

**City of Coral Gables
Board of Adjustment Meeting
Monday, March 6, 2017
Coral Gables City Commission Chambers
405 Biltmore Way, Coral Gables, Florida**

MEMBERS	J	F6	M6	A4	M1	J5	J3	A7	S4	O2	N6	D4	APPOINTMENT
	'17	'17	'17	'17	'17	'17	'17	'17	'17	'17	'17	'17	
Eibi Aizenstat	C	C	P	C	C								Commissioner Jeannett Slesnick
Alejandro Galvez	C	C	P	C	C								Mayor Jim Cason
Joe Greenberg	C	C	P	C	C								Commissioner Pat Keon
Oscar Hidalgo Vice Chair	C	C	P	C	C								Board-As-A-Whole
Jorge Otero Chair	C	C	P	C	C								Commissioner Frank C. Quesada
Michael Sotelo	C	C	E	C	C								Commissioner Vince Lago
Jack Thomson	C	C	P	C	C								City Manager Cathy Swanson- Rivenbark

P = Present
E = Excused
C = Meeting Cancelled
R = No Meeting Summer Recess

City Staff and Consultants:

Ramon Trias, Planning & Zoning Director
Charles Wu, Interim Development Services Director
Stephanie M. Throckmorton, Assistant City Attorney
Cristina M. Suarez, Asst. City Attorney

Court Reporter:
Nieves Sanchez

Attachment: 03 06 17 Board of Adjustment Verbatim Minutes

1 CITY OF CORAL GABLES
 2 BOARD OF ADJUSTMENT
 3 VERBATIM TRANSCRIPT
 4 CORAL GABLES CITY HALL
 5 405 BILTMORE WAY, COMMISSION CHAMBERS
 6 CORAL GABLES, FLORIDA
 7 MONDAY, MARCH 6, 2017, COMMENCING AT 8:02 A.M.

8 Board Members Present:
 9 Jorge Otero, Chairman
 10 Oscar Hidalgo, Vice Chairman
 11 Eibe Aizenstat
 12 Alex Galvez
 13 Joe Greenberg
 14 Jack Thomson

15 City Staff and Consultants:
 16 Ramon Trias, Planning Director
 17 Charles Wu, Assistant Director Development Services
 18 Stephanie M. Throckmorton, Assistant City Attorney
 19 Cristina M. Suarez, Assistant City Attorney

20 Also Participating:
 21 Kirk Lofgren, Ocean Consulting, LLC.

1 THEREUPON:
 2 (The following proceedings were held.)
 3 CHAIRMAN OTERO: Good morning. The Board
 4 of Adjustment is comprised of seven members.
 5 Four Members of the Board shall constitute a
 6 quorum, and the affirmative vote of four
 7 Members of the Board present shall be necessary
 8 to authorize or deny a variance or grant an
 9 appeal. A tie vote shall result in an
 10 automatic continuance of the matter to the next
 11 meeting, which shall be continued until a
 12 majority vote is achieved.
 13 If only four Members of the Board are
 14 present, an applicant shall be entitled to a
 15 postponement until the next meeting. That's
 16 not the case today. Today we have six present.
 17 Any person who acts as a lobbyist pursuant
 18 to the City of Coral Gables Ordinance Number
 19 2006-11 must register with the City Clerk prior
 20 to engaging in lobbying activities or
 21 presentations before City Staff, Boards,
 22 Committees and/or the City Commission. A copy
 23 of the Ordinance is available in the Office of
 24 the City Clerk. Failure to register and
 25 provide proof of registration shall prohibit

1 your ability to present to the Board.
 2 I now officially call the City of Coral
 3 Gables Board of Adjustment Board Meeting of
 4 March 6, 2017 to order. The time is 8:02 a.m.
 5 Roll call, please.
 6 MR. TRIAS: Mr. Aizenstat?
 7 MR. AIZENSTAT: Here.
 8 MR. TRIAS: Mr. Galvez?
 9 MR. GALVEZ: Here.
 10 MR. TRIAS: Mr. Greenberg?
 11 MR. GREENBERG: Here.
 12 MR. TRIAS: Mr. Hidalgo?
 13 MR. HIDALGO: Here.
 14 MR. TRIAS: Mr. Otero?
 15 CHAIRMAN OTERO: Here.
 16 MR. TRIAS: Mr. Sotelo?
 17 Mr. Thomson?
 18 MR. THOMSON: Here.
 19 MR. TRIAS: Mr. Chairman, a quorum is present.
 20 CHAIRMAN OTERO: Thank you.
 21 Now, special notice regarding ex parte
 22 communications. Please be advised that the
 23 items on the agenda are quasi-judicial in
 24 nature, which requires Board Members to
 25 disclose all ex parte communications and site

1 visits. An ex parte communication is defined
 2 as any contact, communication, conversation,
 3 correspondence, memorandum or other written or
 4 verbal communication that takes place, outside
 5 the public hearing, between a member of the
 6 public and a member of a quasi-judicial board
 7 regarding matters to be heard by the board.
 8 If anyone made any contact with a Board
 9 Member regarding an issue before the Board, the
 10 Board Member must state, on the record, the
 11 existence of the ex parte communication and the
 12 party who originated the communication.
 13 Also, if a Board Member conducted a site
 14 visit specifically related to the case before
 15 the Board, the Board Member must also disclose
 16 of such visit. In either case, the Board
 17 Member must state, on the record, whether the
 18 ex parte communication and/or site visit will
 19 affect the Board Member's ability to
 20 impartially consider the evidence to be
 21 presented regarding the matter. The Board
 22 Member should also state that his or her
 23 decision will be based on substantial competent
 24 evidence and testimony presented on the record
 25 today.

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1 Does any Member of the Board have such a
 2 communication and/or site visit to disclose at
 3 this time?
 4 Let the record show that no Board Member
 5 had such a communication or site visit to
 6 disclose.
 7 Everyone who speaks this morning must
 8 complete the roster on the podium. We ask that
 9 you print clearly, so the official record of
 10 your name and address will be correct.
 11 Now, with the exception of attorneys, all
 12 persons who will speak on agenda items before
 13 us, please rise to be sworn in.
 14 (Thereupon, all participants were sworn.)
 15 CHAIRMAN OTERO: Thank you.
 16 The next item on the agenda is approval of
 17 the minutes of the Board of Adjustment of June
 18 6th, 2016. Is there a motion to approve?
 19 MR. GREENBERG: I so move.
 20 MR. GALVEZ: Second.
 21 CHAIRMAN OTERO: All those in favor?
 22 MR. AIZENSTAT: Aye.
 23 MR. GALVEZ: Aye.
 24 CHAIRMAN OTERO: Aye.
 25 MR. GREENBERG: Aye.

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1 MR. HIDALGO: Aye.
 2 MR. THOMSON: Aye.
 3 CHAIRMAN OTERO: Motion passes.
 4 Any changes to the agenda, Mr. Trias?
 5 MR. TRIAS: No. No, sir.
 6 CHAIRMAN OTERO: So the first matter on the
 7 agenda is Case BA-16-12-7362; Owners, Jimmie
 8 and Wendy Whitmire.
 9 Mr. Trias, could you read the Proposal,
 10 please?
 11 MR. TRIAS: Mr. Chairman, before we start,
 12 I don't believe the Applicant is here in this
 13 room. I don't believe they're here. So I will
 14 start with the presentation, but let's just
 15 keep in mind that they're not here.
 16 Mr. Chairman, the issue before you is a
 17 dock and a boatlift, and they are both
 18 existing. The boatlift is already built and
 19 is in the Sunrise area, which, as you know, has
 20 these canals through that neighborhood.
 21 And you can see right here in that image
 22 the exact location of the request at hand.
 23 The Code requires that whenever a boatlift
 24 is built, there should be 75 feet clear between
 25 the different boatlifts on either side, 75 feet

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1 clear of canal water, and that is the nature of
 2 the request. Right now there's less than 75
 3 feet and the Applicant is requesting a variance
 4 to be able to do 63 feet. That is the nature
 5 of the request.
 6 The diagram was provided to you, and it
 7 shows some of the different structures. And,
 8 again, the key issue here is that the request
 9 is already there. And this is not unusual.
 10 There are many, many, many objects and many
 11 different structures in those canals that have
 12 been built in the past, prior to getting a
 13 building permit.
 14 This shows the existing conditions. As you
 15 can see, there's a lot of boating activity in
 16 this canal. There's a lot of boats and a lot
 17 of different docks all throughout.
 18 And it shows you, also, the nature of the
 19 clear area of the water towards both sides of
 20 the canal.
 21 The Board of Architects approved the
 22 boatlift in February of this year. There has
 23 been no objection from the Marine Patrol.
 24 Preliminary approval was obtained by DERM. And
 25 the application meets the eight standards that

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1 we have in the Variance, so Staff recommends
 2 approval.
 3 CHAIRMAN OTERO: Thank you very much. I do
 4 have a question, before we go to the Applicant.
 5 You mentioned the dock has already been
 6 built. The package indicated the dock had been
 7 built without a permit. Was that correct?
 8 MR. TRIAS: Without a permit, yes.
 9 CHAIRMAN OTERO: And what is the City's
 10 position -- and maybe this is beyond the scope
 11 of our Board, but I was just curious. The dock
 12 was built without a permit, and now they come
 13 in --
 14 MR. TRIAS: Yes. I understand that this is
 15 a result of a review by DERM. Sometimes this
 16 type of request happens because of some Code
 17 Enforcement action. And what happens is
 18 that -- I don't think that it's that unusual to
 19 have these kinds of boatlifts. The dock and
 20 the boatlift are different structures. It's
 21 not that unusual, because of the requirements,
 22 that time sometimes people build it without a
 23 permit. So that, I would say, is not the only
 24 one.
 25 CHAIRMAN OTERO: Okay. Any other

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1 questions?

2 MR. GREENBERG: Yeah, I have a question.

3 How did the City become aware of this? Was

4 this a matter of a Code Enforcement violation

5 or was this a homeowner purchasing a property

6 and finding an open permit or no permit? How

7 did you become aware of it?

8 MR. TRIAS: It was not Code Enforcement.

9 It was DERM doing a review, and then the City

10 was informed. The Applicant, whenever he shows

11 up, he may be able to give us more details on

12 that.

13 MR. GREENBERG: And, secondly, you

14 mentioned that this is not uncommon in Coral

15 Gables for people to be building boat docks

16 without permits?

17 MR. TRIAS: In this area, I wouldn't say

18 that it's common, but I would say that there

19 are multiple places where this may be going on,

20 and it's really unfortunate because of the fact

21 that you should get a permit, of course.

22 MR. GREENBERG: One more question. How

23 long ago was this work done?

24 MR. TRIAS: I don't know the answer to

25 that, but the Applicant probably would know.

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1 MR. GREENBERG: Okay. Is any of the dock

2 structure or boatlift, was any of it ever

3 permitted or it's all part of this variance?

4 MR. TRIAS: The only variance, really, is

5 the boatlift, and that's the one that was not

6 permitted, and the variance is as to the width

7 of the clear, the clear area --

8 MR. GREENBERG: I understand that.

9 MR. TRIAS: That's the only request. The

10 boatlift would be allowed at five feet.

11 MR. GREENBERG: Okay.

12 MR. TRIAS: The dock. I'm sorry, the dock

13 would be allowed.

14 CHAIRMAN OTERO: Now I'm confused. I

15 thought the dock also required a variance.

16 MR. TRIAS: No. No. Not at this point,

17 no. The variance is only for the boatlift.

18 CHAIRMAN OTERO: Okay. Thank you.

19 May the Applicant step up or the

20 Applicant's attorney in fact or the Applicant's

21 representative? Please state your name and

22 address and in what capacity are you here

23 today.

24 MR. LOFGREN: Hi. Good morning. Kirk

25 Lofgren, Ocean Consulting, with offices at 340

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1 Minorca Avenue in Coral Gables. I am the

2 Applicant here on behalf of the owner, Mr. and

3 Mrs. Jimmie and Wendy Whitnire, and I can

4 address some of those questions, and I can give

5 you sort of the background here.

6 This is a waterway that has a significant

7 number of boatlifts. And based on our review

8 of this file and this waterway -- actually,

9 this neighborhood -- we weren't able to find a

10 single permit for any boatlift in this waterway

11 among them. This is a very common practice,

12 unfortunately or not. I just wanted to give

13 you sort of that background.

14 This application came before the City,

15 really, for two reasons. The first one was

16 because Wendy and Jim wanted to rebuild their

17 dock, and they needed to rebuild it.

18 Structurally, it needed updating and

19 modifications, so we applied to do that, and to

20 re-deck the dock. And as part of that, we

21 uncovered, with DERM, that the boatlift was, in

22 fact, not permitted. So we're here to legalize

23 the boatlift and also rebuild the dock that we

24 believe was permitted historically. It meets

25 all of the conforming standards. But we

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1 weren't able to find that permit during our

2 historical research, but it is a five-foot wide

3 dock that extends from the seawall, that which

4 is typically approved in the City of Coral

5 Gables without a variance.

6 So, really, we're here before the Board for

7 the boatlift aspect of it, but we also want to

8 make sure that some of the minor repairs to the

9 dock that were done to make the dock safe, was

10 done without a building permit, so we're here

11 to make sure that that gets corrected through

12 the Building Department process. We're really

13 here for the variance for the boatlift.

14 MR. AIZENSTAT: May I ask a question?

15 CHAIRMAN OTERO: Yes, please.

16 MR. AIZENSTAT: Did the current owners

17 build the boatlift?

18 MR. LOFGREN: No. These boatlifts are

19 typically installed by a contractor.

20 MR. AIZENSTAT: I understand that, but was

21 it during their tenure? I noticed that they

22 bought the property back in 2013. Did they

23 install the boatlift after they purchased the

24 property?

25 MR. LOFGREN: That's a good question. I

1 don't believe that they actually -- I thought
2 they had owned the house longer than 2013. It
3 says on the Warranty Deed that it was 2013?

4 MR. AIZENSTAT: It does.

5 MR. LOFGREN: Okay. That's a good
6 question. I don't know the exact answer to
7 that.

8 MR. AIZENSTAT: I may be able to shed a
9 little bit of light. I'm familiar with this
10 property.

11 MR. LOFGREN: Okay.

12 MR. AIZENSTAT: Mr. Henry had a -- probably
13 a hundred foot yacht on this property. It was
14 called the Carib Queen, if I'm not mistaken.

15 MR. LOFGREN: Okay.

16 MR. AIZENSTAT: So when I saw this, if he
17 had a hundred foot boat, that boatlift would
18 not have been able to be there. So that's why
19 I ask these questions. I have to go under the
20 assumption that the Owners did install this
21 boatlift after they bought it.

22 MR. LOFGREN: Sure.

23 CHAIRMAN OTERO: What is the remaining
24 distance between the boatlift and the subject
25 property and a potential existing boatlift

1 MR. LOFGREN: Plus or minus 80 and half.

2 CHAIRMAN OTERO: 81.

3 MR. LOFGREN: Yeah.

4 CHAIRMAN OTERO: The other guy is 17.
5 That's common up and down this canal?

6 MR. LOFGREN: The width for the boatlifts,
7 both are pretty common.

8 CHAIRMAN OTERO: Both. The width is pretty
9 much standard.

10 MR. LOFGREN: It is. It is. There's
11 really no way around that.

12 For example, interestingly enough, I live
13 next door.

14 CHAIRMAN OTERO: I saw your letter of
15 recommendation. Totally unbiased.

16 MR. LOFGREN: Right. Completely unbiased.

17 But we did go to the neighbor on the other
18 side, as well, and he also has a boatlift, as
19 does the neighbor to the north of him. So when
20 you look at the width, I guess my point was, we
21 have a boat that's sitting on the dock, and our
22 width is 12 feet. It's not on the boatlift.
23 It's sitting floating in the water. So it's
24 the same dimension as you would get in the
25 boatlift.

1 across the waterway?

2 MR. LOFGREN: That's 63 feet. This
3 waterway is 98 feet. If you subtract out the
4 17 and a half, plus or minus, and then you do
5 it again, you get to 63 feet, essentially.

6 CHAIRMAN OTERO: We assume the same width
7 across the water?

8 MR. LOFGREN: We do, if they have a similar
9 structure. To be honest with you, the neighbor
10 across the waterway, if you look at the aerial,
11 you'll see he has a hundred foot vessel now.
12 So they're getting this 22 feet. They don't
13 require a variance for that, because it's a
14 boat. So they've actually narrowed the
15 waterway more than you would, had we applied
16 the same boatlift on the other side.

17 So we're proposing a boatlift that fits
18 within our slip area, which is 12 feet wide,
19 and the reality is, that's about the size of a
20 typical vessel in this waterway. The neighbor
21 across the waterway has a much larger vessel.

22 CHAIRMAN OTERO: Do the math for me.
23 98-foot waterway. How far out does this sit?

24 MR. LOFGREN: 17 and a half.

25 CHAIRMAN OTERO: What does that leave me?

1 So I don't feel like this boatlift is
2 causing an encroachment.

3 MR. GREENBERG: Well, you know, as a matter
4 of navigation, a boatlift, when it's unloaded,
5 has, I guess you could say, some forks or --

6 MR. LOFGREN: Lift arms, yes.

7 MR. GREENBERG: -- lift arms, that
8 essentially are in the waterway, above the
9 waterway or near the waterway, but there's no
10 navigable -- no lighting on it. I mean, if the
11 boat is docked, you see it, but if a boatlift
12 is sitting there, how visible is it at night?

13 MR. LOFGREN: Well, there's two ways that
14 I've seen these boatlifts operate. When a
15 vessel is not on the lift and it's out
16 traveling, typically that lift stays in the
17 water, actually, because most of the time these
18 boats are not gone for more than a day.

19 On a trip, let's say, cross the waterway or
20 across the ocean, you go to Bimini, they
21 typically do lift that up out of the water.
22 It's not sitting at a point where you wouldn't
23 see it floating on the edge. It's completely
24 out of the water and it's more visible.

25 I wouldn't object, and I don't think Wendy

1 and Jim would object to, if you wanted to put
 2 some reflective tape on the outside edge, if
 3 that would help ease the concern about
 4 navigation, to see it, but as long as it's
 5 lifted out of the water, it's not right at the
 6 water level, they're typically very visible.
 7 We go out at night, and it's very visible.
 8 MR. AIZENSTAT: It's actually a pretty wide
 9 channel right there.
 10 MR. GREENBERG: It's a good piece of
 11 material, but again it's -- yeah.
 12 CHAIRMAN OTERO: Any other Board Members
 13 have any questions from the Applicant?
 14 You are there in what capacity?
 15 MR. LOFGREN: I'm an environmental
 16 consultant.
 17 CHAIRMAN OTERO: Because Mr. Trias
 18 commented about the Applicant not being here.
 19 MR. LOFGREN: I'm actually the Applicant.
 20 CHAIRMAN OTERO: You are the Applicant?
 21 MR. LOFGREN: I'm the Applicant,
 22 representing the Owner.
 23 CHAIRMAN OTERO: Okay. Thank you.
 24 Any other questions? Thank you.
 25 Is there anyone in the audience who wishes

1 happen automatically.
 2 MR. HIDALGO: Is the permit only for the
 3 lift or it would be for the boatlift and the
 4 dock and the re-decking of it, the complete
 5 package?
 6 MR. TRIAS: I think it's going to be both,
 7 depending on what the Applicant wants to do.
 8 The way I understand is that they want to
 9 re-build the decking on the dock.
 10 So that would be a repair permit, and,
 11 then, to get a permit, you need to be legal,
 12 and so on and so on. That's the nature of
 13 that. That's the reason why we're here today.
 14 CHAIRMAN OTERO: So it is the City's
 15 position and the Applicant's position that a
 16 permit -- if the variance is granted, a permit
 17 would encompass both, the boatlift and any
 18 repair to be done to the dock?
 19 MR. LOFGREN: It has to, yes.
 20 CHAIRMAN OTERO: Thank you.
 21 With no further discussion, is there a
 22 motion? Board Members have the perfect
 23 language already pre-printed.
 24 MR. GREENBERG: I would like to make a
 25 motion. I move that the Board of Adjustment

1 to speak in favor of this case? Please come
 2 forward to the microphone and state your name
 3 and address, for the record.
 4 Let the record show, no one came up.
 5 Is there anyone in the audience who wishes
 6 to speak in opposition of this case? Please
 7 come forward to the microphone and state your
 8 name and address, for the record.
 9 Let the record show that no one stepped up.
 10 This now closes the public hearing portion
 11 for this case. The Board may ask questions,
 12 make comments.
 13 I have one comment, and that one comment I
 14 have, it may be outside the scope of this
 15 Board, but the fact that part of the structure
 16 was built without a permit should not be
 17 ignored, and perhaps part of the motion would
 18 be that that be taken care of somehow. Or
 19 maybe that's part of the process.
 20 Mr. Trias, if this Board approves the
 21 variance, where does it go next?
 22 MR. TRIAS: Yeah, that's part of the
 23 process, is to get a permit and become legal,
 24 yes.
 25 CHAIRMAN OTERO: Okay. So that would

1 grant application BA-16-12-7362, a request by
 2 Kirk Lofgren, Ocean Consulting, LLC, on behalf
 3 of Jimmie and Wendy Whitnire, for a variance
 4 for the residence at 6860 Sunrise Court, to
 5 allow the boatlift to be installed and extended
 6 outward from the bank 17 feet 6 inches, and
 7 maintain 63 feet of remaining navigable
 8 waterway.
 9 The motion is based on the testimony
 10 presented, along with the application submitted
 11 and the Staff Report, which constitutes
 12 competent and substantial evidence.
 13 The Board hereby makes a finding of fact
 14 that each of the standards of Section 3-806 of
 15 the Zoning Code has been met.
 16 MR. THOMSON: I second the motion.
 17 CHAIRMAN OTERO: Any discussion?
 18 Take the roll, please, for the vote of the
 19 Board Members. Or we'll do it another way.
 20 All Board Members in favor, say, aye.
 21 MR. AIZENSTAT: Aye.
 22 MR. GALVEZ: Aye.
 23 CHAIRMAN OTERO: Aye.
 24 MR. GREENBERG: Aye.
 25 MR. HIDALGO: Aye.

1 MR. THOMSON: Aye.
 2 CHAIRMAN OTERO: All those opposed? Let
 3 the record show that it unanimously passed, six
 4 to zero.
 5 MR. LOFGREN: Thank you very much.
 6 CHAIRMAN OTERO: Thank you.
 7 MR. TRIAS: Thank you, Mr. Chairman.
 8 There are two more items we need to do
 9 today, election of Chairperson and election of
 10 Vice Chairperson.
 11 MR. HIDALGO: I would like to make a
 12 motion, Mr. Chairman. I would like to make a
 13 motion for Mr. Otero to continue being our
 14 Chairperson of this Board.
 15 MR. THOMSON: I second.
 16 CHAIRMAN OTERO: All those in favor, say,
 17 aye.
 18 MR. AIZENSTAT: Aye.
 19 MR. GALVEZ: Aye.
 20 MR. GREENBERG: Aye.
 21 MR. HIDALGO: Aye.
 22 MR. THOMSON: Aye.
 23 CHAIRMAN OTERO: Election of Vice
 24 Chairperson.
 25 I just sound like I'm reciprocating, but I

1 CERTIFICATE
 2
 3 STATE OF FLORIDA:
 4 SS.
 5 COUNTY OF MIAMI-DADE:
 6
 7
 8
 9 I, NIEVES SANCHEZ, Court Reporter, and a Notary
 10 Public for the State of Florida at Large, do hereby
 11 certify that I was authorized to and did
 12 stenographically report the foregoing proceedings and
 13 that the transcript is a true and complete record of my
 14 stenographic notes.
 15
 16 DATED this 9th day of March, 2017.
 17
 18
 19
 20
 21 _____
 22 NIEVES SANCHEZ
 23
 24
 25

1 would like to move for Mr. Hidalgo to be
 2 re-elected Vice Chairperson.
 3 MR. GALVEZ: Second.
 4 CHAIRMAN OTERO: All those in favor?
 5 MR. AIZENSTAT: Aye.
 6 MR. GALVEZ: Aye.
 7 CHAIRMAN OTERO: Aye.
 8 MR. GREENBERG: Aye.
 9 MR. THOMSON: Aye.
 10 CHAIRMAN OTERO: Anything else, Mr. Trias,
 11 until we meet again in 12 months?
 12 MR. TRIAS: We'll see. We'll see. Thank
 13 you very much for your time. Thank you.
 14 CHAIRMAN OTERO: We are adjourned.
 15 (Thereupon, the meeting was adjourned at
 16 8:22 a.m.)
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