
Cristina Moreno
11 Javier Salman

12

13 City Staff:

14 Eric Riel, Jr., Planning Director
Walter Carlson, Assistant Planning Director
15 Lourdes Alfonsin-Ruiz, Assistant City Attorney
Javier Betancourt, Principal Planner
16 Jill Menendez, Administrative Assistant
Cathy Swanson,

17

18 ALSO Participating. Page

19 Laura Russo, Esq. 5
Joseph Natali 20

Joseph Natoli 29
Donald T. Palko 29

20 Perri Lee Roberts 32

Jeffrey Bass, Esq. 42
Brian Dwyer 64

21 Brian Dursam 64
Bob de la Fuente 01

22 Bob de la Fuente 91
Vinton Villaamil Miami-Dade County School Board

22 VIVIAN VILLAAMIL, Miami-Dade County School Board
representative

representative

1 THEREUPON:

2 The following proceedings were had:

3 MR. AIZENSTAT: Since we do have a quorum,
4 would you call the roll?

5 MS. MENENDEZ: Robert Behar?

6 MR. BEHAR: Here.

7 MS. MENENDEZ: Jack Coe?

8 MR. COE: Yes.

9 MS. MENENDEZ: Cristina Moreno?

10 MS. MORENO: Here.

11 MS. MENENDEZ: Javier Salman?

12 Tom Korge?

13 Eibi Aizenstat?

14 MR. AIZENSTAT: Here.

15 From the other Board members, do we have
16 that they're going to be coming?

17 MR. RIEL: Yes, everybody confirmed that
18 they're going to be here.

19 MR. AIZENSTAT: Okay. Should we get
20 started then --

21 MR. BEHAR: Mr. Chairman, can I --

22 MR. AIZENSTAT: Sure.

23 MR. BEHAR: Just for the record, I have to
24 be out of here by 7:30 today -- this evening,
25 just to let you know, please.

1 MR. COE: The meeting can be done by 7:30.

2 MR. AIZENSTAT: The first order of business
3 will be the approval of the minutes. Did
4 everybody get a chance to take a look at the
5 minutes for the previous meeting?

6 MS. MORENO: I move approval.

7 MR. COE: Second.

8 MR. AIZENSTAT: Call the roll, please.

9 MS. MENENDEZ: Jack Coe?

10 MR. COE: Yes.

11 MS. MENENDEZ: Cristina Moreno?

12 MS. MORENO: Yes.

13 MS. MENENDEZ: Robert Behar?

14 MR. BEHAR: Yes.

15 MS. MENENDEZ: Eibi Aizenstat?

16 MR. AIZENSTAT: Yes.

17 Walter.

18 MR. CARLSON: For the record, Walter

19 Carlson, Planning Department --

20 MR. RIEL: Hold on, Walter, before you
21 start. I just want to note a couple of changes
22 from the agenda.

23 Item Number 9, which is the Building Site
24 Separation, has been postponed to a future date,
25 and, then, on Item Number 7 -- and I'm looking

1 at the blue revised agenda in front of you, Item
2 Number 7, there's four ordinances that are going
3 -- were going to be considered this evening.

4 Item 7-C, which is an ordinance amending
5 the Zoning Code Concurrency Review, has been
6 postponed or deferred to a -- a later date, and,
7 Javier, when he does the presentation, will go
8 into more detail about that.

9 MR. AIZENSTAT: Perfect.

10 MR. CARLSON: Again, for the record, Walter
11 Carlson. Before you, on the green sheets of
12 paper, you have some updated comments which came
13 in regarding the first item before you this
14 evening. There were three comments received.
15 There were no objections in any of them.

16 If you would like, I can give you a brief
17 presentation. If you would like to proceed
18 forward without it --

19 MR. COE: We don't need a presentation, I
20 don't think.

21 MR. CARLSON: You don't need a
22 presentation?

23 MR. COE: No, I think we can move on.

24 MR. CARLSON: Good. Thank you. Thank you.

25 MR. AIZENSTAT: Thank you. For the record,

1 please note that Javier Salman has joined us.

2 MR. COE: (Inaudible comments.)

3 MR. AIZENSTAT: Do we need to go ahead,
4 Eric, and swear in any of the parties or -- that
5 are going to be speaking?

6 MR. RIEL: I -- I don't believe so, no.

7 MR. AIZENSTAT: Okay. Let's get started
8 with the -- then, is there a presentation that's
9 going to be made on that first item?

10 MR. RIEL: It's up to you. If you want a
11 presentation, Walter can --

12 MR. AIZENSTAT: We don't need a
13 presentation.

14 MR. BEHAR: We've got a motion --

15 MR. AIZENSTAT: I'm sorry, also if we could
16 note, for the record, that Pat Keon is here.

17 So it looks like we don't need the
18 presentation.

19 Laura?

20 MS. RUSSO: Good evening Mr. Chairman,
21 Members of the Board. For the record, Laura
22 Russo, of Russo & Baker, with offices at 2655 Le
23 Jeune Road.

24 We are here before you with proposed
25 tentative plats. There are actually two

1 applications, Ponce Place Villas East and Ponce
2 Place Villas West, which, in fact, is only
3 taking our approved site plan of the Old Spanish
4 Village to allow for the townhouses to be sold
5 fee simple.

6 We could build the same townhouses today as
7 condominiums, but we want to sell them as
8 individual lots, so we're going through the
9 planning process.

10 So that is all. There is no increase in
11 building site. There is no change -- there's no
12 change in the streets. So the PAD Ordinance
13 does not require replatting, so we could move
14 forward. We just thought, for our purposes,
15 it's something we would like to do, and it seems
16 to be something that prospective buyers out
17 there want, as well.

18 MR. AIZENSTAT: Let me ask a question of
19 the Assistant City Attorney.

20 MS. RUSSO: Uh-huh.

21 MR. AIZENSTAT: Should the -- should the
22 item be read into the record or are we okay
23 without reading the actual item into the record
24 that we're discussing now?

25 MS. ALFONSIN-RUIZ: You don't have to read

1 it into that record.

2 MR. AIZENSTAT: Say that again, please.

3 MS. ALFONSIN-RUIZ: You do not need to read
4 it into the record.

5 MR. BEHAR: And this is only to replat?

6 You're not increasing units, you're not
7 increasing anything?

8 MS. RUSSO: Nothing. Basically, the
9 approved master plan remains the same, and one
10 of the sheets -- and let me see if I'm not
11 mistaken, I believe it's under 6 and under 7 --

12 MR. COE: Right.

13 MS. RUSSO: -- basically shows -- I think
14 the last one shows how the townhomes overlay
15 over the -- the plats. We basically took the
16 outline of the townhomes and created the lots.

17 MR. BEHAR: I'll make a motion to approve.

18 MS. MORENO: Second.

19 MR. AIZENSTAT: Any comments? Any
20 questions?

21 MR. SALMAN: To the Chair, are there any
22 changes to the architectural division between
23 the two fee simple lots now? Does -- if they're
24 built out as townhouses, do we have a double
25 wall situation or how are we making that

1 division of property line effective to the
2 building?

3 MS. RUSSO: Well, those issues will be
4 addressed in the homeowner's association
5 documents versus the condominium association
6 documents. So we've already created documents
7 which will be labeled one or the other,
8 depending on the -- in terms of maintenance --
9 maintenance of exterior, I mean, there's still
10 all the conditions that were part of the Old
11 Spanish Village, in terms of the architectural
12 integrity and maintenance and stuff, will be
13 done, whether they're created as condominium
14 units or townhouses.

15 MR. SALMAN: I mean, I wasn't offering the
16 question to create a problem, but I just want to
17 make sure that it's not a problem later.

18 MS. RUSSO: Uh-huh.

19 MR. SALMAN: And if you -- your answer is
20 satisfactory. Thank you.

21 MR. COE: Mr. Chairman, we need to have
22 public comments on this.

23 MR. AIZENSTAT: Correct.

24 MR. COE: We should recognize the Chairman
25 has arrived.

1 MR. AIZENSTAT: Correct. Tom Korge is
2 here.

3 THE CHAIRMAN: I apologize for being late.

4 MR. AIZENSTAT: To bring him up to speed,
5 we're -- if we can -- are there any public
6 comments on this? Anybody in the public?

7 MR. COE: Move the question, Mr. Chairman.

8 MR. CHAIRMAN: There's a motion. Is there
9 a second?

10 MR. AIZENSTAT: There is a first and a
11 second.

12 THE CHAIRPERSON: First and second.

13 MS. MORENO: I second it.

14 THE CHAIRMAN: Okay. Any discussion on the
15 motion?

16 MS. MORENO: We had.

17 MR. COE: Right.

18 THE CHAIRPERSON: You already had your
19 discussions. So no further discussion. Let's
20 call the roll on the motion.

21 MS. MENENDEZ: Eibi Aizenstat?

22 MR. AIZENSTAT: Yes.

23 MS. MENENDEZ: Robert Behar?

24 MR. BEHAR: Yes.

25 MS. MENENDEZ: Jack Coe?

1 MR. COE: Yes.

2 MS. MENENDEZ: Pat Keon?

3 MS. KEON: Yes.

4 MS. MENENDEZ: Cristina Moreno?

5 MS. MORENO: Yes.

6 MS. MENENDEZ: Javier Salman?

7 MR. SALMAN: Yes, to approve.

8 MS. RUSSO: Thank you very much.

9 MS. MENENDEZ: Tom Korge?

10 THE CHAIRPERSON: Yes.

11 Second item on the agenda is the Zoning

12 Code Text Amendment, Article 3, Development

13 Review, Division 20, Art in Public Places.

14 MR. RIEL: Mr. Chairman, Members of the

15 Board, I'd like to do just a brief introduction.

16 This is an amendment to the Zoning Code,

17 creating a new division, Division 20, entitled

18 Art in Public Places.

19 The City Commission of Coral Gables asked

20 City Administration to create two new

21 legislative regulation programs. One was an

22 impact fee program, and the other was an art in

23 public places program.

24 The impact fee program is basically for new

25 developmental projects to pay their way, based

1 upon the potential impacts that new development
2 would have.

3 The City secured a consultant, and that
4 resulted in the completion of an Impact Fee
5 Ordinance, which the City Commission approved
6 about a couple of months ago.

7 At the time, they also considered an Art in
8 Public Places Ordinance, when they were
9 considering the impact fees, and, actually, it
10 went to the Commission on May 23rd, 2007. They
11 actually passed it on first reading, but, at
12 that time, they asked that the Impact Fee
13 Ordinance be finalized before they enact or go
14 any further on the Art in Public Places.

15 As I indicated, that Impact Fee Ordinance
16 was approved.

17 After that -- that point in time -- and let
18 me just kind of give you a little background, in
19 terms of Public Art Ordinances.

20 It was in response to the 2002
21 Charrette, the Comprehensive Plan, and then
22 basically Miami-Dade County's Art in Public
23 Places Ordinance.

24 If you look at the whereas clauses in the
25 actual ordinance, it will give you kind of a

1 good understanding of what the City Commission's
2 intent was by creating this ordinance.

3 The City's Cultural Development Board
4 assisted City staff, mainly Cathy Swanson,
5 Development Director, and the Assistant City
6 Attorney, in the development of a program. The
7 City staff has been working on the program, or
8 the policies and procedures, for well over a
9 year, and they basically modeled it after
10 several programs that are throughout the United
11 States. Some of those have been in existence
12 for ten or twenty years.

13 Programs -- similar programs in the State
14 of Florida include Coral Springs, Palm Beach
15 Gardens, Tampa, Sarasota, Clearwater, and a
16 little bit closer to home, Miami Beach.

17 The result of the research and the input
18 from the Cultural Development Board, as well as
19 Historic Preservation Board, resulted in the
20 ordinance which you have before you as
21 Attachment A.

22 The City Commission, on October 23rd,
23 passed, on first reading, the ordinance that you
24 have before you, and they recommended approval
25 on a five to zero vote.

1 The discussion at the Commission meeting,
2 they also requested, obviously, public input,
3 and the public input they received was namely
4 from the University of Miami, as well as there
5 were some other interested parties.

6 The University has been working closely
7 with City staff on drafting some language, in
8 terms of amendments to the ordinance regarding
9 exemption language.

10 The City Commission, when they passed it on
11 first reading, recommended that the ordinance
12 come to the Planning & Zoning Board, prior to
13 second reading, which is scheduled for December
14 11th, and, specifically, they made a motion.
15 They asked City Administration and the Planning
16 & Zoning Board to consider an exemption for the
17 University of Miami, with periodic review of
18 that exemption, and to add language that
19 protects the City, assuring the quality and
20 monetary value of the collection, and that's on
21 Page 32, at Attachment C.

22 That motion was passed by the Commission by
23 a three to two vote.

24 For that reason, and I believe the
25 Commissioners, also the Mayor, asked that this

1 Board specifically comment on that particular
2 issue of the exemption, as well as anything else
3 they might have -- you might have, in terms of
4 the ordinance.

5 So with that, I'm going to turn it over to
6 Ms. Swanson, Development Director. She's going
7 to provide you a little bit more details in the
8 ordinance.

9 We also have a -- Cathy has a presentation,
10 in which you have copies of examples of art
11 that -- throughout the United States, as well as
12 within the State of Florida.

13 THE CHAIRPERSON: Before you begin,
14 Ms. Swanson, I'd like to note that I've
15 gotten confirmation from the City
16 Attorney's Office that I do not have a
17 conflict of interest on this, because I --
18 I'm going to be teaching a course at the
19 University of Miami next semester, I was
20 concerned that I might have a potential
21 conflict of interest due to the proposed
22 exemption, and the City Attorney has
23 assured me that there is no conflict of
24 interest. So I just wanted to point that
25 out.

1 That's correct, isn't it, Lourdes?

2 MS. ALFONSIN-RUIZ: That's correct.

3 THE CHAIRPERSON: Thank you.

4 MR. COE: (Inaudible).

5 MS. SWANSON: I got a word from up above,

6 so to speak, that their PowerPoint needed to be

7 rebuted, so at some point in my presentation,

8 you'll start seeing the pictures that are

9 included in your packet.

10 Huh.

11 MR. AIZENSTAT: Got them now.

12 MS. SWANSON: Thank you. Thank you.

13 And the purpose of these pictures are just

14 to try and frame exactly what our hopes are as

15 we move forward with this art in public places.

16 Before we begin with the -- the sculptures

17 and the examples, though, thank you, Eric, for

18 the summation.

19 Indeed, the -- Dade County passed an

20 ordinance in 1973. It was one of the landmark

21 public art ordinances, that required government,

22 specifically the County, and all municipalities,

23 to contribute 1.5 percent of their construction

24 dollars into the acquisition of new art.

25 We have had conversations with Dade County

1 on and off. The City has informally complied
2 with it, and the Manager felt that it was time
3 that we developed formal regulations that allow
4 us to actively participate in the art in public
5 places program, and ours is a little different,
6 but before I talk about the differences, we'll
7 see a little bit of the art, so that the public
8 can see what we're talking about.

9 Art as Identity. This is actually a
10 Picasso, in the middle of the Federal Square in
11 Chicago. It is a very well-known piece for
12 Chicago.

13 Next slide, please.

14 Philadelphia. Philadelphia has over 530
15 art in public places sculptures, and here are
16 just two examples. The one on the left is aptly
17 called the Clothespin, and the other is Ben
18 Franklin and his printing press.

19 Next one, please.

20 Chicago, again. This is at Calder. It's a
21 Flamingo. Miami, with the Metrorail program.
22 As Metrorail took off, so did art in public
23 places, and here's an example.

24 Next, please.

25 This is an example of a Chihuly ceiling.

1 As you look into our ordinance, you'll see that
2 you are able not only to develop free-standing
3 sculpture, but also to incorporate it in
4 architecture, provided the public has access to
5 it, and so here's an example of a ceiling, and
6 then also an example of a mosaic.

7 Next slide, please.

8 Crevices, bas reliefs, incorporated in the
9 architecture, all through a process.

10 Next, please.

11 Here's an example of a wheelchair ramp,
12 designed by an artist, the etching, and how that
13 also could qualify for the art in public places
14 programs for developments.

15 Next, please.

16 The Miami Airport, and here's a public
17 school in New York, the mosaic up on the top is
18 part of their art in public places program.

19 Next, please.

20 More examples on New York, mosaics, doors,
21 and how we can use architect -- art in
22 architecture.

23 Next, please.

24 Here's a public school in New York, and,
25 unfortunately, it doesn't show in the slide, but

1 it says, "The Sky's The Limit," written on the
2 base of the curve.

3 Next, please.

4 We have our own great example of art in
5 public places, and that's the cut fire heads
6 done in '38, '39, by a female artist, a
7 full-time professional artist, who went by the
8 name of John, because she didn't think she'd be
9 hired as a male (sic), but those are -- those
10 are great examples of how it becomes a defining
11 piece of the building and also a piece of art,
12 and then just another shot of mosaics in New
13 York.

14 Next, please.

15 The library has a Kay Pancoast sculpture of
16 Coral Gables. It's a beautiful, beautiful map,
17 that is done on tile. We would encourage you to
18 go look in their Community Room. That would be
19 an example.

20 And in San Francisco, we're showing an
21 example of a parking garage and how the mural on
22 the base of the park -- on the first level of
23 the parking garage was actually an art in public
24 places program.

25 Next, please.

1 More examples. Whether it's a manhole
2 cover or a pedestrian walkway.

3 Next, please.

4 Other examples, where the pedestrian, a
5 plaza -- an urban plaza that is done in
6 consultation with an artist, through the
7 process, would qualify, as well as there's a --
8 a fountain in the -- on the left side as an
9 example.

10 Next, please.

11 Whether Overtown or Tampa, examples of art
12 in public places.

13 Next, please.

14 Here's a story. It tells the whole story
15 of the community and how it gathered, through
16 these -- these art sculptures. They're actually
17 glass and metal.

18 Next, please.

19 Banners. Now, these were banners, each
20 commissioned by -- on a project for individual
21 artists, and then they became a permanent
22 collection.

23 Next, please.

24 Urban furnishings. We think this is a
25 fabulous example of -- of functional art, where

1 people can enjoy the beauty and also have a
2 seat.

3 Next, please.

4 West Palm Beach, as an example of the
5 benches.

6 Next, please.

7 So these are all urban furnishing examples.

8 You have a close-up, on the right, that
9 shows that it's actually cactus. Not
10 necessarily appropriate for Coral Gables, but
11 certainly for Scottsdale, but it's actually from
12 a bus bench.

13 Next, please.

14 This is in a public housing project. It's
15 Lincoln, with a small child on his lap. So
16 we're giving you now some -- more examples on
17 artists' sculptures.

18 Next, please.

19 Tampa, Miami, as examples.

20 Next.

21 This is actually right in front of the City
22 Hall for Tempe.

23 Next, please.

24 Both, Palo Alto and Dan Diego, we
25 studied -- there are over 350 public art

1 programs around the country. Every one is a
2 little bit different, but California clearly set
3 the stage for art in public places, and here are
4 just a few examples.

5 Next, please.

6 New York, Miami, and a lot of Miami came
7 through the Metrorail project and the County's
8 infrastructure projects.

9 Next, please.

10 Central Park, Eleanor Roosevelt. Palm
11 Desert, California started in the 1980s. They
12 have every development, public and private,
13 participate, even single family homes.

14 Next, please.

15 Some Washington examples. If you look over
16 to the right, the commuter is on roller skates,
17 and we can all understand that need, given the
18 commuter traffic.

19 Next, please.

20 Minneapolis, as an example.

21 Next, please.

22 Another example with Philadelphia.

23 Next, please.

24 Salt Lake City, Scottsdale. Scottsdale and
25 Salt Lake City, these are examples in private

1 developments, that we've selected.

2 Next, please.

3 Los Angeles. The Commission enjoyed the
4 one on the left, and felt that they could relate
5 to that sometimes, and Coral Springs, private
6 development, copper, and it's a very impressive
7 building -- door entry for a private
8 development.

9 Next, please.

10 Other private developments, and Namingha
11 sculpture, the City has something similar by
12 Namingha in Ponce Circle Park in our temporary
13 art display, but both of these are in private
14 office developments.

15 Next, please.

16 These are actually in retail centers in
17 Scottsdale, under their arts in public places
18 ordinance.

19 Water is just as much a part of the art
20 development as metal or bronze.

21 Next, please.

22 Other examples with Scottsdale, the -- the
23 palm trees, and also the elevator, and how they
24 used that as a stainglass piece.

25 Next, please.

1 Overpasses, you all looked at -- probably
2 at the County's overpass for the University of
3 Miami. Here's an example of how Marshall Fields
4 qualified through their overpass connection.

5 Next, please.

6 Some of you had already seen this. This is
7 the San Diego campus, a beautiful serpentine
8 mosaic, counting as art in the campus.

9 Next, please.

10 Now, we looked also at art in the
11 universities. Many of them are obligated to
12 participate, because their artists stay and they
13 have to do 1.5 percent, and some, like
14 Massachusetts Institute of Technology, chose to
15 institute their own art in public places
16 program, where they charged themselves 1.5
17 percent for all their construction projects.

18 University of Wisconsin, we used as an
19 example.

20 Next, please.

21 Another MIT example. Duquesne example,
22 where they actually embedded it on the building.

23 Next, please.

24 The University of California, over to the
25 left, is actually a bear, and so once you know

1 the name of it, it starts to make a little more
2 sense, and then University of Utah, there's an
3 example of how they incorporated light into
4 their sculpture, their glass sculpture.

5 Next, please.

6 Some other examples. The University of
7 Akron. That's actually a Chihuly. We've seen
8 Chihuly with Fairchild. This is done in resin.
9 And then we used St. Michael's College in
10 Vermont as another example, all through a formal
11 art in public places program.

12 Next, please.

13 Just an example of a professor explaining
14 the dynamic nature of the art.

15 Next, please.

16 Okay. Our process is a little different,
17 in that we have looked at two different ways to
18 celebrate art in public places. One is, and
19 you'll see in reviewing the ordinance, if it is
20 a City construction project, City builds a
21 garage, then the City would need to set aside
22 one percent of those construction costs, but
23 that one percent would be used for the
24 restoration of historic civic art.

25 It is such a defining piece in Coral

1 Gables, the water tower, the plazas, the
2 fountains and all, that it's appropriate, and
3 we've had dialog with the County, and they
4 agree, that the restoration of that civic art,
5 that everyone can enjoy, is a legitimate expense
6 in our public art program, and we set aside
7 public municipal projects that would restore the
8 civic art and it would be the Historic
9 Preservation Board that would prioritize --
10 recommend a priority to the City Commission, and
11 have the City Commission be the final
12 determinant, but they would manage that fund,
13 whereas the Cultural Development Board, in
14 consultation with an Art's Advisory Board, and
15 I'll go into that in greater detail, would
16 recommend to the City Commission on private
17 development art, as well as new art acquisition.

18 Next, please.

19 Just some examples of what would qualify
20 with the City restoring its own historic civic
21 art.

22 Next, please.

23 All of these would qualify, the Prado --
24 redo of the Prado, Let There be Light.

25 Next, please.

1 And that's the end of the examples. So
2 we're seeing new art, artists' sculptures,
3 artists' architecture, art that is related more
4 to the pedestrian, with urban furnishings, and
5 then art historic, civic art.

6 We did have conversations with Ivan
7 Rodriguez. He has since retired, but we
8 reviewed with him, from the very beginning, the
9 direction that we wanted to go with our Art in
10 Public Places Ordinance, and he was very
11 supportive of the direction that we were going.

12 We've also conversed with many, many, many
13 municipalities. Both, the City Attorney's
14 Office has made calls and inquiries, from a
15 legal standpoint, and we've made inquiries, from
16 an implementation and management standpoint, so
17 we've been able to pick and choose what works in
18 different cities and what is perhaps problematic
19 in different cities, so that we could build an
20 ordinance that we believe would have great
21 success.

22 Now, when we talk about one percent, that
23 also includes not only the acquisition of the
24 art, but also the maintenance, the insurance,
25 the signage, the lighting, the installation, and

1 all the other costs that come with an art piece.

2 With the two funds, then we've talked about
3 the historic civic art element, and I'd like to
4 just walk through how the non-City process would
5 work.

6 Now, we defined it as non-City, and
7 provided a series of exemptions. Obviously, if
8 you're already in the County process and
9 contributing to the County 1.5 percent, you
10 don't have to pay again in Coral Gables. So if
11 the County comes in and does a project or
12 something else that is County qualified, they
13 have -- they would follow the County process.

14 Single family homes, the way that we've
15 done this ordinance, the single family homes are
16 exempt.

17 Duplexes, townhomes, multi-family, though,
18 would qualify to participate in this program.

19 Anything under a million dollars would be
20 exempt, and that would be renovation, new
21 construction. If you don't meet that threshold
22 of a million dollars, you are not needing to
23 participate. The City Attorney can provide you
24 additional clarification on, that doesn't mean
25 that you can phase it over three years and go

1 below the radar and not qualify, it's an
2 aggregate figure that is counted in the process,
3 and then the Commission asked us to develop
4 another exemption and the City Attorneys -- the
5 Assistant City Attorney can review that
6 language, and that language would exempt, under
7 certain circumstances, educational institutions.

8 So that would mean, the University of
9 Miami, it would mean St. Philip's, it would mean
10 public and private.

11 Dade County Public Schools are under a
12 little different process, as it relates to the
13 City and the County, so we don't believe that
14 they would be a participant in the program, but
15 I'm happy to go over the ordinance in detail.
16 I'm happy to answer questions. I'm also happy
17 to refer the exemption language that's now being
18 contemplated to our Assistant City Attorney.

19 THE CHAIRPERSON: Well, should we take
20 questions now or do we want to hear
21 comments from the --

22 MR. COE: Why don't we take public
23 comments, Mr. Chair?

24 THE CHAIRPERSON: Take the public
25 comments first?

1 MR. COE: Yes.

2 THE CHAIRPERSON: Is there anybody from
3 the public who wishes to comment on this
4 proposal?

5 Please state your name and address, for the
6 record.

7 MR. NATOLI: My name is the Joe Natoli.
8 I'm the Senior Vice-President of Business and
9 Finance for the University of Miami. I live at
10 10 Edgewater Drive, in Coral Gables, and I'm
11 here with a bunch of colleagues from the
12 University of Miami, whom I will introduce in a
13 moment, and thank you for having us here this
14 evening.

15 What we'd like to do is share a little bit
16 more -- share with you about the art in public
17 places programs that the University of Miami has
18 had in place.

19 At first reading -- as Eric mentioned to
20 you, at first reading, the City Commission
21 passed our exemption and directed the City
22 Manager to work with the Planning & Zoning Board
23 to exempt the University and develop a process
24 for periodic review of the University's
25 sculpture program, and so we're really here

1 tonight to seek your support for that.

2 From our perspective, and, we believe, from
3 the perspective of the City Commission, the
4 University's ongoing commitment to providing art
5 in public places fully satisfies the objectives
6 that -- that Coral Gables is embracing with this
7 -- with the Art in Public Place -- Are in Public
8 Places Ordinance, and we'll describe some of
9 what we do, to you, tonight, and at the end of
10 our presentation, we'll present some recommended
11 language for the exemption. It's a little
12 different than what you have before you, but we
13 think we can probably work out language that
14 would work for both of us.

15 Let me just tell you who's here with me
16 tonight. Larry Marbert, who's our new
17 Vice-President of Real Estate and Facilities.
18 He's the new Sergio Rodriguez. Senior Associate
19 Dean of Arts and Sciences, Dr. Perri Lee
20 Roberts, who will be making a brief
21 presentation, mostly showing the sculptures that
22 we have throughout our Coral Gables campus.
23 Campus Planner -- Planner Janet Gavarrete, who
24 you've no doubt met before. Irma Abella, from
25 our General Counsel's Office. Brian Dursam, who

1 runs the Lowe Art Museum. Rudy Fernandez, who's
2 Vice-President of Public Relations for us, and
3 our legal counsel, Jeff Bass. We travel in
4 large crowds -- large crowds at the University
5 of Miami, as you have no doubt seen.

6 I'd like to point out just a couple of
7 things about the University as -- as developers.
8 We're not your basic developer. We don't come
9 into Coral Gables and do one project and then go
10 someplace else and do another project.

11 We are here. We intend to stay here. We
12 don't plan on growing our student body
13 population on the Coral Gables campus, but we do
14 plan on improving everything having to do with
15 the quality of the experience. So whether
16 that's starting with the quality of the students
17 and faculty and the facilities and what visitors
18 experience when they step foot on our campus,
19 we're all about quality, and, frankly, art in
20 public places is a part of that. We want people
21 to appreciate the University of Miami campus,
22 whether it's our neighbors, other folks in Coral
23 Gables or -- or -- or the thousands and
24 thousands of visitors who come to our campus for
25 one reason or another in the course of a year.

1 So between our sculpture program, our art
2 master plan, the Lowe Art Museum, the Beaux Arts
3 Festival, the University makes a wide variety of
4 art available to the public.

5 Our basic position is that the City should
6 recognize our existing collections, and avoid
7 the imposition of -- of a new obligation on us.

8 We believe that the most effective and
9 efficient way of doing that would be through an
10 exemption.

11 So with that, I'd like to introduce you to
12 Dr. Perri Lee Roberts, who will briefly walk you
13 through the art that we have on our campus, and
14 then Jeff Bass will come up and talk a little
15 bit about the specific language that we are
16 recommending.

17 MS. ROBERTS: Thank you very much.

18 Good evening, ladies and gentlemen. My
19 name is -- my name is Perri Lee Roberts. I'm
20 the Senior Associate Dean for Arts and
21 Humanities for the College of Arts and Sciences.
22 I am an artist/drawer by training, although I
23 specialize in 14th and 15th Century Italian Art,
24 not the contemporary art that I'm about to talk
25 to you about.

1 I reside at 1 Grove Isle Drive, in Coconut
2 Grove.

3 At the end of my presentation, I will
4 hand out a two-page description of the
5 University of Miami's public sculpture program
6 that will summarize the mission statement, how
7 sculpture is selected, the makeup of the
8 committee that makes those selections, the
9 criteria we use for acquiring a sculpture, and
10 also how we maintain that, and what I'd like to
11 do, since we're not on the campus, is to walk
12 you through the sculpture that we currently have
13 in place.

14 The program was started six years ago
15 by Donna Shalala, and at that time, she
16 requested that Elizabeth Plater-Zyberk, who
17 is the Dean of the College of
18 Architecture -- School of Architecture,
19 rather, and that the Director of the Lowe
20 Art Museum, Brian Dursam, who is with us
21 tonight, that they look at the campus, the
22 200 plus acres, and plan sites for public
23 sculpture, and they had proceeded to
24 identify 72 sites for a sculpture.

25 At present, we have 23 sculptures in

1 place, and there are five waiting in the
2 queue to be placed.

3 One was in place, and has been moved,
4 because of construction.

5 The sculptures that we have in the current
6 sculpture collection, the 28 of them, are made
7 up of sculptures that are primarily in the
8 round, they're monumental sculptures. There are
9 two Veggerby sculptures that are embedded into
10 buildings, but, otherwise, like I said, they're
11 large monumental sculptures in the round.

12 Twenty-five different sculpturors were
13 responsible for the sculptures on the campus.
14 They come from diverse backgrounds and different
15 nationalities, including a Dutch artist, German
16 artist, Greek, Guatemalan, Spanish, Mexican,
17 Italian, Cuban, Haitian, and, of course,
18 American.

19 In terms of gender, there are six women
20 sculptors, who's works are represented in the
21 collection, and nineteen men, and they are
22 spread throughout the campus. They're made up
23 of a variety of materials, ranging from Cor-ten
24 steel, to aluminum, to stainless steel, marble,
25 and other stone materials, and I'm just going to

1 walk you through and show you all 28 sculptures.

2 You'll notice the little star on the map
3 shows you the location of the work. This is a
4 piece that's in front of the Wellness Center.

5 By the way, the sculptures date between --
6 1958 is the oldest work we have on campus, and
7 the most recent is 2003.

8 Most of them are abstract. This is an
9 exception. This happens to be a figure by an
10 American sculptor by the name of William King.
11 It's entitled, Up There.

12 Thank you.

13 I don't know if you can see, it's a male
14 figure, reclined, who has his arm reaching up
15 towards the tree, and, appropriately, as I said,
16 this is in front of the Wellness Center, to
17 encourage people to make use of its facilities.

18 Around the corner, in front of one of the
19 dorms, is this work by an American -- well, a
20 Cuban-born artist, who currently resides in
21 America. Actually, he's a local artist, who has
22 also produced a piece for the campus Downtown,
23 the Medical Campus.

24 This, as I said, is more typical of our
25 sculptures, in that it's an abstract. It's a

1 large circular work, and it's painted red, and I
2 don't know if you can tell from the
3 reproduction, but we're having problems with the
4 paint. That's slated to be repainted.

5 One of the things we've discovered in the
6 process of putting sculpture outdoors, is that
7 the climate in South Florida is not necessarily
8 that conducive to having monumental works
9 outside. We've been most success with our
10 marble pieces. They seem to be -- survive the
11 best.

12 Moving on, around the Student Union, is
13 this work by two women who collaborated, Jane
14 Manus and Rotraut Klein. Actually, an American
15 team and a German team, and if you're familiar
16 with moundrian sculptures, this is a moundrian
17 sculpture that has been brought to life. These
18 kinds of a shapes that he uses in his paintings
19 are incorporated here.

20 The sculptures, by the way, as I said, are
21 everywhere on campus, and we're happy to report
22 that there has been absolutely no vandalism,
23 that the students respect the sculptures, and, I
24 think, actually enjoy seeing the works as they
25 walk to class and go about their daily

1 activities.

2 This piece has actually been moved, and
3 it's slated to be moved yet again. It's by an
4 American sculptor by the name of Del Geist.

5 This is around the corner of Lowe Art Museum and
6 it was moved, because we're constructing the
7 Paley Pavilion, and it will be relocated at a
8 future date.

9 One of the pieces that has currently been
10 removed is this work by John Henry, who's
11 well-known around Miami for his public
12 sculpture. In fact, he's well-known throughout
13 the country. In Chicago, they've renamed a
14 street after him, because of his contribution to
15 public sculpture there.

16 This sculpture, as I said, needs to be
17 relocated. It was removed, because of the
18 construction of the Paley Pavilion, attached to
19 the Lowe Art Museum.

20 This work is currently in front of the Lowe
21 Art Museum, and I think it's really the
22 signature piece of the sculpture program. This
23 is by a Dutch-born artist, Hans Van de
24 Bovenkamp, and -- and it's a wonderful work
25 incorporating circles and waves, from 1987.

1 We've just recently repainted this work, at
2 the cost of \$5,000.

3 Moving yet further away from the Lowe, by
4 the Engineering Building, is this work by Oliver
5 Seguin, who is a Mexican, but who was born --
6 actually, works in Mexico or worked in Mexico,
7 and he was born in France.

8 What you're not seeing is, this is in a
9 beautiful piazza, that has three fountains,
10 waterspouts, around it, and it is made out of a
11 volcanic rock like material. It has a kind of
12 organic life to it, and this was a gift of Esso
13 International America, who gave two pieces to
14 the campus. You'll see the other one shortly.

15 We do have a fair number of Latin American
16 artists represented in the sculpture collection.

17 Cardenas is a sculptor who's represented by
18 two pieces in the collection. This work, The
19 Fruit of Memory, is, again, by the Engineering
20 Building or in the quadrangle behind it, made
21 out of marble. He is an artist who is Cuban, an
22 Afro-Cuban, who moved to France, and his
23 sculptures are generally by morfik, very soft
24 looking. As I said, this -- it's so hard to
25 tell from the slide, but it's actually a work

1 made from marble.

2 In front of the Engineering Building is
3 this rather industrial looking piece. We've
4 chosen sculptures or they've been selected for
5 certain sites, because of connections to the
6 building that they front.

7 This work by Joel Perlman is one of two in
8 the collection.

9 In front of Ashe Building, this very large
10 work by Fletcher Benton, who's a San Francisco
11 artist, who's known for his public sculptures.

12 Another work that was a gift of the Esso
13 Interamerican Corporation, by a Guatemalan
14 artist. This is a siren. You may not be able
15 to make out, but that's a woman's face in a
16 bird's body, and she's enticing students to
17 enter into their classroom building.

18 A work, which by the way, is by a local
19 artist, Jane Washburn, is this rather poetic
20 looking marble sculpture of a woman.

21 Out among the trees, by the Communication
22 Building, this large sculpture by George
23 Sugarman, which is on loan from the Foundation,
24 and this is also slated to be repainted shortly.

25 In front of the Nursing School, another

1 work by Cardenas, who is a -- an Afro-Cuban
2 artist, again, out of marble, entitled The
3 Family. Appropriately, a subject matter chosen
4 for the Nursing School courtyard.

5 By the library, one of two gifts given to
6 us by Marty Margulies, is this large brushed
7 aluminum gateway, and we thought this was
8 appropriate for the library, as a way of --
9 again, of enticing students into the library.

10 In front of the Music School are two piece,
11 stainless steel pieces, by Leonardo Nierman,
12 who's a Mexican-born artist. This work,
13 Fantasy, and this violin, Music for your Eyes.

14 In the Business School yard -- courtyard,
15 by a Greek woman artist by the name of Chryssa,
16 this large B, that if we can -- I've had
17 arguments with people, they're not two Ds, but a
18 B, reminding us of its Business School location,
19 and two other works, also, in the Business
20 School quadrangle by another female sculptor
21 from Spain, Elisa Arimany. This was a gift of
22 the de la Cruz's. This is another work by her,
23 that is in front of the Business School
24 building.

25 This is one of the few representational

1 pieces. It's actually a ceramic piece. It
2 celebrates the life of Simon Boliva and
3 Alexander Humboldt, who were two important Latin
4 American pioneers.

5 This work is across from the Judaic Studies
6 entrance, a bronze sculpture that commemorates
7 Dr. Korzjack, who in Europe is known as well as
8 Anne Frank. This is a memorial to someone who
9 was a hero during the period of the Holocaust.

10 Don Quixote de la Mancha, a sculpture that
11 is adjacent to the Music Building, by the
12 American artist Ralph Hurst.

13 In front of Casa Bacardi, this work by an
14 Italian-born artist, who was an artist and
15 resident for many years at the University of
16 Chicago. His sculpture is spread all over their
17 campus.

18 This work is currently waiting to be
19 installed. It will be installed on the green in
20 front of the library or immediately adjacent, by
21 Ralph Provisera, who is a graduate of the New
22 World School for the Arts.

23 This work also is waiting to be installed,
24 by Tony Rosenthal.

25 Also to -- slated to go on the green, in

1 front of the library, Beverly Peppers' work, out
2 of steel. This is a work that is currently
3 being restored, so that it could withstand the
4 elements, and, lastly, this very large sculpture
5 by Joel Perlman, donated by Marty Margulies,
6 and, actually, this is a photo montage. This
7 sculpture is not currently in place in front of
8 the library, but we were just out the other day
9 trying to locate it properly and that are --
10 that's a summary of the 28 sculptures that are
11 on campus. I'll be happy to answer questions.

12 As I said, I have a handout that will
13 describe the sculpture program for you.

14 Thank you very much.

15 THE CHAIRPERSON: Thank you.

16 Mr. Shubin.

17 MR. BASS: Mr. Chair, Members of the Board,
18 nice to see you, Jeffrey Bass --

19 THE CHAIRPERSON: Oh.

20 MR. BASS: That's okay. Even my mom calls
21 me Mr. Shubin, as well.

22 THE CHAIRPERSON: He's your partner.

23 I apologize.

24 MR. BASS: I'm very, very used to that.

25 It's a pleasure to see everybody this evening,

1 and thank you -- thank you for your attention.

2 If you were lacking any art history
3 credits, we've assured that that presentation
4 will satisfy the remaining obligations you all
5 have, so no more need for nightmares on that.

6 Very briefly, we're here at the express
7 direction of the City Commission, in response to
8 our request that the University of Miami be
9 exempt from the Art in Public Places Ordinance.

10 At the start of the hearing this evening,
11 there was a question, should the witnesses be
12 sworn this evening, and the answer was, no, and,
13 interestingly, that was the correct answer, for
14 a reason that really should weigh on all of you
15 this evening.

16 The answer was, no, because this evening's
17 hearing is not a quasi judicial hearing. We're
18 here making policy. We're here in your
19 legislative capacity, and we're here at the
20 direction of the Commission, in its legislative
21 capacity, to help refine the language of this
22 legislation, to exempt the University.

23 So the reason the witnesses weren't sworn
24 is, nobody's presenting evidence. Nobody is
25 weighing evidence against a code, rendering a

1 quasi-judicial power. We're here in a different
2 context this evening, and I think that's
3 important.

4 We believe that the direction of the
5 Commission was pretty simple to understand,
6 although the hearing itself was long. The
7 Commission wanted to do a few things. Number 1,
8 it wanted to exempt us, and the motion to exempt
9 us carried by a vote of three to two. That part
10 has been stated.

11 Number 2, the Commission wanted to exempt
12 us from a bureaucratic process that would
13 continue to cause us to come to this City and
14 would spare the City and its staff the
15 consumption of its resources by having us
16 continuously come to the City.

17 Our collection is significant, and it's
18 significantly static, and so rather than
19 engaging in a constant demonstration of why we
20 should get a credit for a particular art, the
21 decision was that we should be exempt.

22 Now, I have proposed some exemption
23 language that I'd like to publish for you all,
24 specific exemption language which we believe
25 satisfies every objective of the Commission, and

1 then talk to you, very briefly, about why the
2 language in front of you, as previously drafted
3 by your City Attorney, is not ideal for us, but
4 I don't think we're terribly far apart.

5 The exemption language that we propose, and
6 I think showing fidelity to the record before
7 the Commission, is to exempt colleges and
8 universities, not just all educational
9 facilities.

10 MR. COE: Excuse me. Do you have a
11 handout? I can't read that print.

12 MR. BASS: I don't have a handout. I
13 previously provided a copy of the text to the
14 City Attorney, but I'll be brief as I publish
15 it, and if somebody technologically more
16 sophisticated than I could zoom that in or make
17 it bigger, I welcome them to do so, but
18 basically the exemption language would work like
19 this: Colleges -- it would be an amendment to
20 the existing exemption section of your code, and
21 let me stop on that for a second.

22 Whenever you engage in the legislative
23 process, you draw lines. You say, some people
24 will be included, some people will be excluded.
25 You've already crafted exemptions.

1 MR. COE: Of course.

2 MR. BASS: Single family homeowners are
3 exempt. Duplex, garden homes, multi-family are
4 inside. So you've already drafted exemptions,
5 and we thought the logical place to put our
6 exemption would be in that section.

7 We propose the following: Colleges and
8 universities shall be exempt from the
9 obligations arising under this ordinance, if at
10 the time of building permit application, the
11 college or university submits a qualified
12 appraisal to the City Manager to demonstrate
13 that it possesses art on its campus with a fair
14 market value in excess of the one percent
15 obligation otherwise arising under this
16 ordinance for the construction at issue.

17 Notwithstanding any provisions to the contrary
18 in this ordinance, art is -- art that is owned,
19 professionally curated, maintained and publicly
20 displayed by the college or university shall
21 qualify for this exemption.

22 Now, we believe, as drafted, the City has
23 protection. It has protection that at the time
24 we make the application, the value of our art
25 would exceed that obligation, that one percent

1 obligation, as measured at that point in time,
2 that would otherwise arise. That value would be
3 demonstrated by a qualified appraisal, submitted
4 to the City Manager to inspect, and as long as
5 we own that art, and it was professionally
6 curated, and we're pledging to maintain it, we
7 should be exempt.

8 That's how we believe we can simultaneously
9 eliminate the process of having to present to
10 the Cultural Development Board, as it's
11 presently contemplated under the language before
12 you. We believe that that would be condemning
13 us to the bureaucratic process that the
14 Commission itself sought to avoid.

15 We give you assurances, along,
16 periodically, that as we come in for permits,
17 the value of the art that we're proposing
18 satisfies the obligation that would otherwise
19 exist, and by having it as a qualified
20 appraisal, you know that the opinion of value
21 is -- is beyond fair debate.

22 Now, the language in front of you required
23 a covenant, as propounded by the City Attorney,
24 a covenant. That is not ideal for us, because
25 that is essentially a restraint on our

1 alienation of that piece of property. We would
2 say, and we'll be happy to say, that if ever we
3 were to sell a piece of qualifying art, we would
4 replace it with a piece of equal or greater
5 value, so that, again, commensurate with the
6 cost of construction, there would always be an
7 assurance that we would have that art on our
8 campus to satisfy the obligation, without us
9 having to spend new monies to acquire art, in
10 recognition of the extensive art we already have
11 on our campus, and I think, really, that is the
12 gist of it.

13 We already have an exceptional amount of
14 art on our campus, of a quality, quantity and
15 magnitude, in terms of valuation, that is
16 greater than anything else within the City, and
17 I think that's what prompted the City Commission
18 to recognize that, as the Mayor said, we are
19 different from other developers, and it is
20 rationally, logically, legally and substantially
21 supported by the record evidence before you,
22 that we maintain a lot of art, and there's a
23 reason to treat us differently, and that's
24 because we're a university.

25 As it relates to the valuation, the

1 language here eliminates any discussion about
2 that. It would be an appraisal based on fair
3 market value. I always like to say, what's
4 unfair about fair market value? When you can
5 come down to two times valuation, that is a very
6 well tested and accepted valuation methodology,
7 and we would ask that you would adopt this
8 language of an exemption.

9 One comment. You'll learn, as you get into
10 these processes, particularly as a lawyer, that
11 from an administrator's perspective, things that
12 sound good to a lawyer or sound good to a lay
13 person, would be a disaster, in terms of cost
14 and expense to an administrator.

15 If the University were to submit every
16 three years a comprehensive appraisal of our
17 entire art collection, we would probably spend
18 more money in generating that appraisal than
19 would be our corresponding obligation, because
20 of the vastness of our collection. We would
21 have to find expert appraisers in every one of
22 the fields that we possess, and the time and
23 expense to do that, we believe, is -- is
24 outweighed by the salutary purpose that would be
25 served by it.

1 Under our methodology, we come in. If we
2 have a building that costs 25 million, we show
3 you a qualified appraisal, that shows an opinion
4 of value of the art, one percent, 250,000, it's
5 inspected by the City Manager, and for purposes
6 of that building and that obligation, we're
7 exempt.

8 We think it works easily and cleanly, and
9 we would hope that you would adopt it, and I'm
10 here to answer any questions you might have.

11 MR. COE: Mr. Chairman, I have one question
12 of the speaker.

13 MR. BASS: Sure.

14 MR. COE: So I understand what you are
15 suggesting, the educational exemption, as
16 currently drafted by the City Attorney, I'm
17 looking at Page 7, begins at Paragraph 4, and
18 it's 4, Subparagraphs A, B, and C. Are you
19 proposing a substitution of your language for
20 all of Paragraph 4-A, B, and C?

21 MR. BASS: Yes.

22 MR. COE: And so what about non-colleges
23 and universities, because the -- the City
24 Attorney's language is broader than colleges or
25 universities?

1 Frank, right now, the only college or
2 university within the City is UM, but there's
3 other preparatory schools within the City that
4 would be bound by the educational institution
5 exemption.

6 Are they going to be deleted or
7 incorporated in yours? Are you going to expand
8 it or are we going to have two separate
9 educational exemptions? What -- what -- you
10 don't really address that in your proposed
11 exemption language.

12 MR. BASS: Well, thank you for the
13 opportunity to address it now.

14 I spoke only on behalf of the University.
15 The debate in front of the City Commission was
16 only about the University, institution of -- as
17 an institution of higher learning.

18 I was very deliberate, because, again,
19 we're in the legislative line drawing arena
20 here, to present our request for an exemption as
21 narrowly as possible, so as to avoid expanding
22 it to other educational facilities or
23 not-for-profits, because I was not sure that it
24 was the will of the Commission to do so.

25 So I can't tell you, Mr. Coe, respectfully,

1 that that expansion would be faithful to the
2 direction of the Commission, and I don't feel
3 qualified to address whether that is a policy
4 decision that this Board should make, absent
5 that expressed.

6 So I'm sorry that I can't answer the
7 question more specifically. I was just
8 proposing exemption language for us. It's not
9 my intent to throw anybody else off the bus,
10 that might otherwise benefit from that language.
11 It's just, they weren't on the bus to begin
12 with, and I would be hesitant to invite them on
13 it here, so -- but the specific answer to your
14 specific question is, yes, this would be a
15 substitute language to that language that's
16 already on there.

17 THE CHAIRPERSON: Cristina, you had a
18 question?

19 MS. MORENO: I have a couple of comments.
20 First, I don't think that your language
21 addresses the problem of double counting pieces.
22 In other words, you cannot use the same piece of
23 sculpture to meet the one percent requirement.

24 MR. BASS: I absolutely agree.

25 MS. MORENO: Okay. And I don't think your

1 language -- I don't think that was your intent,
2 but I don't think your language addresses that.

3 Secondly, I would be uncomfortable making
4 it only for the University and not for other
5 educational institutions. It seems to me that
6 if we are exempting the University, we should
7 also be exempting any university -- any
8 educational institution that maintains an art
9 program.

10 My understanding of the reasons for the
11 exemption is that, in fact, you are complying
12 with the spirit, if not the procedure, of the
13 ordinance, and to the extent that another
14 institution, a preparatory school, also chose to
15 do that, and found it easier to do that, because
16 they could obtain donations of art, as does the
17 University, it should be allowed to comply, and
18 I don't see why we would -- we would omit that.

19 MR. BASS: I agree with both your
20 points.

21 MS. MORENO: And the third point that I
22 have, and this is addressed not just to you, but
23 also to the City Attorney, is that I think two
24 things need to be clarified.

25 One is that in reaching the one percent

1 criteria, it is my understanding that the intent
2 is to include in that not just the appraised
3 value of the art, but also the cost of
4 maintaining, installing, et cetera. That is not
5 at all clear by this language, and I would point
6 out, in particular, in Item -- I had it in front
7 of me, and I've -- now I've lost it, but when
8 you talk about the private developer, you talk
9 about the appraised value, as opposed to -- of
10 the piece of art.

11 Yeah, it's 11, Sub C, on Page 4, and it
12 says, "The art acquisition to be incorporated
13 within the project should have a minimum
14 appraised value of one percent of the
15 construction costs."

16 My understanding is that it's not just the
17 appraised value, but you're also giving credit
18 for cost of installation, maintenance. So I
19 think that needs to be corrected, and the -- I
20 lost -- I lost my thought about the second
21 point.

22 I had the double count -- oh, also the
23 replacement issue. We -- we need to be clear
24 that if an owner, be it the University, be it an
25 educational institution, or be it a private

1 developer, wants to sell a piece of art that has
2 been proffered to meet this requirement, it can
3 replace it with a piece of art with an appraised
4 value of the original requirement, not of the
5 then value of the piece of art.

6 We -- we believe that that should be the
7 criteria, and that that should be clarified, or
8 that the developer can then -- and I think that
9 the easiest way might be, where you say that
10 when they sell, they can make a contribution,
11 that shouldn't be limited to sale of the
12 building, it should be at any time that they
13 want to remove the piece of art, they should
14 have the right to either replace it with a piece
15 of art that meets the criteria or make the
16 payment into the fund, and I don't believe that
17 that's clear.

18 MS. ALFONSIN-RUIZ: Thank you.

19 MR. BASS: As it relates to, I think,
20 the only of your comments to which I can
21 really reply, substantially, if we were to
22 have language that said something like, no
23 art used to qualify for an exemption under
24 this ordinance shall be used to justify a
25 second request for an exemption.

1 MS. MORENO: I think you're better off
2 treating it in the aggregate, so that -- the way
3 that I would suggest you redraft it, and I can't
4 do it for you at this minute, is that the value,
5 the appraised value of the art you have on
6 campus at any one time must exceed your one
7 percent requirement for all projects after this
8 statute is adopted. That seems to be more along
9 the lines of what you want to do.

10 MR. COE: Ordinance.

11 MS. MORENO: In other words, Project 1
12 required a contribution of \$250,000. You have
13 art on campus that requires 250,000.

14 MR. BASS: Okay.

15 MS. MORENO: Now, when you get to Project
16 2, you have the first 250, plus now you need a
17 million dollars' worth of art, you must show
18 that you've got a million two fifty, at least,
19 of art.

20 MR. BASS: That I understand. Okay.

21 Thank you. That clarifies it.

22 MS. MORENO: Does -- does that make sense
23 to you, City --

24 MS. ALFONSIN-RUIZ: Yes. The only issue
25 that I have with that is that we need to have a

1 process, aside from that, and I don't have
2 problems with the language, if we have that
3 aggregate language in there, but we also need to
4 have a process by which we would ascertain that
5 the University still qualifies for the
6 exemption, if there -- if there are years
7 between development projects.

8 In other words, if they have a project
9 coming up in 2008, but they don't have another
10 project until 2013, we need to have something in
11 place that will ascertain that they still have
12 the art in place on campus.

13 THE CHAIRPERSON: Why?

14 MS. MORENO: You need to have the same
15 for any developer or any other project.

16 MS. ALFONSIN-RUIZ: Correct.

17 MS. MORENO: I would not except them -- or
18 let me restate that.

19 Once you develop whatever you're going to
20 do for private developers, I would have that
21 incorporated in your exemption language.

22 THE CHAIRPERSON: Why?

23 MR. COE: That's --

24 MS. MORENO: Because -- because once
25 you -- once you --

1 MS. ALFONSIN-RUIZ: You have to treat all
2 developers --

3 MS. MORENO: -- have the exemption, they
4 can't remove it.

5 THE CHAIRPERSON: So they -- they
6 can't, if they used one piece of art to
7 qualify -- you know, 'cause they're not
8 going to appraise all their art.

9 The gist of the problem, as I see it,
10 is that it's not inexpensive to appraise
11 art. So, you know, constant reappraisals
12 end up costing too much money.

13 MS. MORENO: No, the way that I'm
14 suggesting --

15 THE CHAIRPERSON: Wait. Wait. Wait.

16 MS. MORENO: I'm sorry, Tom, the way I'm
17 suggesting, because it addresses your specific
18 point --

19 THE CHAIRPERSON: Okay.

20 MS. MORENO: They do an appraisal right
21 now, and they show us that what they've got on
22 campus has a value of two million dollars.
23 They've got credits of up to two million
24 dollars, without giving another appraisal,
25 unless they sell or remove a piece.

1 THE CHAIRPERSON: Okay. If they sell
2 or remove a piece, what are they going to
3 do, a complete reappraisal?

4 MS. MORENO: No, they only have to
5 cover that one piece.

6 THE CHAIRPERSON: Is that acceptable?

7 MR. BASS: That's acceptable, yeah, for
8 the -- for the qualifying piece.

9 I just want to be clear. I think we're
10 saying the same thing, but what we're appraising
11 is that amount of art to satisfy the one percent
12 obligation, not a campus wide appraisal, but if
13 our obligation were, say, \$250,000, on a 25
14 million dollar building, we would give you an
15 appraisal that says, "This piece of art cost 250
16 -- has a fair market value of \$250,000." That
17 would satisfy and give us an exemption for that
18 that 25 million dollar building.

19 If ten years later we come in with another
20 building of 25 million dollars, with a new
21 \$250,000 exemption, we would have to come up
22 with a different piece of art, and a new
23 appraisal, to show that that piece of art, on
24 its face --

25 THE CHAIRPERSON: In addition, if --

1 someone's going to have to track that piece
2 of art that you first qualified with,
3 because if you dispose of it, you're going
4 to have to substitute some other art.

5 MR. BASS: Right. That's a little
6 cumbersome, but we're happy to keep those
7 reports on file, and we're happy to give
8 compliance and give those reports to you
9 all at the time of building permit, to make
10 sure that we are compliant, and for every
11 new building that we build, if you'd like
12 to have a look back, and make sure that we
13 are compliant -- historically compliant --
14 let's say we got three buildings
15 exempt --

16 MR. BEHAR: But if you got credit for an
17 art work five years ago, okay, and that art
18 work, when you come back for a new project, it's
19 worth double what it was worth at the time, are
20 we going to give the credit -- are we going to
21 revise that appraisal and that art work keeps --

22 MR. BASS: No, no. As I understand
23 this --

24 MR. COE: No, that --

25 MR. BASS: How I understand these comments,

1 that piece of art is retired, once it serves as
2 a predicate for that exemption five years ago,
3 and that one now is off the table, and we're not
4 coming back in to use that art or the flow or
5 appreciation on that art, to justify that
6 exemption, and then, you know, maybe some more.

7 Once that art is used to qualify that
8 exemption, it's retired, it's out of our cabinet
9 of qualifying art, and each new building would
10 have to have a new piece of art or pieces of
11 art, with appraised values, to satisfy the one
12 percent obligation.

13 THE CHAIRPERSON: You know, if it were
14 up to me, I'd give you like a five-year
15 exemption, no reporting, nothing. At the
16 end of five years, you know, you come back
17 and we renew it, if you, you know, got a
18 similar or a better quantity of art,
19 without dealing with all these appraisals.
20 I mean, this is just incredible.

21 MR. BASS: That's fine by me.

22 THE CHAIRPERSON: That's an incredible
23 bureaucracy we're imposing, just -- I mean,
24 maybe there's some legal reason we need to
25 do it that way, but from a practical

1 standpoint, it sounds to me like we're
2 overlawyering the heck out of this thing.

3 MR. BASS: That's fine by me, if you
4 just want to exempt us like you do for
5 single family homes.

6 MR. SALMAN: For the Chair --

7 THE CHAIRPERSON: With a sunset for,
8 you know, like a five-year period, so that
9 at the end of five years, we're going to
10 come -- you're going to come back and
11 you're going to show us, "Hey, we still got
12 all this great art," or we -- you know, "We
13 got more," and then we could exempt it
14 again for another five years, and with a
15 sunset. That to me made the most sense,
16 but I guess that's not on the table here.

17 MR. BASS: If that's the will -- oh, I
18 think that was absolutely with -- that's
19 consistent with the spirit and the letter
20 of what the Commission wished. So if
21 that's -- that's the will of this Board, I
22 think that that would be -- that certainly
23 would be satisfactory to us.

24 MR. AIZENSTAT: To the Chair, let me ask a
25 question, if I may. The pieces of art -- I've

1 got a couple of questions for you.

2 The pieces of art that you have, how do you
3 acquire them?

4 MR. BASS: Let me, if I may, defer to
5 Dr. Roberts on that, because she can give
6 you a far better and more competent answer
7 than I could.

8 MR. AIZENSTAT: I mean, I guess maybe --
9 maybe I'm looking for something more basic, as
10 to say, are these pieces of art that the
11 University purchases or are these pieces of art
12 that is donated?

13 DR. ROBERTS: They're donated. To date,
14 they've been donated.

15 MR. AIZENSTAT: All the art has been
16 donated?

17 DR. ROBERTS: Yes. There are a few that
18 are on loan.

19 MR. AIZENSTAT: Now, out of -- that was my
20 next question. Out of these pieces of art, how
21 many does the University physically have title
22 to or owns?

23 DR. ROBERTS: Let me defer to Brian Dursam,
24 who is the head of the Sculpture Committee and
25 he can tell you exactly.

1 MR. DURSAM: If they're on loan --

2 MR. AIZENSTAT: So you got 28? Am I right?

3 Am I looking at this right? You have 28 pieces

4 of art?

5 MR. DURSAM: I'm Brian Dursam, Director of

6 the Lowe Art Museum. Do you need my residence?

7 I'm --

8 MR. COE: Yes.

9 MR. DURSAM: I live at 1249 Mariana Avenue,

10 in Coral Gables.

11 We currently own all but -- recollection

12 would be the one, which is a work by George

13 Sugarman, and that's on loan from their

14 Foundation.

15 MR. AIZENSTAT: So you -- out of 28, you

16 own 27 pieces?

17 MR. DURSAM: Yes.

18 MR. AIZENSTAT: Okay. The other question

19 that I have is, you stated that about six years

20 ago you started this process, when Donna Shalala

21 came in to the presidency. What happened before

22 her tenure?

23 MR. DURSAM: We didn't have such a program.

24 MR. AIZENSTAT: Okay.

25 MR. DURSAM: This is -- was her -- this is

1 really her initiative.

2 MR. AIZENSTAT: What happens down the road,
3 if she steps down or so forth, and there's
4 another philosophy, the way the University deals
5 with its art program, how do you handle that
6 situation?

7 MR. BASS: Let me answer that.

8 As it relates to this Board -- this Board's
9 charged in the ordinance, we would handle it
10 precisely the same way. We would come in and
11 show you, through the City Manager's Office, an
12 appraisal of a piece of art, commensurate with
13 what our one percent obligation would be, and I
14 just want to qualify, we own sizably more than
15 28 pieces of art.

16 The Lowe Art Museum itself has 17,000
17 pieces in its collection.

18 MR. AIZENSTAT: Right. I'm more interested
19 in what's open to the public, as opposed to what
20 is --

21 MR. BASS: Well, I think that -- that's
22 an important point. The Lowe is open to
23 the public.

24 MR. AIZENSTAT: Twenty-four hours, where
25 somebody -- a resident can walk in there and see

1 it or so forth?

2 MR. BASS: Certainly not 24 hours, but
3 a resident can certainly walk in there,
4 under the same terms and conditions that
5 one might walk into, say, the Venetian
6 Pool, or one might want to access the
7 Granada Golf Course or the Biltmore Golf
8 Course or those other public places --

9 MR. AIZENSTAT: What about -- what about if
10 the developer -- let's say a developer goes in
11 and is going to do a piece of work, does it have
12 to be open to the public? It's got to be on the
13 first floor and it's got to be accessible 24
14 hours?

15 MS. ALFONSIN-RUIZ: Yes --

16 MR. RIEL: No.

17 MS. ALFONSIN-RUIZ: Not 24 hours, but it
18 has to be accessible, and the way it's defined
19 in the ordinance is publicly accessible at no
20 large to the public.

21 MR. AIZENSTAT: Does the Lowe Art Museum --

22 MR. ALFONSIN-RUIZ: And museums are
23 exempted under the ordinance, as well.

24 MR. RIEL: Correct.

25 MR. AIZENSTAT: So can you walk into the

1 Lowe Art Museum for free?

2 MR. BASS: For free, no.

3 Now, previously we have said that Coral
4 Gables residents -- Mr. Natoli, who is here,
5 said Coral Gables can -- residents -- to avoid
6 this debate, about what is public and publicly
7 accessible, to avoid the debate, we will make
8 the Lowe open to residents of Coral Gables for
9 free.

10 Now, we don't believe we have to do that,
11 because publicly accessible does not mean for
12 free. The Lowe Art Museum is publicly
13 accessible, just like the Venetian Pool is
14 publicly accessible.

15 You all use, in your Comprehensive Plan --
16 you designate the Granada Golf Course and the
17 Biltmore Golf Course as public land, okay?
18 They're not accessible to me for free, and
19 they're not accessible to me 24 hours a day.
20 They are publicly accessible, under reasonable
21 terms and conditions, and we think that we have
22 gone well above what would be required, in order
23 to avoid this debate, but I think that I have to
24 come back to where I started.

25 You're in a legislative capacity. There is

1 no law that says, "Exempt museums," none, okay?
2 Your drafters chose to do that.

3 We believe, however, if you're on a college
4 or university, who qualifies for the exemption,
5 and we show you a piece of art that's in the
6 Lowe Art Museum or not in the Lowe Art Museum,
7 if it's on our campus, if it's professionally
8 curated, if it is maintained and owned by us,
9 not on loan -- maintained and owned by us -- we
10 qualify, and we believe that that satisfies the
11 spirit and the letter, and there would be no
12 rational basis to exclude a museum, that is open
13 to the public, under reasonable terms and
14 conditions.

15 I would ask anybody to think about a museum
16 that you've gone into, almost anywhere in the
17 world, where you didn't pay an admission fee.

18 MS. MORENO: Washington, DC.

19 MR. BASS: There are some, but you can
20 go to New York -- you can go to New York
21 and go into others where you pay.

22 MS. MORENO: Let's study, again, what Tom
23 is suggesting. Okay. Tom is suggesting a
24 blanket exemption for a period of time, to be
25 reviewed again at the end of that period of

1 time.

2 The -- the reason that I find that
3 attractive is that I think we can determine
4 today that what the University has in art should
5 support a building program for quite some time,
6 particularly if you include the Lowe, and I --
7 I, for one, do find the argument that it is
8 available to the public very persuasive, even if
9 it's for a fee.

10 The reason for that exemption would be to
11 avoid the appraisal expense to -- to the
12 University, which would be a -- a not
13 non-significant expense.

14 So I think we should -- I'm not saying that
15 I'm a hundred percent convinced, but I think
16 it's something we should consider, whether you
17 can create the exemption, without having to deal
18 with this one percent all the time, just based
19 on the University coming before the Commission
20 and saying, "Look, we've got enough art there to
21 support what we currently have programmed for
22 the next "X" years, and in three years or five
23 years or whatever, we'll come before you again
24 and demonstrate that we have enough art for the
25 next proposal, and for everything we've done in

1 the past, and if not, we'll have to comply."

2 I mean, that will be a way of approaching
3 it, without having to require an appraisal of
4 each piece of art at this time.

5 MR. AIZENSTAT: Let me ask you a question.

6 What would you say is the value of the
7 properties or the buildings that the University
8 of Miami has at this time?

9 MR. BASS: The properties in the
10 buildings?

11 MS. MORENO: No, but this would only apply
12 to future.

13 MR. BASS: This only applies --

14 MR. AIZENSTAT: No, I understand that,
15 but I'm just curious. At the present time.

16 MR. BASS: I have no idea what the
17 value of the property is.

18 MR. AIZENSTAT: I mean, would the art
19 that's there -- they're talking about doing some
20 kind of credit.

21 MR. BASS: No, I don't see that as a
22 credit. I think it's an exemption on a go
23 forward basis.

24 MR. AIZENSTAT: An exemption?

25 MS. MORENO: Uh-huh.

1 MR. AIZENSTAT: I wouldn't support that.
2 THE CHAIRPERSON: Well, the concept is
3 really very simple. That is, based on what
4 they own right now in public art, that we
5 know about, they've shown it to us, it
6 takes -- whether you take into account the
7 Lowe Art Museum or not, the -- the public
8 art they have now is more than adequate to
9 meet the projected construction, if we were
10 going to apply the more complicated one
11 percent valuation procedure, for, let's
12 say, the next three years or the next five
13 years. So we would say, "Okay, we're going
14 to exempt you for the next three years or
15 five years, based on UMCAD that we know now
16 is in place, and at the end of that time,
17 the exemption ends. If you want to come
18 back and get the exemption again or if we
19 want to impose on you a new one percent
20 requirement, that will happen." I mean,
21 automatically they'll be under the one
22 percent requirement of the general
23 ordinance, assuming it's adopted, in the --
24 in the absence of an affirmative decision
25 by the City to regrant that exemption.

1 So all we're really doing is, we're saying,
2 "We're comfortable with where you are now, in
3 relation to this limited period of time, both in
4 terms of the anticipated construction" -- we
5 know what's in the pipeline, generally -- "and
6 the art work that you have on public display
7 currently, so we'll just -- rather than go
8 through a bureaucratic process of appraising art
9 everytime you get a new building permit, during
10 this five-year period, say, we're just going to
11 exempt you.

12 "Now, at end of the five-year period,
13 you come to us, you show us the construction --
14 the next five-year plan of construction, show us
15 what art you have in place then, and we'll make
16 a decision whether to regrant that exemption or
17 not grant the exemption, in which case you're
18 under the one percent rule and you're going to
19 have to apply like everybody else," or we are
20 going to create another rule for them at that
21 time.

22 MS. MORENO: Well, the other possibility
23 would be to have them appraise the 28 pieces
24 they now have. Let's say that the value of
25 those comes out to five million dollars. So

1 they get five million dollars worth of credit
2 towards future building.

3 THE CHAIRPERSON: That's fine, but I
4 think that's a big expense for them.

5 MR. BEHAR: Well, but you know what --
6 Simultaneous speaking.)

7 MR. BEHAR: And you know what, you give
8 them the credit today for that 27 pieces.

9 MS. MORENO: Right. We give me -- and they
10 can build up to that.

11 MR. BEHAR: And if they're -- I agree. I
12 personally -- I personally, you know, don't want
13 to give them a blanket cover, because it is not
14 right. I mean, we're asking other developers
15 whether -- to comply with the requirement.

16 MS. MORENO: Yeah, I think the easiest --
17 the easiest way would be to come up now with a
18 value, and say, "Look, you have -- you have art
19 worth five million dollars. That gives you, you
20 know, one percent. You can construct up to
21 \$500,000,000 and you're exempt."

22 MR. AIZENSTAT: What would happen if a
23 developer or a project had a lot of art, and
24 they had a certain project or a building,
25 like -- we're looking at the Old Spanish

11 MR. RIEL: No. This program is for
12 ownership of art, not a credit program.

15 MR. RIEL: That's what -- that's not before
16 you this evening. This evening, what's before
17 you, is an ownership art program.

18 MR. AIZENSTAT: But what Cristina is
19 discussing right now is a credit ownership.

20 THE CHAIRPERSON: For the University of
21 Miami.

22 MR. RIEL: Yeah, for the University of
23 Miami. That's not the same program that private
24 developers will be subject to.

25 MR. AIZENSTAT: Okay. See, where I see it

1 is, the University of Miami is a private
2 institution.

3 MS. MORENO: It's a non-for-profit --

4 MR. AIZENSTAT: It's a non-for-profit.

5 MR. MORENO: -- educational institution
6 that instituted art in public places on its own,
7 without being forced to do so.

8 MR. AIZENSTAT: Correct. I don't disagree
9 with that, but I just don't see such a credit.
10 I'm not convinced with giving them such a --

11 MS. MORENO: Okay.

12 MR. BEHAR: Mr. Chair, I agree. I
13 don't see --

14 MR. BASS: If I may, I think on the
15 rolling basis, as I had proposed, where we
16 come in with one specific appraisal, tied
17 to the one specific building -- although I
18 appreciate the simplicity and the
19 tremendous elimination of bureaucratic
20 process in the exemption mode that was
21 being pursued, I think we'd be very
22 comfortable traveling under the "We come in
23 with the art to justify the exemption on a
24 rolling basis."

25 I think -- although I appreciate the

1 exploration of that idea, I think, in actuality,
2 this might be an easier way to keep everybody
3 up-to-date as to -- on a building by building
4 basis -- what art was being used, at what value,
5 and we can quantify that appraisal for that
6 building, and as long as we're clear that, you
7 know, with -- the art in the Lowe is a candidate
8 for that, I think we end up exactly where we
9 want to be.

10 MR. COE: Mr. Chairman, I just want to make
11 a comment. It seems to me we're talking
12 specifically about the University of Miami. I
13 realize they're here to make their -- their
14 pitch.

15 The way the proposed ordinance is drafted,
16 it deals with educational institutions, *per se*,
17 not public schools, but prep schools. St.
18 Philip's, for example, being one of them.

19 Now, are we going to talk about an
20 exemption to the exemption, carving out another
21 exemption for the University of Miami?

22 Do we have what is now Paragraph 4-A, B and
23 C, where it talks generically about educational
24 institutions, to apply not to colleges and
25 universities?

1 I think we're going down a slippery slope
2 here.

3 MR. AIZENSTAT: Right. I agree with you.

4 MR. SALMAN: To the Chair --

5 MS. MORENO: I think the way that -- the
6 way that the University is proposing it, on a
7 one for one basis, would also work for other
8 education institutions, and one of the reasons
9 I'm interested in seeing that is that I think
10 educational institutions can meet this
11 requirement through donations.

12 I, at least, have been involved with a
13 number of schools that have a very difficult
14 time raising money for any kind of building. To
15 impose on them an additional one percent, that
16 they have raised as cash, strikes me as -- as
17 difficult. Whereas if they can meet it through
18 a donation of a piece of art by some, you know,
19 alumni, et cetera, it eases the burden on that
20 institution. I --

21 MR. AIZENSTAT: But they have that option,
22 don't they? In other words, instead of putting
23 in that one percent, they can produce that art
24 piece? And it's -- we're not telling them how
25 to get the art piece, whether they have to go

1 and purchase it or it's donated to them.

2 MR. COE: Mr. Chairman, I have a question

3 for --

4 MS. MORENO: But what this does is it
5 allows them to use existing art that they have,
6 right?

7 MR. COE: Staff, Mr. Riel, is it your
8 position that we have to vote on this entire
9 ordinance tonight --

10 MR. RIEL: Yes.

11 MR. COE: -- or can we exempt out -- which
12 I don't think we're going to have any agreement,
13 can we exempt out the -- maybe exemption is the
14 wrong word. Can we not consider the section
15 dealing with educational institutions and
16 perhaps approve the rest of it, because I don't
17 think we're going to get a consensus?

18 MR. RIEL: Well --

19 MR. AIZENSTAT: By doing that, what do we
20 get to?

21 MR. RIEL: Let me back up. I mean, the
22 Commission passed the ordinance, five-zero.
23 They asked that this Board provide input on that
24 ordinance, as well as the exemption, and asked
25 staff to create exemption language, which we've

1 done so. We feel comfortable with that, and we
2 feel it has established the Commission's intent.
3 We asked for your input on your language, if you
4 feel they should be exempt, they should not. If
5 you feel that there should be changes to the
6 exemption language, provide that information to
7 us, but it's our responsibility to go to the
8 Commission on December 11th and indicate what
9 this Board's position is.

10 MS. MORENO: But we've already --

11 MR. COE: You've made that -- you've made
12 that clear. However, it's obvious, from this
13 discussion, in terms of exemption language, I
14 don't think if we stay here until three o'clock
15 in the morning, we're going agree on exemption
16 language.

17 MR. BASS: If I may, the resolution
18 before you by the City, which is in the
19 record, Resolution 2007-242, mentions the
20 University of Miami by name, together with
21 the exemption. It does not say, "Others."
22 However, you all make a very good point,
23 and you're here to give a recommendation.
24 There was nothing that would stop you from
25 taking action on the narrow exemption for

1 the University, and forwarding together
2 with that a recommendation, if it's the
3 will of the Board, that the exemption
4 should be expanded, to accommodate St.
5 Philip's or other educational facilities.

6 I think, by doing it that way, you
7 would fulfill your duty to, Number 1,
8 consider the exemption language for the
9 University, and, Number 2, provide your
10 comments on -- on the exemption and the
11 ordinance in general. So you could do
12 both.

13 MS. MORENO: The problem I have with
14 adopting it now are the comments I made before.
15 I mean, you need to revise this, to -- to -- to
16 clarify that the one percent includes
17 installation and maintenance, and to clarify the
18 point about replacement of the art.

19 I don't know how we can vote on that,
20 unless you vote on it with the proviso that
21 these things get clarified. Can we do it like
22 that?

23 MS. ALFONSIN-RUIZ: Yes.

24 MS. MORENO: Yes?

25 MR. COE: And that's my -- that's my whole

1 point. I mean, we don't have language that
2 we're suggesting to vote on. So how are we --
3 we're going to vote on a generality, we're not
4 voting on language.

5 MR. RIEL: No, I think staff has presented
6 language to you, and if you feel that's not
7 appropriate --

8 MR. COE: Well, and maybe we should take a
9 vote, Mr. Chairman. I don't know if we're done
10 with the public comments.

11 THE CHAIRPERSON: Well, I think the way
12 -- the way to handle it is, we have a draft
13 ordinance before us. If we have changes
14 that we would like to make, we don't have
15 to dictate necessarily the verbiage to be
16 used by the draftsman, but if we have
17 changes --

18 MR. COE: I think we have to dictate
19 the verbiage. I don't think we can just
20 say do something like that. I don't think
21 that --

22 THE CHAIRPERSON: We're a committee.
23 We're not -- we're not finalizing this
24 ordinance. We're going to vote on the
25 ordinance.

1 MR. COE: Well, the way I understood
2 it, we are to approve the language of the
3 ordinance. Are we not?

4 MR. AIZENSTAT: That's why we're giving the
5 language.

6 MR. RIEL: You're recommending to the City
7 Commission --

8 MR. COE: The language.

9 MR. RIEL: -- the language.

10 MR. COE: And then, if we -- if we're just
11 raising some generality, we're not approving the
12 language.

13 THE CHAIRPERSON: Well, on that basis,
14 we can never amend an ordinance.

15 MR. AIZENSTAT: Well, that's my whole
16 point.

17 THE CHAIRPERSON: And I don't think
18 that's correct. I don't think that's the
19 way a committee operates.

20 MR. COE: You may be correct,
21 Mr. Chairman, but my point is, if what the
22 City Commission has asked us to do is to
23 approve language for an ordinance, how can
24 we tell the City Attorney, well, you know,
25 make up some language that deals with

1 exemptions and try to get these other
2 things in, without coming back and voting
3 on it? So we're not setting that out
4 today --

5 MS. MORENO: Then why -- can I make a
6 motion?

7 MS. KEON: I would like to ask a question
8 with regard to an item you talked about, with
9 the maintenance and whatever. I didn't think
10 any place in here it addressed the -- the
11 contribution to the purchase of an art work -- a
12 piece of art, that included in that it dealt
13 with the maintenance, installation and whatever
14 else. I thought it was the piece of art itself,
15 and that the numbers that you're looking for
16 don't include the maintenance, installation and
17 all those other things, because I thought part
18 of the fund that was being set up dealt with --
19 or, I thought that they were required -- aren't
20 they required to maintain this art?

21 MS. MORENO: Cathy Swanson had said to us,
22 when she made her presentation, that you could
23 meet the one percent requirement if you were
24 retaining private ownership of the piece of art,
25 by also including in that -- in those dollars,

1 the cost of maintaining the piece over time, as
2 well as the cost of installing it -- of
3 installation.

4 (Simultaneous voices.)

5 MR. MORENO: It doesn't say that there.

6 MS. KEON: Yeah.

7 MS. MORENO: That's why -- that's one of
8 the points that I'm making.

9 MS. KEON: Right, No, but not for anyone.

10 This is for -- for any person or any builder,
11 developer, anyone that's involved in this --

12 MR. AIZENSTAT: Why don't we ask Cathy
13 Swanson?

14 MS. KEON: Cathy, is there -- is there
15 language about the installation and maintenance?

16 MS. SWANSON: I understand the concern.

17 Clarification needs to be made, because included
18 in the guidelines, which is going to be our
19 governing document, it actually reads,
20 "Including but not limited to installation,
21 artist's fees, transportation, insurance, site
22 separation, maintenance, protection from natural
23 disasters, signage and lighting."

24 So as it got converted or translated into
25 ordinance, that section wasn't included, but

1 it's clearly in our guidelines, and we'll have
2 to add that clarification in the ordinance.

3 MS. MORENO: See, the problem is, in
4 Section 11, which is the non-municipal
5 construction projects, it talks specifically
6 about the art acquisition shall have a minimal
7 appraised value of one percent. That is not
8 what you intend.

9 What you intend is that the appraised
10 value, plus maintenance --

11 MS. SWANSON: And the cost of keeping that
12 art --

13 MS. MORENO: Uh-huh.

14 MS. SWANSON: -- is considered as a part of
15 that total obligation.

16 MR. COE: And the one percent is gross.

17 MS. SWANSON: The way that we wrote the
18 guidelines, it absolutely is a gross number.

19 MS. MORENO: Yes.

20 MS. KEON: But that's not what it says
21 there, because you have the appraised value is
22 one percent. So you wouldn't -- you wouldn't
23 appraise based on maintenance, installation --

24 MS. SWANSON: Well, I think it's a
25 clarification that can be added to that the --

1 we have two different groups working on one
2 ordinance, and it's a matter of adding a
3 sentence and clarifying. The intent is that it
4 is a total cost that is considered with that
5 acquisition. I mean, we clearly spelled it out
6 in one part of our governing document, and it
7 did not translate into the ordinance, and we'll
8 have that corrected.

9 MS. KEON: Okay.

10 MR. RIEL: If you look at Page 9, the
11 section on Ownership and Maintenance -- and,
12 again, I want to go back. The City is the owner
13 of this property, the art --

14 MS. MORENO: No, that's -- that's when you
15 acquire with a City fund, but not when you --
16 the developer puts it and retains ownership.

17 MR. RIEL: Right. Right.

18 MS. MORENO: There's two different
19 situations.

20 MR. BEHAR: And another question, Cathy.
21 The City will have -- in order to do it, a
22 private developer will have to be an approved
23 artist, who gets commissioned to do the art
24 work.

25 MS. SWANSON: Uh-huh.

1 MR. BEHAR: The University of Miami may
2 have some beautiful art work, but does that meet
3 the same guidelines that you're going to have,
4 that the artist must be approved? Example, a
5 Romero Brito may not be an approved artist to be
6 displayed on a -- on a private developer's
7 building, but yet it will qualify for the
8 University's program?

9 MS. SWANSON: When we were presenting to
10 the City Commission, and this was before they
11 determined the exemption, with certain
12 conditions, so when we were presenting, we did
13 believe that the sculptured garden could qualify
14 for a credit. You know, you were using that
15 example. We actually used, assume that those 28
16 pieces were each worth \$200,000, then basically
17 you had a \$480,000,000 credit moving forward
18 that could be charged against or those pieces
19 could be retired moving forward.

20 The Commission really wanted to look at
21 that exemption concept instead, and develop
22 language not related to credit, but exemption,
23 but I should also say, that it's included in
24 your minutes, that the Commission also realized
25 or felt that the Lowe was not a piece of this

1 equation. It was the sculptured garden that was
2 the focus of what qualified for art in public
3 places, and the discussion came forward, that
4 the City Attorney raised, that public access
5 doesn't mean just public access for residents,
6 it means for everybody, and so as they look --
7 as the language -- I think that the language is
8 interesting, that they're proposing, but I'd
9 really like to understand what does public
10 display mean, and is that really public access?
11 Isn't the focus exclusively on the sculpture
12 garden or does the Lowe figure in?

13 The Commission did not feel that the Lowe
14 figured in. In fact, in your minutes, they
15 specifically talk about.

16 MR. BASS: And I just need to respond
17 to that. It is a bedrock principle of
18 municipal law that a Commission speaks
19 through its resolution, not through the
20 individual comments of any one
21 Commissioner. That's the Blumenthal case.

22 So it is true that Mayor Slesnick focused
23 some of his comments on the sculptured garden,
24 and it is true that there was discussion about
25 the Lowe, but it is untrue to suggest that the

1 Commission determined that the Lowe should not
2 count, and I maintain it would be nonsensical to
3 suggest that the Lowe should not count, because
4 you don't need to be a member of the Lowe, or
5 any other special club, other than a member of
6 the public, to go to the Lowe, and pay a normal
7 admission fee, and the Lowe is open, by way of
8 clarification, 250 days a year, during normal
9 hours, and is therefore publicly accessible.

10 I would suggest to you, as against the
11 standard that needs to govern your legislative
12 action, that it would be arbitrary and
13 capricious to say, "There is a wonderful display
14 of significant, professionally curated art, to
15 which any member of the public can walk in,
16 under reasonable terms and conditions, but we're
17 not going to count it."

18 I don't think that would pass scrutiny,
19 under the rational Nexus test, unless you're
20 about to say that your Venetian Pool, your
21 Biltmore Golf Court and your Granada Golf
22 Course, and the entire island of Key Biscayne,
23 is not open to the public, because I have to pay
24 a dollar every time I drive over that causeway
25 to get there.

1 It's absurd.

2 THE CHAIRPERSON: I'd make two comments
3 to that. The first is that it's very clear
4 to me now, whatever we do, it's -- there
5 shouldn't be any doubt about how the Lowe
6 is to be treated. That's Number 1.

7 It's too big of an elephant in the room
8 to ignore.

9 MS. MORENO: Uh-huh.

10 THE CHAIRPERSON: And, Number 2, if we
11 include the Lowe in the program, I'm
12 totally convinced that we should just give
13 you an exemption and be done with it,
14 because the Lowe -- the value of the Lowe
15 is going to grossly exceed one percent of
16 the value of any future development you
17 ever do in that -- that campus for a
18 lifetime.

19 So this is silly.

20 MR. SALMAN: To the Chair.

21 THE CHAIRPERSON: Yes.

22 MR. SALMAN: I equally agree that this is,
23 I think, putting the cart before the horse. I
24 think you've got more ***stewards of art that
25 you'll ever need to qualify. To ask for the

1 exemption is really putting the cart before the
2 horse.

3 I mean, you can go for -- every time you
4 present a building, you have to submit it for
5 permit, and it's about qualification.

6 There is a process for qualification within
7 the ordinance, that I'm sure it's a fairly easy
8 enough threshold for you guys to meet.

9 So I don't see why you need a special
10 exemption. I think you're overloading it with
11 unnecessary --

12 MR. COE: It's starting to be repetitious,
13 Mr. Chairman. Are we going to close the public
14 comments so we can vote?

15 THE CHAIRPERSON: Well, is there
16 anybody, other than the University of
17 Miami, who wishes to speak to this
18 ordinance?

19 MR. DE LA FUENTE: Yes, very briefly. Bob
20 de la Fuente, with Law Offices at 1441 Brickell.
21 I'm here on behalf of Amace Properties.

22 There was a second resolution that was
23 adopted by the Commission, when they considered
24 this item. This was regarding a clarification
25 on when you vest the project from complying with

1 this new legislation, and this is Resolution
2 Number 2007-243.

3 I don't believe you have proposed language
4 yet from the City Attorney on this.

5 MS. ALFONSIN-RUIZ: No. The proposed
6 language will be included. It's not in the
7 ordinance at this time, but what it will say is
8 that it shall not apply to applicants having
9 secured preliminary Board of Architect's
10 approval as of the City Commission's approval of
11 the Master Art Plan.

12 MR. DE LA FUENTE: Right, and that is
13 consistent with other provisions within your
14 existing Zoning Code. So I'm just here to urge
15 you to accept that language, as well.

16 MS. MORENO: The Master Art Plan or the --
17 or the ordinance?

18 MS. ALFONSIN-RUIZ: The Master Art Plan.

19 MS. MORENO: Which is some ways away?

20 MS. ALFONSIN-RUIZ: Yes.

21 MR. DE LA FUENTE: Thank you.

22 THE CHAIRPERSON: Thank you.

23 MR. COE: We're closing the public hearing?

24 THE CHAIRPERSON: Any -- any -- well,
25 let me make sure. Is there anybody else,

1 other than the University of Miami, who
2 wishes to speak at this time?

3 Well, then we'll close it for the
4 public comments, and --

5 MR. COE: At this time, Mr. Chairman, I'll
6 move staff's recommendation as drafted.

7 THE CHAIRPERSON: Is there a second on
8 that?

9 MR. BEHAR: Before we do that, I have a
10 question -- a couple of questions for
11 Cathy.

12 MR. RIEL: You need a second, Mr. Chair.

13 MS. KEON: You know, I'll second it, for
14 the purpose.

15 THE CHAIRPERSON: What?

16 MR. RIEL: You need a second.

17 MR. KEON: I'll second it, so that we can
18 have a discussion.

19 THE CHAIRPERSON: Pat Keon second it,
20 for purposes of discussion.

21 THE CHAIRPERSON: Go ahead. You have
22 the floor.

23 MR. BEHAR: Cathy, the -- the guidelines,
24 the developer, on the private sector now -- the
25 University, I think we're clear -- the private

1 sector will have to comply with your
2 requirement, have to come for your approval, and
3 then it goes to the Commission, correct?

4 MS. SWANSON: The Cultural Development
5 Board and the Arts Advisory Panel will converse
6 with the developer and the City Architect, and
7 their architect. In this process, reach
8 consensus, and then that recommendation will
9 come from the Cultural Development Board to the
10 City Commission.

11 MR. BEHAR: Okay, but there will be --
12 there will be an approved list of artists that
13 one will go to or how's that going to work? How
14 -- if we're doing a project, and we plan to do a
15 beautiful fountain, that's going to get approved
16 by the Committee and then pass it on to
17 Commission? That's one question.

18 And the second question is, if we're
19 talking about a 25-million-dollar project,
20 that's about \$250,000 that's going to be
21 dedicated to an art work, but what if -- and I'm
22 going to use the example of the Old Spanish
23 Village. I would assume that that project may
24 be in excess of a hundred million dollars, as a
25 combined project, between the office building

1 and the rest of the components. Obviously that
2 has to contribute at least one million dollars
3 towards this program or incorporate at least one
4 million dollars' worth of art work in the
5 project. Is there a cap that we're going to set
6 or it's going to be an unlimited amount? If a
7 project exceeds, you know, 200 million dollars,
8 you have to contribute to that effect, or you're
9 -- in your mind, there will be a cap that will
10 be assessed to each project?

11 MS. SWANSON: Your second question first.
12 There is no cap. Some cities do set caps. The
13 -- in the public discussion related to it, we
14 felt that the bigger the project, if you install
15 the cap, you'd create a regressive fee, rather
16 than an equitable fee.

17 Now, on that Old Spanish Village, excellent
18 example, they could invest that in art onsite or
19 near site, including Ponce Circle Park. So
20 investing -- you know, if they -- they could
21 choose to use the art acquisition fund, they
22 could choose to put it into their architecture
23 through the process or they could -- or a
24 sculpture or to do something that qualifies on
25 Ponce Circle Park or some of the other public

1 right-of-ways near there.

2 MR. BEHAR: But hypothetically say that
3 we're going to incorporate it, it would then be
4 on the site, not through the donation, where
5 they're controlling, there's no cap? Whatever
6 it -- is the one percent of the total
7 construction cost, they have to be, in effect,
8 put in place?

9 MR. SWANSON: There is an appeal or a
10 waiver process that's in here, that they could
11 apply for, if they felt that that was beyond
12 what was reasonable and appropriate, and that's
13 the -- I'll turn to the City Attorney as to
14 where. While she's looking at that section,
15 I'll answer your first question, and that is the
16 selection of artists.

17 We will define that in the Art Master Plan.
18 Some cities give -- and you can go to the
19 website, Coral Springs is a great example,
20 approved artists.

21 We were not intending to be so restrictive.
22 MR. BEHAR: And I hope you're not, and
23 that's part of the question.

24 MS. SWANSON: No.

25 MR. BEHAR: I hope you're not, because that

1 gives more of a -- of a variety of art work to
2 be incorporated throughout the City.

3 MS. SWANSON: No, in fact, when we were
4 talking to some cities that have that approved
5 list, they found that it was a hindrance, rather
6 than a help. It became too restrictive in
7 presenting art to the public. So that was not
8 an intention on this -- in this process, but we
9 did look at the Art Master Plan to be the
10 document that would fill in those kinds of
11 processes.

12 MR. BEHAR: Okay. And lastly, I want to
13 make sure, on the record, that I commend you and
14 the staff, everybody who's put this together, I
15 think it's a great task to be able to start
16 incorporating art in public spaces in our City,
17 and at this point, we don't have sufficient. I
18 think it will be a great -- and, again, I
19 commend you for your efforts.

20 MS. SWANSON: Thank you.

21 Did you find the section that's Appeals and
22 Waivers?

23 MS. ALFONSIN-RUIZ: Yes. "A developer may
24 seek a reduction, adjustment or complete waiver
25 of the requirements of this ordinance."

1 We gave examples of two, in particular, in
2 the ordinance, but at any time, for good reason,
3 they can go before the City Commission.

4 MR. AIZENSTAT: Let me ask the Assistant
5 City Attorney, the items that Ms. Swanson spoke
6 about, as far as -- that would include, I'm not
7 sure if it's the insurance, the maintenance, the
8 lighting, and so forth, you have that clear as
9 to how you would incorporate that into this
10 ordinance?

11 MS. ALFONSIN-RUIZ: Absolutely. And, in
12 fact, if we go to Page 4, it would be under 11,
13 subsection C, and all we have to do is add an
14 additional sentence that say -- that says that
15 the one percent value shall include maintenance,
16 lighting, insurance.

17 MS. KEON: I don't know why you'd -- why
18 would you bother?

19 MS. ALFONSIN-RUIZ: Pardon?

20 MS. KEON: Why would you bother with that?
21 I mean, how do you know -- are you going to
22 project that out with the maintenance --

23 (Simultaneous voices.)

24 MS. ALFONSIN-RUIZ: It's a percent.
25 There's a value.

1 MR. AIZENSTAT: It's usually they have -- I
2 think they have separate --

3 MS. MORENO: There's -- there's a value.

4 MS. KEON: This -- I mean, go ahead and
5 finish, and then I'll --

6 MR. BEHAR: But I'll tell you why, Pat,
7 because if, for example, you did a plaza, okay,
8 and a fountain --

9 MS. KEON: Right.

10 MR. BEHAR: And that constitutes as part of
11 the art work, there's a maintenance associated
12 with that.

13 MS. KEON: Right, but you also have in here
14 an art fund, that in lieu of a piece of art or
15 whatever, the developer can make a cash -- a
16 contribution, that is the one percent of
17 whatever the value, whatever, and it's put into
18 this art fund.

19 It calls out here that the -- it is that
20 fund that is responsible for the maintenance --

21 MS. MORENO: No. (Simultaneous speaking.)

22 MR. AIZENSTAT: No, Pat, I think we're
23 talking about only the pieces --

24 MS. KEON: When you own it.

25 Sorry. When it's a private -- when you --

1 when own it?

2 MR. BEHAR: But, Pat, I will assure you,
3 nine out of ten times, the developer will choose
4 to apply that one percent, to his credit, on the
5 project, rather than put it into a fund that he
6 may not see any benefit directly in the project.

7 MS. MORENO: The problem that happens is
8 that when it is owned by the developer, when it
9 is owned by the building, then that private
10 owner is required to insure and maintain that
11 piece of art and install it.

12 If you put it into the fund, then the City
13 takes over that insurance and maintenance
14 obligation.

15 MS. KEON: But doesn't it -- I thought the
16 ordinance calls out for -- that they're, then,
17 required to maintain it, and I would assume they
18 would want to insure it, if they're responsible
19 for keeping it, and if they chose not to insure
20 it, let them not insure it.

21 I mean, we don't care if they chose to
22 insure it or if they chose not to insure it.
23 That's their business.

24 You, as the City, are saying to them, "You
25 have to replace it. If you don't want to insure

1 it, don't insure it, but if something happens to
2 it, you need to replace it."

3 MS. MORENO: It's inequitable, because the
4 guy that contributes the one percent for the
5 City's project, is only limited to one percent,
6 but the guy who retains it is --

7 MS. KEON: But you don't know that going
8 forward. I mean, somebody could donate a piece
9 that's made out of one material, that has a
10 lifespan of so many years, and somebody else
11 donate something that's a metal, that only has a
12 lifespan of so years, are you going to say to
13 them, "Well, the lifespans of these two -- the
14 components of these pieces of art aren't equal,
15 so you get less, you get more."

16 I mean, I think --

17 MS. MORENO: I was told that there was a
18 formula where you determine the maintenance
19 obligation for the pieces, and that that would
20 be known upfront.

21 MS. ALFONSIN-RUIZ: Yes, that's correct.

22 MR. AIZENSTAT: Cathy.

23 MS. ALFONSIN-RUIZ: Yes, please.

24 MR. AIZENSTAT: The developer would have
25 the option as to which route he wants to go.

1 MS. RUIZ-ALFONSIN: That's correct.

2 MS. KEON: Right, and that's fine, but, I
3 mean, I would think that a developer, if it's
4 sitting in front of your property, that you're
5 either trying to rent space off -- out of or
6 you're trying to sell to somebody else, I would
7 think you would maintain it. You would maintain
8 it, just by the nature of being yours, and the
9 value that it adds to your property, but, I
10 mean, if you feel you need to lay it out, I
11 think that's fine -- I don't -- I think the one
12 percent should be the value of the piece of art
13 itself, and the other components, those are --
14 that's a choice they make, if they choose to do
15 it on their property and it's insured with their
16 property, and it's maintained with their
17 property and it's theirs and they have all of
18 the rights that that -- having that piece of art
19 incorporated into their building brings with it,
20 with the increased valuation of their building
21 because of it, and so on and so on.

22 I mean, I don't -- I wouldn't worry about
23 that number. I mean, what -- what the -- the
24 maintenance and everything else, that one
25 percent, I think the one percent should be that

1 it is a piece of art that is commensurate with
2 the value of that building, and that's the one
3 percent.

4 I mean, and that's why -- you know, for the
5 ones that the City is responsible for or the
6 fund that goes into -- you know, the dollars
7 that go into a fund, that the City can purchase
8 art work out of, you can also maintain and care
9 for and whatever.

10 As far as the University of Miami, I think
11 that their sculptured garden is -- is beautiful.
12 I would only hope that, in their art plan, they
13 would also have some of those sculptures on the
14 perimeter of their building, so that you don't
15 have to -- on the perimeter of their property,
16 so you don't have to just go inside the
17 University to see it, but that as you walk down
18 the street or you drive by or whatever, you get
19 -- that you have the opportunity to see and
20 enjoy the art in a -- in a maybe more public
21 place, than in the interior of your building,
22 but that you would incorporate that on the
23 outside.

24 I wouldn't think that the museum should
25 qualify, because I think you have to go inside

1 to do it, any more than any museum in any city
2 or whatever, other than the building itself, and
3 maybe if the design and the structure or
4 something that's built into the building, that
5 as you're walking by, you can appreciate, but I
6 don't -- I don't think that going into it -- I
7 don't think that the Lowe and the holdings of
8 the Lowe Art Museum should be part of this, but
9 I would think that your sculptures should exceed
10 it.

11 Is your concern, with the University, is
12 that if you -- that they're going to look for
13 you to -- to increase your holdings going
14 forward, over the base that you have now?

15 I mean, is that -- is that what part of
16 your concern is?

17 MR. NATOLI: No. I mean, really, the
18 -- we just feel like we complied with the
19 spirit of where the City is trying to go.

20 MS. KEON: I do too, yeah.

21 MR. NATOLI: There's a lot of different
22 ways to try to add the numbers up.

23 MS. KEON: Yeah.

24 MR. NATOLI: Now, the wording that -- as it
25 exists today would require us to get an

1 appraisal every three years --

2 MS. KEON: Why bother?

3 MR. NATOLI: -- of all our art which would
4 cost us a bunch of money. So that's really what
5 we're trying to say here, we've already complied
6 with the spirit.

7 MS. KEON: Yeah, I mean -- I mean, I would
8 think that for as long as the University of
9 Miami, you know, complies with the spirit of the
10 ordinance, it should retain an exemption from --
11 and that would be end of it, and it can be
12 revisited at any time.

13 I mean, at such time as they -- you know,
14 the Commission feels that they no longer comply,
15 then, you know, you can go back and hold them to
16 it. Until -- as long as they do, they
17 shouldn't -- they shouldn't be exempt, and they
18 shouldn't have to give you all those appraisals
19 or anything else.

20 I think you should let them go about the
21 business of educating.

22 MR. COE: Mr. Chairman, at this time, I
23 call the question.

24 THE CHAIRPERSON: Well --

25 MR. COE: We're starting to be

1 repetitious.

2 MS. KEON: And I -- yeah --

3 THE CHAIRPERSON: You called the
4 question. Is there any further discussion?

5 I have some discussion.

6 MS. KEON: Yeah, I have -- I have a
7 question, also. There is a --

8 THE CHAIRPERSON: We have to vote on the
9 calling of the question, when it's called, to
10 see if the discussion will be shot down. Okay.
11 So let's call --

12 MR. AIZENSTAT: The question is -- can you
13 -- is --

14 MR. COE: Approving the ordinance as
15 drafted.

16 MR. AIZENSTAT: With adding what needs to
17 be added for that one percent?

18 THE CHAIRPERSON: No, he's just calling
19 the question on his motion at this time.

20 MS. KEON: He's calling the question.

21 MR. AIZENSTAT: Can I ask --

22 THE CHAIRPERSON: So we're voting on
23 -- excuse me --

24 MR. COE: We're voting on calling the
25 question. We're not voting on the substance of

1 what we're going to vote on yet.

2 THE CHAIRPERSON: We're voting on
3 whether we're going to continue the
4 discussion.

5 MR. RIEL: Correct.

6 THE CHAIRPERSON: So go ahead and call.

7 A yea vote is for continuing the -- for
8 stopping the discussion.

9 MS. MENENDEZ: Robert Behar?

10 MR. BEHAR: Yea.

11 THE CHAIRPERSON: Jack Coe?

12 MR. COE: Yes.

13 THE CHAIRPERSON: Pat Keon?

14 MS. KEON: I think, no. If -- I want to
15 vote, no, if I want to continue the discussion?
16 Is that what you're saying to me?

17 MR. RIEL: That's correct.

18 MS. KEON: No.

19 THE CHAIRPERSON: Cristina Moreno?

20 MS. MORENO: No.

21 THE CHAIRPERSON: Javier Salman?

22 MR. SALMAN: No.

23 MS. MENENDEZ: Eibi Aizenstat?

24 MR. AIZENSTAT: Yes.

25 MS. MENENDEZ: Tom Korge?

1 THE CHAIRPERSON: No.

2 MR. COE: Could we please take a break,

3 Mr. Chairman?

4 THE CHAIRPERSON: Yeah, sure. We'll

5 take -- we'll take a three-minute break.

6 MR. BEHAR: Mr. Chairman, you weren't here

7 at the beginning of the meeting. I have to

8 leave at 7:30. At this point I will excuse

9 myself.

10 THE CHAIRPERSON: Okay.

11 (Recess taken.)

12 THE CHAIRPERSON: We have a very packed

13 agenda. We've already lost Robert Behar.

14 MS. KEON: Could I just ask you another

15 couple of questions, and then we'll come --

16 THE CHAIRPERSON: And I have a few

17 comments.

18 MS. KEON: If I may, on Page 7 of this --

19 Page 7 (1) "Projects that cause a purchase,

20 designation, restoration, and perpetual

21 maintenance of historically significant

22 buildings equal to or greater than the

23 calculated dollar contributions otherwise

24 required," would that be like with the Old

25 Spanish Village, now, they have -- they've

1 incorporated a building into that project, that
2 was -- is a historically significant building,
3 have they not?

4 So would what they project to be the
5 maintenance and restoration and whatever of that
6 particular building, in their project, could
7 that qualify as what their contribution to this
8 would be?

9 MS. ALFONSIN-RUIZ: That would be an
10 adjustment. That's why -- it falls under the
11 "Waivers."

12 MS. MORENO: It would be an adjustment,
13 because it needs Commission approval.

14 MS. ALFONSIN-RUIZ: Correct.

15 MS. KEON: They -- all right, but they can
16 go before the Commission.

17 You know, I have -- I have a little concern
18 over that. I think that -- I think that anyone
19 that would include a historical building in
20 their project would care for, would maintain,
21 and -- and already is under the -- the
22 regulations -- the Historic Preservation
23 regulations of the City and the code and
24 everything else, would be required to maintain
25 it, like they would any other building.

1 So I would -- I'm not so sure I like the
2 whole waiver provision. I think it's easy for
3 people to substitute those types of things
4 instead of having the money available for what
5 would be public art, and -- and they'll use it
6 for -- the waiver provisions to maintain
7 property that they would have maintained anyway.

8 So I have a -- I have a concern about
9 that if - in going forward to the Commission. I
10 would have a concern with that.

11 The other item that I -- it seems that
12 you're looking at -- that the -- that art work
13 either has to be apparently owned by the City or
14 owned -- or the funding is used either to
15 purchase art either by the City or by the
16 private developer to purchase the art on
17 their -- within their project.

18 Is it permissible, under that fund, for the
19 City to participate in a traveling art program?

20 No.

21 I think you should include that. I really
22 do. I think that there are lots of very
23 significant art works that we would never have
24 the money to buy or never be able to purchase
25 or -- or that no developer is likely to purchase

1 for us, that could be made available to us, to
2 participate in, you know, a visiting art
3 program, where you might have it for six months
4 or whatever, and I think that -- I think maybe
5 it would be a good thing to incorporate into
6 this ordinance, the ability to use those funds
7 to participate in, you know, that type of a
8 program, and I would assume that it would go
9 before your Cultural Board, that would make that
10 decision, but I would -- I wouldn't like to see
11 you not allow consideration of that.

12 MR. AIZENSTAT: If I may, Pat. Are you
13 talking about like sort of like when they had
14 the Flamingos outside?

15 MS. KEON: No. I know that there is now a
16 -- and I would say, often, in New York, along
17 Park Avenue, because it's -- you know, it's the
18 divided boulevard, and it's so pretty there,
19 they often are -- there will be installations
20 that maybe come from -- they're on loan from
21 some artist, that they'll travel from city to
22 city, that are on display, and there is a cost
23 to the city to be able to participate in having
24 that art work that is internationally recognized
25 art work be in your --

1 MS. MORENO: Like when we had Christo wrap
2 the islands?

3 MS. KEON: Yeah. What's the artist there
4 -- what is the one that -- there's one that's
5 now traveling the country that I read about.

6 DR. ROBERTS: Large Botello was in
7 September.

8 MS. MORENO: Yes, they were.

9 MS. KEON: Okay, the Boteros are one, but
10 there is another one, and their heads, it's
11 really pretty.

12 Simultaneous speaking.)

13 THE CHAIRPERSON: Well, I don't mean to
14 cut you short too much, but, I mean, that's
15 an admirable suggestion, however, I think
16 that would require a lot more thought and
17 consideration that we're going to be able
18 to give it tonight.

19 MS. KEON: No, I think that is -- maybe --
20 there's a provision in here that says, you know,
21 ownership, it has to belong to one or the other.
22 I think that they maybe would take a look at
23 having consideration for being allowed to use
24 the fund to participate in a traveling art
25 program.

1 There is a better word for that, that I'm
2 sure that Cathy and the -- the people involved
3 in drafting this could tell you, but it would
4 allow it to participate in that type of a
5 program.

6 THE CHAIRPERSON: Okay. Any other
7 comments?

8 MS. KEON: That's all.

9 MR. SALMAN: I have two comments.

10 THE CHAIRPERSON: Yes, sir.

11 MR. SALMAN: Under "Exceptions", Item
12 Number 3, "Non-Municipal Projects whose
13 aggregate project value is less than one million
14 dollars," I'd like to see that value indexed
15 over time. Otherwise it's going to have an
16 interesting effect over time, but I'd like -- I
17 don't think it was the intent of the writers to
18 create, because ten years from now, a million
19 dollars is going to be worth a lot less. So I'd
20 like to see that indexed.

21 THE CHAIRPERSON: Indexed to what?

22 MR. SALMAN: To CPI.

23 THE CHAIRPERSON: CPIU?

24 MR. SALMAN: Yes.

25 THE CHAIRPERSON: Okay.

1 MR. COE: Is that an amendment to the
2 motion?

3 MR. SALMAN: That's an amendment to the
4 motion.

5 MR. COE: I'll accept that amendment.

6 THE CHAIRPERSON: Okay. We've got a
7 friendly amendment to the motion.

8 Anything else?

9 MR. SALMAN: And the second issue will be
10 that we delete the exemption for educational
11 institutions in its entirety.

12 THE CHAIRPERSON: Do you accept that as
13 a --

14 MR. COE: That's being proposed as a
15 friendly amendment?

16 MR. SALMAN: That's a friendly amendment.

17 MR. COE: I'll accept that one, as well.

18 THE CHAIRPERSON: Okay. That's a
19 friendly amendment.

20 MS. KEON: I'm sorry, so you would just
21 delete this entirely?

22 MR. SALMAN: Delete it.

23 MS. MORENO: And not --

24 MR. SALMAN: Delete it. They're a
25 developer. To hold them to a different issue --

1 whether they're private or public, I think that
2 they can meet what they have through the normal
3 process that's set up within the ordinance, but
4 to create a special exemption is actually going
5 to hurt them in the long run, forcing them to do
6 appraisals, periodic reporting, and they should
7 do it on a building by building basis, just like
8 everybody else. I mean, I think that, honestly,
9 it's to their betterment.

10 THE CHAIRPERSON: Any other questions
11 or comments?

12 MR. COE: Call the question.

13 MS. MORENO: I disagree.

14 THE CHAIRPERSON: I have some -- I
15 have some --

16 MS. MORENO: I strongly disagree.

17 THE CHAIRPERSON: Okay. Go ahead.

18 MS. MORENO: I'm sorry. You've been
19 waiting patiently, Tom. Please, go ahead.

20 THE CHAIRPERSON: All right. Okay.

21 MR. RIEL: Mr. Chair, I just want to make
22 sure that that friendly amendment was accepted
23 by the --

24 MR. COE: Yes, I accepted it.

25 MR. RIEL: Thank you.

1 THE CHAIRPERSON: It was accepted.
2 The definition section, 20-102, Paragraph
3 7, "Construction costs means total value of the
4 construction or renovation work." Do we mean
5 total cost, not value? It's on Page 4 of 11.
6 The top of Page 4, the first one, definition of
7 construction costs means total value of the
8 construction or renovation work or does it mean
9 total cost of the construction? I would submit
10 that the value is usually greater than the cost.
11 MR. COE: I think it means cost.
12 THE CHAIRPERSON: Okay. So would you
13 accept inserting cost as --
14 MR. COE: Yes, I would accept that as a
15 friendly amendment.
16 THE CHAIRPERSON: Okay. I have another
17 question, and that question relates to what
18 is included within the cost. Do cost
19 include soft costs, such as architectural
20 or legal fees, impact fees?
21 MS. ALFONSIN-RUIZ: No.
22 MS. MORENO: It says -- the next sentence
23 says what costs are included.
24 MR. COE: I think it defines it in the next
25 sentence.

1 THE CHAIRPERSON: Okay. So that -- I
2 just want to be clear about that. Now, the
3 costs are calculated on the date of the
4 building permit. So am I correct in
5 assuming that if there are later change
6 orders made to the building, the increased
7 cost or decreased cost resulting from the
8 change orders will not affect the fee that
9 has to be paid or the contribution that has
10 to be made?

11 MS. ALFONSIN-RUIZ: If you look at Page
12 3, Number 1, "Aggregate project value means
13 the total of all construction costs
14 associated with a particular site plan
15 project, regardless of the number of
16 permits associated with the project, or
17 whether it's a phased project."

18 So if there are any changes, they will be
19 included.

20 (Simultaneous speaking.)

21 THE CHAIRPERSON: And how are you --
22 how are you going to monitor that? Well, I
23 don't really care. I just wanted it to be
24 clear. You might want to clarify that,
25 when it gets to the Commission, because

1 I -- I did not know -- read it that way.

2 Section 11, on Page 4, Paragraphs A, B, C
3 and D, I don't understand -- I understand what
4 they mean, so I'm not going to ask you about
5 that, but why are they under Section 11? They
6 don't seem to relate directly to Subsection 11
7 of this section.

8 You might want to look at whether that
9 belongs organizationally in a different place --

10 MR. AIZENSTAT: For non-municipal
11 construction?

12 MR. COE: It's non-municipal construction.
13 It's talking about private development.

14 THE CHAIRPERSON: This is non -- just
15 take a look at it, just as a drafting
16 matter. I don't want to -- I don't want to
17 waste a lot of people's time on this, at
18 this point.

19 MS. ALFONSIN-RUIZ: It's just tries to
20 define to developers, under the
21 non-municipal construction project, what
22 options they have.

23 THE CHAIRPERSON: Well, it defines a
24 non-municipal construction project to be
25 any non-City construction, renovation in

1 Coral Gables in excess of one million
2 dollars, excluding single family homes, and
3 the next sentence says, "Developers may
4 petition to have the public art acquisition
5 incorporated within their project, provided
6 there is regular public access at no charge
7 to the public."

8 I don't know how that has to do with
9 defining a -municipal construction project.
10 That was my point. So I think A through D
11 don't belong in there. That's all I'm
12 saying.

13 They belong here somewhere, but that's not
14 the place they belong.

15 I'm trying to do this quickly, so if I
16 sound rude, I apologize.

17 Throughout here, I noticed that we used the
18 term construction costs and aggregate project
19 value as a defined term, but I think you need to
20 capitalize those wherever you --

21 MS. ALFONSIN-RUIZ: Okay.

22 MR. COE: Is that another friendly
23 amendment?

24 THE CHAIRPERSON: Yeah or whatever.

25 MR. COE: I would accept that as a

1 friendly amendment.

2 THE CHAIRPERSON: Thank you.

3 Let me see. Okay. I think this has
4 already been addressed, to some extent.

5 Page 7 of 11, the top of the page,
6 Paragraph Numbered 1, subparagraph or
7 whatever, "Projects that cause the
8 purchase, designation, restoration and
9 perpetual maintenance of historically
10 significant buildings," is the word "and"
11 intended to be used there or do you mean
12 the word "or"?

13 Could it be any of those or do you have to
14 do all of those?

15 MR. COE: Or.

16 MS. ALFONSIN-RUIZ: Or.

17 MR. COE: It's a scrivener's error.
18 I'll accept that as a friendly amendment,
19 as well.

20 THE CHAIRPERSON: Okay. And the CPI
21 regulation -- adjustment, we've already
22 discussed, and that will placed throughout
23 here, wherever it needs to be.

24 The term educational institution, well,
25 that's already --

1 MR. COE: Yes, it's structured now, that's
2 deleted.

3 THE CHAIRPERSON: That's why I'm not
4 going to discuss that at all.

5 And I think -- give me one more second.
6 I apologize.

7 Okay. I think that -- that should do it.

8 Any other --

9 MR. AIZENSTAT: At this point, one other
10 friendly amendment, if I may, to implement the
11 one percent to include what Cathy Swanson had
12 said --

13 MR. COE: Yes, I think that was assumed.

14 MR. AIZENSTAT: Okay. I didn't know.

15 MS. MORENO: So we have eliminated any
16 exemption for the University of Miami? That is
17 completely contrary to what the City Commission
18 said.

19 MR. AIZENSTAT: Well, then they can bounce
20 it back.

21 MR. COE: Actually, I disagree with that,
22 Ms. Moreno. I don't think it is. I think the
23 City Commission was asking whether or not we
24 thought there should be an exemption, and as it
25 stands now --

1 MS. MORENO: The way it's written --

2 MR. COE: -- as constituted, it's that it's
3 not going to have an exemption. Now, we may
4 vote that down, but that's the way it is right
5 now.

6 MR. AIZENSTAT: But can't they --

7 MS. MORENO: The way you have it -- the way
8 you do that, is penalize the University of Miami
9 for having engaged in an art in an public places
10 initiative before this ordinance was adopted,
11 because they don't get any credit for what
12 they've already done, and that's not right.

13 THE CHAIRPERSON: Let me ask -- let me
14 ask another question of Eric about all
15 this.

16 Eric, could the University of Miami Art
17 in Public Places Program be molded into the
18 UMCAD approval, so that it's just reviewed
19 when UMCAD is -- comes up again, instead of
20 having it as part of this ordinance?

21 MR. RIEL: I wouldn't suggest those be
22 intermingled, because I just don't see the -- I
23 think those UMCAD discussions are -- I just
24 think I would not suggest that.

25 THE CHAIRPERSON: Well, the reason I

1 ask is, I don't think there's a real issue
2 about whether the University of Miami
3 complies in spirit with the goals and
4 purposes of this proposed ordinance.

5 Rather, it's just a question of accounting,
6 and if it could be rolled into the UMCAD,
7 maybe that's an easier way to deal with all
8 this.

9 MR. RIEL: Well, if it's just a
10 question of accounting, I mean, that's
11 something that they can just do an annual
12 report to us, but I would just not like --
13 I wouldn't want to roll it into that UMCAD
14 process --

15 THE CHAIRPERSON: Okay.

16 MR. RIEL: -- because the UMCAD process is
17 to change the plan.

18 THE CHAIRPERSON: Okay. Okay. Fair
19 enough.

20 MR. RIEL: Okay.

21 MR. COE: Call the question, Mr. Chairman.

22 THE CHAIRPERSON: The question is
23 called.

24 Any more discussion?

25 MR. RIEL: Mr. Chair, I don't know if you

1 want me to take thirty seconds and just frame
2 what the changes were. Would you like me to do
3 that?

4 THE CHAIRPERSON: You're welcome to
5 try.

6 MR. RIEL: Okay. There was a motion
7 for staff's recommendation, including
8 changes -- including the vesting language
9 that was introduced, including maintenance
10 language on Page 4, clarifying that that
11 includes maintenance, insurance, upkeep,
12 inclusion of language regarding indexing
13 over time to CPI, clarification language
14 you asked for on costs, the fact that the
15 exemption language for educational
16 institutions will be deleted entirely, and
17 that -- clarifying the construction costs,
18 aggregate costs terminology. If I missed
19 anything --

20 MR. SALMAN: Indexing.

21 MR. RIEL: No, I got the indexing.

22 MS. ALFONSIN-RUIZ: Page 7, Subparagraph 1,
23 "or."

24 MR. RIEL: "Or", okay.

25 MS. KEON: Cathy, could I ask one question?

1 THE CHAIRPERSON: We've called the
2 question again, so if you want to vote on
3 calling -- on whether we can cut off
4 debate, to bring it to a vote. There's no
5 objection to the question being called,
6 we'll move to a vote on the ordinance as --

7 MR. COE: Amended.

8 THE CHAIRPERSON: -- as amended.

9 MS. MENENDEZ: Jack Coe?

10 MR. COE: Yes.

11 MS. MENENDEZ: Pat Keon?

12 MS. KEON: No.

13 MS. MENENDEZ: Cristina Moreno?

14 MS. MORENO: No.

15 MS. MENENDEZ: Javier Salman?

16 MR. SALMAN: Yes.

17 MS. MENENDEZ: Eibi Aizenstat?

18 MS. AIZENSTAT: Yes.

19 MS. MENENDEZ: Tom Korge?

20 THE CHAIRPERSON: No.

21 MR. RIEL: The vote's three-three.

22 MR. COE: Right.

23 THE CHAIRPERSON: Three-three? So it
24 goes up with a three-three.

25 That's what it does.

1 MS. MORENO: Now, can I --

2 MR. RIEL: It goes forward as no
3 recommendation, I believe.

4 MR. COE: It goes as no recommendation.

5 MS. MORENO: Can we make a separate motion?

6 MR. COE: Actually, you want to do another
7 motion?

8 THE CHAIRPERSON: Yeah, I'll take a
9 motion.

10 MS. MORENO: What I'd like to do is to
11 approve it, the changes that were proposed, and
12 that Mr. Riel has presented, with a blanket
13 exception for the University of Miami, in
14 recognition of its contributions to art to date,
15 not only -- not only by the sculptured garden,
16 but by the Lowe, by its programming, et cetera.

17 The University has been meeting its obligation
18 to the cultural development of the City of Coral
19 Gables for years, and to me, they should receive
20 an exemption from this requirement and should
21 not be penalized by having already done it,
22 because the rest of us haven't done it before.

23 So that's 1.

24 And the second one is, I believe you need
25 to clarify that if a private developer is using

1 a piece of art to meet the requirement, and he
2 elects to sell that piece of art, he needs to
3 replace it with art of a value equivalent to the
4 exemption that he received.

5 He can do that at any time, whether it is
6 in connection with the sale of the property
7 itself or with the sale of a piece of art only.
8 I think that clarification needs to be made.

9 And I think, just as a point of discussion
10 for a future date, I would certainly think that
11 you could have works of art on loan, and that
12 don't have to be actually owned, as long as you
13 replace them, but I'm not putting that in the
14 motion, because that's too -- so my motion is,
15 all of the other changes, except I've replaced
16 the deletion of the educational, with a blanket
17 exception for the University of Miami, and I
18 request a clarification that if a developer
19 sells a piece of art, he has to replace it -- he
20 has the right to sell it, but he has to replace
21 it with a piece that is of equivalent value or
22 pay that money into the fund, similar to the
23 language that you have in the event of the sale
24 of the building, but also applicable to the sale
25 of the art.

3 MS. KEON: I'll second it.

4 MR. COE: Call the question.

5 MS. KEON: I have a question. I have a
6 question I'd like to ask, before the question
7 gets called.

10 MS. KEON: Rather than just a blanket
11 exception for UM, would you consider that as
12 long as they have an art in public places
13 program in effect, that that would meet --

14 MS. MORENO: Yes. I'll accept that
15 friendly amendment.

16 MS. KEON: -- rather than just a blanket
17 exception, as long as they have one and can
18 provide it, present it, defend it, that that --

19 MS. MORENO: I'll accept that as a friendly
20 amendment.

21 MS. KEON: Okay.

22 THE CHAIRPERSON: Okay.

23 MS. KEON: What about the issue of being
24 able to use these funds to participate in
25 traveling internationally recognized art

1 programs?

2 MS. MORENO: I think that's a great idea,
3 but I think your -- that is going to require
4 more redrafting than we have here.

5 MS. KEON: Um, I just think it's something
6 that they should consider. I mean, would you --
7 it's my understanding that we are not -- we are
8 not voting on the ordinance.

9 They asked us to look at it, to make
10 recommendations on this ordinance. You know,
11 that's something --

12 MS. MORENO: Simultaneous speaking.)

13 MR. RIEL: Not true.

14 MS. KEON: I would like them to look at --
15 to look at whether it is appropriate, and I
16 think you have boards here that can make that
17 determination, that, you know, to consider for
18 inclusion --

19 THE CHAIRPERSON: I think Cristina is
20 saying --

21 MR. COE: Pat, I think that's wrong. I
22 think we're voting on the language of the
23 ordinance.

24 THE CHAIRPERSON: And it's probably
25 premature, because they haven't really --

1 what you're asking them to do is think
2 about it and come back with a proposal, as
3 I understand it.

4 MS. KEON: Well, I think, before it
5 gets to second reading, I'd like to look at
6 it and see if it's appropriate.

7 (Simultaneous speaking.)

8 MR. COE: We've already had a reading of
9 this thing. We've already had -- the Commission
10 already had Reading Number 1. This is going to
11 come up for Reading Number 2, and approve it.

12 MS. KEON: The other question -- the other
13 question that I have is, why would you do it at
14 permitting, as opposed to when you -- when they
15 get their CO? Was there a reason why you would
16 do it at permitting, rather than at CO?

17 MS. ALFONSIN-RUIZ: The Building Inspector
18 determines, at the time of building permitting,
19 what the cost of construction is.

20 MS. KEON: Okay. It's just that if you --
21 and you didn't have any opposition from
22 developers on that at all?

23 MS. ALFONSIN-BUTZ: No.

24 MS. KEON: I would think it would be an
25 upfront cost that they would rather delay until

1 the CO.

2 MS. ALFONSIN-RUIZ: The -- the code,
3 actually, currently reads that construction
4 costs are determined by the Building Inspector
5 at the time of permitting.

6 MS. KEON: Right, but I know, like permit
7 fees and that sort of thing -- I mean, a lot of
8 the other fees are not paid -- are paid at CO.

9 MR. SALMAN: All -- all impact fees or
10 associated fees, contributions, however you want
11 to say it, are assessed at the time of permit,
12 as determined by the Building Official, as to
13 the cost of construction.

14 He has to be in agreement --

15 MS. KEON: Right.

16 MR. SALMAN: -- that the permit is being
17 issued, and the costs being assigned are
18 comparable.

19 MS. KEON: Right. They're assessed,
20 they're not paid. A lot of them are paid at CO.

21 MR. SALMAN: That number is used for the
22 assessment for those costs.

23 MS. KEON: Right.

24 MR. SALMAN: What you're arguing is, when
25 do they get paid?

1 MS. KEON: Yeah, I thought that they -- I
2 thought this said that it would be paid, not
3 assessed. That's why I'm asking.

4 MR. SALMAN: They're assessed and paid at
5 the time of building permit issuance, as a
6 condition for building permit issuance.

7 MS. KEON: I'm going to tell you, they're
8 not. They're generally paid at CO, for most
9 impact fees.

10 MR. SALMAN: No.

11 MR. RIEL: No, really, no.

12 MS. MORENO: No.

13 MR. SALMAN: No, that's not correct.

14 MS. KEON: I'm going to tell you, they're
15 not.

16 MR. SALMAN: That's not been my experience.

17 MS. KEON: It's mine.

18 THE CHAIRPERSON: All right. Any
19 further discussion on the motion?

20 MS. KEON: No.

21 MS. MORENO: As I understand your
22 amendment, it's that the University of
23 Miami will be exempt from this requirement
24 for so long as it is maintaining an active
25 art in public places program of its own?

1 MS. KEON: Yes.

2 MS. MORENO: I accept that amendment.

3 THE CHAIRPERSON: Okay. So that --

4 that would the motion, with the friendly
5 amendment. No further discussion? Let's
6 call the roll.

7 MS. MENENDEZ: Pat Keon?

8 MS. KEON: Yes.

9 MS. MENENDEZ: Cristina Moreno?

10 MS. MORENO: Yes.

11 MS. MENENDEZ: Javier Salman?

12 MR. SALMAN: No.

13 MS. MENENDEZ: Eibi Aizenstat?

14 MR. AIZENSTAT: No.

15 MS. MENENDEZ: Jack Coe?

16 MR. COE: No.

17 MS. MENENDEZ: Tom Korge?

18 THE CHAIRPERSON: Yes.

19 Okay. So we're done with this.

20 MR. COE: Mr. Chairman, no, I have one more
21 motion.

22 THE CHAIRPERSON: You want to do
23 another motion?

24 MR. COE: One more motion. And I fully
25 agree with Ms. Moreno, that what the University

1 of Miami has done in public art is laudable. I
2 just don't think they should have a blanket
3 exception.

4 I, then, therefore, make a final motion and
5 proposal, that we adopt everything that we had
6 previously on the table, except we include now
7 the existing Paragraph 4, on Page 7, dealing
8 with educational institutional exemptions.

9 MR. RIEL: As drafted by staff?

10 MR. COE: As drafted by staff.

11 THE CHAIRPERSON: Is there a second for
12 that motion?

13 MR. SALMAN: I'll second it.

14 THE CHAIRPERSON: Second it.

15 Is there any discussion on that motion?

16 MR. COE: Call the question.

17 THE CHAIRPERSON: The question is
18 called.

19 MS. KEON: Did they -- was there -- there
20 was an objection. They had an objection to the
21 restrictive covenant; is that right?

22 MR. COE: Correct.

23 MS. KEON: And they have to have all the
24 certified appraisals and whatever else?

25 MR. COE: Correct, as drafted.

1 THE CHAIRPERSON: Okay. Well, let's
2 call the question, please.
3 MS. MENENDEZ: Cristina Moreno?
4 MS. MORENO: No.
5 MS. MENENDEZ: Javier Salman?
6 MR. SALMAN: Yes.
7 MS. MENENDEZ: Eibi Aizenstat?
8 MR. AIZENSTAT: Yes.
9 MS. MENENDEZ: Jack Coe?
10 MR. COE: Yes.
11 MS. MENENDEZ: Pat Keon?
12 MS. KEON: No.
13 MS. MENENDEZ: Tom Korge?
14 THE CHAIRPERSON: No.
15 Okay. That's it. That's it.
16 MR. COE: That's it.
17 THE CHAIRPERSON: Next item on the
18 agenda, are we going to take Number 7 next,
19 Eric?
20 MR. RIEL: Yes.
21 THE CHAIRPERSON: How long is Item
22 Number 8 going to take?
23 MR. RIEL: 8? About five minutes.
24 THE CHAIRPERSON: Well, let's do that
25 one right now.

1 MR. RIEL: My preference is to go to 7. We
2 have a School Board member here that's been
3 waiting for this item.

4 THE CHAIRPERSON: But if it's really
5 only going to be five minutes, we may not
6 get to it, if we go to --

7 MR. RIEL: I think we'll get to it this
8 evening.

9 THE CHAIRPERSON: Okay.

10 MR. RIEL: I'd like to proceed forward with
11 this item, figuring the time spent.

12 THE CHAIRPERSON: Okay.

13 MR. COE: We're going to do last one?

14 MR. RIEL: No, we're going to do Number 7.

15 THE CHAIRPERSON: We're doing Number 7,
16 and then Number 8.

17 MR. RIEL: Go ahead, Javier, do Number
18 7.

19 MR. BETANCOURT: Good evening Mr. Chair,
20 Mr. Vice-Chair, Members of the Board. For the
21 record, Javier Betancourt, Principal Planner.

22 You have before you amendments to various
23 City regulations to meet State of Florida
24 mandated public schools concurrency
25 requirements.

1 I'm going to go extra ordinarily quick. If
2 you need me to spend more time on an item, by
3 all means, please interrupt me.

4 The easiest way to probably do this is to
5 simply go through the Staff report packet with
6 you. You'll see that we're proposing a number
7 of amendments for your recommendation, including
8 amendments to the Comprehensive Plan, City Code.

9 We're actually pulling the item that was to
10 amend the Zoning Code, and we'll bring that back
11 to you at the next meeting, and, finally, we
12 have an amendment to the Interlocal Agreement.

13 A lot of the background was provided to you
14 at your last meeting, so I'm not going to go
15 over those issues again, but just quickly to
16 refresh your memory, what we're simply doing is
17 implementing State mandated requirements for
18 public school concurrency.

19 In short, these require the establishment
20 of levels of service for public schools, much
21 like we have for other public services --
22 services and facilities.

23 We've been participating in an
24 intergovernmental effort with DCA, the School
25 Board, Miami-Dade County and other

1 municipalities to implement these requirements.

2 The County has taken the initial steps, and
3 is acting as a model for the local governments,
4 and our proposed regulations largely mirror the
5 County's language.

6 If you turn to Attachment A in your packet,
7 you'll find the proposed Comp Land amendments.
8 These will provide for a New Educational
9 Element, and revised Intergovernmental
10 Coordination and Capital Improvements Elements.

11 These amendments include goals, objectives
12 and policies that promote stronger
13 intergovernmental coordination, establish levels
14 of service for public schools, establish
15 concurrency service areas, allow for proportion
16 and shared mitigation options when capacity is
17 not available, incorporates the School Board's
18 facilities work program into the City's Capital
19 Improvements Program, and promotes siting
20 standards of compatibility of Public School
21 facilities with their surrounding communities.

22 Attachment B in your packet provides for an
23 amendment to the City Code, providing for the
24 removal of concurrency regulations in the City
25 Code, that are duplicative of identical

1 regulations that are in the Zoning Code.

2 In other words, the same regulations are
3 currently found in two places, and we want to
4 remove them from the City Code, in order to
5 avoid any potential inconsistencies or
6 conflicts.

7 Attachment C, again, is the proposed
8 amendment to the Zoning Code. That item has
9 been pulled.

10 MR. COE: Has been pulled.

11 MR. BETANCOURT: Will be brought back to
12 you.

13 And, finally, Attachment D in your packet
14 provides for an amendment to the existing
15 Interlocal Agreement between the City's School
16 Board, and all other local governments in
17 Miami-Dade County.

18 All the changes proposed in this agreement
19 are pursuant to State mandated requirements, and
20 the entire agreement has to be approved in
21 identical form, word for word, by all
22 signatories.

23 Attachment E is an executive summary of
24 Public School concurrency and implementation
25 efforts.

1 Attachment F is the minutes from the last
2 meeting, at which no review, this item was
3 presented by the School Board.

4 Exhibit G is the School Board's response to
5 questions raised at the last meeting, and Vivian
6 Villaamil, a School Board Staff, is here to
7 answer any question that you might have.

8 Exhibit C (sic) is a notice that is being
9 provided to applicants and developers via the
10 Building & Zoning Department, and the City's
11 website, that puts them on notice regarding
12 concurrency requirements.

13 Exhibit I provides for DCA required data
14 and analysis.

15 And, finally, Exhibit J is the public
16 notice of this agenda item.

17 These items will be considered on first
18 reading by the City Commission on December 11th.
19 It will then go to DCA for review. Come back to
20 the City for second reading and adoption
21 sometime in early 2008.

22 With that, I conclude my very quick
23 presentation, as promised.

24 I'm available to answer any questions, as
25 is staff from the Building & Zoning Department

1 and the School Board.

2 Thank you.

3 MS. SALMAN: To the Chair.

4 To the City's Legal Advisor, my firm
5 currently works for the -- has as a client the
6 Dade County Public Schools.

7 Does that present a conflict of interest
8 for me? I'm sorry for not having brought it up
9 earlier.

10 MS. ALFONSIN-RUIZ: I'm sorry? Could --
11 could you repeat --

12 MR. SALMAN: We're currently under contract
13 with Dade County Public Schools. Does that
14 present a conflict of interest?

15 MS. ALFONSIN-RUIZ: Not in this situation,
16 because this is a statutory requirement.

17 MR. SALMAN: Okay.

18 MS. MORENO: As I understand this
19 presentation, we have no choice. So what's the
20 purpose of discussing it all?

21 I do want to point out that my concern --

22 MR. AIZENSTAT: That's a good point.

23 MS. MORENO: -- is borne out by the
24 statistics that they presented to us, which is,
25 you know, you look at Ponce de Leon Middle,

1 twelve percent of the students reside in the
2 City of Coral Gables, Coral Gables, fourteen
3 percent, but -- and what this does is, it says a
4 developer in the City of Coral Gables cannot
5 pull a permit if the schools are not -- do not
6 have seats for those children, but there's
7 nothing here that says that we're going to get
8 seats for those children, because we only have
9 fourteen percent residents.

10 Be that as it may, we're told, it's
11 mandatory, we have no choice, so let's why
12 discuss it?

13 THE CHAIRPERSON: Well, the only -- the
14 only reason for discussing it, and the only
15 concern I have about doing this in this
16 manner, as a quick item, is, you know, are
17 we bound to do it in exactly this way?

18 MR. COE: Yes.

19 MR. RIEL: Yes.

20 THE CHAIRPERSON: Exactly this way? We
21 can't do anything different than what is
22 here?

23 MR. COE: (Simultaneous speaking.)

24 MR. RIEL: What has happened is,
25 Miami-Dade County drafted the regulation.

1 MR. COE: It's pre-emptive.

2 MR. RIEL: And what we've gone -- they've
3 gone through the DCA, gotten their comments. We
4 drafted language that addresses -- attempts to
5 address those comments, but, yes, this is the
6 model ordinance that other local governments are
7 adopting the same.

8 So we did, you know, do some minor changes
9 to adapt it to Coral Gables, but, yes, it is a
10 mandated provision.

11 THE CHAIRPERSON: Well, let me just
12 make sure I understand this correctly. If
13 we adopt a different ordinance than the one
14 that's before us, it would be illegal?

15 MR. RIEL: No. No. I can't --

16 MR. COE: The County preempts the City.

17 You have to correspond to what --

18 THE CHAIRPERSON: I understand, but I
19 asked a very simple question. If we change
20 something in this ordinance, we make some
21 modifications --

22 MR. COE: And if it's in variance to
23 what the County has done, yes, you can't do
24 that.

25 MR. BETANCOURT: Mr. Chair, if I may. In

1 terms of the Interlocal Agreement, that has to
2 be adopted word for word, identical with what
3 other local governments have done, because
4 everyone is going to be a signatory to the same
5 agreement.

6 MR. COE: Exactly.

7 MR. BETANCOURT: In terms of the
8 educational facilities element, there is some
9 room for tweaking there.

10 We could add, additionally, those
11 objectives and policies that we feel are
12 important. In fact, if we've done so,
13 particularly as it relates to being compatible
14 with the surrounding communities and whatnot,
15 but the --

16 MR. COE: That's already in there.

17 MR. BETANCOURT: Right, but in terms of
18 LOS, concurrency service areas, regulations,
19 some of the meat of it, more or less, that's got
20 to be the same.

21 THE CHAIRPERSON: The Interlocal
22 Agreement, I guess, was drafted by the
23 County Attorney, and everybody just
24 conforms?

25 MR. BETANCOURT: It's been an

1 intergovernmental process throughout the
2 past year and a half. All the local
3 governments have gotten together, but it's
4 -- the primary players have been the County
5 and the School Board.

6 THE CHAIRPERSON: I just wanted -- I
7 just wanted to be sure that if we -- if we
8 really don't have true input into this, you
9 know, changes and so forth, then I'm fine
10 with just, you know, a pro-forma of
11 approval, but otherwise we don't have time
12 for this.

13 MR. COE: With that, Mr. Chairman, I'll
14 move staff recommendation, based on the findings
15 of fact contained in this package.

16 THE CHAIRPERSON: Is there a second?

17 MR. SALMAN: I'll second.

18 MR. COE: Call the question.

19 THE CHAIRPERSON: Any discussion? No
20 discussion, call the roll, please.

21 MS. MENENDEZ: Javier Salman?

22 MR. SALMAN: Yes.

23 MS. MENENDEZ: Eibi Aizenstat?

24 MR. AIZENSTAT: Yes.

25 MS. MENENDEZ: Jack Coe?

1 MR. COE: Yes.

2 MS. MENENDEZ: Pat Keon?

3 MS. KEON: Yes.

4 MS. MENENDEZ: Cristina Moreno?

5 MS. MORENO: Yes, only because I'm
6 mandated.

7 MR. CHAIRPERSON: Yes.

8 MR. KEON: Yes.

9 MS. MENENDEZ: Tom Korge?

10 THE CHAIRPERSON: Yes.

11 That's done.

12 Sorry to drag you down here.

13 MR. COE: I hope they paid you overtime for
14 this.

15 MR. RIEL: The last item on the agenda,
16 Mr. Chair, Members of the Board, is an amendment
17 to the Zoning Code, Article 3, Division 5,
18 Planned Area Development.

19 Very quickly.

20 The Commission, in 2005, went out for an
21 RFK, to look for a public and private
22 partnership to do adult -- a senior housing
23 facility on City-owned land. The Commission, in
24 fact, at Tuesday's meeting, approved, on second
25 reading, that lease agreement with those

1 individuals.

2 As a part of that, that property owner has
3 to come through the City of Coral Gables' review
4 process. They're going to have to do a change
5 in land use and come to this Board for a site
6 plan approval via the PAD requirements. And the
7 reason they're doing a PAD, because a PAD allows
8 flexibility, and, you know, an adult care
9 facility is something that's unique to the
10 community. One of the things that we found out
11 when they started to doing their analysis was,
12 there were two provisions of the code that
13 caused concern to them.

14 One was the minimum lot depth and the other
15 was the fact that the parcels had to be
16 contiguous.

17 These parcels that the City is in
18 partnership with, are separated by Andalusia
19 Avenue.

20 So we suggested alternative language that
21 only allows for an exception to that contiguous,
22 if it's an adult facility or affordable housing,
23 and we're also suggesting that the lot depth be
24 reduced from what is currently 200, to 100 feet,
25 and that would be available to all PADs, and the

1 reason for staff supporting that is, if you're
2 doing a PAD in the CBD, you look at the half of
3 the block depth, it's typically 100 feet. It
4 would be very difficult for someone to get a
5 200-foot lot depth.

6 So we're suggesting these two changes to be
7 made to the current code.

8 THE CHAIRPERSON: Eric, could I ask you
9 a quick question?

10 MR. RIEL: Sure.

11 THE CHAIRPERSON: Is this something
12 that could be handled with the application,
13 when it comes to us, or should it be done
14 beforehand?

15 MR. RIEL: We would like to have it
16 done before, because obviously the property
17 owner would like the assurance that they
18 could proceed forward. I can tell you the
19 site plan will be before this Board in the
20 next month or two.

21 THE CHAIRPERSON: Yeah. Okay.

22 MS. MORENO: I move to adopt.

23 MR. COE: Second.

24 THE CHAIRPERSON: Is there any
25 discussion? Yes.

1 MR. SALMAN: I have a problem with
2 extending it to affordable housing. We're
3 making an exception here that we may not
4 want to live with later. I would limit it
5 only to this particular use.

6 MR. AIZENSTAT: You would only limit it to?

7 THE CHAIRPERSON: ALFs.

8 MR. SALMAN: ALFs.

9 MS. MORENO: I do not accept that
10 amendment.

11 MR. COE: Okay. Call the question,
12 Mr. Chairman.

13 THE CHAIRPERSON: Any further
14 discussion?

15 MR. AIZENSTAT: Yes. Could I ask why
16 you're saying that?

17 MR. SALMAN: Because we've got a series of
18 parcels of land to the south of us that are
19 going to be either developed as affordable
20 housing or have major affordable housing
21 components, which would qualify them under this
22 amendment, and as such, we may not want to have
23 that privilege extended to them.

24 I'm thinking about some large pieces of
25 property and some smaller ones down there.

1 THE CHAIRPERSON: But why? I mean, why
2 wouldn't --

3 MR. SALMAN: Because this is a case by
4 case basis. This is about a project. It's
5 too project specific, because this is the
6 property behind Miracle Mile, I believe,
7 and the parking lot on the other side of
8 Andalusia --

9 MR. RIEL: Yeah.

10 MR. SALMAN: It is very site specific, and
11 you're providing a blanket change to the code.

12 THE CHAIRPERSON: I see. So --

13 MR. SALMAN: I think it's much more
14 specific to the use. I have no problem
15 with either the project or the need for the
16 change, and the assurance from this Board
17 that they are going to get it, however I
18 would like to limit it to this specific
19 project, rather than go back into the code
20 and monkey with that, because we are going
21 to deal with the consequences later and I
22 don't think we've had the time to digest
23 this thing in its entirety as to what the
24 possible implications in the rest of the
25 City are going to be.

1 THE CHAIRPERSON: If you want to offer
2 that as an amendment, and you can get a
3 second, then it can be considered.

4 MR. SALMAN: I offered it as an
5 amendment to limit it only to ALFs.

6 MS. MORENO: No.

7 MS. COE: Mrs. Moreno did not accept it.

8 THE CHAIRPERSON: He can offer it as an
9 unfriendly amendment.

10 MR. SALMAN: I offer it as an
11 unfriendly amendment.

12 MR. AIZENSTAT: Cristina, and I ask you
13 why --

14 MS. MORENO: Because I think that it's
15 indispensable that we create affordable housing
16 in the City of Coral Gables and anything that
17 would promote that, I'm in favor of it.

18 MR. AIZENSTAT: Do you think that people
19 look at affordable housing, to benefit them, and
20 not really what is, quote/unquote, affordable
21 housing?

22 MS. MORENO: I am trusting that when we
23 define affordable housing facilities, we will
24 deal with that issue.

25 MR. COE: It's an ordinance.

1 MR. AIZENSTAT: You feel comfortable with
2 that, Eric?

3 MR. RIEL: Yes.

4 MR. COE: There is a second.

5 MR. RIEL: We feel comfortable, because
6 there's criteria, there's minimum criteria in
7 this, and, also, PAD is discretionary,
8 conditional use review, so it's got to come to
9 this Board, no matter what. So the Board has
10 the opportunity --

11 MR. AIZENSTAT: Javier, if it comes to the
12 Board --

13 MR. SALMAN: Then I withdraw.

14 MR. COE: Mr. Chairman, call the question.

15 MR. RIEL: PADs are only through this Board
16 and the Commission approval.

17 THE CHAIRPERSON: Okay. So -- the
18 proposal as presented by the staff is on
19 the table for vote. Would you call the
20 question, please?

21 MS. MENENDEZ: Eibi Aizenstat?

22 MR. AIZENSTAT: Yes.

23 MS. MENENDEZ: Jack Coe?

24 MR. COE: Yes.

25 MS. MENENDEZ: Pat Keon?

1 MS. KEON: Yes.

2 MS. MENENDEZ: Cristina Moreno?

3 MS. MORENO: Yes.

4 MS. MENENDEZ: Javier Salman?

5 MR. SALMAN: Yes.

6 MS. MENENDEZ: Tom Korge?

7 THE CHAIRPERSON: Yes.

8 Anything else?

9 MR. RIEL: That's it.

10 THE CHAIRPERSON: We are adjourned.

11 When is the next meeting?

12 MR. RIEL: December 12th.

13 THE CHAIRPERSON: Thank you.

14 (Thereupon, the meeting was concluded at 8:30

15 p.m.)

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1 C E R T I F I C A T E

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3 STATE OF FLORIDA:

4 SS.

5 COUNTY OF MIAMI-DADE:

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9 I, NIEVES SANCHEZ, Court Reporter, and a
10 Notary Public for the State of Florida at Large, do
11 hereby certify that I was authorized to and did
12 stenographically report the foregoing proceedings
13 and that the transcript is a true and complete
14 record of my stenographic notes.

15

16 DATED this 23rd day of November, 2007.

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NIEVES SANCHEZ