

ORDINANCE NO. 2004-3445

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", DIVISION 5, CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT, SECTION 142-302, "MAIN PERMITTED USES"; DIVISION 11, I-1 LIGHT INDUSTRIAL DISTRICT, SECTION 142-485, "PROHIBITED USES"; AND DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," SECTION 142-693 "PERMITTED USES", BY ELIMINATING DANCE HALLS AND ENTERTAINMENT ESTABLISHMENTS ALSO OPERATING AS ALCOHOLIC BEVERAGE ESTABLISHMENTS AND RESTAURANTS WITH FULL KITCHENS AND SERVING FULL MEALS AS PERMITTED USES IN CERTAIN AREAS OF THE CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT, THE I-1 LIGHT INDUSTRIAL DISTRICT, AND THE PS PERFORMANCE STANDARD DISTRICT; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

**WHEREAS**, the City of Miami Beach Land Development Regulations contain regulations limiting dance halls and entertainment establishments from certain specified areas; and

**WHEREAS**, that prohibition on dance halls and entertainment establishments in those specified areas is based upon the impacts that said establishments have upon the surrounding, primarily residential, neighborhoods; and

**WHEREAS**, the Planning Board has found that restaurants located within those specified areas where the regulations prohibit stand-alone dance halls and/or entertainment establishments tend to have similar negative impacts on the surrounding residential neighborhoods; and

**WHEREAS**, the Planning Board, at its meeting of October 28, 2003, requested that a proposed amendment to the Land Development Regulations be initiated, addressing dance halls and/or entertainment establishments that operate within restaurants in areas where stand-alone dance halls and/or entertainment establishments would not otherwise be permitted; and

**WHEREAS**, this proposed amendment accomplishes the above purpose by prohibiting dance halls and entertainment establishments in such areas, by deleting the exclusion for those establishments also operating as full restaurants serving full meals;

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**SECTION 1.** Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 5, "CD-2 Commercial, Medium Intensity District," Section 142-302, "Main Permitted Uses", of the Land Development Regulations, is hereby amended to read as follows:

## DIVISION 5. CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

\* \* \*

### **Sec. 142-302. Main permitted uses.**

The main permitted uses in the CD-2 commercial, medium intensity district are commercial uses; apartments; apartment/hotels; hotels; and uses that serve alcoholic beverages as listed in article V, division 4 of this chapter (alcoholic beverages). Bars, dance halls, or entertainment establishments (as defined in section 114-1 of this Code) ~~not also operating as restaurants with full kitchens and serving full meals and licensed as alcoholic beverage establishment~~ are prohibited on properties generally bounded by Purdy Avenue on the west, 20th Street on the north, Alton Road on the east and Dade Boulevard on the south.

\* \* \*

**SECTION 2.** That, Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 11, "I-1 Light Industrial District," Section 142-485, "Prohibited Uses", of the Land Development Regulations, is hereby amended to read as follows:

## DIVISION 11. I-1 LIGHT INDUSTRIAL DISTRICT

\* \* \*

### **Sec. 142-485. Prohibited uses.**

The prohibited uses in the I-1 light industrial district are accessory outdoor bar counters, bars, dance halls, or entertainment establishments (as defined in section 114-1 of this Code) ~~not also operating as restaurants with full kitchens and serving full meals and licensed as alcoholic beverage establishment.~~

\* \* \*

**SECTION 3.** That, Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District," Section 142-693, "Permitted Uses", of the Land Development Regulations, is hereby amended to read as follows:

## DIVISION 18. PS PERFORMANCE STANDARD DISTRICT

\* \* \*

### **Sec. 142-693. Permitted uses.**

\* \* \*

- (c) For purposes of this section, pawnshops and dance halls and entertainment establishments ~~not also operating as alcoholic beverage establishments and restaurants with full kitchens and serving full meals~~ are not permitted as a main permitted or accessory use ~~in the redevelopment area~~ south of Fifth Street;

however, in the C-PS3 and C-PS4 districts dance halls and entertainment establishments shall be permitted as an accessory use within a hotel of 250 rooms or more with access to the dance hall or entertainment establishment only from the interior lobby and not from the street.

\* \* \*

#### SECTION 4. REPEALER

All ordinances or parts of ordinances *in* conflict herewith be and the same are hereby repealed.

#### SECTION 5. SEVERABILITY

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

#### SECTION 6. CODIFICATION

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

#### SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this 5th day of May, 2004

ATTEST:

Wendy Parden  
CITY CLERK

[Signature]  
MAYOR

APPROVED AS TO FORM  
& LANGUAGE & FOR EXECUTION

[Signature] 3-31-04  
City Attorney [Signature] Date

First Reading:  
Second Reading:

Verified by: [Signature]

Jorge G. Gomez, AICP  
Planning Director

Underscore denotes new language

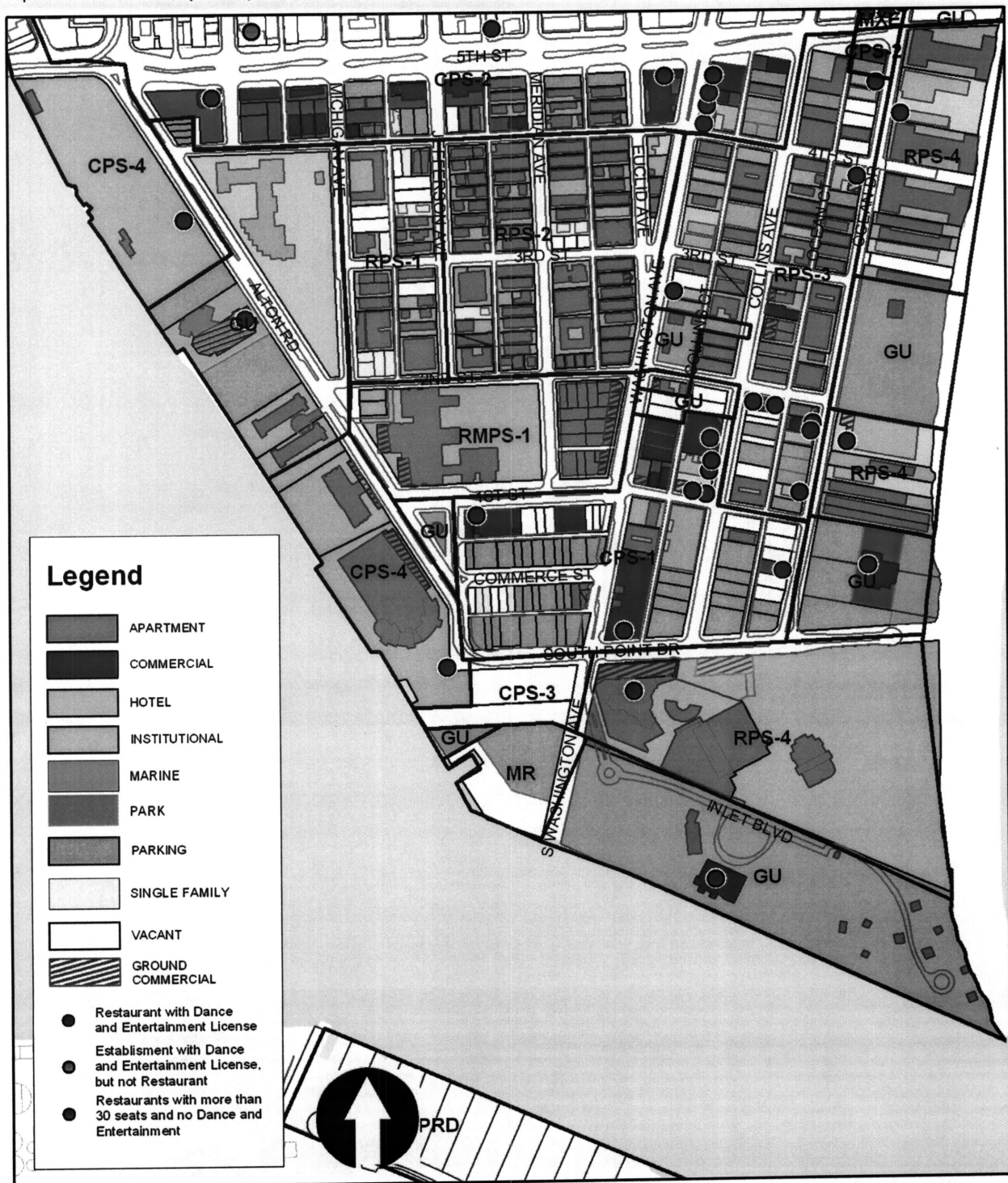
~~Strikethrough~~ denotes deleted language

F:\PLAN\PLB\draft ordinances\2004\1651 - ord nightclubs also operating as restaurants.doc

# LAND USE SURVEY

## South Point

Prepared March 25 2004, by the City of Miami Beach Planning Department



## Restaurants and Bars in South Point Area

03/31/2004

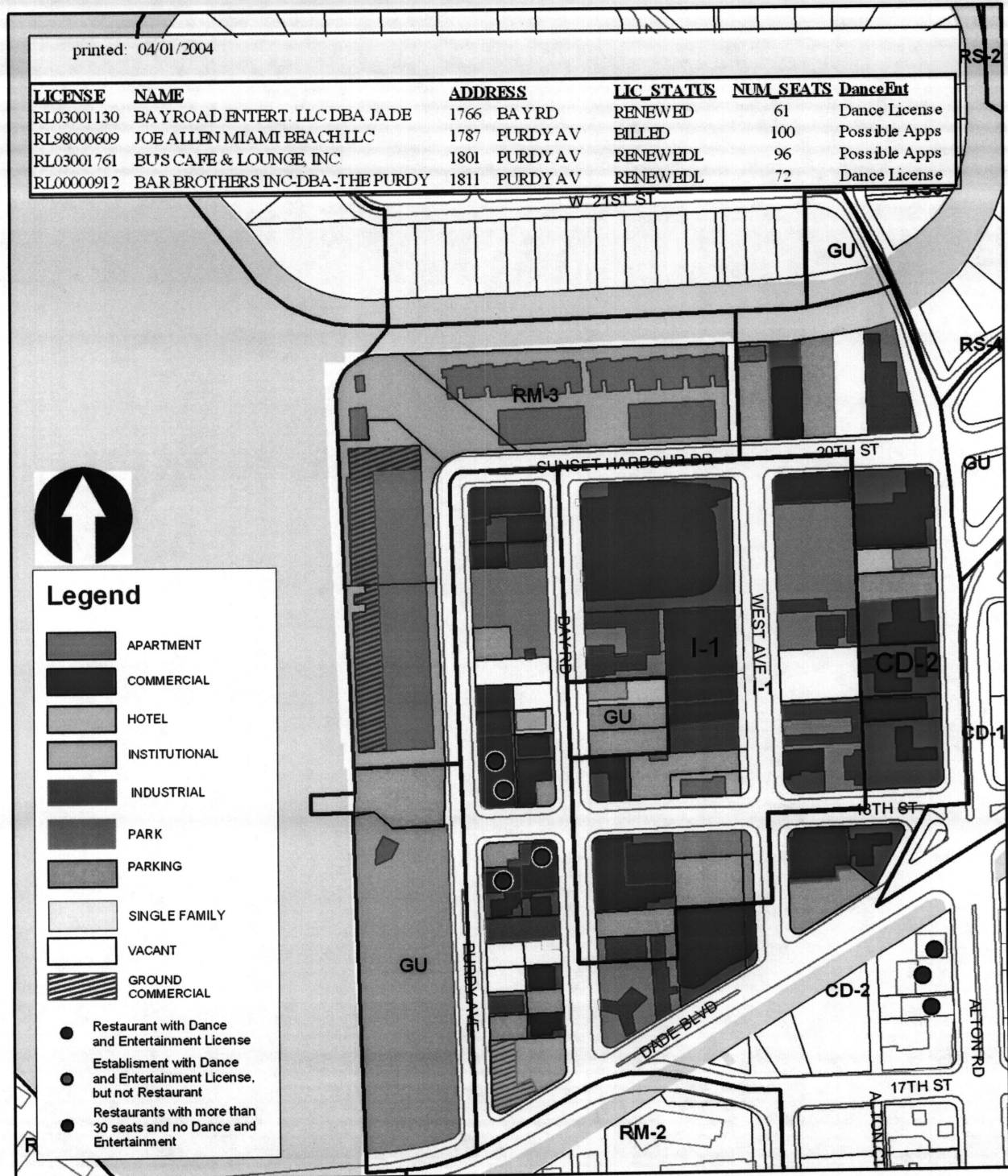
LICENSE #	NAME	ADDRESS	LIC_STATUS	# of seats	DanceEnt
RL03002074	KOMAR INVESTMENTS INC	161 OCEAN DR	NEW	28	
RL95202943	BEACH MARKET	247 COLLINS AV	RENEWEDL	0	
RL00000905	NEAM'S GOURMENT.	300 ALTON RD	RENEWEDL	1	
RL03001640	d/b/a SUNSHINE & AJ FOOD WITH	747 4TH ST	RENEWED	9	
RL88120595	PENROD'S BEACH CLUB	1 OCEAN DR	RENEWED	300	Dance License
RL01000625	136 Collins Av LC-dba-Opium Ga	136 COLLINS AV	RENEWED	225	Dance License
RL03001232	PURE LOUNGE HOLDINGS LLC	150 OCEAN DR	RENEWED	60	Dance License
RL95213664	MONTY'S ON THE BEACH, LTD.	300 ALTON RD	RENEWEDL	700	Dance License
RL03001562	TAVERNA OPA OF SOUTH BEACH	36 OCEAN DR	RENEWEDL	199	Dance License
RL03001213	CLUB IBIZA INC DBA HARRISON'S	411 WASHINGTON AV	RENEWED	100	Dance License
RL00000422	L'ENTRECOTE DE PARIS	419 WASHINGTON AV	BILLED	49	Dance License
RL98000377	SMITH & WOLLENSKY	1 WASHINGTON AV	RENEWED	600	Possible Apps
RL95202596	NEMO	100 COLLINS AV	RENEWEDL	145	Possible Apps
RL01001078	SHOJI SUSHI	100 COLLINS AV	RENEWEDL	72	Possible Apps
RL03001173	THE ROOM, INC.	100 COLLINS AV	RENEWEDL	30	Possible Apps
RL02002438	LA PIAGGIA INC DBA LA PIAGGA B	1000 SOUTH POINTE	RENEWEDL	114	Possible Apps
RL96222191	GALBEN GROUP, INC. D/B/A BURGE	1100 5TH ST	RENEWEDL	70	Possible Apps
RL04002493	PRIME 112 , LLC	112 OCEAN DR	NEW	80	Possible Apps
RL98000961	SO FI HIDEAWAY	124 2ND ST	RENEWED	30	Possible Apps
RL03000872	LA FACTORIA, LLC	124 COLLINS AV	RENEWEDL	90	Possible Apps
RL03001060	d/b/a PURE LOUNGE/ JOIA RESTA	150 OCEAN DR	RENEWED	60	Possible Apps
RL96226730	BIG PINK	157 COLLINS AV	RENEWEDL	225	Possible Apps
RL01000072	MIAMI BEACH MARRIOTT @ SOUTH	161 OCEAN DR	RENEWEDL	160	Possible Apps
RL84001376	JOE'S STONE CRABS INC	227 BISCAYNE ST	RENEWEDL	512	Possible Apps
RL98000595	ODYSSEY	235 WASHINGTON AV	RENEWEDL	60	Possible Apps
RL99000874	GREEN COMET D/B/A THE WAVE	350 OCEAN DR	RENEWEDL	32	Possible Apps
RL04002103	M.G. GRANDE CORP	400 ALTON RD	APP-PEND	48	Possible Apps
RL95209553	CHINA GRILL SOBE INC.	404 WASHINGTON AV	RENEWEDL	486	Possible Apps
RL03001265	LA LOCANDA	413 WASHINGTON AV	RENEWEDL	30	Possible Apps
RL02002023	ARDEN SAVOY PARTNERS, LLC	425 OCEAN DR	RENEWED	200	Possible Apps
RL98000733	C6-431 PARTNERS, INC. DBA TUSC	433 WASHINGTON AV	RENEWEDL	123	Possible Apps
RL02001158	OCEAN FIVE BISTRO, LLC	444 OCEAN DR	RENEWEDL	70	Possible Apps
RL03001421	FLUTE CHAMPAGNE LOUNGE	500 SOUTH POINTE	RENEWED	60	Possible Apps
RL02001369	d/b/a OASIS	840 1ST ST	RENEWED	60	Possible Apps



# LAND USE SURVEY

## Industrial District

Prepared March 25 2004, by the City of Miami Beach Planning Department



**CITY OF MIAMI BEACH  
COMMISSION ITEM SUMMARY**

**Condensed Title:**

An Ordinance of the Mayor and City Commission of the City Of Miami Beach, Florida, amending the Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations", Division 5, CD-2 Commercial, Medium Intensity District, Section 142-302, "Main Permitted Uses"; Division 11, I-1 Light Industrial District, Section 142-485, "Prohibited Uses"; and Division 18, "PS Performance Standard District," Section 142-693 "Permitted Uses", by eliminating the exception for dance halls and entertainment establishments that also operate as alcoholic beverage establishments and restaurants with full kitchens as permitted uses in certain areas of the CD-2 Commercial, Medium Intensity District, the I-1 Light Industrial District, and the PS Performance Standard District.

**Issue:**

Currently the Land Development Regulations of the Miami Beach City Code prohibit "stand-alone" nightclubs in a few selected areas of the City where other commercial establishments would normally be permitted. This regulation had been in place for several years, in the case of the Redevelopment Area south of Fifth Street and the I-1 Light Industrial district in the Sunset Harbour and the CD-2 overlay area that surrounds this district. The Land Development Regulations also contain an exception to this prohibition for establishments that are licensed as restaurants with a full kitchen serving full meals.

Under current regulations the existing establishments with restaurant and entertainment/dancing licenses would be allowed to continue in operation, or be "grandfathered-in" according to the nonconforming provisions of the City Code. The proposed ordinance limits new applications for dance hall and/or entertainment licenses from being approved in the specified areas. The Administration believes that at the very least, the proposed ordinance must be acted upon in order to limit the impact of the restaurant exclusion, as the potential for all existing restaurants to add the entertainment component to the license is great.

**Item Summary/Recommendation:**


The proposed ordinance will eliminate the exception in those districts that do not permit dance halls. Existing establishments that currently have restaurants licenses with the dance/entertainment component will become legal nonconforming uses and may continue to operate in such fashion.

The Administration recommends that the City Commission adopt the ordinance.

**Advisory Board Recommendation:**

At the February 24, 2004 meeting of the Planning Board, a motion was made and seconded recommending that the City Commission approve the proposed ordinance. The vote was 5-0 (two members absent)

**Financial Information:**

Source of Funds:   Finance Dept.		Amount	Account	Approved
	1			
	2			
	3			
	4			
	Total			

**City Clerk's Office Legislative Tracking:**

Mercy Lamazares / Jorge G. Gomez

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
		

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AGENDA ITEM

R5E

DATE

5-504

# CITY OF MIAMI BEACH

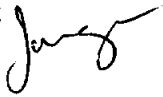
CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139  
www.miamibeachfl.gov



## COMMISSION MEMORANDUM

**To:** Mayor David Dermer and  
Members of the City Commission

**Date:** May 5, 2004

**From:** Jorge M. Gonzalez  
City Manager 

**Second Reading Public Hearing**

**Subject:** Eliminating dance halls & entertainment establishments in certain districts

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", DIVISION 5, CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT, SECTION 142-302, "MAIN PERMITTED USES"; DIVISION 11, I-1 LIGHT INDUSTRIAL DISTRICT, SECTION 142-485, "PROHIBITED USES"; AND DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," SECTION 142-693 "PERMITTED USES", BY ELIMINATING DANCE HALLS AND ENTERTAINMENT ESTABLISHMENTS ALSO OPERATING AS ALCOHOLIC BEVERAGE ESTABLISHMENTS AND RESTAURANTS WITH FULL KITCHENS AND SERVING FULL MEALS AS PERMITTED USES IN CERTAIN AREAS OF THE CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT, THE I-1 LIGHT INDUSTRIAL DISTRICT, AND THE PS PERFORMANCE STANDARD DISTRICT; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

### **ADMINISTRATION RECOMMENDATION**

The Administration recommends that the Commission adopt the ordinance.

### **BACKGROUND AND ANALYSIS**

Currently the Land Development Regulations of the Miami Beach City Code prohibit "stand-alone" nightclubs in a few selected areas of the City where other commercial establishments would normally be permitted. In the case of the Redevelopment Area(RDA) south of Fifth Street, this regulation was adopted in 1994, when "nightclubs" were added to the list of prohibited uses in CPS districts. This regulation was enacted to protect the adjacent residential neighborhoods from the negative impacts such as unwanted noise, excessive traffic, difficulty finding parking, and issues associated with security, that could normally be associated with nightclub uses.

However, the Land Development Regulations contain an exception to this prohibition for establishments which are licensed as restaurants, which also contain nightclub



(dance hall and/or entertainment) uses. These establishments are permitted south of Fifth Street, as long as they also have a restaurant license and have a full kitchen serving full meals.

In the recent past, citizens who live in the areas in which stand-alone nightclubs are prohibited have complained that establishments which have restaurant licenses but also change into nightclub type operations later in the evening have just as much of a negative impact on the lives of nearby residents as do the stand-alone type of clubs. Responding to such concerns, the Planning Board, at its meeting of October 28, 2003, requested an amendment to the Land Development Regulations, addressing nightclubs which operate within restaurants in areas where stand-alone nightclubs would not otherwise be permitted.

Under current regulations the existing establishments that have restaurant and entertainment/dancing licenses would be allowed to continue operating as previously permitted under the City Code, subject to the provisions of Chapter 118, Article III, "Amendment Procedures," concerning non-conforming uses, and other applicable law. These non-conforming establishments include the likes of Monty's and Penrod's, as well as Opium. The proposed ordinance would only limit new applications for dance hall and/or entertainment licenses from being approved in the specified areas.

The attached map and list show that there are 34 restaurants and bars in the South Pointe area, south of 5<sup>th</sup> Street, of which 7 currently have the dance/entertainment module included, resulting in 27 establishments that potentially could obtain the dance/entertainment component added to their license should this proposed ordinance not be approved. The Sunset Harbor area (CD-2 and I-1 districts), is also affected by the proposed ordinance, although not to the same degree as the area south of 5<sup>th</sup> Street. As can be seen in the attached map of this area, there are 4 licensed establishments, of which 2 have the dance/entertainment module.

The Administration believes that at the very least, the proposed ordinance must be acted upon in order to limit the impact of the restaurant exclusion, as the potential for all existing restaurants to add the entertainment component to the license is great as explained in the paragraph above. Indeed, as of the writing of this report, three license applications to add entertainment modules to existing alcoholic beverage establishments have been received and turned down because of this proposed ordinance has created a zoning-in-progress.

The City Commission stated that the grandfathered status of existing establishments is a concern, and that there may be other means by which the impact could be diminished, such as limiting the hours of operation, amortizing uses, etc. To this end, these issues have been referred to the Planning Board for its consideration and recommendation.

## **PLANNING BOARD ACTION**

At the February 24, 2004 meeting of the Planning Board, a motion was made and seconded recommending that the City Commission approve the proposed ordinance.

## **CITY COMMISSION ACTION**

At the April 14, 2004 meeting, the Commission adopted the proposed ordinance on first reading public hearing. At that meeting the Commission also referred 4 items to the Planning Board for review and recommendation; these are:

- Hours of operation for restaurants, bars and clubs.
- Creating a cabaret district.
- Definition of "accessory use" as opposed to "main permitted use."
- Look at the businesses that would become legal non-conforming after the adoption of the proposed ordinance, and how they would be affected by the change of hours.

Commissioner Steinberg asked that the ordinance be reviewed so that legitimate businesses could operate with some form of entertainment, but at the same time making sure that the illegitimate ones causing the problems are stopped.

The Administration will analyze these issues and bring appropriate recommendation to the Planning Board for their consideration.

The Administration and the Legal Department discussed options for different modifications to the ordinance between first and second reading. The conclusion was that the entertainment provided in existing restaurants that have the proper license can continue, and that the current proposal will control future venues in these areas. The issue of entertainment is one that must be reviewed under a separate amendment with perhaps a more clear definition of the term "entertainment."

As a note of information, the term "entertainment" is currently defined in Section 142-1361 of the Code as follows:

Entertainment means any live show or live performance or music amplified or nonamplified. Exceptions: Indoor movie theater; big screen television **and/or background music, amplified or nonamplified, played at a volume that does not interfere with normal conversation.** (Emphasis added)

## **FISCAL IMPACT**

As proposed, the ordinance will allow those businesses with a Dance License module to continue to operate as legal-non-conforming uses. Therefore one can argue that there should be minimal, if any, adverse fiscal impact to the current condition. However, closing the loophole will prevent further proliferation of establishments with

Dance Licenses, and this could affect future growth of resort tax collection in said areas. It can also be expected that if establishments such as these were to proliferate, there would be a corresponding increase in the levels of service the City would be required to provide which, of course, would mean increased expenditures by the City.

Of greater fiscal concern are the impacts which could arise from the decisions reached in considering the items referred to the Planning Board.

### **CONCLUSION**

Pursuant to Section 118-164(2), in all cases in which the proposed amendment changes the actual list of permitted, conditional or prohibited uses within a zoning category, two advertised public hearings on the proposed ordinance are required, with at least one hearing held after 5:00 p.m. on a weekday.

The second public hearing shall be held at least ten days after the first hearing and shall be advertised at least five days prior to the public hearing. Immediately following the public hearing at the second reading, the City Commission may adopt the ordinance by an affirmative vote of five-sevenths of all members of the City Commission.

JMG/CMC/JGG/ML

## CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS



**NOTICE IS HEREBY** given that public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, May 5, 2004**, to consider the following:

**at 10:15 a.m.:**

An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, Providing For Those Classifications Represented By The Fraternal Order Of Police (FOP) In Accordance With The Negotiated Agreement A 3% Increase For All FOP Bargaining Unit Employees And An Increase Of 3% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 5, 2003, And Effective The Payroll Period Ending October 3, 2004; And A 3.5% Increase For All FOP Bargaining Unit Employees And An Increase Of 3.5% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 9, 2005; Repealing All Ordinances In Conflict; Providing For Severability; And Providing For An Effective Date, And Codification.

**at 10:20 a.m.:**

An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, Providing For Those Classifications Represented By The International Association Of Firefighters (IAFF) In Accordance With The Negotiated Agreement A 3% Increase For All IAFF Bargaining Unit Employees And An Increase Of 3% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 5, 2003, And Effective The Payroll Period Ending October 3, 2004; And A 3.5% Increase For All IAFF Bargaining Unit Employees And An Increase Of 3.5% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 9, 2005; Repealing All Ordinances In Conflict; Providing For Severability; And Providing For An Effective Date, And Codification.

**at 10:25 a.m.:**

An Ordinance Amending Ordinance No. 1605, The Unclassified Employees Salary Ordinance; Providing For A 3% Increase For All Unclassified Employees And A 3% Increase To The Minimum And The Maximum Of The Salary Ranges Effective May 3, 2004, And Effective The First Payroll Period Beginning On Or After May 1, 2005; A 3.5% Increase For All Unclassified Employees And A 3.5% Increase To The Minimum And The Maximum Of The Salary Ranges Effective The First Payroll Period Beginning On Or After May 1, 2006; And Providing For A Repealer, Severability, Effective Date, And Codification.

**at 10:30 a.m.:**

An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance, For Classifications In Group VI, Being All Other Classifications In The Classified Service Not Covered By A Bargaining Unit; Providing For A 3% Increase For All Employees In Group VI, "Others," And A 3% Increase To The Minimum And The Maximum Of The Salary Ranges Effective May 3, 2004, And Effective The First Payroll Period Beginning On Or After May 1, 2005; A 3.5% Increase For All Employees In Group VI, "Others," And A 3.5% Increase To The Minimum And The Maximum Of The Salary Ranges Effective The First Payroll Period Beginning On Or After May 1, 2006; And Providing For A Repealer, Severability, Effective Date, And Codification.

Inquiries may be directed to the Human Resources at (305)673-7524.

**at 5:15 p.m.:**

An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 5, CD-2 Commercial, Medium Intensity District, Section 142-302, "Main Permitted Uses" Division 11, I-1 Light Industrial District, Section 142-485, "Prohibited Uses" And Division 18, "PS Performance Standard District," Section 142-693 "Permitted Uses," By Eliminating Dance Halls And Entertainment Establishments Also Operating As Alcoholic Beverage Establishments And Restaurants With Full Kitchens And Serving Full Meals As Permitted Uses In Certain Areas Of The CD-2 Commercial, Medium Intensity District, The I-1 Light Industrial District, And The PS Performance Standard District; Providing For Repealer, Severability, Codification And An Effective Date.

Inquiries may be directed to the Planning Department at (305)673-7550.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of this ordinance are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk  
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact 305-604-2489 (voice), 305-673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #255-

IN RE: CITY OF MIAMI BEACH COMMISSION MEETING

ITEM NO.: ITEM R5E PUBLIC HEARING

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CITY OF MIAMI BEACH  
COMMISSION MEETING

MAY 5, 2004

ITEM R5E PUBLIC HEARING

ELIMINATE DANCE HALLS/ENTERTAINMENT  
ESTABLISHMENTS IN CERTAIN DISTRICTS

1 COMMISSION MEMBERS:

2 DAVID DERMER, MAYOR  
3 SAUL GROSS, VICE MAYOR  
4 SIMON CRUZ, COMMISSIONER  
5 MATTI HERRERA BOWER, COMMISSIONER  
6 LUIS R. GARCIA, JR., COMMISSIONER  
7 JOSE SMITH, COMMISSIONER  
8 RICHARD STEINBERG, COMMISSIONER

9 ALSO PRESENT:

10 JORGE GONZALEZ, CITY MANAGER  
11 MURRAY DUBBIN, CITY ATTORNEY  
12 ROBERT E. PARCHER, CITY CLERK  
13 JORGE GOMEZ, PLANNING DEPARTMENT  
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1 (Thereupon:)

2 VICE MAYOR GROSS: Okay. Now we're  
3 going to go to the 5:15 time certain, which  
4 is the dance hall/entertainment  
5 establishments in the South Pointe and in  
6 the Sunset Harbor districts.

7 Mr. Manager, if you could introduce  
8 the item to us, please.

9 THE CLERK: Yes.

10 VICE MAYOR GROSS: You want to read  
11 the title.

12 THE CLERK: Yes, sir.

13 VICE MAYOR GROSS: Okay.

14 THE CLERK: An ordinance the Mayor  
15 and the City Commission of the City of  
16 Miami Beach, Florida (Inaudible) City of  
17 Miami Beach, by amending Chapter 142,  
18 zoning district and regulations, Article 2,  
19 district regulations, Division 5 CD-2  
20 commercial medium intensity districts;  
21 Section 142-302, main permitted uses,  
22 Division 11; I-1 like industrial divisions;  
23 Section 142- 485, prohibited uses; and  
24 Division 17, PS performance standard  
25 district; Section 142-693, permitted uses.

1                   By eliminating dance hall and  
2                   entertainment establishments also operating  
3                   as alcoholic beverage establishments and  
4                   restaurants with full kitchens and serving  
5                   full meals as permitted uses in certain  
6                   areas of the CD-2 commercial medium  
7                   intensity district, the I-1 light  
8                   industrial district, and the PS performance  
9                   standard district providing for appeal or  
10                  severability, codification, and an  
11                  effective date.

12                 VICE MAYOR GROSS: Okay. Thank you,  
13                 Bob. Mr. Manager, maybe you can tell us in  
14                 plain English what we're doing today.

15                 MR. GONZALEZ: I'll try it in  
16                 English, and then I'll ask Jorge Gomez to  
17                 fill in the details, but as you know, this  
18                 is second reading on an ordinance that came  
19                 before you at your last meeting, Mr. Vice  
20                 mayor, which contrary to a lot of perhaps  
21                 information that's been disseminated has  
22                 nothing to do with hours of operation,  
23                 it simply closes a loophole that exists in  
24                 our code.

25                 Right now in the area south of 5th

1 Street in the South Pointe district and in  
2 the areas identified near Sunset Harbor and  
3 the industrial NPS and so forth districts,  
4 there's an absolute prohibition to  
5 nightclubs.

6 However, in our code it also allows  
7 for restaurants having a full kitchen  
8 operating as a restaurant that they may be  
9 able to pull a dance hall module of our  
10 license which allows them to have  
11 entertainment and dancing in those  
12 establishments that are operating as  
13 restaurants.

14 What has happened is that there are  
15 a number of restaurants that have opened in  
16 these areas or have existed in these areas  
17 that operate as restaurants but have the  
18 dance hall license opportunity, and at some  
19 point during the evening, they -- they  
20 either morph into a dance establishment or  
21 just the nature of what their business  
22 model calls for, have the impacts that are  
23 similar to a dance hall.

24 And so what the planning staff has  
25 developed and gone through the planning

1 board and recommended is that at least in  
2 those areas where the commission in the  
3 past has indicated that there's a desire  
4 not to have those types of neighborhood  
5 impact establishments, those dance halls,  
6 that that loophole be closed. So the  
7 ordinance before you is specific to those  
8 two areas.

9 Secondly, the ordinance as proposed  
10 deals with the issue in a prospective  
11 manner. That is, it does not call for any  
12 closure of current operations, any properly  
13 licensed establishment that is currently in  
14 business would convert into a legal  
15 nonconforming use in those areas, and this  
16 ordinance would not affect their operation  
17 as is currently the case.

18 Finally, as it relates to the hours  
19 and cabaret districts and all of those  
20 other conversations that have been held, at  
21 your last commission meeting you'll recall  
22 that when that item came up, those matters  
23 were referred to the planning board for  
24 consideration and discussion. They have  
25 not taken that matter up yet. They will at

1 a subsequent agenda and bring you  
2 recommendations accordingly.

3 So if you accept the ordinance that  
4 is before you today, the -- the basic  
5 impact of what you would be accomplishing  
6 is essentially eliminating or preventing  
7 the proliferation of establishments to come  
8 into these areas, operate as a restaurant,  
9 and pull a dance hall license which would  
10 then allow them to have certain types of  
11 activities that would appear more as a  
12 dance establishment or at least a  
13 neighborhood impact establishment than is  
14 currently the case.

15 So that's -- that's what's before  
16 you today. I'll ask Jorge to fill in any  
17 details according any questions you have.

18 VICE MAYOR GROSS: Just to clarify,  
19 Jorge, when is the issue of the hours  
20 supposed to be heard and in front of what  
21 body is that supposed to be heard?

22 MR. GONZALEZ: Do you have the date?

23 MR. GOMEZ: Yeah, there were several  
24 issues that you asked the planning board to  
25 explore. One of them was to explore the

1 issues of operation in these areas. The  
2 definition of "entertainment" was a  
3 question, how do you deal with some of the  
4 legal nonconforming issues. All of that  
5 will probably be addressed at a discussion  
6 item level, not at an ordinance public  
7 hearing level by the planning board at  
8 their June meeting at the end of the fourth  
9 Tuesday in June.

10 VICE MAYOR GROSS: Okay. I don't  
11 know that everybody can hear. What he said  
12 is that the item that's before us today is  
13 not on the hours that the clubs are  
14 operating. That's going to be a long  
15 discussion that's going to start at the  
16 planning board level in June in the fourth  
17 Tuesday of the month.

18 What's before us today is not the  
19 hours, it's the issue of whether more night  
20 clubs should be allowed to open in the  
21 South Pointe neighborhood and in the Sunset  
22 Harbor neighborhood.

23 This legislation today would not  
24 effect any existing businesses that were  
25 operating legally, it is really directed at



1 future businesses that would not be allowed  
2 to open, and it does that by closing a  
3 loophole that was allowing certain  
4 nightclubs to pretend to be restaurants but  
5 really operating as nightclubs.

6 But nightclubs, just so everyone  
7 understands here, we're not a permitted use  
8 in Sunset Harbor or in South Pointe  
9 regardless of what we were doing today. It  
10 was a special exception that if they were a  
11 full service restaurant, they could also  
12 have a nightclub, and what happened is  
13 those -- that was being exploited by some  
14 operations that really were not  
15 restaurants, they were really clubs, and  
16 they were not a permitted use.

17 The issue of the hours is really not  
18 what this ordinance deals with today, so  
19 I know a lot of you came and we appreciate  
20 your coming, and I think I speak for every  
21 member of the commission in saying that  
22 this commission takes the nightlife very  
23 seriously, we recognize that it's an  
24 integral part of our community. We look  
25 forward to creating a thriving atmosphere

1           for the nightlife industry.

2           We also -- and I'm sure all -- most  
3           of you here are probably residents, and  
4           I know that all of you want the residents  
5           in South Pointe to enjoy their quality of  
6           life while at the same time giving the  
7           deference to the nightclub industry.

8           So we're here, really, to balance  
9           these interests, but we're not here to  
10          discuss the hours, which I know is what a  
11          lot of people came, because there were a  
12          lot of emails going around saying that what  
13          was on the commission's agenda today was to  
14          roll back hours, not just in South Pointe  
15          or Sunset Harbor, which is not on the  
16          agenda, but citywide, and that's not been  
17          suggested by anybody that I know. So  
18          I just wanted to clarify the record as far  
19          as that goes.

20                 COMMISSIONER GARCIA: You know what.

21                 COMMISSIONER BOWER: Mayor.

22                 UNIDENTIFIED SPEAKER: (Inaudible.)

23                 VICE MAYOR GROSS: Okay. It wasn't  
24                 suggested at this commission meeting by the  
25                 mayor or by any -- or by any of the

1 commissioners at the last meeting at which  
2 it was discussed.

3 UNIDENTIFIED SPEAKER: The first  
4 reading --

5 COMMISSIONER GARCIA: Excuse me, can  
6 I have the floor?

7 VICE MAYOR GROSS: Yeah, David,  
8 everybody will get their chance.

9 Commissioner Garcia.

10 COMMISSIONER GARCIA: This is  
11 specifically what I was addressing when  
12 Mr. Diaz was here, the level of anxiety  
13 that there is in the community and the lack  
14 of understanding that there is.

15 You know, we're doing things  
16 little-by-little which people are -- are  
17 looking at us the first domino falling down  
18 and the curtain will be over. With all due  
19 respect to the mayor that is not here right  
20 now (Inaudible), which should be running on  
21 the city television or the last eight  
22 weeks, he pretty much said that he was in  
23 favor of rolling back the hours to two  
24 o'clock. Okay? And you can (Inaudible.)

25 Now, what I would propose, what

1 I would propose is the same thing, and  
2 I will make the motion if you guys want --  
3 if you guys want to second it and look into  
4 it, we'll do it. I would love to continue  
5 this. I won't kill it. I would love to  
6 continue it up until the time that we can  
7 get together with the planning board and  
8 set a cabaret district, set hours citywide.

9 When Mr. Diaz came here as the  
10 chairman of the planning board, in his list  
11 of priorities, the entertainment was way  
12 down, it was right behind concurrency, and  
13 to me, that's a great disservice. You know  
14 why, that should be even ahead of the  
15 single family issue. That should be the  
16 issue of today right now.

17 What I would propose -- what I would  
18 propose, and I'm sorry all the people are  
19 here, would be to open and continue, let's  
20 get together, let's have a joint session  
21 with the county boys if it's legal, and  
22 let's have citywide, citywide input,  
23 because you know what, yes, we have had the  
24 residents, we have the industry, but you  
25 know what, folks, you go out there and you

1 listen to a lot of people, a lot of people  
2 that don't live in the area, that are not  
3 part of the industry that have the same  
4 concerns.

5 So I would make that motion to open  
6 and continue up to the time that it could  
7 be holistically discussed with the planning  
8 board. If there's a second, I would love  
9 it. If not, I will continue to discuss it.

10 VICE MAYOR GROSS: Okay. Is there a  
11 second to that motion?

12 All right. If not, Commissioner  
13 Bower.

14 COMMISSIONER BOWER: I also want to  
15 say, you know, that there is a large stress  
16 in the community that have been suffering  
17 for this issue for over two and a half  
18 years, if not longer, and that it is time,  
19 and even though, you know, it is time that  
20 we address.

21 This is a simple issue that has been  
22 blown out of proportion that has no reason  
23 to have all the people that we have here,  
24 because what we're doing, and you explained  
25 it very clearly, is just closing a

1           loophole.

2                   Are we going to address the rollback  
3           to 2 a.m., the 5 a.m., the whatever a.m.  
4           you want to do? Not today, not any time  
5           soon, and if many of you were here when the  
6           discussion happened, that that will air and  
7           will have all the input from everybody that  
8           is concerned at the planning board,  
9           including the residents and including the  
10          fact that they have been battling this  
11          issue for a long time.

12                   So I couldn't second that motion  
13          only because of that, and I move to open  
14          the public hearing.

15                   VICE MAYOR GROSS: Okay. Let's take  
16          some public comments.

17                   COMMISSIONER GARCIA: Can I answer?  
18          I would like to answer Commission Bower.

19                   VICE MAYOR GROSS: Okay. Quickly,  
20          because we have a lot of people.

21                   COMMISSIONER GARCIA: Thanks God  
22          we live in a free country, but there's no  
23          censure here, okay, because this reminds  
24          me, this reminds me of World War II.  
25          The -- the policy of our peace men, you



1 know, we are pissing this group right now  
2 and then we're pissing the next group and  
3 the next group, and before you know you're  
4 going to bring a (Inaudible) all throughout  
5 the city. You know what, (Inaudible) go  
6 out and wait until -- until -- until the  
7 people from 1500 Ocean Drive come over or  
8 the people from (Inaudible) come over.

9 Let's do it -- let's look at  
10 it right now. Let's get the industry,  
11 let's get the residents, let's get the  
12 powers that be and let's work -- let's work  
13 on it holistically, and there won't be  
14 anxiety, there won't be winners, there  
15 won't be losers.

16 VICE MAYOR GROSS: All right.  
17 Commissioner Garcia, I will say this, the  
18 reason that the two neighbors were singled  
19 out that we're addressing is that those two  
20 are primarily residential neighborhoods  
21 that have -- folks.

22 COMMISSIONER GARCIA: Commissioner,  
23 commissioner, commissioner.

24 VICE MAYOR GROSS: Excuse me, I have  
25 the floor. Those are primarily residential

1 neighborhoods that have nightlife industry  
2 inserted directly mixed in with the  
3 commercial. So we tried --

4 COMMISSIONER BOWER: And not only  
5 that --

6 VICE MAYOR GROSS: There was a prior  
7 attempt to look at it on a broader level  
8 last year at the planning board, and  
9 it wasn't successful. And the reason that  
10 it was brought back is that the holistic  
11 approach didn't work, it didn't go  
12 anywhere, and so they said -- we said let's  
13 look at it in the two neighborhoods that  
14 we're having the biggest problem.

15 Let's make sure we don't have  
16 anymore proliferation in those two  
17 neighborhoods to at least stop the problem  
18 from getting worse, and then let's figure  
19 out how to address the problem that we do  
20 have, and that's what's going to go to the  
21 planning board.

22 COMMISSIONER GARCIA: Well, I --

23 VICE MAYOR GROSS: Commissioner  
24 Cruz.

25 COMMISSIONER CRUZ: I understand

1           what we're doing here today, and it's no  
2           secret we're trying to close the loophole,  
3           but obviously we don't get that many group  
4           showing up unless something is of major  
5           consequence, because we hardly get this  
6           type of audience.

7                     Now, the reality that they're here  
8           is because the mayor did stipulate and  
9           he brought the hours into question. That  
10          muddied the waters. Consequently, we have  
11          created a hysteria within the business  
12          community, and unfortunately, although  
13          we're going to try to stay on a narrow and  
14          focused agenda, we do have to recognize  
15          that the concern is about the rolling back  
16          of the hours, and personally, and I have  
17          met with the residents from the areas and  
18          I am in full support of this particular  
19          ordinance which does close a loophole, but  
20          I need to state in the here and now that  
21          the roll back is a very significant issue.  
22          It goes to the heart of what South Beach,  
23          Miami Beach, has become in the  
24          international community.

25                    And although, as many of you will

1           remember, I was not the darling of this  
2           industry in the past election, I sit up  
3           here to look after the best interest of  
4           this community in general, and this  
5           community is being defined at this  
6           particular place and time by its nightlife,  
7           and we cannot take that.

8           Look, this is not -- this is not  
9           about applause or whatnot, it's a real  
10          serious issue, because the tension that  
11          exists between the business community and  
12          the residential community is a real one,  
13          and it's been existing for a very long  
14          time.

15          We have to give it its due. That  
16          this particular ordinance that we're going  
17          to face is required, because we do not need  
18          proliferation, because we as a city made a  
19          mistake by allowing industries to go into  
20          places that they should not have?

21          Absolutely, and we must address  
22          that, but we are not going to and nor has  
23          it been our intention here to look at this  
24          in less than a serious note and address the  
25          issue.

1           Do we have to look at a cabaret  
2           district? Absolutely. That we also need  
3           to see the impact of the cost from an  
4           economic perspective of services that the  
5           five o'clock causes? Absolutely, but  
6           we also have to look at what it brings into  
7           the city and more importantly the  
8           intangible as a marketing tool as to who  
9           we have become.

10           But again, we're not dealing with  
11           the hours, and I state it, and I have  
12           addressed it now so that you see we're not  
13           going to be looking at it lightly. It's a  
14           very important factor as to who we are,  
15           because we are, yes, Art Deco, and we are  
16           the beaches. And let's remember, the beach  
17           is our number one natural resource, and  
18           that's the reason why most of us came down  
19           here, but we have evolved.

20           So we're not taking this situation  
21           for granted and we're not taking  
22           it lightly, but for today, today we're  
23           looking at a very specific and narrow  
24           agenda that is going to address the  
25           proliferation of nightclubs, which

1 I personally don't think that should  
2 continue because of the problems it has  
3 created.

4 But we also have to deal with the  
5 reality we have here now, and we won't be  
6 addressing the hours, nor I personally, and  
7 I don't speak for anyone else, I will not  
8 be taking lightly what it means to us to be  
9 a community that's seen as an entertainment  
10 hub.

11 So please understand this is today  
12 one issue. The other will be coming forth,  
13 and we're not -- it's not a foregone  
14 conclusion. It may be the mayor may have  
15 his vision, that's fine. We all up here  
16 have a difference of opinion, and we will  
17 address it. So don't think that your  
18 concerns are not being heard, but they will  
19 be heard in a very methodical and  
20 analytical fashion.

21 VICE MAYOR GROSS: Okay. Final  
22 comment.

23 COMMISSIONER SMITH: Can I just note  
24 one final comment?

25 VICE MAYOR GROSS:



1 Commissioner Smith, sure.

2 COMMISSIONER SMITH: You know,  
3 Commissioner Garcia mentioned the falling  
4 dominos theory, and I just want to make  
5 sure that everybody understands that which  
6 ever way the commission votes on this  
7 issue, and it seems to have support here on  
8 the commission, whichever way we go on the  
9 nightclub south of 5th Street and in Sunset  
10 Harbor should in no way reflect anybody's  
11 opinion as to whether or not we favor or do  
12 not favor the hours rollback.

13 That's a matter for another day  
14 which will be debated, and that issue will  
15 stand or fall on its own merits. So  
16 whatever we do here will not indicate that  
17 the dominos are falling. It's not -- far  
18 from it.

19 COMMISSIONER GARCIA: That's not  
20 quite true, commissioner. You know,  
21 let's -- let's talk about it. No, it's --  
22 it started with the historic preservation  
23 district. You know, you have a district in  
24 South Beach (Inaudible) support. Then all  
25 of a sudden you -- you have a history of

1 the historic preservation district in  
2 Mid-Beach. Now you're getting one on North  
3 Beach that doesn't belong there. So it's  
4 (Inaudible.)

5 VICE MAYOR GROSS: Okay. Let's --  
6 let's keep on point.

7 COMMISSIONER GARCIA: And that's  
8 what the people are afraid of. The people  
9 are afraid that (Inaudible.)

10 VICE MAYOR GROSS: Commissioner  
11 Bower.

12 COMMISSIONER BOWER: Thank you.

13 COMMISSIONER GARCIA: (Inaudible.)

14 COMMISSIONER BOWER: What I am going  
15 to talk about is this: I think  
16 Commissioner Smith said something that is  
17 very key here, because, you know, everybody  
18 perceives everything as their world, and in  
19 my perception, even though I speak and I  
20 say things, maybe people take it in a  
21 different manner than I am thinking about  
22 it.

23 I have never thought of rolling back  
24 the hours, and when people tell me about  
25 rolling back the hours, I'm always at odds,

1           why are they discussing this issue. And  
2           I think now listening to everybody what is  
3           most disturbing to the residents in the  
4           area, it's not the nightclubs that are in  
5           doors that stay open until five clock at  
6           night, in the morning, those nightclubs  
7           nobody complains.

8                   When we discuss the hours and maybe  
9           when that theme comes up, it comes up with  
10          open air nightclubs and venues, those are  
11          the only ones that residents have  
12          complained about. When the residents are  
13          not able to, in their homes, just like you  
14          have a right to work and have a nightclub,  
15          they have a right to be at their house and  
16          be able to sleep at night.

17                   So I don't -- you know, I am not in  
18          favor of rolling back hours, and nobody has  
19          ever -- I mean, they put that word into my  
20          mouth, and it's not true.

21                   I think Miami Beach is a wonderful  
22          place to live. I think that we have grown  
23          because we're tolerant, because we can live  
24          and decide issues discussing it and talking  
25          to each other, and I think that that's

1           what's going to happen with these issue.  
2           We need to be good neighbors to each other.

3                   The residents need to understand the  
4           livelihood of the people that work in the  
5           nightlife, and the nightlife needs to  
6           understand that, yes, when you came here  
7           there might have not been residents in that  
8           area, but in that area now there's over  
9           2,000 or 3,000 people that live there that  
10          have newly arrived.

11                   So you know what, I'm a  
12          preservationist, and I would like to see  
13          nothing touched in the architectural  
14          district that we have, but as they always  
15          tell me, you've got to go with the time,  
16          you've got to change the things, and you  
17          have to adjust. So that's what we're doing  
18          now.

19                   VICE MAYOR GROSS: Okay. Thank you,  
20          Commissioner Bower. We're going to take  
21          public comment now. If I can ask folks to  
22          make their remarks in two minutes. I'm  
23          sure we have a lot of people that would  
24          like to speak.

25                   MS. BLECKER: Commissioner Gross?

1 VICE MAYOR GROSS: Yes.

2 MS. BLECKER: I ask for a point of  
3 privilege. There are a number of  
4 approximately ten citizens from Sunset  
5 Harbor here, none of whom could find a  
6 seat, and we would like -- have not spoken  
7 before, we have under two minutes for  
8 everybody and to the point. If you can  
9 take us first and we can get on our bus and  
10 go home, and --

11 VICE MAYOR GROSS: Okay. Shh.

12 MS. BLECKER: And there will be no  
13 sense in talking if we have this all over  
14 the room.

15 VICE MAYOR GROSS: Right. I think  
16 the best way for us to do it, you're at the  
17 mic, you're welcome to speak first. I'd  
18 like to go across the room is the fairest  
19 way to do it, because I don't want to start  
20 picking out specific people or groups that  
21 are going to speak in a sequence. Okay?

22 COMMISSIONER BOWER: Do we have a  
23 sign-in sheet?

24 MS. BLECKER: No.

25 COMMISSIONER BOWER: Could we have a

1 sign-in sheet.

2 VICE MAYOR GROSS: Well, Matti,  
3 let's -- let's do it -- we'll go across the  
4 room. I think -- yeah.

5 UNIDENTIFIED SPEAKER: (Inaudible.)

6 UNIDENTIFIED SPEAKER: (Inaudible.)

7 VICE MAYOR GROSS: All right. Let's  
8 get started, please. Make your remarks.

9 MS. BLECKER: My name is Judith  
10 Cohen Blecker, I live at 1900 Sunset Harbor  
11 Drive. I have lived in Miami Beach since  
12 1932, before many of you were born, and  
13 I've lived in various areas that are now  
14 known as South Beach. I've lived in Sunset  
15 Harbor since 1997, and I have no intention  
16 to moving to Aventura or Kendall.

17 In my neighborhood nightclubs bring  
18 traffic, noise, crowds all night long.  
19 Club goers have no respect for our  
20 community. There's a children's playground  
21 in Island View Park, and on any given  
22 morning the playground is littered with  
23 broken beer bottles, drug paraphernalia,  
24 and human excrement from the night before.

25 Please, I urge you to vote yes, stop

1 more nightclubs from moving into our  
2 neighborhood.

3 VICE MAYOR GROSS: Okay. Thank you.

4 MS. HOLFORT: Randy Holfort, 1390  
5 Ocean Drive, president. I am very --

6 VICE MAYOR GROSS: Folks, please.

7 MS. HOLFORT: I'm very -- I'm very  
8 dismayed about all of this happening, that  
9 we've got divided. This has been so  
10 divisive, I've heard -- and I'm a resident,  
11 and I heard the Mayor Dermer when he said  
12 this. His was based on the amount of  
13 policing we had. I was looking at the  
14 television before I came here, and I see  
15 the vision that should be happening, i.e.,  
16 the interloping.

17 What is needed is that we work  
18 together, Davie, whoever brings in  
19 cleaning, clean up this, we need more  
20 police, because the FBI and the CIA are  
21 working together for Homeland Security.  
22 We need to all start to work together. The  
23 police force -- if we have -- we -- when  
24 you ask what does it take to have it to  
25 five o'clock, the police officers say you

1           have to double it. I said okay, if I'm  
2           Disney, we got to double it, we need this  
3           amount of number, let's use some creative  
4           thinking here.

5                     We probably need to make the police  
6           force maybe one third more, but in the  
7           meantime, use the interloping until you  
8           could get up to snuff, because if you had  
9           to double it, it would take four or five  
10          years of which we do not have.

11                    Another one is our legal department.  
12          We're continuing to write laws and pray  
13          that everybody goes along, well -- and  
14          if they don't go along, we're afraid that  
15          we might get sued. If I were the city  
16          attorney and I -- and Opium sued me because  
17          of some sort of whatever, with all of the  
18          evident we have, if I lost to Opium,  
19          I would be the worst lawyer in the world.  
20          Okay?

21                    We need to start to look at -- you  
22          know, we live in a country, unfortunately,  
23          that you can get away from murder with the  
24          right attorney. We are not a poor city.

25                    Remember that thing about -- I'm



1           going to end this. Remember that thing  
2           about you can't sue City Hall? What  
3           happened here. Okay?

4           VICE MAYOR GROSS: All right. Thank  
5           you, Randy.

6           MS. HOLFORT: You know, we need to  
7           enforce -- oh, one more thing. We're doing  
8           a disservice to Nikki Beach and those  
9           people who are complying, because we're  
10          telling them you're stupid, because the  
11          other guy is still getting away with it.  
12          We need to send just a message how we want  
13          it to be.

14          VICE MAYOR GROSS: All right. Thank  
15          you. And, folks, if I can ask you also  
16          just to make sure you introduce yourself  
17          before you speak so we know who you are for  
18          the record. Thank you.

19          MS. RUBINSON: For the record, my  
20          name is Jamie Robinson. I'm now a  
21          registered lobbyist for 136 Collins Avenue,  
22          LC, although, I'm not here strictly on  
23          their behalf.

24                 You may be aware that there has been  
25          a petition circulating, and that petition

1 is very specific, and these people are here  
2 today because of Commissioner Garcia's  
3 point of view.

4 We understand and we believe that  
5 this is a slippery slope, and we believe  
6 that the message that you send to any  
7 investor, any restaurateur that is going  
8 to come to this city and invest money is  
9 that once they invest it, they don't have  
10 the right to drive their businesses.

11 In doing this, we had the  
12 opportunity to meet a number of South  
13 Pointe residents who are here to speak, and  
14 I can tell you that these 250 signed  
15 letters to the commission are -- the  
16 majority of which are representing our  
17 registered voters, there's over 80 in the  
18 South Pointe area, and many people worked  
19 very hard, there's only one set, you each  
20 will get a hand delivered set tomorrow, but  
21 these are real registered voters or they  
22 say they are.

23 I've been cautioned -- I've been  
24 cautioned that there's physical addresses  
25 and date of births, and I'm going to read

1           you very quickly, because --

2                   VICE MAYOR GROSS: Are those all  
3           witnessed?

4                   MS. RUBINSON: Somebody did. Trust  
5           me, they're all different, and I have the  
6           originals. Make no mistake about it, these  
7           people knew what they were talking about,  
8           and they were specifically referring to R5E  
9           today, then called R5D. And the residents  
10          that you will hear from will express their  
11          point of view, but what it says is:

12                   "I am a hundred percent opposed to  
13          the proposed legislative acts to prohibit  
14          any new restaurants with an entertainment  
15          or dancing component south of 5th Street  
16          and in the Sunset Harbor area, and I" --  
17          can I finish? It's -- "and the proposed 2  
18          a.m. cut off on the sale of alcohol south  
19          of 5th Street.

20                   The prosperity of the south of 5th  
21          Street area and Sunset Harbor area depends  
22          on a solid resident base and an abundance  
23          of restaurants to service them. Any  
24          regulation on restaurants creates a  
25          disincentive for new proprietors to make an

1 investment in those areas, diminishes the  
2 value of the current investments, and  
3 creates a barrier to the long-term success  
4 of all restaurants," and it goes on.

5 I just want to be clear that these  
6 250 or so -- and there's actually about 750  
7 of visitors and tourists that were  
8 collected, all of this in four days by five  
9 or six people.

10 VICE MAYOR GROSS: Okay. Would you  
11 like to submit those to the clerk?

12 MS. RUBINSON: Yes, I will. And  
13 very, very, very, very quickly, we really  
14 would welcome the opportunity, I have  
15 spoken with Frank Del Vecchio, we do not  
16 believe it's ever too late, and we would  
17 like to form, and I was hoping there was an  
18 official way to form it, like the blue  
19 ribbon task form, but form a coalition  
20 of -- just a proposal, six business owners  
21 and six residents, some of whom are in  
22 favor and some of whom are against, to work  
23 on this issue.

24 VICE MAYOR GROSS: Okay. Thank you  
25 very much. Okay. Maria, our newest member

1 of the Our Public Places.

2 MARIA: That's right, that's right,  
3 thank you very much. I'm Maria  
4 (Inaudible), thank you for having me. I am  
5 a resident of Sunset Harbor. I live at  
6 1900 Sunset Harbor Drive. The heart of  
7 Sunset Harbor neighborhood is a mixture of  
8 businesses patronized by locals and nearby  
9 residents, many of whom walk to their  
10 destination. It is a viable walking  
11 neighborhood.

12 We are patrons of the local  
13 restaurants, of the Publix, of the local  
14 businesses. This area has gentrified and  
15 is an asset to Miami Beach. All of the  
16 businesses have daytime use and provide  
17 services for our community and there are,  
18 as you know, some restaurants that are  
19 wonderful restaurants such as Joe Allen.  
20 We are important, I think, patrons of  
21 restaurants such as Joe Allen.

22 Nightclubs, on the other hand,  
23 operate until 5 a.m. As you and Matti  
24 pointed out, that's not a problem operating  
25 until 5 a.m., and there are plenty of

1           examples of businesses that work and  
2           operate very well within that.

3           The problem is the noise caused at  
4           night when you're trying to sleep at 5 a.m.  
5           or 3 a.m., and you can't because of the  
6           thumping, thumping, thumping. That is the  
7           problem, and the garbage and the noise and  
8           the excess traffic.

9           We want to protect and maintain our  
10          neighborhood. I urge you to vote yes and  
11          stop the proliferation of new nightclubs.

12          VICE MAYOR GROSS: Okay. Thank you.  
13          Next speaker.

14          MR. VELAZQUEZ: Hi, my name is  
15          Rafael Velazquez. I'm a resident of ocean  
16          Point, 344 Ocean Drive. I haven't been  
17          here in a while as you -- as you all know,  
18          and let me tell you, this issue brought me  
19          out here, because it goes to the heart of  
20          what Miami Beach is all about. It goes to  
21          the heart of what these people on the beach  
22          are all about.

23          Look at the chambers, you see them  
24          filled as only on very few occasions.  
25          I live on the 3rd floor on Ocean Drive in

1           between 3rd and 4th Street. I live with my  
2           view to the side, to the west side, and let  
3           me tell you, there are nights, Memorial Day  
4           Weekend, you know, when people go out,  
5           weekends, you know, special events, all the  
6           fests and carnivals that we have here.

7           Let me tell you over the years Miami  
8           Beach has developed. I hear screams,  
9           I hear yells sometimes, I hear bottles  
10          being thrown, and you know when I wake up  
11          what I think to myself? That's Miami  
12          Beach.

13          UNIDENTIFIED SPEAKER: That's right.

14          MR. VELAZQUEZ: And -- and you  
15          know -- and -- and you know something,  
16          I love it.

17          VICE MAYOR GROSS: You might want  
18          to -- you might want to consider quitting  
19          while you're ahead after that line.

20          MR. VELAZQUEZ: No, (Inaudible.)

21          COMMISSIONER BOWER: Are you  
22          married?

23          MR. VELAZQUEZ: No, I'm not married  
24          yet.

25          COMMISSIONER BOWER: Not married

1                   yet. Do you have a child? No.

2                   MR. VELAZQUEZ: I mean, you know,  
3 I hope not.

4                   COMMISSIONER BOWER: I wonder how  
5 you would feel if you were married and had  
6 a child and they couldn't sleep.

7                   VICE MAYOR GROSS: Okay.

8                   MR. VELAZQUEZ: Let me -- let me  
9 tell you something. I love Miami Beach,  
10 and I came here and I live here knowing  
11 what Miami Beach is all about, and  
12 I know -- and I -- and I know that the  
13 light -- the nightlife is vital to the  
14 industry and to the best interest of the  
15 beach.

16                   If I ever were in a position where  
17 I say to myself, it's unsupportable for me  
18 and my family or anybody else not to live  
19 here, you know something, I move to  
20 Mid-Beach, I move to Brickell.

21                   VICE MAYOR GROSS: Okay. Thank you.

22                   MR. VELAZQUEZ: Or Key Biscayne, but  
23 I love Miami Beach and the way it is.  
24 We don't want to cap it like other cities,  
25 like Los Angeles, like New York. Leave



1 Miami Beach what Miami Beach is, unique and  
2 the best in this country. Thank you very  
3 much.

4 VICE MAYOR GROSS: Shh.

5 UNIDENTIFIED SPEAKER: How do you  
6 follow that?

7 VICE MAYOR GROSS: Okay. You might  
8 want to consider getting involved in  
9 politics there.

10 UNIDENTIFIED SPEAKER: That's your  
11 job.

12 MR. YONERELLI: I'm William  
13 Yonerelli. I'm a resident of the City of  
14 Miami Beach, I live at 5601 Alton Road.  
15 I serve as president of the South Florida  
16 Gay and Lesbian Chamber of Commerce and  
17 also as a member of the Gay and Lesbian  
18 Tourism Committee for the Greater Miami  
19 Convention and Visitors Bureau.

20 I am very opposed to what's going on  
21 here. I think the restriction and  
22 prohibitions on business here will have a  
23 devastating effect on the economy to the  
24 City of Miami Beach. Particularly, I think  
25 that business will be driven northward to

1 Fort Lauderdale and into the City of Miami,  
2 and I don't believe that the investors in  
3 the clubs that have put their lives up here  
4 should be treated that way. I -- I appeal  
5 to the commission to vote no on this.

6 VICE MAYOR GROSS: Okay. Thank you  
7 very much.

8 MR. YONERELLI: Thank you for  
9 listening.

10 MR. REYNOLDS: Good evening. My  
11 name is Clark Reynolds, and I reside at  
12 1900 Sunset Harbor Drive. I've been there  
13 for seven years. I love the area, and  
14 particularly I love walking to the various  
15 services I use such as Publix, Lincoln  
16 Road, Walgreens, Joe Allen's. I like the  
17 mixed use of the area, in the area,  
18 it makes it very interesting.

19 I love going to restaurants and  
20 nightclubs, and I certainly had many late  
21 nights on the beach in past years, but  
22 various uses in a dense urban area must be  
23 compatible, and there has to be respect  
24 between the various parties.

25 Sunset Harbor over the last decade

1           has become a high-intensity residential  
2           area, and it is not compatible with  
3           additional nightclubs as you have heard  
4           from the residents.

5                     Please pass this ordinance and look  
6           for a way to accommodate the nightclub  
7           needs for South Beach in a way that all the  
8           community can benefit from and enjoy, and  
9           I'm not in favor of rolling back the hours.  
10          Thank you.

11                    VICE MAYOR GROSS:   Okay.   Thank you,  
12          Clark.

13                    MR. BAXTER:   Hi, my name is Harry  
14          Baxter.

15                    VICE MAYOR GROSS:   Harry, just speak  
16          into the microphone.

17                    MR. BAXTER:   Yeah, my name is Harry  
18          Baxter.   I just moved here from Los Angeles  
19          less than three months ago, but I am now a  
20          registered voter in Miami Beach, and  
21          I moved here -- I visited here a number of  
22          times, love it here, and I thought the best  
23          place to live would be around 14th and  
24          Collins.

25                    I've since found, hey, this a crazy

1           area, a little bit too crazy for me. So  
2           what am I going to do? I'm going to move a  
3           few blocks to where it's quieter. I don't  
4           know, maybe that seems a little logical.  
5           It's -- it's too crazy there, so I'm -- I'm  
6           just going to move a few blocks away where  
7           it's quieter.

8                       So anyway, there's an enormous  
9           influx of people that come in here every  
10          weekend to Miami Beach from New York,  
11          Boston. This is a fickle crowd. If we do  
12          things to make it not as appealing to them,  
13          they will find somewhere else to go.

14                     I don't know this gentleman, I've  
15          never met him, the gentleman who runs  
16          Opium, but I just want to say, God bless  
17          you. And what -- how generous for you to  
18          make that donation to the little league  
19          team. What a -- what a wonderful thing.

20                     And I think that all these residents  
21          are complaining, they should be thanking  
22          him as well, because it's helping their  
23          property values having these businesses.  
24          And I believe -- are you all elected  
25          officials up here?

1                   Okay. Well, if they don't end up  
2                   sharing our views, we can replace them with  
3                   people who do share our views. Thank you.

4                   VICE MAYOR GROSS: Okay. Next  
5                   speaker please.

6                   MS. LUBBOCK: My name is --

7                   VICE MAYOR GROSS: Folks, please.

8                   MS. LUBBOCK: Good evening. My name  
9                   is Judith Lubbock. My husband and I moved  
10                  to 1800 Sunset Harbor in June of 1998.  
11                  We were among the first residents to move  
12                  into the south building. Everyone told us  
13                  what a great location we had, close to  
14                  Lincoln Road, restaurants, shopping, all  
15                  kinds of fun things, but we would be away  
16                  from the noise and crowds.

17                  We love Sunset Harbor Drive for the  
18                  marina, the park, the children's playground  
19                  for our grandchildren. There were no clubs  
20                  on Sunset Harbor Drive then. Sunset Harbor  
21                  is our home.

22                  I took offense, therefore, when  
23                  speakers suggest that those of us who  
24                  object to more nightclubs in the  
25                  neighborhood should get -- that we who

1           object should move to Aventura or Kendall  
2           or wherever, and although I'm really  
3           nervous about speaking in front of a group  
4           like this, I feel I must do so to ask you  
5           to help protect the quality of life in  
6           Sunset Harbor against encroachment of the  
7           club scene.

8                     Please do not allow more nightclubs  
9           with the many problems they bring to the  
10          residents. Do not allow that to take over  
11          our neighborhood. Close the loophole,  
12          please. Thank you.

13                    VICE MAYOR GROSS: Thank you.

14                    COMMISSIONER GARCIA: You know what,  
15          I do agree with you. If the mayor wouldn't  
16          have -- wouldn't have opened his mouth and  
17          said that we're going to roll back the  
18          hours to two o'clock, you know this  
19          wouldn't be a problem, you know. That's  
20          the anxiety that we have right now, you  
21          know.

22                    VICE MAYOR GROSS: Shh. Next  
23          speaker, please.

24                    MR. HAMMER: My name is Jack Hammer.  
25          I live at 1900 Sunset Harbor Drive. I've

1           been there since 1988 before the building  
2           was even built. I lived on my boat in the  
3           marina. In the early days when Sunset  
4           Harbor was started, there were no  
5           nightclubs, there were no restaurants,  
6           there was nothing over there, and one of  
7           the reasons that motivated me to buy there  
8           was the fact that it was a quiet  
9           neighborhood out of the mainstream and the  
10          carnival was not going on in the Sunset  
11          Harbor area.

12                 Right now we have a few restaurants,  
13           and I'm not against or opposed to anything  
14           we have. I don't want a proliferation of  
15           more, because the reason why I bought there  
16           is because of piece and quiet, and it was  
17           out of the mainstream.

18                 And I know a lot of night club  
19           owners have invested money, have put their  
20           money up, and I have made a big investment,  
21           too. Some of us have paid as much as  
22           \$1 million for our condos at Sunset Harbor,  
23           and we worked all our life to have the  
24           lifestyle we thought we had, and all I'm  
25           asking is please don't change our

1 neighborhood.

2 And remember Sunset Harbor -- the  
3 Sunset Harbor development is assessed at  
4 over 150 million dollars of which we're  
5 paying over \$300,000 a year in taxes.  
6 Thank you.

7 VICE MAYOR GROSS: Thank you.

8 MR. CAPONE: Hello, commissioners  
9 and absent Mayor Dermer. By the way  
10 (Inaudible.)

11 VICE MAYOR GROSS: Michael,  
12 -Michael, introduce yourself for the  
13 record. Everybody knows who you are, you  
14 don't need introduction, but --

15 MR. CAPONE: I own a couple of  
16 apartments in Sunset Harbor, by the way,  
17 and I've never had a tenant (Inaudible) --

18 COMMISSIONER GARCIA: Wait, I still  
19 don't know who you are.

20 UNIDENTIFIED SPEAKER: Michael who?

21 COMMISSIONER GARCIA: Michael who?

22 MR. CAPONE: Capone.

23 COMMISSIONER GARCIA: Oh, okay. I  
24 never met you before, my friend. I didn't  
25 know who you were, you know.



1                   MR. CAPONE: I think we decided to  
2                   get active here in the last couple of  
3                   days --

4                   COMMISSIONER SMITH: Are you the one  
5                   who all these emails out?

6                   MR. CAPONE: -- when our mayor told  
7                   the Miami Herald --

8                   COMMISSIONER BOWER: I'm sorry, let  
9                   me interrupt you. Michael what and where  
10                  do you live? I'm sorry, I didn't catch  
11                  that. I didn't.

12                 VICE MAYOR GROSS: His name is  
13                  Michael Capone. That's his name.

14                 COMMISSIONER BOWER: Where do you  
15                  live? Where do you live?

16                 MR. CAPONE: I have some apartments  
17                  in Sunset Harbor.

18                 COMMISSIONER BOWER: Where do you  
19                  live?

20                 VICE MAYOR GROSS: Matti.

21                 MR. CAPONE: 47th Street.

22                 COMMISSIONER BOWER: Okay.

23                 VICE MAYOR GROSS: Okay. Let the  
24                  man speak, please.

25                 MR. CAPONE: When the mayor said to

1           the Miami Herald that if you want a party,  
2           you can go off the beach, and there's a  
3           nightlife district in Miami, it got me  
4           riled up and it got me to send everybody  
5           and to voice our opinion on what nightlife  
6           is today.

7                     The point that we're here to make is  
8           that people do not just come here because  
9           of the weather or the beaches and certainly  
10          not because of ads that you've placed in  
11          travel magazines or come here because of  
12          that. People come here because of the hype  
13          that we in the nightlife industry have  
14          created.

15                    The nightlife industry spends  
16          millions of dollars every year on PR and  
17          national advertising. You open up any  
18          People Magazine or any Us Weekly or any  
19          airport rack publishing, and on any given  
20          day you will see a picture of someone or  
21          some celebrity in a nightclub preferably  
22          south of 5th Street and definitely not in  
23          Fort Lauderdale with the same weather and  
24          the same beaches and a lot less income per  
25          year. That's the only point I'm trying to

1           make here.

2                   I'm in full support of working with  
3           the neighborhood and trying to help the  
4           neighbors and clean up the streets and  
5           clean up the noise. Creating a 2 a.m. --  
6           which is not the topic of today, but I want  
7           to stop it in its tracks -- would not do  
8           anything but create a sidewalk party that  
9           will last until 3:30 a.m., people running  
10          around with beer cans and doing drugs in  
11          the streets, littering even more and  
12          loitering even more.

13                  We'll be back here three months  
14          later, and you'll have another law to  
15          arrest people who are loitering south of  
16          5th Street past 3 a.m.

17                  If people want to go to sleep at  
18          eleven o'clock at night or midnight, they  
19          don't want to go to sleep at 3:30 in the  
20          morning. Whether you go to sleep at 3:30  
21          in the morning or 5:30 in the morning is  
22          irrelevant.

23                  The problem is to fix the cleanup of  
24          the street, to put more police people out  
25          here, to put more cleaning capacities and

1 more crews and to work with the  
2 neighborhood and to fix the problem, not to  
3 stop other nightclubs from coming in, not  
4 to stop other -- am I out of time?

5 VICE MAYOR GROSS: The mayor is back  
6 anyway, too.

7 MR. CAPONE: And helping --

8 MAYOR DERMER: What is this, a  
9 garbage contract we're discussing? What  
10 are we doing here? Oh. All right. I see  
11 we got a very lively light bunch today.

12 All right. Michael, the bell rang,  
13 so if you can wrap it up, ten seconds. Do  
14 you need to wrap it up?

15 MR. CAPONE: I made my point.

16 MAYOR DERMER: Okay, sir. Thank  
17 you. Let's get the next gentleman. Come  
18 on. Welcome. Nice to see you.

19 MR. DOSA: Hello everybody. My  
20 name -- my name is Frank Dosa.

21 MAYOR DERMER: Okay.

22 MR. DOSA: And I live in South  
23 Beach, 93 (Inaudible) Avenue, and I was one  
24 of the people who sent some email to try to  
25 mobilize the community, the night -- not

1           the nightlife community, because I'm not  
2           part of the nightlife community, but  
3           I enjoy the nightlife. And I can see a lot  
4           of people here today that I used to see  
5           during the night in the club, and I thank  
6           you everybody to come here and show their  
7           support of the nightlife.

8                   I sent this email and tried to bring  
9           people here not because especially --  
10          specifically of the ordinance about South  
11          Pointe and about Sunset Harbor. I come  
12          here and I sent this email because there is  
13          an ongoing threat against the nightlife  
14          since 18 months, and South Beach is renown  
15          every year -- everywhere in the world  
16          because of the nightlife.

17                   I personally choose to live here  
18          because of the nightlife, and there are a  
19          lot of people who have done the same. So  
20          even if we're not discussing that, and  
21          I was very surprised today to agree with  
22          Commissioner Garcia, it doesn't happen to  
23          me that much, but even if we're not here  
24          today to discuss about that, this is  
25          exactly what is in the center of

1           everybody's preoccupation.

2                   It's totally out of common sense to  
3           think about rolling back the hours. That's  
4           one thing.

5                   Second thing, even in the audience  
6           today you're not going to solve the real  
7           problems. The real problems are not about  
8           the future clubs, the real problems are  
9           about the existing clubs, and what you have  
10          to solve is not the potentiality of  
11          somebody wanting to open a restaurant and  
12          turning that into a nightclub, what you  
13          have to solve is how you going to have a  
14          resident and the partygoers collaborate and  
15          living in the same place.

16                  This is what you have to resolve.  
17          You have to address police, you have to  
18          address cleaning of the street, you have to  
19          address security.

20                  Let me finish, because I think my  
21          time will be up soon, with three things.  
22          When I take my bicycle and drive through  
23          the Art Deco neighborhood, and I go to the  
24          beach and I see the water under the palm  
25          tree, I say, God, I love this city.

1                   When I go to the bank and the girl  
2                   next to me have low rise jeans, and she  
3                   still have some sand on the low of her  
4                   back, I say, God, I really love this city.  
5                   And when I go out and I dance myself out  
6                   until 4:30 and after that I make a stop at  
7                   (Inaudible), it's five o'clock, it's  
8                   crowded, you will see guys trying -- I mean  
9                   to the last minute to get laid, and you  
10                  will see girls enjoying that and  
11                  (Inaudible) to the last minute, and I will  
12                  see it's five o'clock a.m., and Washington  
13                  Avenue is packed, a traffic jam at five  
14                  o'clock, and when I see, I say, God,  
15                  I really love this city. Keep the people  
16                  awake.

17                 MAYOR DERMER: Let's get -- all  
18                 right. Welcome. If you could introduce  
19                 yourself to us.

20                 MR. HEIGER: My name is Dar Heiger,  
21                 and I'm a resident at the Yacht Club at  
22                 Portofino at 90 Alton Road. I'm the -- my  
23                 wife and I have been here for three years.  
24                 I'm a two-term president for the Yacht Club  
25                 at Portofino Association, and we moved here

1           for one thing and one thing only -- I'm  
2           sorry about that.

3                   We moved here for one thing and one  
4           thing only, and that is the neat feeling  
5           we have south of 5th. We have at our  
6           fingertips wonderful restaurants, wonderful  
7           bars where there's dance clubs, where  
8           there's entertainment halls, whatever you  
9           want to call it. We have one of the top  
10          ten clubs in probably the whole world two  
11          blocks away, Opium Garden.

12                   UNIDENTIFIED SPEAKER: (Inaudible)  
13          People Magazine.

14                   MR. HEIGER: There you go. And  
15          I have spent the last three days soliciting  
16          these surveys, talking to many, many  
17          residents, five hours Saturday, four hours  
18          Sunday, and I don't think I talked to one  
19          person, one person south of 5th that was  
20          for any change in what we have and what  
21          we love down there.

22                   There's two issues here. Time, it's  
23          just stupid, it's suicidal, and it's just  
24          preposterous to roll back the hours to two  
25          o'clock. We're a 24/7 city. It's akin to



1           Buenos Aires, Barcelona, Madrid, and  
2           London, and I'd like to keep it that way.

3           The second issue is enforcement.  
4           If you want to come -- put the noise down,  
5           then Mr. Mayor, we would love more police  
6           down at 1st and Alton. We would love to  
7           see more cops around. We can't buy a cop  
8           south of 5th, and all the taxes that my  
9           building pays, the 361 units we pay and the  
10          rest of south of 5th plus the resort taxes  
11          that these -- these clubs and restaurants  
12          pay, we certainly should provide more  
13          garbage pickup, more police protection, and  
14          just more -- more enhanced security, so  
15          that's why I say leave it alone.

16          MAYOR DERMER: Thank you. Thank you  
17          for your comment. Welcome. If you could  
18          introduce yourself for us, please.

19          MR. RITEGER: My name is J.R.  
20          Riteger, and I am a rather quiet citizen  
21          and resident of Miami Beach. I don't think  
22          I know any of you except for Luis Garcia,  
23          and I guess I sent Harold Rosen for my  
24          problems the rest of the time to keep him  
25          in business, but I came here eight years

1           ago for several reasons.

2                   I saw a diversity that wasn't only  
3           the environment and, you know, the -- the  
4           tropic atmosphere and the beautiful  
5           scenery, but I saw a diversity of culture,  
6           I saw a diversity of art and theatre, and  
7           I saw a diversity of restaurants and  
8           nightlife that were unparalleled anywhere  
9           else I had traveled in the world.

10                   And it was a jewel, and I think it's  
11           a jewel to the world, and I think that to  
12           do anything to affect or restrict the  
13           nightlife and the entertainment world here  
14           is going to hurt the city. It's going --  
15           there's a trickle down effect, there's a  
16           tremendous trickle down effect that I don't  
17           think you've measured.

18                   I think the economic consequences  
19           have to be measured, but also there's a  
20           trickle down effect of the people that come  
21           here. I think that Miami Beach is a magnet  
22           for attracting entrepreneurs, for business  
23           people, for entertainers, and it's made  
24           this city rich in culture and rich in  
25           people, which is -- this city's greatest

1           asset is the flamboyant personalities and  
2           entrepreneurs that come to this -- this  
3           city, but it leads me to another point, a  
4           much broader point.

5                   I think when government or  
6           communities find restriction in  
7           legislation, the key to everything, you  
8           find that it comes back to haunt you and it  
9           potentially destroys you, and I'm very  
10          concerned about that. I'm concerned that  
11          every time one interest group has a  
12          problem, we pass a law to -- to correct it,  
13          and that affects another interest group.

14                   Well, the next time you pass a law,  
15          it affects the original interest group that  
16          was upset. Eventually everybody is upset,  
17          and you -- you cut off and choke free  
18          enterprise, commerce, and lifestyle, and  
19          the beautiful Miami Beach that we all know  
20          is no longer what we know, it's going to  
21          change as a result of this.

22                   And, you know, I just hope that, you  
23          know, you consider the fact that this --  
24          this community grew over the last 15 years  
25          tremendously without a lot of restriction.

1           There's something to say for lack of  
2           restriction, because this community grew  
3           without restriction. Now if you start to  
4           choke it off, I think you're going to  
5           reverse yourselves and see our economy and  
6           our community decline, both in people and  
7           in money.

8                   MAYOR DERMER: Thank you for your  
9           comment.

10                   MR. BIDE LL: Hi, my name is Doug  
11           Bidell. I'm a full-year resident of Miami  
12           Beach. I live in one of the high-rise  
13           condo buildings in South Beach, and someone  
14           mentioned property taxes, I pay almost  
15           \$10,000 a year in property taxes to the  
16           city, but I don't believe this ordinance is  
17           a wise thing for the city going forward.

18                   I followed this issue closely.  
19           I believe Commissioner Steinberg has had --  
20           he's had the correct take on it in  
21           everything I've read in the after action  
22           reports when this has been discussed in  
23           that we're not dealing with you closing a  
24           loophole, we're really dealing with a  
25           problem with enforcement.

1           The city has allowed history --  
2           historically, things to get to where they  
3           are right now, and had the codes that were  
4           on the books been enforced, we wouldn't  
5           even all be here talking about this right  
6           now.

7           MAYOR DERMER:   Okay.

8           MR. BIDE LL:   You know, the way  
9           I look at it, if I move to a neighborhood  
10          that welcomes pets and one owner goes out  
11          and he allows his dog to get loose, and  
12          that dog bites me.  I go to the police and  
13          I deal with that dog owner and that dog,  
14          I don't come to City Hall and ask you to  
15          ban all new dogs in my neighborhood.

16          Now, it's --

17          COMMISSIONER BOWER:  Is the dog  
18          named Opium?

19          MR. BIDE LL:   No, the dog is not  
20          named Opium.  Thank you.  I just think in  
21          passing this law, you know, it looks like  
22          you're just closing a loophole, but I think  
23          you're actually sending out a very powerful  
24          message to the community, to the business  
25          community that Miami Beach may not be as

1           welcoming to new businesses, and I think  
2           if we start driving new businesses away  
3           from here, the only thing that's going to  
4           happen is my property taxes are going to go  
5           above ten thousand, and I'm going to be  
6           coming down here asking you why -- why are  
7           they so high now.

8           MAYOR DERMER:   Okay.   Thank you for  
9           your comment.

10          MR. BIDE LL:    So I urge you to not go  
11          through with this.

12          MAYOR DERMER:   Sir, welcome.  
13          Welcome.

14          MR. ALVAREZ:    My name is Gregory  
15          Alvarez, and I own a small hotel in the  
16          South Pointe area.   I've been here for ten  
17          years, and this is really sad that all of  
18          yous already have your minds made up.

19          Right now if I had to start a new  
20          business, it would not be in South Beach.  
21          All I'm repeating is the same thing  
22          everyone here is saying, and no one is  
23          listening to this.

24          You're driving away business.  
25          You're driving away small business.   And

1 I'm sorry, Mr. Mayor, you might think it's  
2 funny, but I'm below 5th, I have a small  
3 hotel. This ordinance as is affects small  
4 restaurants and a small hotel, small  
5 parties, just having some entertainment.  
6 There's no separation for dancing or the  
7 entertainment aspect of it. Okay?

8 So a small hotel technically can't  
9 even have a wedding with a band. Okay?  
10 This is ridiculous. A small restaurant  
11 can't have a child's party with clowns.  
12 I mean, it sounds funny, but this is --  
13 this is what we're talking about.

14 So please at least let's see how  
15 we can separate this dance hall from the  
16 entertainment, because the bottom line is  
17 if there was another big club coming in,  
18 they would not want to be going to South  
19 Pointe, they would not be wanting to go to  
20 Sunset, they go across town to get a  
21 24-hour liquor license. That's the bottom  
22 line, so please, think about this. Thank  
23 you.

24 MAYOR DERMER: Okay. Thank you for  
25 your comment. Miss, who is that at the

1 podium?

2 Welcome.

3 FRANK: Frank (Inaudible) 1800  
4 Sunset Harbor Drive. I've communicated to  
5 most of you my views on this. As a  
6 resident of Sunset Harbor, David and  
7 I moved there six years ago. We moved to  
8 Miami Beach because of the uniqueness and  
9 the diversity that this community has going  
10 for it. That's why we live here.

11 I take offense when people tell me  
12 that we should not be allowed to enjoy the  
13 quality of life that comes with living in  
14 our home because the nightlife industry and  
15 some place in Miami Beach is going to be  
16 jeopardized if we or our neighbors are  
17 disturbed at five o'clock in the morning.

18 And it's not so much in our  
19 particular instance, the noise from the  
20 club, it's the people that leave the club  
21 that are then congregating on the street.  
22 So I am not, for one, in favor of rolling  
23 back hours to 2 a.m., as I told you all,  
24 I think that's economic suicide, but I am  
25 in favor of compartmentalizing



1           entertainment venues away from residential  
2           pieces of real estate in Miami Beach.

3                   We would -- you would never  
4           entertain this discussion about putting a  
5           nightclub/restaurant on Pine Tree  
6           (Inaudible.) You would not do that.  
7           Sunset Harbor is a neighborhood undergoing  
8           change. That change is metamorphosizing  
9           it into a residential neighborhood.

10                   There are more residents in Sunset  
11           Harbor today than there are business  
12           owners. Joe Allen is an excellent  
13           neighbor. It is a wonderful restaurant  
14           establish. It is closed and empty by one  
15           o'clock in the morning, and it is a good  
16           neighbor. I cannot say that for some of  
17           the other businesses and entertainment  
18           establishments in our neighborhood, and you  
19           all know who that is. They are totally  
20           irresponsible, and they give the  
21           entertainment industry a bad name.

22                   I endorse this measure. It is  
23           narrowly defined, it is narrowly focused.  
24           It will prevent new restaurants opening  
25           into our neighborhood and morphing into

1 bars.

2 None says we don't want restaurants.  
3 More Joe Allens in our neighborhood I think  
4 would be openly embraced by everyone in our  
5 neighborhood, but we do not want to become  
6 the next Washington Avenue. Thank you.

7 MAYOR DERMER: Thank you, sir.

8 Welcome.

9 MR. HUTZ: Good afternoon. My name  
10 is Steve Hutz. I've been on Miami Beach  
11 since 1942, and I love Miami Beach. I'm a  
12 resident, I have my business here. I also  
13 have my convention center, my hotels, my  
14 tourists, and no matter where I go in the  
15 world, I carry with me wherever I go the  
16 reputation of Miami Beach.

17 Miami Beach has an aura. It's not  
18 just the beach, it's not the sun, and it's  
19 not the publicity. It's what people talk  
20 about after they've been here. The message  
21 that we're sending can be sent in a  
22 different way.

23 The business community, the hotels,  
24 the restaurants which started to organize  
25 are concerned not about this one particular

1           small issue, this coming in front of you  
2           today, they're concerned about a mentality.  
3           They're concerned about the problems  
4           between the wants and the demands of the  
5           residents and the needs of the business  
6           tourism and entertainment community.

7                     You're charged with being careful,  
8           because you've got to weigh the issues of  
9           both and look at the long-term effects on  
10          this city. This city is different. It is  
11          not Coral Gables, it is not just a resident  
12          community, and there's nobody that moves to  
13          Miami Beach that doesn't know that it's  
14          tourist driven.

15                    We need the entertainment areas.  
16          We need the nightclubs and the restaurants  
17          open until five o'clock in the morning.  
18          We have a band shell in North Beach.  
19          We put up a residence, a high-rise right  
20          next to the band shell. The people that  
21          moved in to that residence shouldn't  
22          complain that there's concerts being held  
23          in the band shell.

24                    South Beach we had a dog track.  
25          We had South Pointe Park with a band shell

1           with music, with events. If we buildup  
2           apartment houses around an existing  
3           entertainment area, we should not allow the  
4           residents that move into that area to  
5           complain that they don't like the area.

6           We have -- I just want to make one  
7           more quick point. Our town is driven by  
8           tourism. The tourists arrive by airplanes.  
9           The airplanes come into Miami International  
10          Airport create a lot of noise. We needed  
11          an extended runway, another runway. The  
12          residents around the airport that moved  
13          around the airport complained they didn't  
14          want the extra landing area because  
15          it created more noise. If we didn't have  
16          it, we couldn't maintain the level of  
17          tourism that our growth depends on.

18          So sometimes when you're in a unique  
19          area or you have a unique project like the  
20          airport, you have to balance the equities,  
21          and that's what we're asking you to do  
22          today is balance the equities and look at  
23          the economic impact that your actions may  
24          have on this city. Thank you.

25                MAYOR DERMER: Thank you. Yes,

1           ma'am, welcome.

2           MS. BAKER: I'm Marilyn Baker.

3           I live at 1800 Sunset Harbor Drive, and  
4           I brought a gift for each of you. Because  
5           you will need it if you come to visit our  
6           neighborhood.

7           UNIDENTIFIED SPEAKER: (Inaudible.)

8           MAYOR DERMER: That's it, Marilyn?  
9           Just the -- that's it? That's it?

10          MS. BAKER: I want you to --

11          MAYOR DERMER: The mic.

12          UNIDENTIFIED SPEAKER: The mic.

13          MS. BAKER: I'm here to ask you to  
14          pass the amendment to close the current  
15          loophole that enables the establishment of  
16          additional nightclubs in the neighborhoods.  
17          Thank you.

18          MAYOR DERMER: Thank you very much.  
19          Joe, welcome.

20          MAYOR SALESTINE: Good afternoon,  
21          again, to the commission, Joe Salestine,  
22          mayor for the City of North Miami, the city  
23          right next door to you. On March 9, 2004,  
24          the citizens of this great city passed a  
25          charter amendment directing the government

1 of this body not to pass any legislation  
2 that would affect the finance budget of  
3 this city without a special study to  
4 determine whether you would be affected by  
5 that.

6 I think the passage, if we, as the  
7 city attorney, you're the lawyer, if this  
8 ordinance -- this is a good question,  
9 if this ordinance has nothing -- this  
10 amendment has nothing to do with this  
11 ordinance, through you, Mr. Mayor, I'd like  
12 to --

13 MAYOR DERMER: Well, Joe, Mr. Mayor,  
14 the charter amendment that you refer to  
15 does not require an economic study, but  
16 I will pose the question to the attorney to  
17 see if that is confirmed.

18 UNIDENTIFIED SPEAKER: That's  
19 correct.

20 MAYOR DERMER: That's why he's the  
21 attorney.

22 MAYOR SALESTINE: Okay.

23 MAYOR DERMER: Go ahead.

24 MAYOR SALESTINE: I was under the  
25 impression that the charter amendment --

1           and I trust his judgment as a lawyer, I was  
2           under the impression that the charter  
3           amendment required a study prior to any  
4           decision that --

5           MAYOR DERMER: No, the it's for  
6           us -- it's for us to consider the economic  
7           impact.

8           MAYOR SALESTINE: Yes.

9           MAYOR DERMER: Now, with legislation  
10          over a five-year period, and we make those  
11          considerations. The manager, as a matter  
12          of fact, has done that, talked to -- made  
13          some considerations as to economic impact  
14          and service, because as you know, we're  
15          talking about -- and this debate I'll  
16          engage in later, I want to take all the  
17          public testimony, but in a nutshell, just  
18          with money brought in, it costs us money  
19          for police, fire, and sanitation, too.

20          So there's two sides to that  
21          economic impact, but we do consider it in  
22          our -- in our deliberations, in our voting.

23          MAYOR SALESTINE: Okay. I stand  
24          corrected, but the only and final I want to  
25          give opportunities to others, the -- the

1           notion of there will be no additional  
2           businesses coming to the beach just like  
3           it's something --

4                   UNIDENTIFIED SPEAKER: (Inaudible.)

5                   MAYOR SALESTINE: Well, no  
6           additional nightclubs that will be open  
7           until five o'clock will be really damaging  
8           to the area. Thank you.

9                   MAYOR DERMER: Thank you, sir.  
10          Thank you. Yes, sir, welcome.

11                  MR. BRANDT: Yes, thank you very  
12          much. My name is John Brandt. I'm a  
13          resident of 300 South Pointe Drive, better  
14          known as Portofino, and I'm quite well  
15          aware of the many issues that Portofino and  
16          our fellow neighbors have had with  
17          establishments.

18                  And I, too, unfortunately, sir, pay  
19          that \$10,000 in taxes, but when I did that,  
20          I bought a total package, and I was willing  
21          to pay that \$10,000 in taxes, and that was  
22          with the city that had a lot of  
23          establishments that I can walk to, whether  
24          it be ten feet away, a hundred feet away,  
25          or three miles away, and that's -- I am



1 willing to put up with loud noise and with  
2 booming cars that drive down my street,  
3 because I bought a lifestyle in Miami Beach  
4 and that's what I want to pay for.

5 So to the lady, my fellow resident  
6 who bought ear plugs, I bring something  
7 that all of us enjoy and that's money, it's  
8 called tax dollars (Inaudible.) Thank you  
9 very much.

10 MAYOR DERMER: Thank you for your  
11 comment. Okay. Clotile. Clotile,  
12 welcome.

13 MS. LUZ: I'm sorry, but the dollar  
14 is down these days. I've got Euros.  
15 Anyway, I think it's very sad. Clotile  
16 Luz, I live at 301 Ocean Drive. I think  
17 it's very sad that so many opportunities  
18 were missed in the last two years while  
19 this discussion has been kind of  
20 fermenting.

21 I don't think such a confrontation  
22 was inevitable, and I do think that the  
23 nightclub industry and the hotels missed so  
24 many opportunities to make an  
25 accommodation. They were hearing pleads --

1           pleading neighbors saying what are you  
2           going to do, look what's happening to where  
3           we live, and instead of taking action,  
4           making positive propositions, saying we can  
5           make some arrangements with our valet  
6           parking, we can hire people to clean up,  
7           we can have some control over how people  
8           leave the premises.

9                   They did not take any positive  
10           steps, and I think that it's not only the  
11           fault of the city, I think they responded  
12           with incredible arrogance saying, you know,  
13           the only people complaining are old.

14                   It's too bad, because, Mr. Mayor,  
15           you remember Mayor on the Move night at --  
16           at the police department, some of the most  
17           vocal people were in their twenties and  
18           had -- you know, were trendy young guys who  
19           are not here tonight, and they were the  
20           most incensed by what they have to put up  
21           with in South Pointe with the noise.

22                   We attended another workshop with  
23           Mr. Bloomberg on special events organized  
24           by Mr. Sclar, and he said you can talk  
25           about everything, but you can't talk about

1 noise. In other words there was denial,  
2 there was arrogance, and there were  
3 insults, and they did not take any measures  
4 such as simply cutting down on the noise  
5 and admitting there was a problem, and that  
6 is the same attitude we're encountering  
7 today.

8 I don't think it had to be that way.  
9 I think historically cities are facing  
10 this. In New York Mr. Bloomberg is dealing  
11 with noise, and for some reason --

12 UNIDENTIFIED SPEAKER: (Inaudible.)

13 MS. LUZ: I beg your pardon?

14 UNIDENTIFIED SPEAKER: They're  
15 killing the city (Inaudible.)

16 MS. LUZ: They're not killing the  
17 city.

18 MAYOR DERMER: (Inaudible) please,  
19 don't engage in side (Inaudible.)

20 MS. LUZ: You know, I just think  
21 that the -- the confrontation has reached a  
22 pitch which is very unfortunate, and I am  
23 sorry that there is such arrogance and  
24 insults coming from one side, and I don't  
25 know why they didn't make any positive

1           recommendations to correct themselves in  
2           those two years.

3           MAYOR DERMER: Thank you for your  
4           comment. Welcome.

5           MR. BELNICKI: Thank you for your  
6           time. I just wanted to say that --

7           MAYOR DERMER: Please introduce  
8           yourself, sir.

9           MR. BELNICKI: I'm Adam Belnicki.  
10          I'm a registered voter here. And I live at  
11          1900 Sunset Harbor Drive.

12          MAYOR DERMER: Welcome.

13          MR. BELNICKI: I just wanted to come  
14          up, I wasn't going to speak, but so many  
15          from -- so many people from Sunset Harbor  
16          have been up here talking about the noise.  
17          I just wanted to dispute that.

18                 I live there every night. I sleep  
19          there. I'm on the side facing the street.  
20          I don't hear this noise that they're  
21          hearing. Yeah, there's some things that  
22          every now and then, but I think it's been  
23          greatly exaggerated.

24                 I'm all for trying to clean up the  
25          area a little bit. It does get a little

1 rowdy at times as far as the trash and  
2 whatnot, but I don't hear the noise that  
3 they're doing. I don't understand why, you  
4 know, a select few from one or two  
5 buildings can put such a movement together  
6 and make it representative of the entire  
7 Sunset Harbor area, because that's not --  
8 and the people that I talk to in Sunset  
9 Harbor, that's not how they feel, and  
10 that's not -- they don't hear everything  
11 that these people are hearing, they're not  
12 having all the problems with sleeping that  
13 they're having.

14 I just think this is being greatly  
15 overexaggerated to benefit a few people  
16 that live in that area, and I'm one of  
17 them.

18 MAYOR DERMER: Thank you.

19 MR. BELNICKI: I have one more  
20 thing. I want you to know that the  
21 majority of the people here that are -- are  
22 trying to get this done today are also  
23 lobbying the people who live -- most of  
24 them are on the Sunset Harbor Condo Board  
25 Association, and they're lobbying to have a

1 restaurant outdoors open in their area.  
2 The irony of this, I can't believe, I hope  
3 it's not lost just on me. I mean, this is  
4 ridiculous. They're lobbying up a  
5 restaurant opening up in Sunset Harbor  
6 that's outdoors. I mean, and then they're  
7 lobbying to get everything closed down,  
8 because they think it's going to increase  
9 their property value right there.

10 I don't understand why somebody  
11 opening up a business right underneath  
12 their apartment is going to increase their  
13 property value, but the guy across the  
14 street is causing all the problems.  
15 Instead, go to the guy causing the problem  
16 and talk to him about it. Don't -- don't  
17 legislate when you don't have to, let free  
18 market work itself out.

19 MAYOR DERMER: I thank you for your  
20 comment. Thank you. (Inaudible.)  
21 I must -- I must tell everybody, I  
22 understand your enthusiasm and your wanting  
23 to applaud, but please, for us to move  
24 briskly, we usually lose, you know, about  
25 15, 20 seconds in the applause, so if you

1           can restrain from doing that, we'll move  
2           the hearing quicker.

3                     Yes, ma'am.

4                     MS. HELMAN:   Sheila Helman, 465  
5           Ocean Drive.   I've owned property on South  
6           Beach since 1979, and nobody is giving the  
7           proper person the credit, Barbara Capitman  
8           who started the whole resurgence of the  
9           beach and made it what it was.

10                    At that time we had Joe's Stone  
11           Crabs, we had Piccalo's, we had the  
12           famous -- and everyone waited online to get  
13           in there.   So the people still came before  
14           the other group with the nightclubs and the  
15           noise and the dirt were here.   They came  
16           because we had beautiful hotels and we had  
17           beaches and we had beautiful shopping  
18           areas.   This was the place, the weather was  
19           great.

20                    I'm not against the restaurants,  
21           I am against the nightclubs south of 5th  
22           Street.   When I walk in the morning,  
23           I don't want to have to jump over the  
24           vomit, the smell of urine, the defecation,  
25           every -- the litter that's there that comes

1           when these people get out of the nightclubs  
2           at five o'clock in the morning.

3           My street should be clean, and they  
4           never can be as long as we allow this to  
5           happen. South of 5th Street was and is a  
6           residential area. Some forces allowed  
7           Opium to come in, that was a big mistake,  
8           especially without a roof on it, but they  
9           came in and they're there and we can't help  
10          it. They're there, but we can control  
11          what's coming.

12          Restaurants and nightclubs on South  
13          Beach are like screen doors in the wind.  
14          They open and close regularly. Let's not  
15          have that happen on South Beach, let that  
16          stay residential. We were there before the  
17          nightclubs. Thank you.

18                 MAYOR DERMER: Thank you. Okay.  
19          Ma'am, welcome.

20                 MS. CRITES: Hi, my name is Beatrice  
21          Crites. I live in 300 South Pointe Drive  
22          known as Portofino, and I believe it's the  
23          most beautiful place in Miami Beach in my  
24          opinion. I'm here to support the  
25          nightlife, and a lot has been said. I'm



1 not here to create controversy, but I will  
2 support the nightlife as long as I can.

3 God bless Eric and Michael, they do  
4 a good job of bringing tourism and a lot a  
5 money and prosperity to Miami Beach. Thank  
6 you.

7 MAYOR DERMER: Thank you. Welcome.

8 MR. LIEBERMAN: My name is Nathan  
9 Lieberman. I'm a large property owner in  
10 South Beach, actually one of the largest.  
11 I have over 200 apartments, residential  
12 apartments, that are low to middle income.  
13 Most of my residents are waiters and  
14 bartenders, and during the summer,  
15 I definitely see a decline in business,  
16 which, you know -- you know, the more bars  
17 and clubs and everything we have in South  
18 Beach definitely benefits me, and I'm sure  
19 every other apartment owner in South Beach.

20 My properties which are not south of  
21 5th and are not in these other districts  
22 that you're talking about, the sidewalks  
23 and gutters are filthy, so obviously  
24 there's a problem, you know, with cleaning  
25 not only in these districts because of the

1           nightclubs but also just because of  
2           we don't have enough sanitary what it is.

3                   Anyways, Adam Smith said the best  
4           involvement the government -- the best  
5           government involvement in business is zero,  
6           and I think that you guys should back off,  
7           because you're not really helping anything.  
8           You know, just let business -- let  
9           business, you know, run itself, and it will  
10          do fine.

11                   MAYOR DERMER: Thank you. Next  
12          speaker, welcome.

13                   MR. KELSEY: Good afternoon, David  
14          Kelsey, South Beach Hotel and Restaurant  
15          Association. I'd like to first clear up a  
16          few things for the record. First, it seems  
17          to be stated that this is residents versus  
18          business, and I think you should be aware  
19          from the people that are here that there  
20          are a lot of residents here that are in  
21          support of business and in support of  
22          nightlife.

23                   Not only do they work in South  
24          Beach, most of them live here, and many of  
25          them vote here. So let's not just say it's

1 residents against business, it's not.

2 I think we're misstating the problem.

3 There are some residents who do not  
4 like nightlife. That's a fact. We know  
5 that, we see that, but the greater  
6 percentage of residents in South Beach  
7 support nightlife because they work in the  
8 nightlife and tourism industry. It's their  
9 jobs.

10 You know, Luis said earlier that  
11 people were here because of fear, they are  
12 concerned, and it's true. They're  
13 concerned for their businesses, they're  
14 concerned for their jobs, and many of us  
15 are concerned for our community.

16 It came back to life in the -- in  
17 the late 1980's. It prospered because  
18 we had nightlife, and the nightlife was  
19 really the fire that igniting everything  
20 and that has made us so famous. All of the  
21 press we get worldwide is about our  
22 nightlife. I mean, 99 percent of it is  
23 about nightlife. It's what keeps visitors  
24 coming here. We don't want to do anything  
25 to diminish that.

1           Saul, I was -- I was very concerned  
2           with some of your opening statements.  
3           Everyone who watched the last commission  
4           meeting when this issue came up heard all  
5           of you tell the planning board to deal with  
6           the 2 a.m. issue because you could not hear  
7           it at that time in the ordinance because  
8           it hadn't been advertised.

9           You were also told that it had to go  
10          to the planning board first, but every one  
11          of you voted to send these issues to the  
12          planning board, and the primary issue was  
13          the 2 a.m. rollback. You talked about it.

14          The other issue you talked about was  
15          doing something about the grandfather  
16          provision which allowed the existing  
17          businesses to keep going. You instructed  
18          the planning board to see how you could get  
19          around that, how you could sunset these  
20          things. Naturally, that's going to scare  
21          the business people, and it's going to  
22          scare their employees.

23          And that's why we're all here today,  
24          because we know this is the first step, and  
25          we want to prevent the first step from

1           being taken. We want you to understand  
2           that our business community is basically  
3           built on tourism, and anything you do to  
4           basically diminish our attraction to  
5           visitors by curtailing or restricting or  
6           cutting back hours of our nightlife is  
7           potentially very harmful to the whole  
8           community.

9                   I want to deal with a couple of  
10          other issues quickly if I may. First, the  
11          issue of the charter amendment that was  
12          passed in March. Let me just read you what  
13          that question was to the voters, because  
14          I think with all due respect to Murray  
15          Dubbin, he misunderstands the charter.

16                 The proposed ballot question, and  
17          I'm reading from the documents from the  
18          clerk's office, amending Article 5 to  
19          require economic impact statement, the  
20          heading: "Shall the Miami Beach City  
21          Charter, Article 5, therefore regarding  
22          budget and finance be amended to require  
23          that the city commission consider the  
24          long-term economic impact, at least five  
25          years, of legislative acts."

1           To me that means you need an  
2           economic impact statement, and what I saw  
3           in your agenda package was listed as  
4           physical impact, two two-sentence  
5           paragraphs which don't even include the  
6           impact of increased resort taxes from new  
7           business. It only talks about expenses.

8           Lastly, and let me go quickly,  
9           I agree with the residents about the  
10          problems in South Pointe and also in Sunset  
11          Harbor. Those problems when you listen to  
12          the people at your last commission meeting,  
13          almost every single person came up and said  
14          there are no police, there's no traffic  
15          control, there's poor sanitation. The  
16          crowds are rowdy when they leave the clubs.

17          Now, whose job is that? It's your  
18          job. We --

19          COMMISSIONER GARCIA: David  
20          (Inaudible) Mr. Manager, you want to come  
21          out here.

22          MR. KELSEY: Let me just conclude  
23          with this. Okay. For almost ten years now  
24          I have come before various commissions and  
25          various city managers to suggest that

1           we create an entertainment district that  
2           basically recognizes where our visitors  
3           are, where they're staying, where they're  
4           playing, where they're dining, where  
5           they're shopping, and everybody knows what  
6           that is. That is Ocean Drive, that is  
7           Collins Avenue, that is Washington Avenue,  
8           that's Lincoln Road, and Espanola Way, and  
9           it's from 1st to 23rd Street. That's South  
10          Beach.

11                 We still don't have anything that  
12           protects that area that provides services.  
13           We need management of that area.

14                 MAYOR DERMER: (Inaudible) wrap  
15           it up.

16                 MR. KELSEY: We need policing for  
17           that area, dedicated and in your budget and  
18           preferably private so that we can get  
19           prompt action on these issues. This is  
20           really absurd to wait ten years to threaten  
21           the whole community, to threaten their  
22           livelihood with roll backs of hours because  
23           you guys have failed to provide the basic  
24           services that you've known for ten years  
25           are needed. Thank you.

1                   MAYOR DERMER: Welcome.

2                   MR. GLICKER: My name is Frank  
3                   Glicker. I also live in 1900 Sunset Harbor  
4                   Drive. In fact, I've lived there since '97  
5                   when it opened, and I find it a lovely  
6                   place to live except for certain problems,  
7                   one of which has been the noise that's been  
8                   discussed, and I do personally know people  
9                   in both the 1900 building and particularly  
10                  the 1800 building south of us that are  
11                  dealing with a terrible problem with the  
12                  noise around five in the morning.

13                  But the reason I'm speaking is to  
14                  point out that the speaker who also lived  
15                  at 1900 had mentioned this open air  
16                  restaurant.

17                  First of all, the building and the  
18                  board and the owners of 1900 have nothing  
19                  to do with the restaurant. The original  
20                  developer kept a building on the north side  
21                  of 1900 Sunset Harbor Drive for eventually  
22                  to be used for restaurant and other  
23                  purposes.

24                  He sold that property on the ground  
25                  level to another developer who then plans



1           to put in a restaurant. First of all, it's  
2           not an open air restaurant at all. In  
3           fact, our board, the board, the condominium  
4           board arranged to have a meeting with the  
5           developer who, remember, again, we had no  
6           control over. This was the original  
7           developer that brought him in.

8                     And we discussed what they would do  
9           to keep the noise level down and keep it  
10          down to a closing about twelve o'clock, not  
11          a closing of two in the morning or anything  
12          like that. But the thing was that they did  
13          agree to things like putting a glass around  
14          it so that the noise could not get out to  
15          disturb the owners.

16                    In fact, it wasn't even clear that  
17          the noise level in the restaurant would be  
18          loud enough to annoy owners, but at least  
19          we have some control over it, and I just  
20          wanted to clarify that. It wasn't a case  
21          that the building went out to get a  
22          restauranteur to put a good restaurant in  
23          on the first floor. Thank you.

24                    MAYOR DERMER: Thank you, sir.  
25           Let's see a show of hands who still needs

1 to --

2 BEE: I -- I --

3 MAYOR DERMER: We've got these folks  
4 here. Okay. On this side anyone else who  
5 is waiting to speak? All right, we're  
6 almost there. Okay. Yeah, go ahead.

7 BEE: Not to be critical of one side  
8 or the other, I'd just like to make some  
9 observations. My voice is going today.  
10 First of all, one of the most interesting  
11 comments I heard here today, David --

12 MAYOR DERMER: Excuse me, ma'am.  
13 Yes, Bee.

14 BEE: Someone said they don't know  
15 why Miami Beach needs clubs to have floor  
16 shows, that the best floor show in town and  
17 the best sideshow in town was right here in  
18 this room, and there isn't -- and there  
19 isn't even a cover charge.

20 MAYOR DERMER: Bee, are you  
21 volunteering to work for us?

22 BEE: You know, all through the  
23 years Miami Beach grew, grew before these  
24 people were a glint in daddy's eye.  
25 We grew and we grew fast and proudly and

1           successfully, and all through those years,  
2           we didn't have problems, because --  
3           David -- David brought something up before,  
4           speaking about zoning. In those days  
5           we had common sense planning and common  
6           sense zoning. Zoning was not in the midst  
7           of residential areas that had a special  
8           zoning, and it was apart from where people  
9           were living at that time.

10                   At that time we had, as I say,  
11           common sense planning and common sense  
12           zoning before the days when the  
13           administration and the elected officials  
14           came up with the bright idea of mixed use.  
15           Well, what the devil, you first opened the  
16           doors with liberalized zoning and mixed use  
17           and say, sure, we can all party together.

18                   We can't. Some sleep, some party,  
19           and I think it's high time that the whole  
20           concept of zoning on Miami Beach was  
21           reevaluated. The industry of entertainment  
22           has always played an important role here,  
23           however, it's got to be in its proper  
24           place.

25                   MAYOR DERMER: Okay. Thank you.

1                   Welcome. Welcome.

2                   MS. LEVINSON: Hi, you've been  
3                   through a long day. My name is Judith  
4                   Berson Levinson. I'm a 30 year resident of  
5                   Miami Beach, and I in no way condone  
6                   residents being disturbed by establishments  
7                   that violate the rules, but we need to  
8                   focus on the ones that violate the rules  
9                   and not throw out the baby with the bath  
10                  water.

11                  But I'm here today, I felt compelled  
12                  to be here today, first of all, to endorse  
13                  the points that Commissioner Steinberg made  
14                  last month when he said that the biggest  
15                  fault is that the city is not enforcing the  
16                  laws we already have on the books.

17                  If the noise ordinance was enforced  
18                  properly, this drastic curtailment would  
19                  not be necessary. One of the other  
20                  speakers mentioned a meeting that Stewart  
21                  Lumberg called, and it was on the subject  
22                  of special event permits, and they were  
23                  told not to discuss noise. That's true,  
24                  because the subject was special events  
25                  permitting and the residents did not -- are

1           only talking about noise. And I -- I --  
2           I -- my heart goes out to them, we need to  
3           take care of that, but we should not repeat  
4           history.

5                     For those two say that we have  
6           beautiful beaches and the tourists will  
7           come anyway, I have to tell you, I own two  
8           hotels in South Beach, and I manage them  
9           myself, and I have offered free tours to  
10          perspective guests, free tours of the  
11          historic Art Deco district, not one person  
12          has ever taken me up on my offer.

13                    The first question they ask when  
14          they arrive or when they call are about the  
15          clubs, can we get them in, can we get them  
16          VIP in, and the beaches are even secondary.  
17          If they want to go to a beach -- let me  
18          just talk.

19                    If they want to go to a beach, they  
20          can go to Fort Lauderdale, but I don't want  
21          that we're going to pass something that  
22          when they want to go to a club, they're  
23          going to go to Miami, because that will  
24          affect all of us.

25                    Miami Beach, you know I'm a

1           historian, Miami Beach was born of and has  
2           always been a party town, and yes, there  
3           have always been conflicts. There were  
4           conflicts even at the Edison Hotel between  
5           the people in the room and the music  
6           downstairs.

7                     I give out ear plugs to all of my  
8           guests who enter all of my hotel rooms with  
9           a little poem that says it gets noisy here,  
10          and if you want more ear plugs, they're  
11          available, but please, please make sure  
12          that the remedies already in place have  
13          been fully enforced to ensure the quality  
14          of life for all the residents, and then  
15          if that doesn't work, let's go to a more  
16          Draconian measure, but let's not start with  
17          that. Thank you.

18                    MAYOR DERMER: Thank you. Welcome.

19                    MS. NOLAN: Hi, my name is Karen  
20          Nolan. I own the Laundry Bar in South  
21          Beach and Boy Bar in North Beach. I --  
22          thank you. I used to own a condo at the  
23          Roney Palace, and when they announced that  
24          the balconies were crumbling and that the  
25          structural integrity of the building was in

1 question, I got out. I got nervous and  
2 I sold my unit.

3 I got to tell you, you guys are  
4 making me very nervous, very nervous.  
5 I would be very hard pressed at this point  
6 in time to invest anymore money in South  
7 Beach knowing what I know today, and I have  
8 to tell you, I came here not really  
9 understanding the issues.

10 I did think this was a session where  
11 rollback hours were going to be discussed.  
12 I didn't really understand the residence  
13 issues. I -- I have to admit I wasn't very  
14 well versed, but after hearing everything  
15 today, the rollback issue scares the  
16 pajamas off me. So I'm trying to be  
17 polite.

18 Anyway, thank you. I thank you for  
19 listening to my (Inaudible.)

20 MAYOR DERMER: Thank you for your  
21 comment.

22 Welcome.

23 MR. O'LARA: My name is Mark O'Lara.  
24 I live at 400 Alton Road. I'm -- I'm a  
25 person who goes out to the restaurants at

1           least three times a week. I go to the  
2           nightclubs, and I love nightlife, but not  
3           where you sleep, not where you live.  
4           That's -- it belongs somewhere -- somewhere  
5           else. I'm not going to take up a lot of  
6           your time, you can figure out where I'm  
7           coming from.

8                     One thing you can learn from my dog,  
9                     and that is that you -- you don't poop  
10                    where you sleep, and there's a lot of poop  
11                    south of 5th. Thank you.

12                   MAYOR DERMER: Thank you.

13                   Welcome.

14                   MS. RIDINGER: My name is Lauren  
15                   Ridinger -- my name is Lauren Ridinger, and  
16                   I live on North Bay Road, and I personally  
17                   pay \$270,000 a year in taxes to live on  
18                   North Bay Road, which I choose to do  
19                   willingly because I enjoy the lifestyle  
20                   that Miami Beach has to offer.

21                   I also just in February had my  
22                   company bring 20,000 people to the American  
23                   Airlines Arena, Market America, and  
24                   we brought \$17 million into the Miami Beach  
25                   economy over a three-day period, and



1           we could have brought that to any other  
2           city across the country, but we chose to  
3           bring it to Miami, because we believe that  
4           people have the right to experience the  
5           incredible lifestyle that Miami Beach has  
6           to offer, and I think that the nightlife is  
7           a big part of that.

8                     And I think if you take that away  
9           from people like, you know, the Opiums of  
10          the world who have done a phenomenal job  
11          not just in their community, but bringing,  
12          you know, up the economy of Miami Beach,  
13          then you're driving people like myself out  
14          of Miami Beach and stopping others from  
15          coming from behind us. So I hope you'll  
16          reconsider it and not, you know, roll back  
17          the hours and -- and let the nightlife --  
18          the nightlife be. Thank you.

19                    MAYOR DERMER: Thank you.  
20           (Inaudible) let me -- let me see also where  
21           are we at with speakers. Hands please.  
22           Okay. Just whoever raises their hand,  
23           don't give me a new one. All right? Let's  
24           just freeze it at this, if we could,  
25           because we all would like to get -- get on

1 with this matter.

2 Go ahead. Thank you.

3 MR. HARRIS: Richard Harris, I live  
4 south of 5th. Show of hands how many  
5 people are against changing the ordinance?  
6 Leaving it alone, club people? Right, not  
7 a close call.

8 UNIDENTIFIED SPEAKER: Leave things  
9 the way it is.

10 MR. HARRIS: Leave things the way  
11 it is, show of hands? Okay. Now, how many  
12 of the people with their hands up live  
13 south of 5th or in Sunset Harbor.  
14 Everybody else put their hands down. So  
15 it looks like about 5 to 10 percent. So  
16 I think that's well noted.

17 I think that also we should look on  
18 point here in that this should be a very  
19 focused debate. This is about zoning and  
20 it's about a very small part of South  
21 Beach. This isn't about nightlife, it's  
22 not about liking nightlife or liking clubs,  
23 because I love a good party.

24 I liken this to being in a crowded  
25 elevator, there's ten people capacity, door

1 opens, you're in there with the ten people  
2 and 20 people get in. Now it gets stuck  
3 between floors. That's basically what's  
4 happened here. What I think you guys have  
5 to do is you have to look at where we're  
6 at, stop the proliferation, and assess.  
7 Thanks.

8 MAYOR DERMER: Thank you, sir.  
9 Okay. Go ahead.

10 MR. VITA: Hi.

11 MAYOR DERMER: Welcome.

12 MR. VITA: My name is Peter Vita.  
13 I'm probably going to tell you something  
14 you've heard often before and then  
15 something you'll probably hear a lot more  
16 of shortly if things continue to go the way  
17 they are. I am from New York, a successful  
18 business man who came to Miami Beach, fell  
19 in love with it, and moved down here.

20 That's what you've heard before.  
21 What you're going to start hearing a lot  
22 more of is I was an investor in the most  
23 successful club in the United States called  
24 Prive, voted No. 1 by People Magazine for  
25 the year 2003, and I got out, and I got out

1           because of the efforts that are undertaken  
2           by small groups of people to ply their  
3           points of view over the benefit that  
4           everyone should have in this city, and  
5           I have been appalled at the lack of  
6           solution orientated efforts by the City of  
7           Miami Beach in terms of solving the  
8           problems that exist, in particular in the  
9           clubs south of 5th Street.

10                   There are solutions. There are  
11           reasons for the problems. It probably  
12           makes a lot of sense to build Murano Grande  
13           down there, and the income tax dollars  
14           benefit everybody, but when you put it in a  
15           place when the people already have a  
16           license for a nightclub, then you are  
17           making a decision to basically live with  
18           the problems that we now have, and to look  
19           at that -- look at that investment being  
20           made there and then not make an investment  
21           back into solving the problems is what got  
22           me out of the club business, and I hope  
23           we don't see a lot more of this in Miami  
24           Beach.

25                   MAYOR DERMER: Thank you, sir.

1                   Welcome.

2                   MR. MIZOUI: My name is Tofik  
3                   Mizoui. I'm an owner of the Oasis  
4                   restaurant.

5                   UNIDENTIFIED SPEAKER: Can't hear  
6                   you.

7                   MR. MIZOUI: I'm surprised, because  
8                   the ordinance in front of you is  
9                   specifically for dance and entertainment,  
10                  have nothing to do with hours or anything  
11                  like that, and I haven't had one more  
12                  restaurant that is south of 5th --

13                  MAYOR DERMER: One moment, sir. Can  
14                  we shut that door, please, so that it will  
15                  shut the noise from outside, please. Thank  
16                  you, go ahead.

17                  MR. MIZOUI: I haven't had one  
18                  restaurant beside me south of 5th Street  
19                  that applied for dance and entertainment.  
20                  I have a feeling that you all just want to  
21                  close my restaurant specifically.  
22                  It doesn't make any sense. You're trying  
23                  to close a loophole so I can't have belly  
24                  dancer.

25                  I tell you the economic that

1           happened to me. My restaurant is down 80  
2           percent since I'm not allowed to have a  
3           belly dancer. 80 percent. My restaurant  
4           closes at twelve o'clock. I don't stay  
5           until five o'clock in the morning.

6                   Why do you have to close a loophole  
7           like that? Why can't I have belly dancer  
8           when two streets down you have Opa with 20  
9           belly dancers in there. It doesn't make  
10          any sense. I don't see any other  
11          restaurants in here who applying for dance  
12          and entertainment. I'm not only one in  
13          here.

14                   What's going on? Why is it like  
15          that? Why is the whole loophole just for  
16          one restaurant. Everybody else in here is  
17          not because of dance and entertainment,  
18          everybody here because they want to roll  
19          back from five o'clock to two. That's why  
20          they're here.

21                   COMMISSIONER CRUZ: Sir, just a  
22          question, do you have currently a dance  
23          license in your place?

24                   MR. MIZOUI: I applied for dance and  
25          entertainment, and I got all the

1           qualification on February 9th.

2           COMMISSIONER CRUZ: Because this is  
3           a prospective I ordinance.

4           UNIDENTIFIED SPEAKER: He does not  
5           have it today, though. (Inaudible.)

6           UNIDENTIFIED SPEAKER: (Inaudible.)

7           MR. MIZOUI: They don't want to  
8           issue it to me. I don't know why when  
9           I applied for everything and got it by  
10          February 9th. You didn't start this  
11          process until February 24. What is the  
12          reason that they're not giving it to me?  
13          I'd like to know.

14          MAYOR DERMER: Okay. Thank you for  
15          your comment.

16          COMMISSIONER GARCIA: Well, wait a  
17          second. Can we get an answer for that?

18          COMMISSIONER CRUZ: Jorge, can you  
19          address that, and when we have this issue  
20          with the development, there was a bright  
21          line that was established, and anyone that  
22          had submitted an application was judged in  
23          one fashion. I don't know --

24          MR. GOMEZ: You're talking about  
25          single family regulations when we did that?

1                   COMMISSIONER CRUZ: This is way back  
2 when we -- in '98.

3                   MR. GOMEZ: '98, okay.

4                   COMMISSIONER CRUZ: When were  
5 dealing with the development issues.

6                   MR. GOMEZ: Okay. As I explained to  
7 his lawyers from Holland & Knight this  
8 morning, when he applied for the licenses,  
9 which is before the 90-day zoning and  
10 progress period, we requested additional  
11 information, and that information did not  
12 get back to our office until after we began  
13 zoning and progress, and we advised him  
14 that then he had to wait until this process  
15 was finished.

16                  MR. MIZOUI: (Inaudible.)

17                  COMMISSIONER CRUZ: You need to let  
18 him finish.

19                  MR. GOMEZ: I also advised his  
20 attorneys this morning or somebody who  
21 represented to be your attorney that his  
22 issue really deals more with the form of  
23 entertainment and the type of restaurant  
24 that he has, in other words, there's going  
25 to be further discussions at the planning



1 board level where all of these things may  
2 be sorted out, because I think that is --  
3 there was some sentiment in the commission  
4 that it's not -- this is not the kind of  
5 establishment perhaps that you want to try  
6 to (Inaudible) for entertainment, but  
7 again, there -- I want to remind the  
8 commission he was not the only one who  
9 applied in that time as he stated right  
10 now.

11 We had two other applications.  
12 We have a total of three applications that  
13 have applied during this 90-day period.  
14 The 90-day periods will run out May 24th.  
15 Unless you take some action today, we will  
16 lose zoning and progress, and I suspect  
17 that the other 20 restaurants, because  
18 I already have 3 sitting in our offices,  
19 will also apply for entertainment licenses.  
20 So I just want the commission to consider  
21 that.

22 COMMISSIONER GARCIA: I got a  
23 question for you.

24 MR. MIZOUI: Just for the record.

25 COMMISSIONER GARCIA: What is the

1           harm of a belly dancer? I mean, this --  
2           this is what makes our city a laughing  
3           stock of everybody else. You know what  
4           I mean? That this --

5                   MR. GOMEZ: Commissioner, that's why  
6           I believe that that is something that needs  
7           to be addressed when the planning board  
8           discusses the various issues including the  
9           definition of "entertainment."  
10          Unfortunately, right now (Inaudible.)

11                   COMMISSIONER SMITH: You -- you  
12          defined -- the code defines "entertainment"  
13          a certain way, and I think you've outlined  
14          it on Page 176.

15                   MR. GOMEZ: Correct.

16                   COMMISSIONER SMITH: And there's  
17          certain things that are -- that fall within  
18          it and other things that don't fall within  
19          in.

20                   MR. GOMEZ: Correct.

21                   COMMISSIONER SMITH: And one of the  
22          charges we gave you at the last commission  
23          meeting is that we needed to look at that  
24          definition so that folks like him and --

25                   MR. GOMEZ: Right.

1                   COMMISSIONER SMITH:  -- others that  
2                   may want to have a -- something on TV or a  
3                   comedian or a violin or something like that  
4                   could -- could have that.

5                   MR. GOMEZ:  Correct.

6                   COMMISSIONER SMITH:  And -- and so  
7                   we --

8                   MR. GOMEZ:  That's the type of  
9                   ordinance that will come back to you after  
10                  we go through the process of (Inaudible)  
11                  and come back with something for you.

12                  MAYOR DERMER:  Okay.

13                  COMMISSIONER SMITH:  Okay.

14                  MAYOR DERMER:  Thank you.  Let's  
15                  continue the public hearing, please.  
16                  Sir -- sir -- oh, I'm sorry, well,  
17                  whatever, we're -- actually, it's your  
18                  turn, yes, go ahead.

19                  MR. DELEON:  Good evening, my name  
20                  is Al DeLeon.  I work at 1615 West  
21                  Avenue -- sorry, I live at 1615 West  
22                  Avenue.  I work at 205 and 221 Collins.  
23                  I'm here representing my employer, Judy  
24                  Clayton.

25                  I'd like to address the fellow that

1 spoke right in the beginning about the loud  
2 noise, the yelling, the bottles breaking.  
3 If that's how -- what he wants, if that's  
4 how he feels, I'll find a place downtown  
5 where it's gunshots and all the other  
6 things that are wonderful to certain parts  
7 of Miami. We don't want that here.

8 As far as the nightclubs, there's  
9 only two that are near us that cause a  
10 little bit of a problem, and sometimes, not  
11 very often, our guests come to me and say,  
12 you know, it's a little too noisy, can you  
13 find me another room. If we don't have it,  
14 I have to find them a different hotel, a  
15 different apartment.

16 I ask you to please support this  
17 measure. We've had enough. There's enough  
18 down there now to support everybody.  
19 I like the nightclubs myself, I go to them,  
20 and after this I'm going to have a drink at  
21 Laundry Bar. Thank you.

22 MAYOR DERMER: Okay. Thank you,  
23 sir. All right, let us go -- yes, welcome.

24 MR. STROM: Good -- good even, my  
25 name is Ed Strom. I'm a registered voter

1           here in Miami Beach. I've lived here for  
2           approximately five years. I, too, love the  
3           nightlife, but I think this whole  
4           discussion, the timing is wrong. This is  
5           not about closing a loophole, this is about  
6           sending a message out to the rest of the  
7           country and the world about what -- about  
8           what you guys, the commissioners, view as  
9           the future of this city.

10                 I suggest instead of addressing this  
11           measure today, if you postpone it until you  
12           had the discussion about the rollback --  
13           rollback, once that's settled and the  
14           message is sent to the business community,  
15           then you can address the issue of this  
16           loophole. That's my comment.

17                 MAYOR DERMER: Okay. Thank you.  
18           Welcome. Yes, ma'am, welcome.

19                 MS. HENSON: Hi, my name is Sherry  
20           Henson. I come to you guys as a resident.  
21           I'm in support of nightlife for several  
22           different reasons. I am a resident, I live  
23           on the Venetian Causeway. Previous to me  
24           getting married, I did live in the south of  
25           5th area at 145 Meridian Avenue. That's

1 the Courts.

2 Yes, I am married, that's what one  
3 of the board members said, and I'm in  
4 support of nightlife for many reasons.  
5 Because I'm on the Realtor Association of  
6 Greater Miami Beaches, my livelihood and my  
7 job depends on it. If people don't want to  
8 visit here, people will not buy homes and  
9 people will not buy real estate from me.

10 Therefore, by taking this away,  
11 taking this loophole away and not letting,  
12 you know, the nightclubs and the  
13 restaurants exist, in essence you're taking  
14 my livelihood away, so I plead with you  
15 today, here, the committee, please, you  
16 know, don't change this, don't take  
17 it away.

18 MAYOR DERMER: Okay. Doctor,  
19 welcome.

20 MR. SUNSHINE: Mayor, members of the  
21 commission, my name is Morris Sunshine.  
22 I live in South Pointe. I rise to support  
23 this motion. I think this ordinance is  
24 very carefully and thoughtfully drafted.  
25 It effects only two neighbors. It protects

1 the property of the people who are already  
2 in business. It -- it does not have  
3 anything whatsoever to do with hours, and  
4 in some ways the premises meeting was a  
5 scam.

6 I cannot resist practicing law  
7 without a license. I see Gary how smiling,  
8 he knows that, but since I heard the  
9 dissertation a little while ago about the  
10 charter and the charter's requirements for  
11 an economic impact analysis, and since  
12 I saw Attorney Dubbin criticized for his  
13 failure to understand the charter, I must  
14 rise in his defense, the defense of the  
15 elderly.

16 UNIDENTIFIED SPEAKER: And the not  
17 so elderly.

18 DR. SUNSHINE: Two things, one  
19 trivial but material.

20 COMMISSIONER GARCIA: (Inaudible.)

21 DR. SUNSHINE: The charter clause  
22 which was read to you contains the  
23 expression, "economic impact  
24 establishment." The critical word is  
25 "economic." Economic analysis is not the

1 kind of analysis tax collectors do and  
2 CPA's do.

3 If you plan to do an economic  
4 analysis, I want to hear about it, because  
5 it's going to be a major operation.  
6 Remember, economic analysis deals with  
7 intangibles, and it details with values.

8 Now to get to the heart of the  
9 matter. With respect to the charter,  
10 Mr. Dubbin. You need some instruction,  
11 sir. The charter is an entire piece. It  
12 is an entire piece, and if you wish to  
13 apply that section which has to do with  
14 recurring and economic impact analysis,  
15 then you must also apply -- you must also  
16 apply Paragraph 15 of the city charter, and  
17 that paragraph mandates, I think --  
18 I think, because I haven't heard yet,  
19 I think it mandates that the citizens are  
20 entitled to be protected against  
21 unnecessary and excessive noise.

22 And therefore, any time that you  
23 insist that the city manager certify that  
24 he has done an economic analysis, whatever  
25 he has done, I think I will rise and demand



1           that he assure me that the legislation on  
2           the table will not abridge my citizen right  
3           to be protected against successive and  
4           excessive noise. Thank you.

5                   UNIDENTIFIED SPEAKER: Boy, there's  
6           some (Inaudible) here.

7                   UNIDENTIFIED SPEAKER: (Inaudible.)

8                   MAYOR DERMER: Yes, welcome. Nice  
9           to see you.

10                  MR. COUSINS: Mayor, commissioners,  
11           my name is Phillip Cousins. First of all,  
12           I live at 240 Collins Avenue, and it may  
13           not have come to your attention yet that my  
14           condo president, Joe Valeri, passed away.

15                  UNIDENTIFIED SPEAKER: Oh, no.

16                  MR. COUSINS: He just died last  
17           night. Chief Delucca called our contacts  
18           to let me know that it was an (Inaudible.)

19                  COMMISSIONER GARCIA: (Inaudible) on  
20           the email, I read it this morning for  
21           anybody read the email who was there.

22                  MR. COUSINS: I'm mentioning this  
23           partly because I'm speaking now not only as  
24           a resident but also because of the  
25           perspective that 240 Collins building has

1 from where I sit looking out my window,  
2 that music, that nightlife, that growth.  
3 I've lived there seven years so far, and  
4 one thing that Joe helped me understand is  
5 that people here are here because we love  
6 Miami Beach.

7 So my message isn't so much about  
8 love, but it's about Joe, and that's what  
9 he's made me think about today, because  
10 if he were here, he would be representing  
11 80 years of contribution. So let's keep  
12 that in mind, because we're not really here  
13 to fight with each other.

14 The second thing, that's really  
15 important, because we love this place,  
16 that's why we're all here. Thank you. The  
17 second thing, Joe and I had been working on  
18 a project for a while to try to figure out  
19 how to map all of these points of view  
20 together, because from his perspective as  
21 running a condo and a neighborhood  
22 association, it all is really the same  
23 problem, it's one thing.

24 So I would suggest that, please,  
25 when we look at this challenge, the

1 challenge of keeping our streets clean,  
2 which Joe would monitor every night at  
3 midnight, is the same problem as how do  
4 we keep noise under control, which is the  
5 same problem as how do we sustain economic  
6 development.

7 Now, I know all of you just by  
8 gossip and other mechanisms are, I think,  
9 going on a retreat pretty soon. Please use  
10 that time to think about everything that  
11 people have said today and look at our  
12 future and how all these issues fit  
13 together as one big problem, not as a whole  
14 bunch of little ones. Thanks very much.

15 MAYOR DERMER: Thank you, sir.

16 Welcome, Steve.

17 STEVE: Hi. Mayor, commissioner,  
18 just as a practical suggestion, one of the  
19 reasons that we got to where we are today  
20 is because we passed the legislation  
21 several years ago restricting nightclubs  
22 along Washington Avenue and the Collins  
23 Avenue for 300 foot limitations, and a  
24 result we drove a lot of the businesses  
25 into the areas that are currently in

1 conflict right now.

2 And so we have a dilemma that seems  
3 like from the one hand it's very important  
4 that we do send out a message that this  
5 city commission and this City of Miami  
6 Beach is in full support, as I heard some  
7 of the commissioners today, of the  
8 nightlife.

9 And I think underlying a lot of  
10 what's going on today is this feeling that  
11 we're getting all the time when we meet  
12 with you guys, it's always a question of  
13 fighting restrictions and restrictions and  
14 restrictions.

15 And it hasn't been a great job of  
16 public relations either on what today's  
17 factual amendment was actually about,  
18 because on the ground the factual change  
19 today isn't in and of itself all that  
20 resounding. Everybody's getting  
21 grandfathered in, and I think in the sense  
22 that was a common sense thing to do under  
23 the political situation.

24 However, the nightlife industry  
25 deserves more than lip service regarding

1           how we're appreciated, and instead of just  
2           restrictions, we should -- we should be  
3           looking for something -- this is an  
4           intelligent group of people. I've had the  
5           pleasure of working with some of you guys,  
6           and I know that there's a sophistication  
7           there.

8                   I'm suggesting that we revisit the  
9           whole nightlife zoning situation, and not  
10          just go piece at a time restrictions, but  
11          what is prohibiting us from going back in  
12          the entertainment area and eliminating  
13          these 300-foot limitations between clubs,  
14          because we have -- that's artificial.  
15          We passed that seven, eight years ago  
16          before we went to 21 and over as a way of  
17          eliminating high school kids.

18                   We're already -- we're 21 and over  
19          now. We want to go into a commercial  
20          district. You want to get away from the  
21          noise. We have this huge commercial  
22          district where there would be no conflict.  
23          Let's revisit that. Eliminate the 300-foot  
24          limitation. We have a lot of potential  
25          viable places that new and flesh blood can

1           come into this industry, and we could be  
2           sending out a message and make a better  
3           product for the future.

4           MAYOR DERMER: Thank you. Ruth,  
5           welcome.

6           MS. REMMINGTON: Hi, I'm Ruth  
7           Remmington. I live at 1000 South Pointe  
8           Drive, and I hope the commissioners don't  
9           fall for the line that passing this  
10          ordinance that we're talking about today is  
11          sending a message.

12          This particular ordinance is about  
13          stopping sneaky nightclub operators from  
14          starting a restaurant and then turning  
15          it into a nightclub when it's not allowed  
16          now.

17          There's more nightclubs that have  
18          been going on in Miami Beach in the last  
19          few years. There's also been a lot of  
20          development, and the development has  
21          brought in a lot of new residents, and this  
22          is about balance.

23          As an example, you know, our  
24          neighbor who runs Oasis, you know, I wish  
25          that -- that his argument that he just

1           wants a belly dancer were correct, but I'll  
2           read you an expert of somebody who lives on  
3           the south side of the Courts who are  
4           miserable because of Oasis. This is an  
5           excerpt from a letter from Jeanette  
6           Martinez, a mother of small children who  
7           lives there, and she says:

8                   "A typical night consists of long  
9           lines of people standing outside to get in.  
10          Valet parking attendants parking cars  
11          illegally on 1st and in the back alley  
12          where clear non-parking signs are shown.  
13          There's very loud music coming from the  
14          inside, and it becomes louder every time  
15          the front door is opened.

16                 The sidewalk is blocked because  
17          tables and chairs have been placed outside  
18          for clients to sit. Nightclub flashing  
19          lights can be seen through their  
20          curtains -- through my curtains, people  
21          living -- leaving the restaurant have had a  
22          few drinks, talking, screaming, laughing,  
23          leaving behind empty bottles and trash."

24                 And that's happening right under the  
25          windows of -- of residents, and it is a

1 mixed area, but nightclubs are not the only  
2 ones who.

3 UNIDENTIFIED SPEAKER: Let her  
4 finish (Inaudible.)

5 MAYOR DERMER: Please folks, come  
6 on.

7 MS. REMMINGTON: Nightclubs are not  
8 the only -- are not the only game in town.  
9 There are residents, and we have to find a  
10 balance, and this ordinance is not about  
11 rolling back hours, and I really hope you  
12 pass it. Thank you.

13 MAYOR DERMER: Thank you for your  
14 comments. Let us go -- welcome. Let me  
15 get a hand check again. There are no new  
16 ones, there are no new ones, are there?  
17 I want -- I would -- let's get a list of  
18 the final speakers. We're going to take  
19 another ten speakers, and that's it. Give  
20 me a list aside from these two that are  
21 speaking now. Ms. Rama give her your name.

22 MS. RAMA: Hi.

23 MAYOR DERMER: Did you get her --  
24 did you get -- give her -- get Ms. Rama's  
25 name. Okay. And then we've got ten more,



1           and that's it, then we're closing shop.  
2           If you're on the list, you're on the list,  
3           go ahead.

4                     MR. HEFFRON:   Me start?

5                     UNIDENTIFIED SPEAKER:   You start.

6                     MAYOR DERMER:   Yes, please, welcome.

7                     MR. HEFFRON:   My name is Raymond  
8           Heffron.   I live at 1800 Sunset Harbor.  
9           I am a former board member and chairman of  
10          the city-created Sunset Harbor Task Force.  
11          For approximately six years I've been on  
12          civic committees, and I can tell you the  
13          general consensus within our community is  
14          for controls.

15                    Why?   Because of the apparent abuses  
16          that we all collectively have allowed, and  
17          what I would like to address are the  
18          causative factors that is prompting this  
19          discussion today.

20                    What the residents are crying out  
21          for is a proactive aggressive code  
22          compliance.   We do not have it.   Noise  
23          control, we do not have it.   Clean streets  
24          and a visible police presence assigned to  
25          specific neighborhoods.   We also encourage

1 planning board solicitation of community  
2 input to avoid decisions which adversely  
3 impact the harmony of neighborhoods. These  
4 forces should be our first line of defense  
5 towards enhancing and protecting citizen  
6 rights. This also applies to the tourism  
7 industry.

8 While laws exist, loophole and  
9 blatant abuse of laws occur because of the  
10 (Inaudible) oversight and general failure  
11 to enforce code. This inertia emboldens  
12 habitual violators to push the envelope,  
13 hoping indifference eventually becomes  
14 acceptance of the status quo.

15 We beseech you. Listen to us, hear  
16 both sides. We share many things in  
17 common. Basically, what we are looking for  
18 is harmony within the community. Thank  
19 you.

20 MAYOR DERMER: Thank you.

21 MS. RAMA: Hi, my name is Linda  
22 Rama, and I am vice president of Sunset  
23 Harbor North 1900. I also have been vice  
24 chair of the Sunset Harbor Task Force.  
25 I want to clear up something.

1           First of all, we've been working  
2           very hard for years as Mr. -- Commissioner  
3           Garcia knows and everyone else knows.  
4           We've been trying to work with everybody,  
5           all the industry around our area.

6           I've lived here over 30 years. I am  
7           very pleased what's happening; however,  
8           there are a lot of things that have not  
9           been addressed. We're very tired of coming  
10          here and never getting phone calls, never  
11          getting any -- anything accomplished.

12          We want you to understand that  
13          we all have to live together, but you need  
14          to help us, and you have not. You have  
15          failed. We need cleaner streets. We need  
16          parking. You cannot bring nightclubs into  
17          Sunset Harbor. We can't even park there  
18          ourselves. We have children playing there,  
19          there's glass there.

20          We have joggers at five and six  
21          o'clock in the morning, they're coming out  
22          of the bars, they have no respect for each  
23          other, there's never a good morning and,  
24          hi, I had a great time, and now I'm  
25          jogging. It's always abuse, there's always

1           spitting.

2                   I mean, if we're going to work  
3           together, let's work together, but you need  
4           to work with us. We need your help. I'm  
5           very tired of coming here and asking for  
6           it, and I hope you pass this. It's very  
7           important for us.

8                   MAYOR DERMER: Thank you. Okay.  
9           Next we have Joe Mahoney. Welcome.

10                   MR. MAHONEY: Thank you, Your Honor,  
11           and commissioners, nice to see you. I'm  
12           sorry about the way I dressed, I heard  
13           about this at the last minute. First off,  
14           I'd like to say I love Miami Beach.  
15           I moved away 17 years ago. I've been back  
16           now two months.

17                   It's noisy. I live of 5th Street,  
18           all right, on Meridian Avenue. It's noisy,  
19           no doubt about it, but I'm also brand-new  
20           to the area, and I needed (Inaudible.) All  
21           right?

22                   So when I walked in here I was  
23           proceed residents. By the time I heard the  
24           first speaker, I was pro -- but now I'm  
25           resident and on the edge, so you guys have

1 got to clarify this for me.

2 MAYOR DERMER: You should run for  
3 office, you'd be perfect.

4 MR. MAHONEY: The day will come  
5 Dermer, the day will come. All right.  
6 Enough said. Thank you.

7 MAYOR DERMER: Thank you, sir.

8 UNIDENTIFIED SPEAKER: (Inaudible.)

9 MAYOR DERMER: All right. Let's get  
10 David Wallack followed by Tracy Gordon.

11 MR. WALLACK: David Wallack, Mango's  
12 Tropical Cafe. A long, long time ago on  
13 South Beach, we had the word "moratorium."  
14 Stop, constriction of business, and South  
15 Beach stopped, and as it stopped, it died.

16 We have to keep moving in order to  
17 survive. That's what business is about.  
18 That's what our city is about. When you  
19 put a tourniquet on something, it's to stop  
20 something from flowing. This ordinance is  
21 a tourniquet. We are going to stop  
22 business from flowing. We will curb jobs,  
23 we will curb tax revenue at a time where  
24 I believe our city manager is looking for  
25 where he can make tax revenue grow.

1           David Kelsey brought out the most  
2           important point, and although David gives  
3           it in a way that some people absolutely  
4           recoil from, he still gives the truth. On  
5           Ocean Drive in 1992 and '93 and '94  
6           we begged for police on a Sunday.

7           Now, Lincoln Road was closed. There  
8           was no South Pointe. Washington Avenue had  
9           not even gotten going yet. Ocean Drive was  
10          where everybody was. We had two police on  
11          Sunday for maybe 25,000 people coming  
12          through. Two police, and that was because  
13          we begged and we got it. We had one.

14          Seven policeman where the entire  
15          shift, and how many were walking at the  
16          same speed as all the pedestrians? None.

17          We have a serious problem in this  
18          city, and that means that business and  
19          government have to come together, because,  
20          quite frankly, the residents are just  
21          caught in the middle. All these people  
22          moved to Miami Beach because we are who  
23          we are, and that's what made us great, the  
24          Renaissance, nightlife, the beach is not  
25          even nearly as beautiful as it used to be

1 before they dredged it. It used to be  
2 magnificent. Now it's a nice beach, but  
3 it's not the beach.

4 I once did a survey. She did 250  
5 people, I did 3,500 people when the  
6 planning board wanted to shut down and did  
7 shut down the dancing and Alex Fox at the  
8 Breakwater on Ocean Drive. What we did at  
9 the Breakwater by shutting the nightlife --

10 MAYOR DERMER: Dave, I've got to ask  
11 you to (Inaudible.)

12 MR. WALLACK: -- was that all of a  
13 sudden right in the middle of Ocean Drive,  
14 it became dark at 11:30. The Breakwater  
15 went dark. As soon as Miami Beach gets  
16 dark, because we are a mini New York,  
17 crime, drugs, prostitution, and violence  
18 fill in the darkness. Make South Pointe  
19 quiet and dark early in the evening without  
20 filling in city services of police --

21 MAYOR DERMER: David, I've got to --

22 MR. WALLACK: -- and what will  
23 happen is these people will get banged on  
24 their head in their million dollars condos,  
25 and that's Miami Beach.

1                   One more point, one more point.

2                   MAYOR DERMER: Please, David, you've  
3 got to --

4                   MR. WALLACK: I grew up on South  
5 Beach, I grew up on Miami Beach, Mr. Mayor.

6                   MAYOR DERMER: That's enough,  
7 already.

8                   MR. WALLACK: Mr. Mayor, I grew up  
9 on Miami Beach. This is my city. I've  
10 watched it grow, and I've helped it as best  
11 as I could. This -- this ordinance is a  
12 constriction which you will have difficult  
13 in changing.

14                  MAYOR DERMER: Okay. Last thought.

15                  MR. WALLACK: Please weigh the  
16 economics of it before you chop.

17                  MAYOR DERMER: Thank you, sir.

18                  MR. WALLACK: Thank you.

19                  MAYOR DERMER: Okay. Let us get --

20                  MR. WALLACK: And city services are  
21 the future.

22                  MAYOR DERMER: Okay. Let us go to  
23 Tracy Gordon followed by Rick Delgado.  
24 Tracy, welcome.

25                  MS. GORDON: Good evening. My name



1 is Tracy Gordon, and I -- I live at 135  
2 Ocean Drive, prior to there I lived at 335  
3 Ocean Drive, and prior to that I lived in  
4 my loft at 88 West (Inaudible) in Tribeca,  
5 New York City.

6 I'm here to represent three people,  
7 a former resident, a present resident, and  
8 a future resident, maybe. The former  
9 resident is my brother. His name is  
10 Gilbert Stafford, he lived here for ten  
11 years and worked in the nightlife industry.  
12 I'm here because he can't be here. I know  
13 that it would crush him, the things that  
14 are going on in this chamber.

15 I'm a little nervous, so excuse me  
16 (Inaudible.) And basically what you're  
17 doing to the clubs like Opium and Prive,  
18 I don't really understand all of the  
19 technicalities, all I'm saying is don't  
20 roll back the hours. I moved to this  
21 neighborhood knowing what I was getting  
22 into.

23 The president resident is me.  
24 That's why I moved here, I like the  
25 nightlife industry, and the future resident

1           is my mother. My mother is near 60,  
2           I guess. I don't want to say an older  
3           woman, but when she came here last year,  
4           all she could do is tell her friends how  
5           she hung out with her daughter until six  
6           o'clock in the morning, and they couldn't  
7           believe it, and she told me that -- this  
8           month, yesterday, was her birthday, and  
9           she'll be coming here on the 19th of the  
10          month looking for a residence, and she  
11          wants to live south of 5th.

12                 And before my mother gives her  
13          500,000 to \$1 million, I want to make sure  
14          that the place is the way that she wants to  
15          be, the place is the way that she left  
16          it the last time it was here. I don't want  
17          to tell her to invest in something that's  
18          going to change, so when you guys  
19          straighten this out, can you let me know,  
20          because I've got a phone call to make.

21                 MAYOR DERMER: Okay.

22                 MS. GORDON: Okay.

23                 MAYOR DERMER: Thank you. Let us go  
24          to Rick followed by Santiago Echemendia.  
25          Santi is present? Okay.

1                   MR. DELGADO: Thank you for the  
2                   time. My name is Rick Delgado, born and  
3                   raised in South Beach. I've pretty much  
4                   lived everywhere, and currently I'm  
5                   employed in different places, odd jobs here  
6                   and there in the nightclub business, but  
7                   I've also produced events, one being the  
8                   Miami Beach Fitness Festival that I've done  
9                   for the past six years, and Volleypaloosa,  
10                  an Ocean Drive event that I've been doing  
11                  for ten years.

12                 And the one thing that is always  
13                 asked halfway through the event is where am  
14                 I going tonight, what am I doing tonight,  
15                 I want to go out.

16                 So the nightlife, I believe, has  
17                 created this wheel, this powerhouse that  
18                 has attracted so many businesses, and not  
19                 only businesses but also production.  
20                 If you look at mine, I'm producing two  
21                 event address, Volleypaloosa and the Sport  
22                 and Fitness Festival, also look at Victoria  
23                 Secret just had an event on the beach.

24                 Everything is intertwined.  
25                 It cross-pollinates, and I believe if you

1           are going to restrict competition, because  
2           I believe new business, nightclubs,  
3           restaurants, and everything coming in,  
4           if you restrict it, you're going to start  
5           to chip on that wheel that's been so  
6           powerful for us, for all of us here,  
7           I believe, and that has created such an  
8           incredible charm across the world, across  
9           the world.

10                 I mean, look at Art Basel came into  
11           town. Look at the Winter Music Conference,  
12           they all come for a reason, and I believe  
13           the nightlife, it is intertwined.

14                 If you start to restrict, I believe,  
15           you are going to start to break that wheel,  
16           that powerhouse, and I believe that if you  
17           also start to restrict the hours of  
18           operations, you're not only going to  
19           economically start to kill these owners  
20           which put all their life and energy into  
21           what they're doing, but is also going to  
22           hinder what we all love and what I've grown  
23           up to become, somewhat of a night creature,  
24           so thank you for your (Inaudible.)

25                 MR. ECHEMENDIA: Good afternoon.

1           Santiago Echemendia, 201 South Biscayne  
2           Boulevard on behalf of Penrod's Brothers.  
3           We're concerned about becoming a legal  
4           nonconforming use. I have what I think,  
5           I am hopeful will be an embraceable  
6           reasonable compromise, and that is the  
7           zoning and progress terminates June 24th,  
8           I think I heard Jorge say.

9                   UNIDENTIFIED SPEAKER: (Inaudible.)

10           MR. ECHEMENDIA: May 24th. You  
11           still have a May -- well, you have a May  
12           26th hearing date that you can adopt a  
13           temporary moratorium to look at this issue  
14           on a more comprehensive level. You have a  
15           two-day -- unfortunately, you have a  
16           two-day window between the 24th and the  
17           26th.

18                   But a temporary moratorium would  
19           enable you for a six-month period of time  
20           to look at the issue of enforcement, to  
21           possibly not render those that are legal  
22           today legally nonconforming but them  
23           continue to be legal and then put more  
24           stringent conditions on those that apply  
25           for dance hall and entertainment licenses.

1           That's really the reasonable way to go with  
2           this. Thank you.

3           MAYOR DERMER: Thank you, sir. All  
4           right. Let us go to Mallory followed --  
5           yeah, Mallory I've got to the list. I'm  
6           going to follow that with Josh and then  
7           Juan, Rafael, and Frank will round us out.

8           MR. KAUDERER: Hello. My name is  
9           Mallory Kauderer. I live in Miami Beach.  
10          I've been a resident here for about 12  
11          years and a business owner, commercial and  
12          residential property, a nightlife business,  
13          a photo studio, and I have a lot to say,  
14          but we haven't a lot of time, so I'll keep  
15          it brief.

16          The -- this is a tourist-based  
17          economy, and we all know that in this room,  
18          I think, I hope. You concern me recently  
19          with some of the things that you've said in  
20          the press, and that's why I'm here today.

21          The -- I also have had from my  
22          various business filled out, I think, just  
23          over 200 of these surveys and letters to  
24          the city which I can provide tomorrow when  
25          my staff get the balance of them together,

1 but I believe it's just over 200, and those  
2 are all very -- many of those are voters  
3 and residents of Miami Beach who are very  
4 concerned about what's going on here, and  
5 that was only done in a couple of days.

6 The -- I've invested here, I've  
7 earned money here, I've raised a family  
8 here. I certainly, certainly would not be  
9 investing anything else now, and I am  
10 strongly considering liquidating some of  
11 what I own here based upon what I'm  
12 hearing, because I see the beginning of  
13 end, and that means moving me and moving my  
14 family.

15 And its everyone in this room's  
16 fault, because you're in control of what  
17 happens in this community to a very large  
18 degree. You're in control about what  
19 happens in this building, and it's very,  
20 very difficult to do business here, and I  
21 don't think that many of you appreciate  
22 that.

23 Some of you did appreciate that when  
24 you ran for office, when you got our money,  
25 when you solicited our votes, when you

1           misled us into voting for you, and some of  
2           you I'm looking at right now as I scan the  
3           room.

4                   The people that came here are  
5           like -- what my wife and I recently thought  
6           of doing, are we going to live on the golf  
7           course or are we going to live off the golf  
8           course. Now, our issue wasn't any golf  
9           balls falling in our backyard, but when you  
10          move onto the golf course, expect it,  
11          because they're going to hit your backyard.

12                   This ordinance is poorly thought  
13          out. It is -- the definitions require  
14          refinement. I don't even understand why  
15          you're voting on it yet, because it really  
16          doesn't cover the issue completely, and  
17          David Wallack is very much correct in what  
18          he stated about it, and this gentleman had  
19          a good suggestion. I have some of my own.

20                   We have a city services issue.  
21          That's sanitation, parking, and police, and  
22          these are the things that you're supposed  
23          to do. You're not supposed to ordinance us  
24          to death. Keep us keep coming back here to  
25          talk to you, keeping calling you and



1 writing you letters of what you should or  
2 shouldn't be doing. You're all intelligent  
3 people, you're all business people that  
4 we voted on because we respected you.

5 MAYOR DERMER: Listen, I have to ask  
6 you to wrap it up if you could.

7 MR. KAUDERER: I'll wrap it up.  
8 What I want to know and I think what a lot  
9 of the people that are in this room, and  
10 unfortunately, many of them have left, but  
11 the TV cameras are here, is what this  
12 commission individually thinks today about  
13 rolling back the hours and about  
14 eliminating the ability of businesses that  
15 are already open to stay open.

16 These are very two important things  
17 that are the lifeblood of the community and  
18 important to people investing in this  
19 community, and we know what the mayor  
20 thinks, because we're not sure -- we're not  
21 sure. I mean, I'm not sure. I mean, what  
22 do you think? Do you think one thing and  
23 then you think another thing --

24 MAYOR DERMER: (Inaudible.)

25 MR. KAUDERER: -- (Inaudible) for

1           about 18 months. Before that --

2           MAYOR DERMER: Mallory, your time  
3           has been expired for a while, and some  
4           folks are waiting. If you could please  
5           wrap it up.

6           MR. KAUDERER: Would this commission  
7           be willing to individually state what they  
8           think on these positions so we can all hear  
9           that?

10          MAYOR DERMER: Mallory, I have to  
11          ask you -- I have to ask you, please.

12          MR. KAUDERER: We can start -- we  
13          can start from right to left or left to  
14          right.

15          MAYOR DERMER: Mallory, I have to --  
16          Mallory, your time is expired.

17          COMMISSIONER GARCIA: Mallory, I'll  
18          start right here.

19          MAYOR DERMER: No, no, no.

20          MR. KAUDERER: Fine, let's start  
21          right there, Commissioner Garcia.

22          COMMISSIONER GARCIA: I'll be happy  
23          to start right here. No, I -- I --

24          MAYOR DERMER: Let's finish the  
25          public hearing.

1                   COMMISSIONER GARCIA: No, he might  
2 rule me out of order, but I will definitely  
3 make my views known.

4                   MAYOR DERMER: I don't want to rule  
5 anybody out of order, I just want to finish  
6 the public hearing. That's all.

7                   MR. KAUDERER: I'm sure you do, it's  
8 embarrassing for you.

9                   MAYOR DERMER: Come on.

10                  MR. KAUDERER: I'm sure you want to  
11 finish it.

12                  MAYOR DERMER: Josh, come on. Thank  
13 you. Thank you Mallory for your comments,  
14 I appreciate it.

15                  MR. KAUDERER: Thank you, Luis for  
16 standing up and possibly wanting to say  
17 what the public wants to hear.

18                  MAYOR DERMER: Come on.

19                  COMMISSIONER GARCIA: Well, I --  
20 I --

21                  MAYOR DERMER: Welcome.

22                  MR. FISHER: My name is Josh Fisher.  
23 I'm a resident of South Pointe, and, well,  
24 it's not my nature to suck up, but somebody  
25 has to really express some appreciation for

1           you all, because you've been put in a  
2           really difficult position that is really  
3           basically very unfair.

4           You're attempting to do a little bit  
5           of land use planning, the most fundamental  
6           thing a government body can do in a city,  
7           and to have what you're trying to do  
8           tonight characterized as being trying to  
9           kill the golden goose in our town is just  
10          flat out unfair to you, and you really have  
11          my empathy.

12          UNIDENTIFIED SPEAKER: Don't worry,  
13          we're veterans here, we've been --

14          MR. FISHER: Yeah, I know you've all  
15          got the scars.

16          UNIDENTIFIED SPEAKER: That's why  
17          we get the big bucks, Josh.

18          MR. FISHER: What is it, 6K a year  
19          or something I remember reading once.

20          MAYOR DERMER: The mayor makes 10.

21          MR. FISHER: Do you get paid in  
22          cash, that was the other thing (Inaudible.)

23          MAYOR DERMER: Go ahead.

24          MR. FISHER: So the simple fact is  
25          that when South Pointe and Sunset Harbor

1           were planned, they were planned to be  
2           residential neighborhoods, and our city has  
3           got lots of residential neighborhoods.  
4           It's got a nightlife district, and I don't  
5           know anybody in my residential neighborhood  
6           who isn't there for the life and vibrancy  
7           of the city.

8                     And anybody who thinks that can be  
9           sustained by simply willie-nillie ignoring  
10          planning, letting businesses do whatever  
11          they feel like any place they feel like  
12          doing it to whatever hour they want to do  
13          it anywhere is just not really sensible  
14          about the problem.

15                    The problem is we built thousands  
16          and thousands of apartments and are  
17          building more, and those apartments are in  
18          a place which is wonderful, I love living  
19          there, my neighbors love living there,  
20          those of us who have come down in the last  
21          few years and hadn't lived here before are  
22          stunned at what a terrific place it is, but  
23          it has some incompatible uses that you  
24          never intended to have there. You have a  
25          loophole in the ordinances that are

1           allowing something, allowing a license you  
2           can't come in and get to be gotten by a  
3           means that is different from the means by  
4           which you get that license, and you're  
5           being asked to plug that loophole.

6           And again, I want to thank you for  
7           having to endure what it is that you're  
8           having to put up with in order to do this  
9           most sensible thing.

10           MAYOR DERMER: Thank you, sir. Let  
11           us have Juan followed by Rafael followed by  
12           Frank.

13           MR COVIAN: Juan Covian, Portofino  
14           Towers. You know, almost everybody that  
15           has come to the podium has either a sign  
16           that says they love the nightlife, they  
17           don't want to kill the goose, and those  
18           that didn't bring the sign have almost  
19           expressed exactly the same thing, they  
20           moved here because they love the vibrancy  
21           of the city.

22           And part of that is because the  
23           nightlife of the city is great. The people  
24           that are responsible for the nightlife has  
25           done a fantastic job, and they should be

1           congratulated for that. At the same  
2           time -- at the same time they should  
3           also --

4           MAYOR DERMER: You could stand up  
5           if you want. This is not a senate hearing  
6           or anything, you can stand up.

7           MR COVIAN: They should also be  
8           congratulated, because I have never seen a  
9           better utilization of scare tactics in my  
10          life. They have basically done everything  
11          under the sun to try to show us how passing  
12          an ordinance that basically all that  
13          it does is correct what is a little  
14          loophole by which people are doing what  
15          they're not supposed to do, they're telling  
16          us that passing that ordinance is going to  
17          create Armageddon, I mean, it's going to be  
18          the destruction of our way of life, and  
19          I think that is just terrible.

20          I am here to support the passing of  
21          the ordinance. I think it is time.  
22          I asked you last time to belly up to the  
23          bar. It's time to get this over, because  
24          what is going to continue to happen is get  
25          worse and worse and worse.

1                   COMMISSIONER GARCIA: Mr. Mayor, I'd  
2                   like to ask a question.

3                   MR COVIAN: Thank you.

4                   MAYOR DERMER: Sure. Commissioner  
5                   Garcia has a question.

6                   COMMISSIONER GARCIA: Mr. Covian,  
7                   don't go away. Don't go away, because you  
8                   and I met in the presence of other  
9                   individuals.

10                  MR COVIAN: Uh-huh.

11                  COMMISSIONER GARCIA: Because, you  
12                  know, what you're expressing right now is  
13                  not exactly what you expressed to me at the  
14                  time. How do you feel about the  
15                  grandfathering clause?

16                  MR COVIAN: I think that if it looks  
17                  like grandfather clock, each one of them  
18                  should be looked individual.

19                  COMMISSIONER GARCIA: No, no, what  
20                  did you tell me at the time?

21                  MR COVIAN: I told you that exactly.

22                  COMMISSIONER GARCIA: No, no, that's  
23                  not what you told me, Mr. Covian.

24                  MR COVIAN: I told you exactly.  
25                  I said I think it's a mistake to either



1           endorse it blindly or to reject it blindly.  
2           Each one of those clocks should be looked  
3           at individually, the ones that are there  
4           now, and say should you keep it or  
5           shouldn't you keep it. I think that's only  
6           logical, and I said that the first meeting.

7                   COMMISSIONER GARCIA: Well, first of  
8           all, the way I recall it wasn't exactly  
9           those words, and you said no way that  
10          I would go with the grandfathering clause.  
11          Okay? That's what you told me.

12                   MR COVIAN: That's what I'm saying.

13                   VICE MAYOR GROSS: Luis, he's not a  
14          trial.

15                   COMMISSIONER GARCIA: Well, you know  
16          Commissioner Gross.

17                   MR COVIAN: Luis --

18                   COMMISSIONER GARCIA: Commissioner  
19          Gross --

20                   MR COVIAN: Luis, listen to me. I'm  
21          saying exactly the same. I would not go  
22          for a blind endorsement of the grandfather  
23          clause no more than I would go for a blind  
24          saying everyone should go in. It should be  
25          looked at individually.

1                   COMMISSIONER GARCIA: First of  
2 all -- first of all, that's not what you  
3 told me that time. Okay. Okay. I  
4 remember. Number two, what I was getting  
5 at -- what I was getting it is that type of  
6 mentality is what has got everybody else  
7 scared right here, because you know what,  
8 right now you're -- right now you're  
9 proposing to close a loophole, okay, but in  
10 reality what you want is to put people out  
11 of business.

12                  MR COVIAN: I didn't say that.

13                  MAYOR DERMER: Juan, let us get  
14 Rafael -- Rafael, and our last speaker will  
15 be Frank, and we'll close the public  
16 hearing.

17                  MR. RIVERA: My name is Rafael  
18 Rivera, and I live on 211 Collins Avenue.  
19 I've been living in South Beach for all my  
20 life, 24 years, and I've grown to love this  
21 place, it's a very beautiful place.

22                  I'm coming over here to represent  
23 the minorities, taxi drivers, culinarians,  
24 people that live off the tourism business,  
25 and I'm just -- I'm going to make this

1           brief and short, we live off of them, and  
2           we work hard to make this place what it is  
3           today.

4           MAYOR DERMER:   You said taxi drives  
5           and?

6           MR. RIVERA:   Taxi drivers and  
7           culinarians.

8           MAYOR DERMER:   Oh,culinarians.  
9           Okay.

10          MR. RIVERA:   People that work in  
11          restaurants.

12          MAYOR DERMER:   I got it.

13          MR. RIVERA:   Even bouncers, you  
14          know, bartenders.

15          MAYOR DERMER:   I heard you, I heard  
16          you.

17          MR. RIVERA:   The list goes on and on  
18          and on.   We live off the tourism, and to  
19          be -- I'm -- to be honest with you, as far  
20          as I'm concerned, we pay like more taxes  
21          than any other county so we could have  
22          security with the police.   We pay a cent  
23          more or something like that, correct me if  
24          I'm wrong but whatever.

25          The point that I'm trying to make is

1           that I agree that we should have some sort  
2           of stipulations like have more police  
3           officers. If we're going to have all these  
4           tourists like the Source Awards, the Latin  
5           Grammys. Everyone around the world is  
6           looking at Miami Beach because we --  
7           because of the nightlife, you know, and  
8           because what we've become -- what we are  
9           today, and I just -- I just wanted to say  
10          that, I came over here to say that.

11                 MAYOR DERMER: I thank you, sir.  
12          Thank you.

13                 MR. RIVERA: Thank you.

14                 MAYOR DERMER: Our last speaker.  
15          Welcome.

16                 MR. DEL VECCHIO: Frank Del Vecchio,  
17          301 Ocean Drive. I think this ordinance is  
18          pro-residential to these two residential  
19          neighborhoods. It will be good for  
20          residential investment, it will be good for  
21          the beach economy, and what it does,  
22          it stops the inevitable conflicts in these  
23          residential areas if there is going to be  
24          an increase in nightlife.

25                 I think, however -- in those areas.

1 I think there's something missing that  
2 you're going to have to turn to. I think  
3 you should enact this ordinance. I think  
4 the pro-business aspect of this kind of  
5 planning, which I think should be holistic,  
6 it should deal with residential investment,  
7 it should deal with the asset of nightlife  
8 and entertainment, and that part of the  
9 equation hasn't really been adequately  
10 addressed.

11 I think we need to take the next  
12 step, which -- which was generally referred  
13 to the planning board, but it was not  
14 articulated in a way in which the nightlife  
15 industry and the business community can see  
16 within it something of value to them, and  
17 they have legitimate concerns.

18 We're all concerned about police,  
19 sanitation, services, and (Inaudible) over  
20 regulation in the residential districts and  
21 in the commercial district. I need --  
22 I think you need to take a holistic view of  
23 where nightlife investment, new nightlife  
24 investment should be welcomed and  
25 supported.

1           You need to look at the  
2           entertainment district, its boundaries, how  
3           it's regulated. You've have several issues  
4           of existing zoning that may no longer be  
5           appropriate. You know the issue of  
6           services. So I think we need to have --

7           I think you should enact this  
8           ordinance, but I think you need to do a  
9           major look at our entertainment district,  
10          and it should get the same kind of focus  
11          that you've been giving to residential  
12          quality of life. You've recognized the  
13          change in these residential districts and  
14          how they should be improved, and I think  
15          we -- we -- we members of neighborhood  
16          organizations appreciate and understand the  
17          pressures on the commercial district, and  
18          we would like to work on that, too. Thank  
19          you.

20                 MAYOR DERMER: Thank you, sir.  
21          Okay. Motion to close the public hearing?

22                 VICE MAYOR GROSS: I'll move it.

23                 MAYOR DERMER: Okay. Motion to  
24          close the hearing is now closed. There's a  
25          motion.

1                   VICE MAYOR GROSS: I'll make -- I'll  
2                   make a motion.

3                   MAYOR DERMER: Motion, Commissioner  
4                   Gross on the ordinance or any other  
5                   (Inaudible)?

6                   VICE MAYOR GROSS: Yeah, I think  
7                   that we need to send a few messages today,  
8                   because there are two communities, and  
9                   I think we need to send different messages  
10                  to the two communities. The first one to  
11                  the nightclub community, I say let's not  
12                  discuss rolling back the hours. I think  
13                  that's a mistake. I think that we should  
14                  direct the planning board not to consider  
15                  rolling the hours back from five to  
16                  two o'clock.

17                  Because for whatever reason, the  
18                  message has gone out that has scared the  
19                  nightclub industry. That's not our purpose  
20                  in doing that, and I think that would send  
21                  a strong message both locally and abroad to  
22                  other people in the county, other places in  
23                  the United States, and internationally as  
24                  well, I don't think that we should be  
25                  sending a message that we want to roll the

1           hours back. That's number one.

2                   Number two, the ordinance that's  
3           before us has a lot of validity, and  
4           I think that we should pass it, because  
5           I think that's a separate issue from the  
6           hours issue, and I think the residents  
7           deserve to know that there's not going to  
8           be anymore proliferation of nightclubs in  
9           these two residential neighborhoods.

10                   So in a way we can please both sides  
11           here by doing that, and I think that's the  
12           right thing to do, but I think the city  
13           also does need to accept responsibility for  
14           not providing the kind of services that  
15           need to be provided. I think that's one  
16           thing everybody in the room can agree upon.  
17           We -- we do have to do better in providing  
18           cleanliness and police and safety.

19                   But I think the last -- one of the  
20           other pieces of the equation that we do  
21           need is an ordinance that really was not --  
22           didn't receive a lot of attention at the  
23           last meeting, but it discusses the rules  
24           under which the clubs are expected to be  
25           good citizens, and if they don't, then



1           there are ramifications to that.

2                   Because I think really the failure  
3           that we've had is that the city has had no  
4           way of saying to the clubs, we want you to  
5           be good citizens, we want you to be  
6           successful, but at the end of the day,  
7           if you don't do that, there are going to be  
8           consequences, your license will either be  
9           revoked or it will be suspended, and  
10          we have to agree with the nightlife and  
11          with the residents on exactly what those  
12          rules are, because the uncertainty to  
13          business is a very bad thing.

14                   I'm in the real estate business,  
15          I've heard people talking in the last month  
16          since we -- since we meet, I'm not  
17          investing in that neighborhood, I'm not  
18          buying that building. That's a bad thing.  
19          That's not good for anybody on the beach,  
20          and the lack of certainty is what creates  
21          that.

22                   So I would say let's not roll back  
23          the hours, let's set guidelines that the  
24          businesses have to live by. If they don't,  
25          they're going to be subject to having their

1 license suspended or revoked, let's pass  
2 this ordinance, and let's provide better  
3 city service.

4 MAYOR DERMER: Let me -- let me do  
5 this. There's a motion. The motion as I  
6 understand it, the ordinance, direction to  
7 planning not to roll back hours, and to  
8 deal with --

9 COMMISSIONER BOWER: I will second  
10 that motion, but I need to --

11 MAYOR DERMER: I just want to  
12 articulate the element --

13 COMMISSIONER BOWER: I need to ask a  
14 question.

15 MAYOR DERMER: No, no, hang on, hang  
16 on. I just want to articulate it properly.  
17 Your two components along with the  
18 ordinance to the to roll hours and --

19 VICE MAYOR GROSS: Well, this  
20 providing better services is a direction to  
21 the manager, but the other one, we need to  
22 have a community meeting on this -- the  
23 rules by which we're going to have the  
24 clubs live by in terms of the periodic  
25 violations, and over time if they

1 demonstrate that they're not going to be  
2 good citizens, at one point the license is  
3 going to be subject to suspension or  
4 revocation.

5 MAYOR DERMER: Okay. That's  
6 (Inaudible.)

7 VICE MAYOR GROSS: And that's what  
8 the federal court has asked us to do in the  
9 litigation that was pending with Opium.  
10 They said, you know, the city had tried to  
11 revoke their license, and the Court said  
12 you don't have any criteria to do this.  
13 We want you to establish those criteria.

14 MAYOR DERMER: Okay. Is there a  
15 second to the (Inaudible.)

16 UNIDENTIFIED SPEAKER: I'll -- I'll  
17 second it.

18 COMMISSIONER BOWER: No, but I want  
19 to ask a question.

20 MAYOR DERMER: (Inaudible.)

21 VICE MAYOR GROSS: One other item,  
22 because I agree with Frank, and also  
23 it might have been David Kelsey who said  
24 it. We do need to look at what  
25 neighborhoods we want to encourage

1           nightlife to flourish in, and what we're  
2           saying here is don't open new nightclubs in  
3           South Pointe. Okay?

4                     Let's go to the planning board,  
5           let's pick the entertainment district,  
6           let's say what neighborhoods we want new  
7           nightclub investment to be in, which is  
8           what Commissioner Garcia has been saying.

9                     COMMISSIONER GARCIA: For four  
10          years.

11                    VICE MAYOR GROSS: And let's --  
12          let's give certainty to people who want to  
13          invest in our community and open businesses  
14          so that they can be successful.

15                    MAYOR DERMER: Okay. There's a  
16          motion and a second. And that, I think,  
17          was a good motion, because you got both  
18          sides clapping for you. I've got to  
19          commend you on that one.

20                    Go ahead, what is your --  
21          Commissioner Cruz had his light on first,  
22          and then we'll entertain Bower, Garcia,  
23          Smith, Steinberg.

24                    COMMISSIONER CRUZ: That's the wise  
25          thing to do here. And again, because of

1           the uncertainty that was going out and as  
2           I stated at the beginning, this was a  
3           narrow ordinance directed at closing a  
4           loophole, but not to discourage the  
5           nightlife industry. That's why the  
6           rollback became such a critical issue, and  
7           it's not something that we want to send a  
8           message wholesale that we're shutting down,  
9           because we're not.

10                 So maintaining and putting aside the  
11           whole rollback issue is a smart thing to  
12           do. However, the entertainment component  
13           which you brought up and David Wallack has  
14           in the past and now Frank Del Vecchio has  
15           brought up as far -- as well as David  
16           Kelsey, we need to look at that, because  
17           we do need to at least tell the people that  
18           do want to invest, this is an area that  
19           you're going to invest that we are going to  
20           respect the ground rules.

21                 It's the same thing we did when  
22           we had the development issues back here in  
23           '98. We drew the line and said this is  
24           what we'll allow to do in these areas and  
25           not in these. There's nothing worse for

1 investment than uncertainty for both  
2 residents and business people.

3 Hopefully, this will put it to a  
4 rest that we welcome both and that the  
5 nightlife industry, which has become an  
6 extremely important industry for us, will  
7 be respected and tolerated, but the clubs  
8 also have to do their fair share.

9 They have to maintain their outside.  
10 They have to control their crowds.  
11 Taxicabs are a huge problem in the  
12 neighborhoods, because they go back and  
13 forth. That's not the problem of the  
14 nightclub, but we as a body need to send  
15 that message out as well, because it's --  
16 it is out of control, and it's not  
17 necessarily in the control of the clubs to  
18 be able to do that.

19 We're going to have to do a better  
20 job. We need to define exactly what it is  
21 that we expect from them, and we need to do  
22 it and hold them accountable to it, because  
23 if we tell them what we expect, then they  
24 have ground rules, and it is unacceptable  
25 to have at five in the morning or from,

1           what, one to five, which is really when  
2           they're thriving, you know, huge masses of  
3           people congregating outside and creating  
4           problems, and the clubs have to understand  
5           that and work with us on that, because that  
6           will only inure in your favor if you can  
7           handle that.

8                     And outside of that, look, I think  
9           we've come a long way, and I think that  
10          this will hopefully put this at ease and we  
11          can all have a good and quiet summer,  
12          because I dreaded spending another  
13          commission meeting getting phone calls. So  
14          hopefully everyone can rest assured that  
15          their interests are preserved.

16                    MAYOR DERMER: I had Bower, then  
17          I had -- how did I do the order, Bower,  
18          Garcia, Smith, and Steinberg. I'm sorry,  
19          well, let me get Richard after Bower, he's  
20          usually hanging out there. Okay.

21                    COMMISSIONER BOWER: Okay. My  
22          question is I -- I don't disagree with this  
23          so far, except I'm not quite sure where  
24          we're handling the outside entertainment  
25          and the noises that it creates, because

1           we're -- I was never concerned with rolling  
2           back any -- any hours any place, but my  
3           concern is with the outdoor entertainment,  
4           and I don't know, Saul, how you are  
5           addressing that issue in this motion, which  
6           is why we send it -- at least it was my  
7           perception that that's why we sent it to  
8           the planning board, because if it's --

9           VICE MAYOR GROSS: Right, I --  
10          uh-huh.

11          COMMISSIONER BOWER: -- if it's in  
12          doors, I'm not concerned, it's the --

13          VICE MAYOR GROSS: Well, I agree  
14          with you, but I think what we also had sent  
15          to the planning board was consider the  
16          rollback of the hours as well, and I think  
17          that that was an error, and that's what I'm  
18          saying today.

19          COMMISSIONER BOWER: But what if --  
20          well -- well -- no, but I want to --

21          MR. GONZALEZ: Commissioner Bower, I  
22          want to understand your question.

23          COMMISSIONER BOWER: Yes.

24          MR. GONZALEZ: Is it the concern  
25          with entertainment or with outdoor open



1 air?

2 COMMISSIONER BOWER: Outdoor open  
3 air.

4 VICE MAYOR GROSS: And Matti is  
5 saying --

6 MR. GONZALEZ: The collateral --

7 VICE MAYOR GROSS: She's talking  
8 about the collateral impacts of the  
9 nightclubs, I believe, when the people --

10 MR. GONZALEZ: Are outside.

11 VICE MAYOR GROSS: (Inaudible) out  
12 of the nightclubs.

13 MR. GONZALEZ: I think you're  
14 talking about an open air.

15 COMMISSIONER BOWER: (Inaudible.)

16 VICE MAYOR GROSS: Open air,  
17 we already dealt with that.

18 MR. GONZALEZ: We did that one.

19 COMMISSIONER BOWER: We dealt with  
20 that?

21 VICE MAYOR GROSS: Yeah, that's  
22 done.

23 COMMISSIONER BOWER: All over?

24 MR. GONZALEZ: In south -- in South  
25 Pointe.

1 VICE MAYOR GROSS: In South Pointe.

2 COMMISSIONER BOWER: Only?

3 VICE MAYOR GROSS: Yes.

4 COMMISSIONER BOWER: And that is  
5 grandfathered in?

6 MR. GONZALEZ: You allowed for  
7 grandfathering in as well.

8 VICE MAYOR GROSS: Yeah.

9 COMMISSIONER BOWER: In the -- in  
10 the (Inaudible.)

11 MR. GONZALEZ: In South Pointe.

12 COMMISSIONER BOWER: So how do  
13 we resolve in your -- in your issues of,  
14 you know, code of conduct, are we going to  
15 address, then, issues -- that's the last  
16 ordinance we passed, the issue is if you  
17 break the law and the noise.

18 MR. GONZALEZ: The -- what you  
19 passed as first reading in your last  
20 meeting and asked us to go out and do some  
21 outreach, which we have some meetings  
22 trying to get scheduled, is the issue of  
23 our occupational license and habitual  
24 offenders where we would determine at what  
25 point the multiple violations make you a

1           habitual offender, which allows us to  
2           pursue a license revocation hearing before  
3           the special master or some other  
4           (Inaudible.)

5           COMMISSIONER BOWER: Well, that  
6           actually will take care of the problem.

7           MR. GONZALEZ: That should come  
8           back, I believe it's in your June meeting.  
9           Is that when (Inaudible.)

10          VICE MAYOR GROSS: But let's make  
11          sure we have plenty of dialogue  
12          (Inaudible.)

13          MR. GONZALEZ: Yeah, and that's the  
14          intent is that -- that's why we put it to  
15          June, to allow for sufficient time to reach  
16          out to the neighbors and to the business  
17          owners so that we can reach consensus.

18          COMMISSIONER BOWER: Okay.

19          UNIDENTIFIED SPEAKER: What about  
20          entertainment without dancing.

21          MAYOR DERMER: Hang on one second,  
22          here. Commissioner Steinberg (Inaudible.)

23          COMMISSIONER SMITH: I'm going to  
24          deal with that.

25          MAYOR DERMER: He's going to race

1           that issue.

2                   COMMISSIONER STEINBERG: I have a  
3           question of clarification for the  
4           administration and that's there -- you have  
5           listed seven restaurants in South Beach  
6           that you identify as having dance licenses  
7           and two in the Sunset Harbor area. Is  
8           it your opinion that we're grandfathering  
9           in those nine establishments, all of them?

10                   MR. GONZALEZ: The -- the intent of  
11           this ordinance would grandfather any  
12           licensed legal establishment. Those are  
13           the seven that are listed in our report.  
14           I'd like to actually read them into the  
15           record at some point once the ordinance is  
16           passed.

17                   COMMISSIONER STEINBERG: Because  
18           I want to clarify, I don't want anyone to  
19           go out not thinking that they are or aren't  
20           grandfathered. I just want to --

21                   MR. GONZALEZ: Right, I think  
22           we should clarify those.

23                   COMMISSIONER STEINBERG: I want  
24           people to know where they stand going out  
25           of here.

1 MR. GONZALEZ: Exactly.

2 COMMISSIONER STEINBERG: So there's  
3 no --

4 MR. GONZALEZ: That's appropriate,  
5 and that's something we were planning to do  
6 as part of the motion was to make sure that  
7 we were very clear on which establishments  
8 are as far as our understanding through our  
9 occupational license have legal standing  
10 and would be vested with the legal  
11 nonconforming use, and if you want to do  
12 that now, we can do that now, or we can do  
13 it -- Jorge (Inaudible.) Go ahead, yeah.

14 MR. GOMEZ: These are the following  
15 restaurants with the entertainment license  
16 that are currently in existence. That  
17 would be Penrod's, Opium, Pure Lounge,  
18 Monty's, Taverna Opa, Harrison's,  
19 (Inaudible), and that's it. Those are the  
20 seven that right now.

21 MR. GONZALEZ: And then South  
22 Pointe. And then what are the --

23 MR. GOMEZ: South of 5th Street.

24 MR. GONZALEZ: And then the ones on  
25 Sunset.

1 MR. GOMEZ: On Sunset.

2 VICE MAYOR GROSS: You don't read  
3 Joya, did you?

4 UNIDENTIFIED SPEAKER: Pure lounge.

5 MR. GOMEZ: Pure lounge.

6 VICE MAYOR GROSS: But that's  
7 different, pure lounge is a different  
8 business.

9 MR. GOMEZ: No, they have the same  
10 liquor license for the entire complex.

11 VICE MAYOR GROSS: No, no, I don't  
12 think so.

13 MR. GONZALEZ: No, let's do them  
14 separately, Jorge. Notice down here they're  
15 listed twice, Pure Lounge and Joya. Down  
16 about a little bit past half of your list,  
17 right above (Inaudible.)

18 MR. GOMEZ: I'm sorry, yes, yes.

19 VICE MAYOR GROSS: You see, Pure is  
20 a different animal.

21 COMMISSIONER BOWER: Is Opa  
22 (Inaudible) now.

23 MR. GOMEZ: Opa has an entertainment  
24 license, yes.

25 VICE MAYOR GROSS: No, there's a

1           Taverna Opa and --

2           MR. GOMEZ:   Taverna Opa.

3           COMMISSIONER BOWER:   So when it came  
4           to land use and we spent all that time in  
5           land use making sure that it wasn't going  
6           to be a noise making entertainment, and you  
7           told me no.

8           MR. GOMEZ:   Right, they have --

9           COMMISSIONER BOWER:   No, 300 times  
10          until I finally voted for this.   It's now a  
11          cabaret?

12          MR. GOMEZ:   The entertainment is  
13          only indoors, they're not allowed to  
14          have --

15          COMMISSIONER BOWER:   So then it's  
16          not --

17          MR. GOMEZ:   It doesn't --  
18          it doesn't -- it has an entertainment  
19          license for outdoor only.

20          COMMISSIONER GARCIA:   For outdoor  
21          entertainment.

22          MR. GOMEZ:   The ordinance that you  
23          passed --

24          MR. GONZALEZ:   Matti, that's the  
25          loophole that you're trying to close.

1                   MR. GOMEZ: That's the ordinance  
2                   that you passed was about outdoor  
3                   entertainment.

4                   COMMISSIONER BOWER: Yeah, but my  
5                   God.

6                   MAYOR DERMER: Okay.

7                   MR. GONZALEZ: That's the loophole  
8                   you're trying to close with this ordinance,  
9                   to prevent that from happening, that's a  
10                  restaurant that has a dance license.

11                  UNIDENTIFIED SPEAKER: (Inaudible.)  
12                  So now Taverna Opa cannot open.

13                  MAYOR DERMER: Fine, let us go to  
14                  Commissioner Steinberg (Inaudible.)

15                  COMMISSIONER STEINBERG: And in  
16                  Sunset Harbor are there any that are being  
17                  grandfathered in?

18                  MR. GOMEZ: Right now Sunset Harbor  
19                  has Jade and the Purdy Lounge, and  
20                  I believe that there was a -- that's  
21                  it I think, those are the only two that  
22                  we have licensed right now.

23                  COMMISSIONER STEINBERG: Okay.  
24                  Secondly, I want to -- it's interesting,  
25                  because when we were here at the last



1 meeting, the conversation of rolling back  
2 the hours, some of my colleagues were  
3 trying to pin me into reporting that, and  
4 there's been a little bit of a  
5 metamorphosis and people changing their  
6 opinions and now all of a sudden advocating  
7 not doing that, so I find that to be quite  
8 interesting.

9 I for one never supported the idea.  
10 I reluctantly went along with it saying  
11 that we'd discuss it between then and now  
12 and on the referral of the planning board,  
13 but it's interesting that at the time the  
14 sentiment up here was somewhat different,  
15 and there were people that were trying to  
16 pin me into doing something and take a  
17 position on it, and I refused to do so.

18 As I said at the last commission  
19 meeting and maybe not in these words, the  
20 finger should not be pointed at the  
21 industry or the residents. The finger to a  
22 large extent should be pointed at the city.  
23 The city has failed. We have failed to  
24 have ordinances that we can enforce  
25 properly. We have failed to enforce our

1           noise ordinance. We have failed to provide  
2           the sanitary services that we need.  
3           We've failed to provide the police services  
4           that we need.

5                   And we should not punish the  
6           residents or the business because of that,  
7           but instead we should find the resources to  
8           address this, and especially in South  
9           Pointe where we have the RDA and we have  
10          the ability to use money from the RDA for  
11          policing, we should be making sure we have  
12          adequate, sufficient -- we have adequate  
13          funding to provide the policing necessary  
14          to make sure that the industry can coexist  
15          with the residents. There's no reason why  
16          we shouldn't be able to do that.

17                   When it came to the issue probably  
18          over a year ago on open air entertainment,  
19          I was the only vote, I believe, against  
20          that, and I voted against it because I said  
21          what was next. Where were we going next,  
22          and it seemed that there wasn't a whole  
23          look at how to go forward and how to plan  
24          where the industry would be and how it would  
25          be.

1           So instead what happens is you have  
2           groups in one area that become vocal and  
3           then we react, and then you have a group in  
4           another area that becomes vocal and then  
5           we react.

6           Well, the nightlife industry here to  
7           a large extent has always shifted slightly  
8           throughout the city, and my theory is as  
9           soon as you pigeonhole it into one area too  
10          tightly, the next shift will not be from  
11          one couple of blocks to another couple of  
12          blocks, it will be across the bay or to  
13          Fort Lauderdale, and that will -- and that  
14          will have drastic impacts on the economy of  
15          our city.

16          All of my colleagues have an  
17          alternative ordinance that legal put  
18          together which was part of the discussion  
19          that we had last time here about only  
20          allowing the -- well, the loophole that  
21          exists today was created, and I think the  
22          intent behind it was actually very right,  
23          the intent was there are legitimate  
24          restaurants that have the -- that should be  
25          able to have entertainment or dancing, and

1           the example of belly dancer, if there's  
2           nothing more going on there, is a perfect  
3           example.

4                   A place that has TVs that wants to  
5           have sports programming and turn the volume  
6           up for Super Bowl is another example.  
7           There are -- there are legitimate uses in a  
8           real restaurant to do that, and what I had  
9           suggested doing was looking to the state  
10          statutes that deal with what type of liquor  
11          license people have.

12                   And I'll call on Gary (Inaudible)  
13          from legal to get into the details of the  
14          alternative amendment that you came up  
15          with, and I thank you for doing that and  
16          for your hard work that ties it to the  
17          state liquor license, so that a restaurant  
18          with an SRX alcohol beverage, which means  
19          that a majority of their sales must be from  
20          food, they must continue to sell food at  
21          all times.

22                   So you can't have a restaurant  
23          during the day or part of the night and  
24          turn it into something else. It actually  
25          goes to what the intent of it was. The

1           commission's intent was saying if you're a  
2           legitimate restaurant, we'll let you be a  
3           legitimate restaurant and have these other  
4           uses. That was the commission's intent at  
5           the time, and that's why they put the  
6           language in there.

7           Unfortunately, the way the language  
8           is in there, it's so vague that it's  
9           created a loophole. It was not intended as  
10          a loophole, it was intended to allow  
11          legitimate businesses to exist, and I will  
12          not support this ordinance unless it is  
13          tailored in a way to allow legitimate  
14          restaurants to exist. And I'll -- I'll  
15          turn to Gary to explain the amendment.

16                MAYOR DERMER: Gary.

17                MR. HELD: Well, I know we've been  
18                here a long time, I don't know how much you  
19                want me to go into it, but the intent of  
20                the ordinance as codified was to exempt  
21                restaurants that we considered bona fide  
22                restaurants, that we defined as having a  
23                full kitchen, and I believe serving full  
24                meals -- serving full meals. That has  
25                turned into not resulting in bona fide

1 restaurants.

2 When you look at rules that  
3 determine what is a bona fide restaurant,  
4 the state license for alcohol for  
5 restaurants does that, it requires --  
6 it has five criteria starting with at least  
7 51 percent of the total gross revenues must  
8 come from retail sales of licensed premises  
9 food and nonalcoholic beverages.

10 The -- there are five criteria, the  
11 intent of the five criteria is to truly  
12 establish that there's a bona fide  
13 restaurant, so if you wanted to maintain  
14 the bona fide restaurant exemption --

15 COMMISSIONER STEINBERG: Can you  
16 read from the five, Gary.

17 MR. HELD: In Dade County there are  
18 two size limitations. The first is that  
19 it be a minimum of 4,000 square feet, the  
20 second that it be a minimum of 250 seats.  
21 That is not a standard statewide rule that  
22 was -- that was increased for Dade County  
23 alone.

24 The third standard is the 51 percent  
25 rule from license -- from food and

1 nonalcoholic beverages. The fourth  
2 standard is that full course meals must be  
3 available at all times when the restaurant  
4 is serving alcoholic beverages, and  
5 it defines a full course meal as including  
6 salad or vegetable, entree, beverage, and  
7 bread.

8 The fifth criteria is that the  
9 establishment is a bona fide restaurant  
10 primarily engaged in food and nonalcoholic  
11 beverage sales and service, and that has  
12 been explained to me as a component of  
13 their advertising and what they hold out  
14 the business to be.

15 So the amendment, the alternate  
16 ordinance merely substitutes the state SRX  
17 alcoholic beverage license for the phrase  
18 "full kitchen serving full meals" to  
19 establish that it be a bona fide  
20 restaurant.

21 Admittedly, there are establishments  
22 that don't qualify for SRX that are  
23 restaurants that may be bona fide  
24 restaurants but for one reason or another  
25 don't have the SRX license. For example,

1           if you're between 60 seats and 99 seats,  
2           you don't qualify for an SRX license,  
3           because you don't meet the minimum size.  
4           Also there are restaurants that are over  
5           200 seat that is have chosen a 4COP, which  
6           is the (Inaudible) license, because they  
7           don't either want to be subject to the  
8           state audit rules or, you know, other  
9           strict rules meeting the SRX criteria.

10                 So there are gaps in this that will  
11           only create a limited exemption for those  
12           that meet the five criteria even though  
13           there may be other kinds of bona fide  
14           restaurants.

15                 MAYOR DERMER:   Okay.

16                 COMMISSIONER BOWER:   Can I just ask?

17                 MAYOR DERMER:   Sure.

18                 COMMISSIONER BOWER:   So -- so  
19           if there is a smaller restaurant that does  
20           not seat 250, they cannot have  
21           entertainment?

22                 MR. HELD:   Not under this alternate.  
23           There is an option, but it's very  
24           burdensome administratively.  It's to look  
25           at whether a restaurant could qualify for



1           the SRX rules but for the size of the  
2           establishment and the number of seats, but  
3           that means that we would be in the  
4           business, we the city, of doing the audits  
5           to evaluate the other criteria rather than  
6           relying on the state to do its audits and  
7           maintaining the SRX rules.

8           MAYOR DERMER: Okay. Was there  
9           anything else Richard or was that --

10          MR. GONZALEZ: That -- just to  
11          clarify that, that amendment would not  
12          allow a restaurant that chose not to sell  
13          liquor from opening up, you would require  
14          the SRX license.

15          MR. HELD: That's correct.

16          MR. GONZALEZ: You have to have the  
17          liquor license (Inaudible.)

18          MR. HELD: Right, then you have an  
19          after hours club which is a whole 'nother  
20          story.

21          MR. GONZALEZ: Okay.

22          COMMISSIONER STEINBERG: Actually,  
23          let me make a motion on the amendment.  
24          I'll move the amendment. Well, the mover  
25          accepted as a friendly amendment is the

1 first question.

2 COMMISSIONER SMITH: Richard, let me  
3 explain -- let me explain the problem I'm  
4 having here. I'm not trained as an alcohol  
5 expert.

6 COMMISSIONER STEINBERG: Nor am  
7 I (Inaudible.)

8 UNIDENTIFIED SPEAKER: I don't know  
9 what the ramifications -- I don't know what  
10 the ramifications of this license are, how  
11 many people could take advantage of it,  
12 whether you can transfer it from one  
13 location to another, I don't know how many  
14 people it would effect, so we're kind of  
15 operating blindly here.

16 I mean, I don't mind studying the  
17 issue, and I don't mind coming back and  
18 giving you an opinion as to how I feel at  
19 the meeting, but to -- to introduce a  
20 totally new concept to an ordinance that  
21 we have already debated for weeks, I don't  
22 know that this is the right forum for us to  
23 be able to do that.

24 COMMISSIONER STEINBERG: With all  
25 due respect, because I had brought this up

1 at the last meeting, this is not new. The  
2 direction from this body was between first  
3 and second reading for the administration  
4 and legal to do this analysis and get back.

5 I don't want to be faulted for the  
6 fact that the administration and legal did  
7 not do the thorough -- do an analysis well  
8 enough for you to be satisfied, but the  
9 reality is I don't want to go through this  
10 again. I don't want to have to have these  
11 people come back here again to debate this  
12 issue again, to have to find five votes now  
13 to change this.

14 I mean, the reality is right now  
15 if there's not three votes for it, if I can  
16 get two other people to agree with me on  
17 this, it happens. Conversely, I need five  
18 votes to add it in later.

19 UNIDENTIFIED SPEAKER: Well, today  
20 is the first day that (Inaudible.)

21 UNIDENTIFIED SPEAKER: Commissioner,  
22 Commissioner Steinberg, Mr. Smith, as you  
23 know, I do a lot of legal work on alcoholic  
24 beverage licenses, so let me just make a  
25 statement for the record.

1           It's impossible to qualify for the  
2           SRX license in Dade County unless you have  
3           4,000 square feet and 250 seats. I can't  
4           think of hardly any places that are left in  
5           this town that would be qualified for that  
6           license. Joe's Stone Crabs is one of the  
7           few places that would actually make it.

8           COMMISSIONER SMITH: So it's in your  
9           opinion as an expert in liquor law --

10          UNIDENTIFIED SPEAKER: It would --  
11          it's the worst possible thing we can --

12          COMMISSIONER SMITH: -- this  
13          wouldn't affect anybody?

14          UNIDENTIFIED SPEAKER: No, because  
15          if you put the SRX designation on  
16          qualifications, then you're automatically  
17          saying you have to have 4,000 square feet  
18          under roof, and you have to have 250 seats  
19          on the floor, and I don't know of any of  
20          the places that are available --

21          COMMISSIONER STEINBERG: I  
22          understand --

23          UNIDENTIFIED SPEAKER: -- that you  
24          could possibly buy or rent that would  
25          qualify.

1 UNIDENTIFIED SPEAKER: (Inaudible)  
2 to Gary.

3 COMMISSIONER STEINBERG: I think  
4 there are four SRX licenses in South  
5 Pointe?

6 MR. HELD: Yeah, Monty's On the  
7 Beach, Smith and Wollensky, Big Pink, and  
8 China Grill.

9 UNIDENTIFIED SPEAKER: Right, that's  
10 how big you have to be, so if you --

11 COMMISSIONER STEINBERG: That's  
12 fine, but at least -- at least those places  
13 that are legitimate restaurants, if they  
14 want to remain legitimate restaurants and  
15 have this accessory use, they can. Think  
16 of the -- the flip side is you're telling  
17 them they can't. The flip side is you're  
18 telling those people that are true  
19 restaurants, and the commission's intent  
20 when they passed this initially was clearly  
21 to allow a bona fide restaurant to have an  
22 accessory use of dancing or entertainment.

23 UNIDENTIFIED SPEAKER: (Inaudible.)

24 UNIDENTIFIED SPEAKER: I'm saying  
25 that you're -- you're -- you're -- the

1           equality of that, you're discriminating,  
2           because the places that are that large --

3           COMMISSIONER STEINBERG: I'm just --

4           UNIDENTIFIED SPEAKER: -- are the  
5           only ones that are going to be able to  
6           qualify for that particular (Inaudible.)

7           MAYOR DERMER: Steve, I  
8           appreciate --

9           COMMISSIONER BOWER: But I wanted to  
10          help him.

11          UNIDENTIFIED SPEAKER: (Inaudible.)

12          UNIDENTIFIED SPEAKER: See, but  
13          there's something.

14          COMMISSIONER BOWER: You can't help  
15          him or the other gentleman (Inaudible.)

16          UNIDENTIFIED SPEAKER: (Inaudible.)

17          UNIDENTIFIED SPEAKER: Okay. I just  
18          wanted to go on the record because there  
19          was a question.

20          MAYOR DERMER: Sir, sir, we're not  
21          taking (Inaudible.)

22          UNIDENTIFIED SPEAKER: I just want  
23          to say one thing.

24          MAYOR DERMER: Sir.

25          UNIDENTIFIED SPEAKER: My restaurant

1 is 66 seats. How could it be bona fide?

2 MAYOR DERMER: Sir, sir, please be  
3 seated. Thank you.

4 Richard, you have a sentiment here  
5 that Jose is not comfortable with it as far  
6 as not dismissing it, but it has not --  
7 this has not traveled through committee,  
8 this has not been debated internally in the  
9 city.

10 COMMISSIONER SMITH: Well, I'm not  
11 saying that we're not telling --

12 COMMISSIONER STEINBERG: And we are  
13 going -- we are going -- the rationale here  
14 is we are closing a loophole. We are not  
15 closing a loophole, then. We are changing  
16 the law. The law was to allow restaurants  
17 to have -- legitimate restaurants have the  
18 ability to have entertainment and to have  
19 dancing.

20 If a place, a legitimate restaurant  
21 wants to have those and still wants to  
22 function as a legitimate restaurant --

23 COMMISSIONER BOWER: (Inaudible.)

24 COMMISSIONER STEINBERG: -- then  
25 they should be able to. That is the

1 original intent of the commission. If our  
2 intent here is to close the loophole  
3 because there's been abuse of it, then  
4 we should look for a way to prevent the  
5 abuse but not prevent legitimate business,  
6 and that's what I asked the administration  
7 and legal to do before first and second  
8 reading, and this is what they came up with  
9 as a possibility to do that.

10 If you want to go back and look at  
11 it after, I'm fine with that, but I don't  
12 want to throw out the baby with the bath  
13 water. I don't want to take this further  
14 than it has to go, and if we need to expand  
15 it a little bit later, we can.

16 I'm not saying that we can't come  
17 back to it, but why if we have a  
18 classification that we know are people that  
19 have to abide by the state laws, subject to  
20 state audit, that they are legitimate  
21 restaurants, they are exactly the people  
22 that this commission when they passed the  
23 ordinances in the past intended to allow to  
24 operate, and now we're telling them, I'm  
25 sorry, we're changing the game.



1                   We told you if you were a legitimate  
2                   restaurant you can come in and comply or  
3                   get this license, no more. We're no longer  
4                   closing the loophole, we are changing the  
5                   law.

6                   COMMISSIONER BOWER: But what I want  
7                   to know is those four names that were  
8                   brought up, they don't have any -- they  
9                   don't -- they're not complaining because  
10                  they don't do that, but I wanted to help  
11                  the ones that were here that are smaller  
12                  that don't qualify. What can we do for  
13                  those?

14                  COMMISSIONER STEINBERG: I don't  
15                  mind that. If legal can tell me a way for  
16                  us to do that.

17                  COMMISSIONER BOWER: (Inaudible.)

18                  MAYOR DERMER: Sir, please.

19                  UNIDENTIFIED SPEAKER: Let me help  
20                  you out.

21                  MAYOR DERMER: No.

22                  UNIDENTIFIED SPEAKER: Let me help  
23                  you out.

24                  MAYOR DERMER: Sir.

25                  UNIDENTIFIED SPEAKER: Why don't you

1           just roll back to two o'clock.

2           MAYOR DERMER:   Sir, sir.

3           UNIDENTIFIED SPEAKER:   (Inaudible)

4           ledge restaurants to two o'clock.

5           MAYOR DERMER:   Sir, sir.

6           COMMISSIONER BOWER:   Sit down.   Sit

7           down.

8           MAYOR DERMER:   Please, please.

9           COMMISSIONER GARCIA:   Mr. Mayor,  
10          sometime I would like to get into the  
11          discussion.

12          MAYOR DERMER:   I'm going to get you  
13          in.   I have -- Richard, any further  
14          discussion?

15          COMMISSIONER STEINBERG:   If you can  
16          find a way, Commissioner Bower, that we can  
17          pass today or if legal can come up with  
18          something, this -- it's been three weeks  
19          since they were given the charge to find  
20          a --

21          MAYOR DERMER:   (Inaudible) question  
22          by (Inaudible.)

23          COMMISSIONER STEINBERG:   -- and the  
24          answer -- this is the answer that  
25          we think --

1                   MAYOR DERMER: All right. Hang on.

2                   COMMISSIONER SMITH: Is the reason  
3 that you're proposing this so that the four  
4 restaurants that were mentioned will not be  
5 deemed nonconforming?

6                   COMMISSIONER STEINBERG: No, it's in  
7 case someone --

8                   COMMISSIONER SMITH: Is that the --  
9 is that the idea?

10                  COMMISSIONER STEINBERG:  
11 If someone -- no, my idea was if someone is  
12 a true restaurant, a bona fide restaurant,  
13 not someone who is parading to be a  
14 restaurant, a bona fide restaurant that  
15 wants to have these uses. If it's a  
16 place -- for example, in North Beach, we've  
17 all probably been to the Greek restaurant  
18 on 71st Street.

19                  They have belly dancer on the  
20 weekend. They presumably need a dance  
21 license because they have belly dancer, and  
22 probably an entertainment license also  
23 if they turn up the music loud enough.

24                  MAYOR DERMER: Gary, you wanted to  
25 comment?

1           MR. HELD: You know, this has been  
2           raised before. The referral to the  
3           planning board includes looking at the  
4           definition of "entertainment" and planning  
5           and legal both believe we can deal with  
6           that at that time.

7           MAYOR DERMER: Okay.

8           COMMISSIONER STEINBERG: But my --

9           MR. HELD: (Inaudible) restaurants  
10          with the limited entertainment.

11          COMMISSIONER STEINBERG: My concern  
12          is you'll need five votes at that time to  
13          change the definition of "entertainment."  
14          We're going to have residents that are  
15          going to be out here telling us not to do  
16          that, that we're opening up Pandora's box  
17          by doing that, and I don't want to put the  
18          commission in that position to the extent  
19          that we don't have to.

20          If we can create an exemption for  
21          legitimate business, and others may come  
22          on. There are four right now, there could  
23          be a fifth one tomorrow who applies for  
24          that license or a restaurant. For example,  
25          Joe's didn't have -- has a CPO4 license,

1 but perhaps their food sales I assume are  
2 high enough, they probably could go to a  
3 license to the -- to the other license  
4 if they wanted to and get dancing or  
5 entertainment if they chose.

6 MAYOR DERMER: All right. Let us --  
7 let us continue the discussion if we can.  
8 Commissioner Smith, then Commissioner  
9 Garcia.

10 COMMISSIONER GARCIA: Go ahead.

11 MAYOR DERMER: I have you after --

12 COMMISSIONER GARCIA: (Inaudible)  
13 no, I -- I (Inaudible.)

14 MAYOR DERMER: Okay. Commissioner.

15 COMMISSIONER SMITH: Gary, you --  
16 you made a statement just a couple of  
17 moments ago about the referral to planning  
18 to consider what exactly is an  
19 entertainment establishment and what is  
20 allowed and what is not allowed.

21 Obviously, we don't really see a  
22 problem with belly dancer in and of itself  
23 or a comedian or a Super Bowl show or a  
24 Heat game or a band -- a Mariachi band or  
25 whatever -- whatever -- whatever

1 we suggested is an extreme reaction to --  
2 to the ordinance.

3 I think we need to find a definition  
4 that deals with that issue. I mean, we --  
5 we know we don't want DJ's at five o'clock  
6 in the morning, we don't want bands at five  
7 o'clock in the morning, but there's --  
8 there's -- there's a middle road here, and  
9 I think that that issue needs to --

10 MR. HELD: Right, and that's not an  
11 issue for tonight, it's an issue that will  
12 be discussed, and we probably will be able  
13 to come up with something to satisfy the  
14 small business needs.

15 MAYOR DERMER: Okay. Commissioner  
16 Garcia.

17 COMMISSIONER GARCIA: Yeah, but  
18 on -- on that note, we will come up with  
19 something. I mean, what are you going to  
20 come up with, when are you going to come up  
21 with, and that's what scares me.

22 You know, my good friend Mary  
23 Dollins out there says that there's an old  
24 Mexican occurs where you (Inaudible) on  
25 Cinco de Mayo that says, may your life be

1 filled with lawyers, and, you know, this is  
2 basically what's happening here. Okay?

3 I -- I -- I started with an idea,  
4 okay, which I made -- I made a motion to  
5 postpone the passing of this ordinance  
6 until it was properly crafted. Okay. You  
7 know, I -- I -- this man, he came out with  
8 a good proposal that he almost had me.  
9 Okay?

10 When this ordinance first came  
11 about, I voted to -- I voted to approve  
12 it on first reading with some caveats, to  
13 go -- to go to the planning board for not  
14 to roll back the hours, you know, I -- but  
15 for the creation of a cabaret district.  
16 Okay?

17 Mr. Mayor, with all due respect to  
18 you, you shoulder -- you shoulder all the  
19 blame on this uncertainty right here,  
20 because (Inaudible.)

21 MAYOR DERMER: Thank you.

22 COMMISSIONER GARCIA: No, you know,  
23 I said it before, you weren't here, I'm  
24 going to make sure I, again, to you in your  
25 face, you know, when --

1                   MAYOR DERMER: You don't have to,  
2                   it's all right.

3                   COMMISSIONER GARCIA: But I will.  
4                   But I will.

5                   MAYOR DERMER: All right.

6                   COMMISSIONER GARCIA: You know, at  
7                   the -- at the (Inaudible) you know, which  
8                   is around TV a number of times, you kept  
9                   saying you will even be willing to  
10                  (Inaudible) roll back the hours.

11                  MAYOR DERMER: That's not accurate.  
12                  That's not accurate. That was never  
13                  mentioned.

14                  COMMISSIONER GARCIA: Well, you  
15                  know, look -- look at the tape. Anyway --

16                  MAYOR DERMER: I know the tape.  
17                  I know -- I wrote the speech. I said the  
18                  speech, I know what's in it.

19                  COMMISSIONER GARCIA: Well, you  
20                  know, you said it.

21                  MAYOR DERMER: Well, I'm not  
22                  gonna -- we'll leave it as is.

23                  COMMISSIONER GARCIA: If you didn't  
24                  do it there, you did it at the subsequent  
25                  meeting. Okay? So with that said, that



1           created a tremendous amount -- a tremendous  
2           amount of uncertainty in the community, and  
3           that's why the people are here, because,  
4           you know, most of the people are here not  
5           because of this loophole that we're  
6           trying -- that we're trying to close, most  
7           of the people are here because they feel  
8           that they are going to --

9           MAYOR DERMER: (Inaudible.)

10          COMMISSIONER GARCIA: That they are  
11          going to roll back the hours, you know.  
12          (Inaudible) and some people have stressed  
13          feeling that they don't want to grandfather  
14          anybody in, okay, and that creates anxiety.  
15          Okay?

16          MAYOR DERMER: Your position --

17          UNIDENTIFIED SPEAKER: (Inaudible.)

18          MAYOR DERMER: Your position --  
19          please, sir, please, please, please.

20          COMMISSIONER GARCIA: My position --  
21          my position -- first of all, I don't think  
22          the hours should be rolled back, not now,  
23          not ever, number one.

24          Number two -- number two, any  
25          business that's in operation right now

1           that's been playing by the rules, you do  
2           not change the rules of the game at this  
3           place and time. Okay? That's an  
4           investment of money, and you know what,  
5           they -- they deserve to be -- they deserve  
6           to be -- to recoup their money.

7                     Number three, I think the city is to  
8           blame for the lack of services. For  
9           years -- for years I have been -- I have  
10          been asking for the creation of districts  
11          like the ones we have before. They used to  
12          work, they were properly, the streets were  
13          clean, there were walk patrol, and you know  
14          what, we haven't had it.

15                    If there's a district that deserves  
16          to be made a semi-autonomous district, it's  
17          South Beach. You go the RDA. You can get  
18          funding from the RDA for -- for the  
19          services down there, you know.

20                    MAYOR DERMER: I don't know  
21          if that's quite accurate, but I'm not going  
22          to debate that issue with you right now.

23                    COMMISSIONER GARCIA: You know what,  
24          you can do it, people are receptive. We --  
25          we as a city, let's face it, Mr. Manager,

1 we are not the most efficient entity in the  
2 world. The streets are dirty, the police  
3 are not on the streets, and, you know, and  
4 the complaints are not answered -- are not  
5 answered on -- on -- on a timely manner.

6 COMMISSIONER BOWER: You know why  
7 the streets are dirty --

8 COMMISSIONER GARCIA: With that --  
9 with that said, also -- also.

10 COMMISSIONER BOWER: -- and we don't  
11 have enough police and we don't have -- why  
12 there's all that? Because there's not  
13 enough money in the budget. You know every  
14 time somebody stands up here, oh, please,  
15 my foot, you know.

16 COMMISSIONER GARCIA: You know what,  
17 guy -- you know what, guys.

18 COMMISSIONER BOWER: When we are  
19 here debating issues of how much we're  
20 going to pay for the unions, and when  
21 people -- we're fighting here to raise a  
22 little bit of 2.50 for a square foot in  
23 Lincoln Road for -- to pay for the cleaning  
24 of Lincoln Road one time a year for the  
25 tables, everybody comes, all the businesses

1           come out, and we say let's not raise it.

2           When we raise the park fees, there's  
3           nobody here because the citizens are not  
4           really -- you know.

5           COMMISSIONER GARCIA: Mr. Mayor, do  
6           I have the floor.

7           MAYOR DERMER: Hang on.

8           COMMISSIONER GARCIA: Do I have the  
9           floor? You know --

10          COMMISSIONER BOWER: Yes, I have the  
11          floor.

12          COMMISSIONER GARCIA: I have the  
13          floor.

14          COMMISSIONER BOWER: You know,  
15          I have the floor.

16          MAYOR DERMER: We're not taking the  
17          discussion back (Inaudible.)

18          COMMISSIONER GARCIA: You know what,  
19          I -- I have been -- I have been --

20          COMMISSIONER BOWER: It really  
21          saddens me what goes on in this city.

22          COMMISSIONER GARCIA: I have been  
23          very patiently.

24          MAYOR DERMER: We'll come back.  
25          Okay.

1                   COMMISSIONER GARCIA: You know what,  
2                   I have been very patient to listen --  
3                   listening to the arguments for a while.  
4                   I haven't opened my mouth, I haven't  
5                   participated. The only thing I'm asking is  
6                   the same good manners that I have shown to  
7                   my fellow commissioners.

8                   MAYOR DERMER: You don't want those.

9                   COMMISSIONER GARCIA: Well, you know  
10                  what, to be honest with you, at this point  
11                  in time --

12                 MAYOR DERMER: Go ahead.

13                 COMMISSIONER GARCIA: -- it's very  
14                 (Inaudible.)

15                 MAYOR DERMER: Go ahead.

16                 COMMISSIONER GARCIA: You know what,  
17                 if we want to have the -- if we want to  
18                 have the night club, we won't have to worry  
19                 the police, you know why, because we won't  
20                 have money -- we won't have money to pay  
21                 for police services.

22                 COMMISSIONER BOWER: You know why,  
23                 because (Inaudible.)

24                 MAYOR DERMER: All right. All  
25                 right. All right. All right. All right.

1           Now, let's bring us back to context,  
2           please.

3                   COMMISSIONER GARCIA:  No, no, let --

4                   MAYOR DERMER:  Hang on.

5                   COMMISSIONER GARCIA:  I'm not  
6           finished.

7                   MAYOR DERMER:  But we have a motion.  
8           I'm just refreshing the memory of the  
9           people as to what we're voting on, what's  
10          on the table.

11                   Commissioner Gross has made a motion  
12          in support of the ordinance, asking also  
13          that there be no rollback sent to  
14          discussion of planning.

15                   COMMISSIONER BOWER:  (Inaudible)  
16          made the motion.

17                   MAYOR DERMER:  And --

18                   COMMISSIONER GARCIA:  Can I -- can  
19          I have the floor.

20                   MAYOR DERMER:  No.

21                   COMMISSIONER GARCIA:  You know what,  
22          no, no, at this point in time you  
23          interrupted me.  The Commissioner Bower  
24          interrupted me, and I'm losing my patience,  
25          you know what --

1                   MAYOR DERMER: Commissioner, you  
2                   have to calm down, calm down a little.

3                   COMMISSIONER GARCIA: You know what,  
4                   my rights are being violated here,  
5                   Mr. Mayor. What are you talking about?

6                   MAYOR DERMER: (Inaudible.)

7                   COMMISSIONER GARCIA: You know  
8                   (Inaudible) what I said, you used to have  
9                   enough class -- you used to have enough  
10                  class (Inaudible.)

11                  MAYOR DERMER: Don't -- don't.

12                  COMMISSIONER GARCIA: The heck with  
13                  it, you know.

14                  MAYOR DERMER: Just relax.

15                  COMMISSIONER GARCIA: You know at  
16                  this point in time, you provoked all this,  
17                  you know, with -- with your incendiary  
18                  remarks, and we have been listening to  
19                  three hours while you (Inaudible.)

20                  MAYOR DERMER: (Inaudible.)

21                  COMMISSIONER GARCIA: (Inaudible.)

22                  MAYOR DERMER: Recess, five minutes,  
23                  five minute recess.

24                  COMMISSIONER GARCIA: Yeah, you know  
25                  what, this is censure, man.

1                   MAYOR DERMER: Cool down.

2                   COMMISSIONER GARCIA: What the hell.  
3                   You know what, I have the floor when you  
4                   come back. Don't be a coward. Don't be a  
5                   coward. Don't run away from here.

6                   (Thereupon, meeting stands in recess  
7                   for a five-minute break.)

8                   MAYOR DERMER: Let's reassemble,  
9                   folks, if we is have our seats. If we can  
10                  have our seats, please. How are you?

11                  Folks, come on now, it's getting  
12                  late. Let's try and get our seats. What  
13                  we will do is we're going to have  
14                  Commissioner Gross will repeat the motion  
15                  that is on the floor, and then Commissioner  
16                  Garcia will have the floor.

17                  Commissioner Gross, please repeat  
18                  your motion.

19                  VICE MAYOR GROSS: Okay.

20                  MAYOR DERMER: Refresh us where  
21                  we are.

22                  VICE MAYOR GROSS: I say number one  
23                  that we forever renounce the rollback of  
24                  hours from five to two, and that we -- that  
25                  we specifically address -- direct the



1 planning board not to address that issue.

2 MAYOR DERMER: Okay.

3 VICE MAYOR GROSS: Okay. That's  
4 number one. Number two, that we continue  
5 the public dialogue to flesh out the  
6 ordinance that we passed on first reading  
7 that would specify the circumstances under  
8 which a club that's not being a good  
9 citizen could have their license either  
10 suspended or revoked after repeated  
11 violations.

12 And at that hearing, though, I think  
13 that June date is too soon to work that  
14 out. I mean, it's a serious -- it's a very  
15 serious issue, we have to achieve some kind  
16 of consensus, so I would say, you know,  
17 July if -- but I think June, to get it on  
18 the agenda, is not going to be time, and I  
19 don't think one meeting is going to do  
20 that.

21 MAYOR DERMER: Okay. So the passage  
22 of those two amendments.

23 VICE MAYOR GROSS: Yeah, then  
24 we pass -- we pass the ordinance, and also  
25 we should include, though, that the city

1 needs to do a better job of, you know,  
2 providing the services and enforcing the  
3 rules through code. And then the last  
4 piece of it was to direct the planning  
5 board, though, to look at where we want to  
6 encourage nightlife investment, you know,  
7 in the different entertainment sections of  
8 the city and proactively, you know, make  
9 that statement and direct the -- and look  
10 at the Washington Avenue issue, look at  
11 it on Ocean Drive with the cabaret  
12 district, look at that entertainment piece  
13 holistically as to where we want to let  
14 investors know with certainty that this is  
15 a place that you should go.

16 MAYOR DERMER: Okay.

17 VICE MAYOR GROSS: Okay.

18 MAYOR DERMER: Thank you.

19 Commissioner Garcia.

20 COMMISSIONER GARCIA: Thank you.

21 Thank you very much.

22 VICE MAYOR GROSS: Well, let's see  
23 if there's a second, first.

24 COMMISSIONER SMITH: I'll second it.

25 MAYOR DERMER: There was a second.

1                   VICE MAYOR GROSS: Oh, I'm sorry.

2                   MAYOR DERMER: That will be  
3 confirmed again.

4                   COMMISSIONER CRUZ: I second it.

5                   MAYOR DERMER: Seconded by  
6 Commissioner Cruz and Smith.

7                   COMMISSIONER GARCIA: Thank you very  
8 much, Mr. Mayor, let me see if I can finish  
9 my statement before I was rudely  
10 interrupted.

11                   Again, my intention in the beginning  
12 has been the creation of a cabaret  
13 district. This is an issue that I brought  
14 up to the commission before there was a --  
15 before there was a Commissioner Gross,  
16 before there was a Commissioner Steinberg,  
17 and you know, we never found any fertile  
18 grounds for that -- for that idea to  
19 foster. So that makes me very, very happy.

20                   As far as the rollback of the hours,  
21 also I do agree with that. I think that  
22 that's basically what -- what all these  
23 people are here, they fear that the hours  
24 are going to be rolled over, that the party  
25 might be rolled over, that the industry

1           might be crippled. Okay? So again,  
2           that's -- that's another -- that's another  
3           point that I agree with you.

4                   As far as to stop the proliferation  
5           of nightclubs, I do still think that South  
6           Beach is a different animal than Sunset  
7           Harbor, and I want to tell you why. South  
8           Beach, yes, it's more -- more of a  
9           residential area.

10                   MAYOR DERMER: South Pointe.

11                   COMMISSIONER GARCIA: I mean, I'm  
12           sorry, South Pointe, I do -- I do  
13           apologize. However, Sunset Harbor, if you  
14           look at the map, I wish it was passed  
15           around here, it was mostly an industrial  
16           area. Where is Miami creating the  
17           nightclubs?

18                   UNIDENTIFIED SPEAKER: (Inaudible.)

19                   MAYOR DERMER: Folks, folks, please.

20                   COMMISSIONER GARCIA: The -- the  
21           nightclubs that Miami is creating, they're  
22           creating downtown in the industrial areas,  
23           the areas that go dark at night, the areas  
24           that before there weren't any apartments  
25           out there, you know, they were empty.

1                   So again, this is a little harder  
2                   (Inaudible) people out there, but, you  
3                   know, before there was the first building  
4                   out there, there was a boat factory, there  
5                   were tow yards.

6                   UNIDENTIFIED SPEAKER: (Inaudible.)

7                   MAYOR DERMER: Sir, please. Please,  
8                   no more screaming from the audience.

9                   COMMISSIONER GARCIA: Okay. So at  
10                  that point in time I think those two things  
11                  need to be separated, they cannot be  
12                  treated the same way. You know, it's --  
13                  again, what I -- what I proposed at the  
14                  beginning of this meeting, and I still  
15                  think it's a valid issue is for us to look  
16                  at it before we -- we pass this on  
17                  second -- second reading.

18                 I can agree with about 75 percent of  
19                 your issues. One thing that I would like  
20                 to be included is for the small clubs,  
21                 specifically the three clubs that have  
22                 (Inaudible) plans to be considered -- to be  
23                 considered in the pipeline and to be -- you  
24                 know, to be grandfathered in.

25                 I think that would be -- you know,

1           you're talking about days, you're talking  
2           hours practically, and the way the  
3           bureaucracy -- the way the bureaucracy  
4           works in this city, I think that would be a  
5           good recommendation.

6                   Again, I voted for this ordinance on  
7           first reading, because I thought it was  
8           closing a loophole. Since that time,  
9           again, because of comments made as far as  
10          the rollback of the hours, the level of  
11          anxiety grew. This ordinance, you know,  
12          it's not that big -- it's not that big of  
13          an ordinance, but it's as a message that  
14          we might have been sending. I think with  
15          Commissioner Gross's -- Commissioner  
16          Gross's recommendation, I think we could --  
17          we could somewhat neutralize the message.

18                   With that said, I could -- you know,  
19          would also like to see the -- the small  
20          operators, the ones that apply, to be  
21          included on the -- on the ordinance, to be  
22          included and be grandfathered in, and I  
23          will -- you know, I will consider voting  
24          for the ordinance that way.

25                   MAYOR DERMER: Okay. Any further

1 discussion from anyone?

2 COMMISSIONER BOWER: (Inaudible.)

3 MAYOR DERMER: Yes, commissioner.

4 COMMISSIONER BOWER: Your motion  
5 includes better sanitation service, better  
6 police service, and -- and the motion is  
7 the ordinance, again, and what was the  
8 other thing?

9 VICE MAYOR GROSS no roll -- no  
10 rollback of the hours, plus we don't --  
11 we move forward with adopting the other  
12 ordinance but not in June, maybe July.

13 COMMISSIONER BOWER: And I --  
14 I don't have concerns with those, but  
15 I have a concerns of wondering how we are  
16 going to do, and I guess the question is to  
17 the city manager, you know, when we've had  
18 the police here saying that they don't want  
19 anymore extensions of long hours, because  
20 there are, you know, they're over taxed,  
21 and when we have sanitation that all over  
22 the city we have the same problem of no,  
23 you know, the sanitation better.

24 I have a problem, and I guess it's a  
25 moral problem more than, to include that in

1           that motion that I think it's not going to  
2           happen, because if the manager, to make  
3           this happen, has to take the policemen from  
4           middle beach or North Beach to move them to  
5           now where we have to say, let's improve  
6           that, those residents are going to be  
7           upset.

8                       So I'm okay with your motion, except  
9           that I think that those pieces that are  
10          budgetary pieces that somehow either you  
11          have to cut another area in the city to  
12          move it to this area are taken out, and  
13          I have a -- just a philosophical problem.

14                      VICE MAYOR GROSS: Yeah, I -- let  
15          me -- I agree with you. I didn't mean to  
16          mandate in this motion that we're  
17          allocating extra dollars. What I was  
18          saying is let's acknowledge in the motion  
19          that we failed to provide the kind of  
20          services that we should.

21                      COMMISSIONER BOWER: (Inaudible.)

22                      VICE MAYOR GROSS: And also direct  
23          the manager to try to improve it, but I'm  
24          not -- you know, that's not -- part of the  
25          motion is not to say put more police there,



1           it's to say do a more effective -- the city  
2           needs to do a more effective job in  
3           delivering the services, however the city  
4           manager, you know, can arrange to make that  
5           happen, and some of it may be from the  
6           direction from of the commission and clear  
7           direction, and this ordinance --

8                   COMMISSIONER SMITH: What -- what  
9           Matti is concerned about, and I tend to  
10          agree with her is that whatever we do  
11          should not be to the detriment of other  
12          areas (Inaudible.)

13                   VICE MAYOR GROSS: I agree, I agree.

14                   MR. GONZALEZ: That becomes a budget  
15          issue.

16                   MAYOR DERMER: Yeah, I agree.

17                   MR. GONZALEZ: I think that's a  
18          discussion you better served from a  
19          resource allocation perspective. I mean,  
20          the direction I'm hearing -- I hear a lot  
21          of (Inaudible) I've heard a before.

22                   COMMISSIONER BOWER: That's why  
23          I asked the question if it should be in the  
24          motion.

25                   MR. GONZALEZ: And we -- exactly,

1           and we've enhanced services there.

2           MAYOR DERMER:   Why don't we take  
3           that out of motion.

4           VICE MAYOR GROSS:   Fine.

5           MAYOR DERMER:   Okay.

6           COMMISSIONER GARCIA:   Again, what  
7           I would like to offer as a suggestion to  
8           pay for that, that extra police, extra  
9           sanitation, would be, again, the creation  
10          of a district.   And the creation of the  
11          district is not a panacea, it's not a free  
12          ride, because the (Inaudible) are required  
13          to ante up some money.   You know what, they  
14          would have control of their services, and  
15          I'm sure that these merchants right there  
16          would be very happy to ante up money  
17          if they know they're going to get the  
18          services.

19          You know, this is something that,  
20          again, going back probably ten years ago  
21          was when it was done away with trying to  
22          run -- 1994, we had the districts, we had  
23          viable districts, they worked, and there's  
24          to reason why they cannot work again.

25          Again, you know, just the same way

1           that Mr. -- Mr. Jones contributed \$12,000  
2           to send kid to a ballpark -- I mean, to  
3           play ball away from here, which is very  
4           commendable, Mr. Jones, I'm sure, you know,  
5           the neighbor -- the businesses are making  
6           the money, are bringing the money in would  
7           be very happy to ante up to expand the  
8           services as long as they know the services  
9           are going to be to that area. So I mean,  
10          that's -- that's something to consider.

11                 MAYOR DERMER: Okay. Further  
12           discussion on the matter?

13                 COMMISSIONER STEINBERG: I just want  
14           to -- I want to see if I can get a second  
15           on my motion which is to adopt the  
16           alternative or to add the language that is  
17           presented in the alternative to use the  
18           state SRX license in place of the current  
19           language in the ordinance as far as full  
20           kitchens (Inaudible.)

21                 MAYOR DERMER: You're offering it as  
22           an amendment basically?

23                 COMMISSIONER STEINBERG: Correct.

24                 MAYOR DERMER: Is there a second to  
25           the amendment?

1                   Hearing none, that will die. Back  
2                   to the original --

3                   COMMISSIONER GARCIA: Could I --  
4                   could I offer an amendment to include the  
5                   starting the creation of a district?

6                   MAYOR DERMER: There's -- certainly.  
7                   You -- there's an amendment to study  
8                   (Inaudible.)

9                   MR. GONZALEZ: I just want to be  
10                  very clear, I think what you're talking  
11                  about commissioner is a business  
12                  improvement district.

13                  COMMISSIONER GARCIA: A business  
14                  improvement district.

15                  VICE MAYOR GROSS: Well, or  
16                  alternatively to meet with the clubs to  
17                  work with them to figure out how to be  
18                  better neighbors and to work with the  
19                  residents together so that they can try and  
20                  address some of these issues of the  
21                  collateral impact on the neighborhood at  
22                  night when the people spill out of the  
23                  club. I mean, that's really the issue.

24                  COMMISSIONER GARCIA: Well,  
25                  Commissioner --

1                   VICE MAYOR GROSS: So the  
2                   cleanliness, the noise, you know, people  
3                   drinking beer out of the cups as they leave  
4                   the place, that whole litany.

5                   MR. GONZALEZ: That's in their hands  
6                   today and --

7                   COMMISSIONER GARCIA: But -- but --  
8                   but.

9                   VICE MAYOR GROSS: Well, I'm just  
10                  saying, that that's the litany of  
11                  complaints that we hear from the residents,  
12                  and I think there are solutions to that.

13                 COMMISSIONER GARCIA: But you know  
14                 what, that problem can be solved.

15                 UNIDENTIFIED SPEAKER: (Inaudible.)

16                 UNIDENTIFIED SPEAKER: They don't  
17                 allow that to happen. Their liquor license  
18                 is in jeopardy if they do that.

19                 UNIDENTIFIED SPEAKER: Well, I don't  
20                 want you to have a dialogue.

21                 MAYOR DERMER: All right, let us --

22                 COMMISSIONER GARCIA: You know, you  
23                 know, again, if they -- if they are sure  
24                 that they can -- that they can provide  
25                 better services so their -- to their area,

1           if they increase their contribution to the  
2           city, I'm sure, you know, and if they have  
3           the control over that, I'm sure the  
4           situation would be -- would be corrected.

5           MAYOR DERMER: Are we ready -- yes.

6           UNIDENTIFIED SPEAKER: (Inaudible.)

7           VICE MAYOR GROSS: One other  
8           clarification, though.

9           MAYOR DERMER: All right.

10          VICE MAYOR GROSS: Because this  
11          grandfather question is sort of lingering  
12          out there, but it's undefined. What I want  
13          to make clear is that anybody with a legal  
14          license --

15          COMMISSIONER SMITH: Nonconforming.

16          VICE MAYOR GROSS: Legal  
17          nonconforming use would be grandfathered,  
18          but anybody who got their license through  
19          the subterfuge of pretending to be a  
20          restaurant but is really a club, I don't  
21          think they have a legitimate license,  
22          because they got around the whole intent of  
23          this to open a club.

24          So I think we don't want to make a  
25          legal judgment in this motion about who is

1 a legal nonconforming uses and who isn't.  
2 That's -- you know, that's a separate  
3 issue, but what we're saying is if you have  
4 a legal license, if you're a legal  
5 nonconforming use, you're grandfathered.

6 COMMISSIONER STEINBERG: But Saul,  
7 there needs to be some certainty for people  
8 as they leave here.

9 VICE MAYOR GROSS: Well, I'll give  
10 you an example. Pure, which opened --  
11 which basically opened under the loophole  
12 I don't believe is a legal nonconforming  
13 use.

14 COMMISSIONER STEINBERG: Are there  
15 others? I mean, I don't want -- you have  
16 nine business here, and they all -- someone  
17 may argue that each of them are  
18 nonconforming -- or illegal uses that are  
19 nonconforming.

20 So we just enumerated nine business  
21 here that were being grandfathered in. Now  
22 we're saying that some of those, even  
23 though they were mentioned here in saying  
24 they were being grandfathered in, may not  
25 be grandfathered in. I mean, these

1 businesses have a right to know --

2 VICE MAYOR GROSS: But they know.

3 The point here is that they were -- they  
4 were entitled to a license as a restaurant,  
5 right? That's what the code says, a full  
6 service restaurant. Now, you know and  
7 we -- everyone knows that Pure does not  
8 operate as a full service restaurant.

9 COMMISSIONER STEINBERG: I've never  
10 been there.

11 VICE MAYOR GROSS: Well, they went  
12 to the planning department and they said  
13 how do we get open, and they said, well,  
14 you know, you have to have a full kitchen  
15 and you have to serve full meals.

16 Now, you go there at three o'clock  
17 in the morning, they're not serving full  
18 meals. So, you know, I don't -- in their  
19 case, I don't think that they have a  
20 legitimate license.

21 MR. DUBBIN: Let me -- may  
22 I suggest, these are all very factually  
23 driven as to what -- what was a legal  
24 operation, what was not a legal operation.  
25 I don't think you can stand -- sit up here



1           and make a judgment that will cover all the  
2           situations. All you can do is declare  
3           that's your intent, which is really  
4           contained in the ordinance -- proposal,  
5           that those legal -- those that were  
6           operating legally will continue as a legal  
7           nonconforming use.

8           VICE MAYOR GROSS: Right.

9           MR. DUBBIN: Now, that doesn't mean  
10          we're not going to be in court trying to  
11          prove that they were illegally operating or  
12          defending against that, because those are  
13          factually driven, but it's your intent that  
14          the operation be a legal operation and then  
15          become a legal nonconforming use.

16          COMMISSIONER STEINBERG: Let us --

17          VICE MAYOR GROSS: That's correct,  
18          that's right.

19          COMMISSIONER STEINBERG: But Murray,  
20          how do you define --

21          VICE MAYOR GROSS: That's right,  
22          I think he's right.

23          MR. DUBBIN: What's that?

24          COMMISSIONER STEINBERG: Not  
25          complying with the ordinance that

1 (Inaudible.)

2 VICE MAYOR GROSS: Exactly. That's  
3 right.

4 UNIDENTIFIED SPEAKER: Take whatever  
5 action you need.

6 VICE MAYOR GROSS: Right.

7 MAYOR DERMER: Okay. As we can  
8 already, obviously.

9 VICE MAYOR GROSS: That's right.

10 MR. DUBBIN: Make it clearer.

11 MAYOR DERMER: All right. That is  
12 the motion, seconded.

13 COMMISSIONER GARCIA: Well, where do  
14 we stand -- where do we stand with the  
15 creation of a district? Could that be part  
16 of the motion?

17 MAYOR DERMER: You take that, you've  
18 heard discussion, that is not -- unless you  
19 want to offer it has an amendment, the  
20 mover is not accepting it at this point.

21 VICE MAYOR GROSS: Well, I would  
22 accept a broader one, which is that, you  
23 know, in the course of discussing the  
24 ordinance with the clubs and with the  
25 residents about under what circumstances

1           they would be considered a habitual  
2           violator and that their license would be  
3           subject to --

4                   COMMISSIONER GROSS:  At least  
5           (Inaudible.)

6                   VICE MAYOR GROSS:  I know, I'm  
7           saying during that same discussion that  
8           we also discuss with them this issue of how  
9           they can participate in mitigating the  
10          negative collateral impacts from people  
11          pouring out of their club late at night.  
12          I mean, that's the big issue.

13                   COMMISSIONER GARCIA:  But the big  
14          issue is that the clubs do not trust the  
15          administration, because the administration  
16          has (Inaudible.)

17                   VICE MAYOR GROSS:  That's why  
18          I rather them do it themselves.  I don't  
19          think they need the city --

20                   COMMISSIONER SMITH:  I don't know  
21          that we want to link an ordinance --

22                   VICE MAYOR GROSS:  Your mic.

23                   COMMISSIONER SMITH:  I don't know  
24          that we want to link an ordinance which is  
25          presently under challenge in court and

1           which we have to redraft.

2                   VICE MAYOR GROSS: Which one is  
3           that?

4                   COMMISSIONER SMITH: The habitual  
5           offender ordinance.

6                   VICE MAYOR GROSS: Uh-huh.

7                   COMMISSIONER SMITH: The license  
8           revocation ordinance. I don't know if you  
9           want to along that with anything else.  
10          I think that that should either stand or  
11          fall on its own. I don't want to link  
12          it with districts. Districts don't have  
13          anything to do with that.

14                  VICE MAYOR GROSS: No.

15                  MR. GONZALEZ: I think what  
16          Commissioner Gross is saying is when we go  
17          out to the community and we've been  
18          directed to go out and neighbors and the  
19          businesses and discuss this proposed  
20          amendment which you passed on first  
21          reading, that at that same time we talk  
22          about various strategies from a business  
23          improvement district to a self-imposed self  
24          fee -- some kind of condo association type  
25          of setup or whatever the case may be,

1 discuss how it is that we might be able to  
2 solve this collateral damage issue.

3 VICE MAYOR GROSS: Those options --

4 UNIDENTIFIED SPEAKER: Yeah, but --

5 VICE MAYOR GROSS: -- it's got to be  
6 floated with or without (Inaudible.)

7 COMMISSIONER GARCIA: Yeah, but --  
8 but you know -- but you know what --

9 VICE MAYOR GROSS: Yeah.

10 COMMISSIONER GARCIA: And again,  
11 Mr. Manager, I'm going to be a cynic on  
12 this, you know, in what good faith would  
13 the administration deal on that issue,  
14 because I know that this is not something  
15 that you're looking forward to create, a  
16 special district.

17 MR. GONZALEZ: Commissioner --

18 COMMISSIONER GARCIA: Seriously.

19 MR. GONZALEZ: I follow the  
20 direction of this commission.

21 COMMISSIONER GARCIA: But you're  
22 going to --

23 MR. GONZALEZ: We always negotiate  
24 in very good faith. I have had  
25 conversations with almost all -- most of

1 the residents or their representatives.  
2 I've had conversations with the business  
3 owners --

4 COMMISSIONER GARCIA: Could I --  
5 could I --

6 MR. GONZALEZ: -- or their  
7 representatives. Whatever direction you  
8 give me, we will implement. We've had  
9 conversations around this before, and  
10 if there's a better solution than the city  
11 providing that service, because it always  
12 costs the city more.

13 COMMISSIONER GARCIA: (Inaudible.)

14 MR. GONZALEZ: That makes sense.

15 COMMISSIONER CRUZ: If the  
16 commissioner wants to make at that separate  
17 motion, let's vote on this motion and then  
18 we can make a separate motion, and we will  
19 vote on that, and he will know the  
20 sentiment of the commission. That's the  
21 easiest way. You're interested in a  
22 district, make a motion and we'll decide on  
23 it.

24 COMMISSIONER GARCIA: Wait a second,  
25 I want to address what the man said.

1                   COMMISSIONER CRUZ: That's fine, but  
2                   if you want to make a motion, you can do  
3                   that.

4                   COMMISSIONER GARCIA: Could I --  
5                   could I -- could I request that a  
6                   commission liaison be appointed to the  
7                   negotiations, and I will volunteer to be  
8                   (Inaudible.)

9                   MR. GONZALEZ: There's not a  
10                  negotiation. There's a conversation  
11                  (Inaudible.)

12                  COMMISSIONER GARCIA: (Inaudible.)

13                  MR. GONZALEZ: It's a public  
14                  meeting. Anybody could come.

15                  MAYOR DERMER: I think let's get --  
16                  let's get this off of table, Commissioner  
17                  Gross's motion and second, and then we'll  
18                  deal with any other matters that the  
19                  commission entires.

20                  VICE MAYOR GROSS: All right. Let's  
21                  call the question.

22                  MAYOR DERMER: The question has been  
23                  called. This is a five-sevenths vote.

24                  THE CLERK: All right.  
25                  Commissioner, I just want to verify one

1           thing, that the issue of -- the issue of  
2           the -- the city accepting responsibility  
3           for the service, we removed that as part of  
4           the motion?

5           VICE MAYOR GROSS:   Yes.

6           THE CLERK:   Because it's a  
7           budgetary --

8           VICE MAYOR GROSS:   That's right,  
9           we can acknowledge in the motion that we've  
10          done a bad job at providing (Inaudible)  
11          service.

12          THE CLERK:   We're not going to do  
13          anything with that.   Okay.

14          VICE MAYOR GROSS:   Yeah.

15          THE CLERK:   Okay.

16          UNIDENTIFIED SPEAKER:   What are  
17          we -- what are we voting on?

18          MAYOR DERMER:   We are voting --  
19          commissioner -- Commissioner Gross's --  
20          we are voting on the ordinance which has  
21          been seconded along with the hours not  
22          being discussed at the planning board along  
23          with basically clubs being good citizens  
24          and possibly entertainment districts,  
25          looking into that aspect.



1                   MR. DUBBIN:   And Mr. Mayor,  
2                   I recommend that there be two votes,  
3                   because by adopting an ordinance, you're  
4                   passing a law, and you can't pass a law  
5                   that's -- by throwing other stuff in it.

6                   MAYOR DERMER:   We do --

7                   VICE MAYOR GROSS:   We did on first  
8                   reading, but, you know, I don't care.

9                   MAYOR DERMER:   (Inaudible.)

10                  VICE MAYOR GROSS:   That's fine  
11                  we can do --

12                  MAYOR DERMER:   Let's do the  
13                  ordinance, let's go the ordinance itself.

14                  THE CLERK:   Okay.

15                  MAYOR DERMER:   Okay.   On the itself  
16                  there's a motion and second on the  
17                  ordinance, a five-sevenths vote.   Please  
18                  call the question, call the roll.

19                  COMMISSIONER BOWER:   On the  
20                  ordinance?

21                  THE CLERK:   Just on the ordinance.  
22                  Commissioner Garcia.

23                  COMMISSIONER GARCIA:   No, I cannot  
24                  vote for an ordinance that I don't trust  
25                  the -- the commitment of the administration

1 or the commission, no.

2 THE CLERK: Commissioner Bower?

3 COMMISSIONER BOWER: Yes.

4 THE CLERK: Commissioner Steinberg?

5 COMMISSIONER STEINBERG: No.

6 THE CLERK: Commissioner Smith?

7 COMMISSIONER SMITH: Yes.

8 THE CLERK: Vice Mayor Gross?

9 VICE MAYOR GROSS: Yes.

10 THE CLERK: Commissioner Cruz?

11 COMMISSIONER CRUZ: Yes.

12 THE CLERK: Mayor Dermer.

13 MAYOR DERMER: Yes.

14 THE CLERK: Five in favor, two  
15 against. The ordinance carries.

16 MAYOR DERMER: Okay. Now let's go  
17 and start discussing some of these other  
18 issues.

19 VICE MAYOR GROSS: Yeah, the other  
20 issue would be the direction to the  
21 planning board not to consider the  
22 rollback -- that the sentiment of the  
23 commission is not to consider rolling back  
24 the hours.

25 COMMISSIONER STEINBERG: I second.

1 UNIDENTIFIED SPEAKER: Oh, you're  
2 going to do them as one individually.

3 UNIDENTIFIED SPEAKER: That would be  
4 a resolution.

5 VICE MAYOR GROSS: That would be a  
6 resolution to the planning board. You do  
7 not -- you do not want them to consider  
8 it period.

9 MR. DUBBIN: Mr. Mayor --

10 MAYOR DERMER: Yes.

11 MR. DUBBIN: May I suggest that the  
12 way it be worded is that the request be  
13 withdrawn from the planning board.

14 VICE MAYOR GROSS: Withdrawn.

15 COMMISSIONER STEINBERG: I'll second  
16 that.

17 MAYOR DERMER: Okay. That's a  
18 motion by Gross, second by Steinberg. All  
19 in favor?

20 Opposed? Hearing none, that will  
21 pass.

22 Now let us go to the issue -- your  
23 next issue, the entertainment district  
24 discussion?

25 VICE MAYOR GROSS: Well, we already

1           referred that issue, I think.

2           UNIDENTIFIED SPEAKER: Referral.

3           MR. GONZALEZ: Yeah, that's going to  
4           planning, the entertainment district is  
5           different than yours, commissioner.

6           VICE MAYOR GROSS: Formal referral  
7           than -- well, without objection.

8           COMMISSIONER GARCIA: I would like  
9           to make a motion (Inaudible) reinforce the  
10          fact that we would like to (Inaudible.)

11          MAYOR DERMER: Well, for discussion  
12          of the planning board you're saying?

13          VICE MAYOR GROSS: Turn your mic on,  
14          too.

15          COMMISSIONER GARCIA: Yeah, for  
16          discussion of the planning board, I would  
17          like to emphasize that this commission's  
18          feeling is that the cabaret district be  
19          created.

20          UNIDENTIFIED SPEAKER: No, not the  
21          (Inaudible.)

22          COMMISSIONER BOWER: A what?

23          COMMISSIONER GARCIA: A cabaret  
24          district.

25          VICE MAYOR GROSS: Cabaret district.

1                   COMMISSIONER BOWER: Oh, I'm sorry,  
2                   I thought you --

3                   COMMISSIONER SMITH: Can I -- can  
4                   I get clarification on exactly what that  
5                   means.

6                   COMMISSIONER GARCIA: That means  
7                   that will be an area in the future that  
8                   will prevent -- it will prevent meetings  
9                   like this. There will be guidelines, of  
10                  course. And again, keep in mind that the  
11                  creation of a cabaret district is not going  
12                  to supersede county ordinances about noise;  
13                  however, it will be an area that cabarets  
14                  can flourish, can -- you know, people can  
15                  go.

16                  You know, like if you go to New  
17                  Orleans, you go to Bourbon Street. Here  
18                  they will know that they can go to Ocean  
19                  Drive or -- or Washington Avenue or Collins  
20                  Avenue, and, you know, there will be --

21                  MAYOR DERMER: I'm in favor of  
22                  discussion.

23                  VICE MAYOR GROSS: Me too, I don't  
24                  have a problem with discussion.

25                  MAYOR DERMER: I don't know

1           (Inaudible) sentiment, but certainly  
2           discussion is fine, and see -- let the  
3           planning board operate in a way that  
4           they're free to (Inaudible) the issue.

5           COMMISSIONER GARCIA: Well, you  
6           know --

7           UNIDENTIFIED SPEAKER: I think  
8           eventually, commissioner --

9           COMMISSIONER GARCIA: Mr. Mayor, my  
10          concern, though, in the past the planning  
11          board has been on the record as trying  
12          to -- trying to turn the lights on at two  
13          o'clock, you know. It happened with --  
14          it happened with the Breakwater, it's  
15          happened with Mango, with the Edison.

16          I mean, they have -- they were  
17          taking some steps that were -- again,  
18          that's part -- that's part of the fear of  
19          the community, that this is only the first  
20          step. So I'm --

21          MAYOR DERMER: Well, you want to  
22          make it as direction to look -- to  
23          institute a cabaret district.

24          COMMISSIONER GARCIA: Correct.

25          MAYOR DERMER: Is there a second to

1           that motion?

2                   COMMISSIONER CRUZ: I'll second it.

3                   MAYOR DERMER: Second by  
4           Commissioner Cruz. All in favor?  
5                   Opposed?

6                   VICE MAYOR GROSS: Okay. The last  
7           piece of it, Mr. Mayor, which the way we do  
8           it by reso or however, is the good citizen  
9           piece for the clubs, which is both that  
10          we bring back the ordinance for second  
11          reading that talks about this --

12                  MAYOR DERMER: Wow, what is that?  
13          Is that Cinco de Mayo. My gosh, Roman,  
14          what do you got going at your club?

15                  UNIDENTIFIED SPEAKER: What the hell  
16          is going --

17                  UNIDENTIFIED SPEAKER: What is  
18          happening.

19                  MAYOR DERMER: I don't know what  
20          it was. It was a band, a drum, fireworks  
21          are here. Okay.

22                  UNIDENTIFIED SPEAKER: Cinco de  
23          Mayo, yeah.

24                  MAYOR DERMER: Let me just break for  
25          one moment. I want to commend everybody

1           for their -- for -- it was a difficult  
2           hearing, but we got through it. I want to  
3           commend everybody for doing such a good job  
4           with it. I appreciate it very, very much.  
5           I commend also the hard work on this  
6           ordinance that legal, especially, I know  
7           has gone through a lot. Planning's gone  
8           through a lot, committees, commission has  
9           gone through a lot.

10                 I also want to take a moment to  
11           commend Roman for your donation. I thought  
12           that was one of the big successes of the  
13           night of \$12,000 to fly the kids to the  
14           Little League World Series, I think that  
15           was wonderful, and I hope that some of your  
16           other colleagues in the nightlife industry  
17           will follow suit from your example of doing  
18           this, and -- and work with some good  
19           programs for kids in the community.

20                 And we'll keep the dialogue going,  
21           we'll keep working this issue as, you know,  
22           as long as it takes, we appreciate it very  
23           much.

24                 ROMAN: Thank you.

25                 MAYOR DERMER: Now, let us -- let us



1 continue. Commissioner Gross, you had one  
2 more thought?

3 VICE MAYOR GROSS: Well, it's the  
4 good citizen part which is both the --

5 MAYOR DERMER: Okay. One more --  
6 back up. Roman, in your discussion, you  
7 did bring up something to me, and I'm going  
8 to, with your permission, say it publicly  
9 in reference to the flyering, which was an  
10 issue that Commissioner Gross brought up.

11 Roman has voluntarily said no more  
12 flyers on the street, that he's not going  
13 to hire promoters, kids, or anything like  
14 that to put anything on the street.

15 Come on up. Am I mischaracterizing  
16 what --

17 ROMAN: No, no, what I said -- what  
18 I said, mayor, is that I would sponsor a --  
19 if other businesses obviously went along  
20 with me, because I can't be the only one  
21 riding a bicycle if everybody else is  
22 cruising in a Porsche, but the idea is that  
23 I will -- we will sponsor, a group will  
24 sponsor and we'll endorse an end to  
25 flyering as --

1 COMMISSIONER BOWER: Ordinance.

2 ROMAN: If an ordinance is passed --

3 MAYOR DERMER: And end to flyering.

4 ROMAN: -- we will be the first to  
5 sponsor the ordinance and to abide by it.

6 MAYOR DERMER: See, that's not an  
7 ordinance, per se, but it would be a  
8 voluntarily agreement that the clubs --

9 VICE MAYOR GROSS: And I think  
10 there's been a reduction in the flyering in  
11 the last couple of weeks.

12 ROMAN: I -- the biggest problem is  
13 that we have competition coming from other  
14 towns. If we --

15 MAYOR DERMER: Well, we're just  
16 concerned with our own here and their  
17 behavior here.

18 ROMAN: Yeah, but it's -- it's  
19 the --

20 UNIDENTIFIED SPEAKER: (Inaudible.)

21 ROMAN: Exactly.

22 UNIDENTIFIED SPEAKER: (Inaudible.)

23 ROMAN: It's -- you know, businesses  
24 come to, as we talked about before  
25 successfully --

1                   MAYOR DERMER: All right. Let's put  
2                   that in abeyance then. I -- I thought  
3                   we were further along than that.

4                   ROMAN: But -- but the sentiment is  
5                   there, the sentiment is there, mayor, that  
6                   we're definitely willing to work with the  
7                   commission.

8                   MAYOR DERMER: Okay. Thank you.  
9                   I -- you know, I --

10                  VICE MAYOR GROSS: Well, just --  
11                  I want part -- no, I want part of this  
12                  whole conversation to be an acknowledgment  
13                  that there are collateral damages at night  
14                  after the public spills out of the clubs,  
15                  that there's going to be a dialogue between  
16                  the clubs and the residents to try and work  
17                  to resolve that issue, because I don't want  
18                  to sweep that under the rug.

19                  COMMISSIONER BOWER: How do we do  
20                  that?

21                  MAYOR DERMER: Okay. Well, I think  
22                  we got a Nightlife Industry Task Force,  
23                  they dialogue quite a bit. Maybe us being  
24                  more involved with them, discussing  
25                  options.

1                   VICE MAYOR GROSS: Well, I think as  
2 we discuss the ordinance we passed on first  
3 reading, which is, you know, the teeth  
4 behind the nightclubs --

5                   UNIDENTIFIED SPEAKER: As a  
6 resident, I'll help head up a task force,  
7 and Roman will from his side, and we'll get  
8 together and we'll work together.

9                   VICE MAYOR GROSS: Okay.

10                  ROMAN: I mean, that's the idea.  
11 The idea is to have meet things where  
12 residents will field concerns from other  
13 residents, I will field concerns maybe from  
14 other businesses in the area, and we will  
15 per dialogue -- you know, we're all  
16 reasonable and we're all quite bright.

17                  MAYOR DERMER: Okay.

18                  ROMAN: So we'll find a solution.

19                  UNIDENTIFIED SPEAKER: And we as the  
20 nightlife task force could invite the  
21 residents and those that represent them to  
22 the meetings, and we would be happy to take  
23 the time to dialogue them.

24                  VICE MAYOR GROSS: Well, what a good  
25 note to end the meeting on, right.

1                   MAYOR DERMER: It's a positive note.  
2                   Very good. Thank you all very much for  
3                   coming out, I appreciate it very much.

4                   (End of recording.)

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CERTIFICATE

- - -

I, Matthew J. Haas, Court Reporter and  
Transcriptionist, do hereby certify that I was  
authorized to and did listen to and  
stenographically transcribe the foregoing  
recorded proceedings and that the transcript is a  
true record to the best of my professional  
ability.

Dated this 21st day of January,  
2017.



MATTHEW J. HAAS  
Court reporter



IN RE: CITY OF MIAMI BEACH COMMISSION MEETING

ITEM NO.: ITEM R5D PUBLIC HEARING

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CITY OF MIAMI BEACH  
COMMISSION MEETING

APRIL 14, 2004

ITEM R5D PUBLIC HEARING

ELIMINATE DANCE HALLS/ENTERTAINMENT  
ESTABLISHMENTS IN CERTAIN DISTRICTS

1 COMMISSION MEMBERS:

2 DAVID DERMER, MAYOR  
3 SAUL GROSS, VICE MAYOR  
4 SIMON CRUZ, COMMISSIONER  
5 MATTI HERRERA BOWER, COMMISSIONER  
6 LUIS R. GARCIA, JR., COMMISSIONER  
7 JOSE SMITH, COMMISSIONER  
8 RICHARD STEINBERG, COMMISSIONER

9  
10 ALSO PRESENT:

11 MR. GOMEZ GONZALEZ, CITY MANAGER  
12 MURRAY DUBBIN, CITY ATTORNEY  
13 ROBERT E. PARCER, CITY CLERK  
14 MR. GOMEZ GOMEZ, PLANNING DEPARTMENT  
15  
16  
17  
18  
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1 (Thereupon:)

2 MAYOR DERMER: The 11:30, R5D,  
3 eliminate dance halls/entertainment  
4 establishments in certain districts. This  
5 is first reading, five-sevenths vote is  
6 required. Please read the ordinance.

7 THE CLERK: An ordinance of the  
8 Mayor and the City Commission of the City  
9 of Miami Beach, Florida, amending the code  
10 of the City of Miami Beach by amending  
11 Chapter 142, zoning district and  
12 regulations, Article 2, district  
13 regulations, Division 5, CD-2, commercial  
14 medium intensity district; Section 142-302,  
15 main permitted uses, Division 11, I-1 light  
16 industrial district; Section 142-485,  
17 prohibited uses, and division 18, PS  
18 performance standard districts; Section  
19 142-693, permitted uses.

20 By eliminating dance halls and  
21 entertainment establishes also operating as  
22 alcoholic beverage establishments and  
23 restaurants with full kitchens and serving  
24 full meals as permitted uses in certain  
25 areas of the CD-2 commercial medium

1 intensity district, the I-1 light  
2 industrial district, and the PS performance  
3 standard district providing for repeal or  
4 severability, codification and an effective  
5 date.

6 MAYOR DERMER: And this is a public  
7 hearing. Is there a motion to open the  
8 public hearing.

9 COMMISSIONER BOWER: Move it.

10 MAYOR DERMER: Public hearing is now  
11 open. Just for show of hands, those that  
12 are here to speak in favor of the  
13 ordinance, if you can raise your hands in  
14 favor.

15 Okay. And those who are here to  
16 speak against the ordinance? Oh, this is  
17 getting -- okay. It's going to be a  
18 process today.

19 VICE MAYOR GROSS: We're breaking  
20 for lunch.

21 MAYOR DERMER: Well --

22 COMMISSIONER GARCIA: Yeah, you want  
23 to cater lunch, Mr. Mayor?

24 MAYOR DERMER: Yeah, what we'll do  
25 is we'll have our brief opening, of course,

1           and some questions, and then we'll take  
2           some testimony. What I would just request,  
3           everybody, if you could limit your remarks.  
4           We'll give everybody two minutes, and  
5           if you need a little more time, then we'll  
6           give you a little more, but if somebody has  
7           said something already that has basically  
8           stated your position pretty consistently,  
9           I'd appreciate if you were to waive your  
10          time to allow us to progress. Thank you  
11          all very much for being here, go ahead.

12                 MR. GOMEZ: I'll try to do this,  
13          Mr. Mayor.

14                 MAYOR DERMER: Yes.

15                 VICE MAYOR GROSS: Let me just  
16          preface these zoning remarks a little bit.  
17          The -- this issue is one that has been  
18          brewing in the community for a while.  
19          We've had a number of public hearings even  
20          here on the floor of the commission.

21                 Staff had been working on a series  
22          of different zoning regulations that would  
23          address some of these quality of life  
24          issues that have risen, particularly as  
25          it relates to the area south of 5th Street.

1           I've met with the -- many of the  
2           homeowners south of 5th Street, as have  
3           you, as have I'm sure all of you at various  
4           times. We've had our Mayor on the Move  
5           meeting. Clearly, the issue of noise and  
6           the degradation of quality of life in that  
7           area is something that is of an urgent  
8           matter.

9           Late last year we brought a number  
10          of ordinance-type measures to the planning  
11          board, and they didn't endorse all of them.  
12          They asked us to work on some of them and  
13          not work on others. This is something that  
14          kept going as part of their recommendation.  
15          We're here now at first reading, and it --  
16          the timing is propitious.

17          It follows a Mayor on the Move  
18          meeting we had last month where we heard  
19          loud and clear that there was a concern  
20          about the proliferation of nightclubs in  
21          the South Pointe area.

22          And so what we have before you today  
23          is an area that -- a zoning change that  
24          effects that area and the area near the  
25          Sunset Harbor condominiums, industrial area

1           and CD2 area, and it only effects those  
2           areas, and it addresses proliferation and  
3           future items.

4           What I ask in my write-up as part of  
5           this ordinance is, notwithstanding the  
6           proliferation, you still have the issue of  
7           the current uses and, you know, whether  
8           you're going to allow legal nonconforming  
9           uses to continue or not, and if not, how  
10          you might approach it is something that  
11          is -- is worthy of debate here on the  
12          floor.

13          I'm sure a lot of the residents and  
14          the club owners will give you their  
15          thoughts on it, but I'll let Jorge walk you  
16          through the specifics of it.

17          UNIDENTIFIED SPEAKER: Okay.  
18          Commissioner, do you have a question.

19          COMMISSIONER GARCIA: You know, let  
20          me throw something in the air for public --  
21          public consumption, and this might ease  
22          some of the tension on both sides. How  
23          about creating a cabaret district?

24          You know, and again, I think  
25          if we can float that idea and we can get

1           (Inaudible) support from both sides, we can  
2           work together (Inaudible.)

3           VICE MAYOR GROSS: That's a possible  
4           outcome from this. This -- this what your  
5           considering today affects only the area  
6           south of 5th Street, but it could end up  
7           that (Inaudible.)

8           COMMISSIONER GARCIA: Yeah,  
9           (Inaudible) because I -- my -- I have --  
10          I have spoken to both sides and the  
11          residents, and I see the residents' point  
12          of view. At the same time I see the  
13          industry's point of view --

14          VICE MAYOR GROSS: Sure.

15          COMMISSIONER GARCIA: -- that this  
16          could be the first dominos to fall before,  
17          you know, you kill the city.

18          VICE MAYOR GROSS: Uh-huh.

19          COMMISSIONER GARCIA: So this could  
20          be a win-win situation. We could --

21          VICE MAYOR GROSS: And that's a  
22          debate you guys can -- can do here, because  
23          I think it's a valid point and one that  
24          should be -- you know, you should take up.  
25          It's how you make sure that you don't get

1           those unintended consequences and deal with  
2           this appropriately.

3                   MAYOR DERMER:   Commissioner Bower?

4                   COMMISSIONER BOWER:   I just want to  
5           urge, because I have heard, you know, the  
6           Cabaret district is an idea that has  
7           floated around, and I think that you are  
8           probably very correct that it is something  
9           that we should look at, but when we do  
10          that, we involve the neighbors that are  
11          under that part of -- because, you know,  
12          I just (Inaudible.)

13                   COMMISSIONER GARCIA:   Sure.

14                   VICE MAYOR GROSS:   Right now staff  
15          is not working on any proposal like that.

16                   COMMISSIONER GARCIA:   (Inaudible.)

17                   COMMISSIONER BOWER:   No, no, I  
18          understand, but I just want to put that on  
19          the record.

20                   COMMISSIONER GARCIA:   You know,  
21          commissioner, this goes back to the  
22          previous commission, because I remember  
23          I brought the issue back --

24                   COMMISSIONER BOWER:   Right.

25                   COMMISSIONER GARCIA:   -- probably

1           three, four years ago.

2           COMMISSIONER BOWER: Right.

3           COMMISSIONER GARCIA: And at that  
4           time, you know, the commission (Inaudible)  
5           was very much opposed to it and a so --

6           COMMISSIONER BOWER: Well, and  
7           it could be when I hear from the neighbors,  
8           that I'm still opposed to it.

9           COMMISSIONER GARCIA: (Inaudible.)

10          UNIDENTIFIED SPEAKER: I don't  
11          remember that issue.

12          VICE MAYOR GROSS: But Commissioner  
13          Garcia --

14          COMMISSIONER GARCIA: That was  
15          (Inaudible.)

16          VICE MAYOR GROSS: What you're  
17          talking about, if I understand it,  
18          Commissioner Garcia, in the commercial  
19          districts you're talking about maybe  
20          creating some kind of cabaret.

21          COMMISSIONER GARCIA: Yeah, you  
22          see --

23          VICE MAYOR GROSS: But we're here  
24          today talking about the residential  
25          district.



1                   COMMISSIONER GARCIA: No, no, and  
2                   I agree with you, but what I'm trying to  
3                   do, I'm trying to minimize the friction  
4                   between one group and another, because  
5                   I think that this idea that we can both get  
6                   behind, work it out, and work our solution,  
7                   a long-term solution. You understand?

8                   Right now you're going to hear from  
9                   one side, you know, all the noise, all the  
10                  complaints and whatever, and from the other  
11                  side you're going to hear all the -- all  
12                  the concerns about killing the industry.

13                  So I think if we start, if we break  
14                  this down to the point of, you know, work  
15                  together instead of against each other, you  
16                  know, it would -- it would go a long way  
17                  and it would -- it might expedite the  
18                  process.

19                  VICE MAYOR GROSS: Maybe, I just  
20                  don't think that there's going to be any  
21                  nightclubs that are going to come up and  
22                  stand up here and say that they think they  
23                  should be allowed to make loud noise in a  
24                  residential district until five in the  
25                  morning.

1 COMMISSIONER GARCIA: (Inaudible.)

2 VICE MAYOR GROSS: Okay. So --

3 COMMISSIONER GARCIA: Commissioner  
4 Gross, we got -- we have county laws,  
5 county ordinances that can be enforced.

6 MAYOR DERMER: Okay. Let's try to  
7 move along a bit. Welcome Jorge Gomez,  
8 planning director.

9 MR. GOMEZ: Again, to try to sort of  
10 focus the discussion what this ordinance  
11 does, you as a commission as a matter of  
12 policy stated that in these two particular  
13 areas south of 5th Street and the area,  
14 what we call the Sunset Harbor area which  
15 is from Dade Canal and Alton Road over to  
16 the west, that you did not want to allow  
17 dance halls or entertainment  
18 establishments. You set that policy and  
19 you put that into the code.

20 What you did also do is that  
21 if those establishments were also operating  
22 as restaurants, the dance halls or the  
23 entertainment establishments, then they  
24 were exempt from the prohibition.

25 We've heard testimony in various

1 community meetings and at various other  
2 venues as to how that exemption has begun  
3 to cause problems and has affected the  
4 quality of life for the residential uses,  
5 and we're proposing this ordinance that  
6 says in those areas where you've already  
7 banned the dance halls and the  
8 entertainment establishments, that you  
9 should remove the exemption for the  
10 restaurant, and that's basically what's  
11 happening here.

12 In the South Pointe area, for  
13 example, and we've included that list in  
14 your package, there's about 30 licensed  
15 restaurants. 7 of those restaurants have  
16 the dancing or the entertainment license.  
17 That leaves a potential of another 23  
18 establishments in South Pointe alone that  
19 could because of the exemption add the  
20 entertainment and/or the dance hall  
21 license.

22 We have a much smaller number in the  
23 Sunset Harbor area, but, you know, the  
24 potential is there where people could come  
25 in and put a restaurant and have those

1           entertainment establishments. The basic  
2           policy question before you is if you  
3           banned -- already have banned the dance  
4           halls and entertainment establishments, do  
5           you still want to have that exemption with  
6           the restaurants.

7           MAYOR DERMER: Okay. Thank you.  
8           If you could remove the board, unless  
9           there's some questions from commissioners  
10          on -- let's begin the public hearing  
11          if we could. Let's start and work our way  
12          across the room.

13          Who would like to kick us off? A  
14          show of hands. I've got somebody --  
15          anyone, here, here, here, here? I'm going  
16          across. Okay. Let's get this gentleman.  
17          Welcome. Come on up.

18          If you can state your name, give us  
19          a quick address, if you could, and tell us  
20          what you think.

21          MR. O'LARA: Good morning, everyone.  
22          My name is Mark O'Lara. I'm a resident of  
23          Murano Grande, 400 Alton Road. My opinion  
24          is that most of the commissioners are  
25          well-meaning servants of the Miami Beach

1           community. I want you all to envision  
2           where we should be as a community, business  
3           and residential, five years from now.

4                   Please roll back the club hours of  
5           hours of operation. Police and sanitation  
6           costs will decrease substantially if clubs  
7           close at 2 or 3 a.m. Roll back the last  
8           call, will lower taxes and open up more  
9           resource to an already overburdened police  
10          department and sanitation department.  
11          Cleaner, safer streets bring more business  
12          to the beach.

13                   Some special interests want to  
14          mislead you into thinking the issue at hand  
15          is a conflict between residents and  
16          business. That is untrue. Ask any  
17          business on the beach or anywhere else for  
18          that matter, and they will tell you that  
19          the most important customer is the  
20          returning customer. Those customers are  
21          residents.

22                   The nightclub crowd accounts for  
23          most of the litter and police calls, and a  
24          very small portion of the revenue. Let's  
25          look at the success of Fort Lauderdale.

1           The name "Fort Lauderdale" at one time was  
2           synonymous with spring break. Now they've  
3           grown their tourism and attracted visitors  
4           that spend more. I think that is a better  
5           direction for Miami Beach.

6                     If you're a commissioner with  
7           sympathy for small businesses, then you  
8           must roll back the nightclub hours.  
9           If you're a commissioner with sympathy for  
10          realtors or developers, you must roll back  
11          these hours. If you're a commissioner with  
12          sympathy for the nightlife industry, you  
13          must act as a conduit to the community to  
14          compromise or they will face inevitable  
15          conflicts according to existing Miami Beach  
16          codes. I have to couple of more.

17                    MAYOR DERMER: Go ahead, finish up.

18                    MR. O'LARA: If you're a  
19          commissioner with sympathy for the  
20          residents, then you know what to do.  
21          I think our mayor is probably the best  
22          mayor this city has ever seen. In closing,  
23          I want to -- I want you to envision.

24                    MAYOR DERMER: Probably a couple of  
25          people up there or their families would

1 disagree, but that's -- but thank you  
2 anyway.

3 MR. O'LARA: I've never met them,  
4 but --

5 MAYOR DERMER: I'm not going to  
6 argue with you on that one.

7 UNIDENTIFIED SPEAKER: What about  
8 that guy Jay.

9 MAYOR DERMER: Yeah, Jay -- Jay also  
10 was a pretty good mayor.

11 UNIDENTIFIED SPEAKER: All right.  
12 Meeting adjourned.

13 MR. O'LARA: I want you to envision  
14 where we should be as a community of  
15 businesses and residential citizens five  
16 years from now. Is this direction we're  
17 going toward, is it -- is it towards a more  
18 culturally refined community or is -- is  
19 your vision more a vision to see Miami  
20 Beach become the capital of spring break  
21 for the world. Thank you very much.

22 MAYOR DERMER: Thank you for your  
23 comments. All right. Let's move along.  
24 Yes, come up here, Mr. Fisher, welcome.

25 MR. FISHER: Thank you, mayor and

1           commissioners. I'm Josh Fisher, I'm the  
2           vice president of the Murano and Portofino  
3           Condominium Association speaking for  
4           myself.

5                       So I think the issues are pretty  
6           familiar here. We have in the middle of  
7           the night many nights a week a pretty  
8           serious invasion south of 5th, and I know  
9           when I bought my unit, I think I can say  
10          it's true of most of my neighbors and the  
11          thousands of units we're putting up there  
12          and we've been putting up for the last few  
13          years, my picture was this was a place  
14          where you could have a terrific urban  
15          environment, very different from a suburban  
16          environment, very close to the  
17          entertainment district and all that that  
18          engenders, but at the same time you could  
19          be in a residential environment where  
20          people could raise families, good access to  
21          Miami, good access to what Miami Beach  
22          offers, and the ocean.

23                      By and large, you know, it's a --  
24          it's a new area, it's tough for the city  
25          services to get ramped up, but we can see



1 all of those things improving. The one  
2 thing that's gone backwards even in the  
3 close to two years now I've lived here is  
4 the invasion we have every single night,  
5 and this invasion does not come from the  
6 tourists who fill our hotels and it doesn't  
7 come from the residents living in our  
8 buildings, this is yet another group.

9 And this is a group that comes and  
10 makes our streets pretty difficult to walk  
11 around in late at night or early in the  
12 morning when you walk your dog, if you're  
13 early enough on weekends, or bringing your  
14 kids to school.

15 If nothing else, the litter that's  
16 left behind is incredible. Fred Beckman  
17 and Al Samora have walked the streets with  
18 us, and they have really worked hard to  
19 deal with all the construction litter and  
20 all the normal litter, but nobody can cope  
21 with what we find on Sunday mornings after  
22 the night of nightclubs.

23 And, you know, the picture that  
24 people had was not that this is what  
25 we were getting. This one aspect has

1           really gone pretty awry, and that is not  
2           the majority of the businesses in our area.  
3           The restaurants are fabulous. My neighbors  
4           and I all patronize them. I think we're  
5           probably the largest group who does, and  
6           they seem to be doing very well. It's just  
7           quick buck artists who have been putting in  
8           nightclubs late at night in an area that's  
9           not meant for them.

10                   I'd just like to comment -- I'll  
11           just be another minute if that's okay. I'd  
12           just like to comment on some of the  
13           publicity that's been coming out of a few  
14           people, which is the idea that these  
15           arrogant new condo owners, and you'll hear  
16           this, I'm sure, in the course of this  
17           morning, these arrogant new condo owners  
18           are trying to change the character of South  
19           Beach, and nothing could be further from  
20           the truth.

21                   It's pretty insulting thing to say,  
22           actually. People made a big investment to  
23           get this residential neighborhood, this  
24           urban residential neighborhood, turning  
25           it into Aventura, a fine place, but not

1           what people want. It's the farthest thing  
2           from people's minds, and the thing that  
3           could actually have the negative effect  
4           would be letting this all just run  
5           unfettered.

6                     And I think what we have here is  
7           essentially a loophole. Nightclubs were  
8           not intended in these districts, and we're  
9           letting them in for an unintended reason.  
10          You know, we moved here for the ocean, too,  
11          and as much as we love the ocean, we have  
12          to take measures to make sure that  
13          it doesn't flood our homes, and that's what  
14          we've got here.

15                    We have nightlife and entertainment,  
16          we have to make sure it doesn't flood where  
17          we live. It doesn't make you anti-beach  
18          and anti-ocean to want that.

19                    MAYOR DERMER: Thank you, sir.  
20          Okay. Come on up here.

21                    MS. REMMINGTON: I'm Joan Remmington  
22          from Murano Grande. I'm not arrogant. I'm  
23          a lady from Brooklyn who loves this city.  
24          We moved here in October, and we intend to  
25          die here, but --

1                   MAYOR DERMER: Well, we hope it's a  
2 long time off.

3                   MS. REMMINGTON: -- not soon, not  
4 soon, but -- but certainly after growing up  
5 in Brooklyn, New York and in Boston, cities  
6 that really have become so great because  
7 they changed a lot of their act, whether  
8 it's the -- the part in Boston that was  
9 night clubs and the girlie shows in New  
10 York City, and it's a turning point.

11                  I think it's such a great place, and  
12 I hope it will become a place where you can  
13 live and dance, too, but it's just --  
14 it needs to be done.

15                  MAYOR DERMER: Okay. Come on up.

16                  MS. BLECKER: Good morning, mayor,  
17 commissioners, city manager. My name is  
18 Judith Blecker. I've lived in Miami Beach  
19 since 1932, so you know I've seen a lot of  
20 changes. Today I'm speaking as a resident  
21 of Sunset Harbor North.

22                  We want to thank you for trying to  
23 address an issue that has had a negative  
24 impact on the quality of our lives. When  
25 we moved to Sunset Harbor, we knew that the

1 neighborhood had businesses, but that they  
2 would be working primarily during the day.  
3 Since then, the city has permitted the  
4 following: Two restaurants, Joe Allen's  
5 and BU's Lounge; two nightclubs, Purdy  
6 Lounge and Jade Lounge, and an art gallery  
7 that's connected by an interior staircase  
8 to the Jade Lounge and operates as a  
9 nightclub. If you go by there at night,  
10 you see the lines of people waiting to get  
11 into the upstairs.

12 Our streets have been filthy with  
13 bottles, beer cans, plastic cups, and  
14 flyers, and particularly the children's  
15 park across the street has been impacted by  
16 that. We have people drinking and  
17 urinating in them on the weekends, and  
18 taxis and other vehicles parked illegally.

19 The other night my husband and  
20 I were coming home from a concert, and  
21 we couldn't get through, we had to go  
22 around by Publix and come back on the other  
23 side because the people were busy talking  
24 and simply would not move.

25 Police code compliance and

1 sanitation seem to be missing, and we'd  
2 like to know why the laws are not enforced  
3 and why our complaints go unanswered. The  
4 residents in Sunset Harbor, Sunset South,  
5 North, and the town homes, pay an estimated  
6 three point million dollars in property  
7 taxes annually. Our tax dollars need to be  
8 used to solve these problems.

9 I have a petition with 213  
10 signatures from the residents of the Sunset  
11 Harbor neighborhood requesting the  
12 following: Sanitation cleanup on Sunset  
13 Harbor Drive and Island View Park on  
14 Saturday, Sunday, and Monday mornings, just  
15 as it is done on Collins Avenue and  
16 Washington Avenue. Rolling back the hours  
17 of the liquor sales in the Sunset Harbor  
18 neighborhood to 2 a.m.

19 Please don't allow restaurants to  
20 operate as nightclubs or art galleries to  
21 operate as nightclubs, and please do not  
22 grandfather the problem, take care of  
23 it now. Thank you all very, very much.

24 MAYOR DERMER: Thank you. Ma'am,  
25 if you -- ma'am -- ma'am, if you can give

1           that to the clerk, your petition, and we'll  
2           make that part of the record.

3           Erica, come on up.

4           MS. BRIGHAM: Hi, Erica Brigham.  
5           I bought a building at 735 2nd Street in  
6           1988, and I now live there. I was a member  
7           of the South Pointe Advisory Board for many  
8           years until it was disbanded approximately  
9           two years ago, and I have a feeling that  
10          if it had still been allowed to exist, the  
11          problem might not have gotten quite as bad  
12          as it is now, because at least there were  
13          city personnel that would come to the South  
14          Pointe Advisory Board meeting from the  
15          police, from code enforcement, and from  
16          other parts of the administration when they  
17          were asked to, and it is in the past two  
18          years that this has gotten out of control.

19          Although, historically it's been out  
20          of control for years. This is a  
21          court-ordered settlement between the city  
22          and Amnesia dated 1970 -- 1997 where  
23          Amnesia was going to agree to put a roof  
24          on, and as you all know, that's been the --  
25          sort of the catalyst for -- for the

1           problems that have existed in South Pointe  
2           from the very beginning of the  
3           redevelopment process when people really  
4           started moving in and rehabbing their  
5           projects.

6           One thing that bothers me more than  
7           anything else is the fact at that there is  
8           an NXE district which is mixed use  
9           entertainment, and the South Pointe area,  
10          residential area were supposed to have only  
11          neighborhood businesses, and a good  
12          restaurant service serves as a neighborhood  
13          business as, of course, Joe's Stone Crab  
14          and all the other restaurants down there,  
15          but I don't really understand how this  
16          slipped through, and the zoning simply  
17          should never have allowed it.

18          If -- if Ed Resnik were still  
19          around, he would not have allowed it, I'm  
20          sure of that, because he didn't even want  
21          sidewalk cafes south of 5th Street.

22          We live on the American Rivera,  
23          we have worldwide publicity. There's no  
24          place like it in the world. It's sort of  
25          the prototype for what everyone wants for



1           the new urbanism, a wonderful walking  
2           community with wonderful gorgeous  
3           architecture that everybody can relate to  
4           in one way or another, and we shouldn't --  
5           we should enhance the quality of life, and  
6           there's plenty of venues for good  
7           entertainment, there's plenty of people  
8           with money who will be attracted by good  
9           entertainment from all over the world.

10           MAYOR DERMER: Thank you. Thank  
11           you. Okay. So to gauge where we're at,  
12           who wanted to speak on this end that has  
13           still not gotten a shot? We've got about  
14           another three speakers. When I go to the  
15           next end, I'm not coming back to this end,  
16           so tell me. Okay. Go ahead.

17           MR. SASOVILLE: Great. Hi, I'm Paul  
18           Sasoville from Sunset Harbor South. I just  
19           want to add a little balance to it. Sunset  
20           Harbor South is a great mixed area. When  
21           people moved in there, they knew there  
22           would be restaurants and bars and  
23           residential.

24           I do want to say that we would like  
25           just to see some of the existing code

1           enforced as far as sanitation and police  
2           and keeping it quiet before they shut down  
3           those businesses. So rather than limit the  
4           hours to 2 a.m., let's try to just to keep  
5           them open until 4 and just do a better job  
6           of following the existing code.

7           MAYOR DERMER: Thank you for your  
8           comments. Okay. Next let us get Ruth come  
9           on up here.

10          MS. REMMINGTON: Hi, I'm Ruth  
11          Remmington. I live at 1000 South Pointe  
12          Drive. I think this is a pretty obvious  
13          loophole to close, and I just -- I'm  
14          anticipating this side of the room starting  
15          to speak, and I just want to say, again,  
16          we're not against business, we need so many  
17          things in South Pointe, and I would imagine  
18          Sunset Harbor might also, but we need more  
19          restaurants, we need a dry cleaner, we need  
20          a book store, we need a newsstand, we need  
21          another couple of coffee shops. We need a  
22          pet store.

23          We need all kinds of shops, and --  
24          and we welcome all those businesses, and  
25          we'd be happy to work with the business

1 community to -- to support those businesses  
2 if they come to South Pointe.

3 And what we don't need are  
4 restaurants that are disguising themselves  
5 as restaurants and really are something  
6 else. The restaurants that do open there  
7 are -- are doing gangbuster business, and  
8 we could certainly support a lot more, but  
9 we don't need them open until 5 a.m.  
10 Thanks.

11 MAYOR DERMER: Thank you. Anybody  
12 else? Yes, sir, come on up.

13 MR. HARRIS: Good afternoon.  
14 Richard Harris from Portofino. I've been  
15 living on the beach for the last eight  
16 years and frequenting it since 1975.  
17 I first want to turn back to the audience  
18 and look at a show of hands again of who is  
19 in favor of this amendment.

20 And then who is opposed to the  
21 amendment. And then of the people opposed  
22 to the amendment, how many people live  
23 south of 5th? I mean, I think that is  
24 quite interesting to note.

25 The second point I'd like to make is

1           that I think that you all have to look at  
2           this from a business perspective, and like  
3           any business, if you're going to grow an  
4           area by adding more business or a club or  
5           infrastructure, that you have to analyze  
6           whether or not the area can handle the  
7           particular -- well, I think like Matti  
8           says, where are they going to park.

9           You have to look at whether or not  
10          you have the control and whether or not you  
11          have the enforcement, and, frankly, whether  
12          or not you have the money.

13          As I, you know, run through those  
14          quick points in my head, right now it seems  
15          to be a free-for-all. Loopholes are great  
16          for some, especially during tax time, but  
17          this particular loophole to me opens the  
18          door for chaos on the beach.

19          This last weekend I, you know, woke  
20          myself up at five in the morning to -- to  
21          personally witness, you know, what all the  
22          hubbub was about, because I had only heard.  
23          Firsthand is always best, and I was  
24          embarrassed, appalled with the noise, the  
25          disrespect for the neighborhood, the

1           litter. Absolutely, this must be -- be  
2           closed, this loophole, and the  
3           grandfathered in strategy that may be put  
4           forth I think has to be analyzed, because  
5           this is a residential area first and the  
6           people must be heard.

7                   MAYOR DERMER: Thank you, thanks for  
8           your time. Okay. Joe. Anybody else after  
9           Joe. Was there another hand? Yes, we'll  
10          get Morris, and that will close with you on  
11          this side, and we'll move to the other.

12                   Go ahead, Joe. Welcome.

13                   MR. VELARI: Good afternoon,  
14          commissioners, mayor, city manager. My  
15          name is Joe Velari. I live at 240 Collins  
16          Avenue, and we all know what's happening at  
17          136 Collins Avenue. That's my favorite  
18          line. You can quote me.

19                   I own this property that I'm in now  
20          from 1997. My wife -- I'm sorry, 1987. My  
21          wife and I moved here in 1991, and that's a  
22          lot of taxes we're still paying, and  
23          we come down here from Rhode Island. Rhode  
24          Island is a small place up north, it's in  
25          the United States, and up there they have a

1           funny little saying that's says,  
2           "If it ain't broke, don't fix it."

3                     But, boy, this is broke, and you  
4           guys got to fix it. Yes, I was on the  
5           board with Erica the same time. We hated  
6           to see that dissolution -- dissolve, but  
7           such is that. Okay.

8                     MAYOR DERMER: Thank you, sir.  
9           Appreciate it. Okay. Morris, doctor.

10                    MR. SUNSHINE: For the record, my  
11           name is Morris Sunshine, and I live in  
12           South Pointe. This is a perfect  
13           illustration how better zoning and better  
14           planning and better legislation means less  
15           enforcement, less strain on code, less  
16           strain on the police, it's forward looking.

17                    I remember this issue of restaurants  
18           turning into nightclubs, discussing that  
19           with Dean Grandon who is Jorge Gomez's  
20           predecessor back in 1995. Things sometimes  
21           move slowly in Miami Beach, but today is  
22           the day to stop an issue which has been on  
23           the table for nine years at least.

24                    I attended the meeting of the  
25           Nightlife Industry Task Force yesterday

1           chaired by Steve Polisar, and I'm sure you  
2           know Steve. There was no objection to this  
3           particular legislation that I heard while  
4           I was there, though I'm sure you'll hear  
5           some today.

6                     Finally, I would like to say that  
7           if you -- well, penultimately, if you would  
8           like to know what we confront in South  
9           Pointe, all you have to do is read the last  
10          issue of the Sun Post. It gave, I think, a  
11          very realistic description what life is  
12          like down there after dark.

13                    And finally, mayor, I'd like to  
14          commend you for raising -- during one of  
15          your Mayor on the Move meetings, for  
16          raising the issue of rolling back the hours  
17          for alcohol beverage establishments to  
18          2 a.m. I think it's time this became a  
19          public issue, that we discuss this matter,  
20          and I hope that you will take that issue in  
21          the future seriously. Thank you.

22                    MAYOR DERMER: Thank you. Okay.  
23          Let us -- yes, ma'am, come on up.  
24          We can -- yes, why don't we help her out  
25          over here. Come on up, right next to the

1 podium so the camera can get you. There  
2 you go. You got it.

3 MS. COHEN: Hi everybody. My name  
4 is Sabrina Cohen, and I live in Sunset  
5 Harbor South Tower. I've been there for a  
6 little bit over two years, and I'd just  
7 like to say that I've -- I grew up in Miami  
8 Beach, I've lived here my whole entire  
9 life, and I'm ecstatic about what South  
10 Beach and Miami Beach is becoming.

11 To me it's very exciting, and I love  
12 the fact that I have Purdy Lounge across  
13 the street from my house and Jade and  
14 I have friends in the building that I know  
15 as well they like it, and I think that's  
16 what South Beach is all about.

17 I think -- I'm not telling anybody  
18 to move from South Beach, but there's  
19 Aventura, there's Bay Harbor, there's  
20 Kendall, those places are much quieter, but  
21 I do not think that South Beach and Miami  
22 Beach is equivalent to those places,  
23 I think there's more excitement here, and  
24 I think that's what brings tourism and more  
25 people to come down here to have a good



1           time.

2                   And the beach stretches for miles  
3           and miles. I mean, you have Collins Avenue  
4           and all those condominiums down there are  
5           quiet, so if that's what, you know, people  
6           need or are seeking, I think, you know --  
7           you know, that's why they're there.  
8           I think primarily, though, South Beach and  
9           Lincoln Road and all the clubs that are  
10          going on, I think that's what keeps the  
11          city exciting, and I think it should -- you  
12          know, if anything, maybe sanitation and  
13          cleaning up and the bottles, that needs to  
14          be, you know, under closer observation and  
15          under tighter restrictions, and that needs  
16          to be looked into a little more, but for  
17          the most part, I think it adds value to our  
18          society here or our community here.

19                   MAYOR DERMER: I thank you very much  
20          you're your comments. Okay. That will do  
21          it for this side of the room. We're moving  
22          on to this here. Frank, would you like to  
23          start, and then we'll come across.

24                   MR. DEL VECCHIO: Frank Del Vecchio,  
25          301 Ocean Drive. The -- the people who are

1           buying the expensive new condos in South  
2           Pointe --

3                   MAYOR DERMER:   You've got an  
4           assistant now handing these memos.   All  
5           right.

6                   MR. DEL VECCHIO:   That's my brother,  
7           Joe Del Vecchio.

8                   MAYOR DERMER:   Oh, hi, Joe.   Nice to  
9           see you.

10                   COMMISSIONER GARCIA:   You mean  
11          there's two of you?

12                   MAYOR DERMER:   That means twice --  
13          that means twice the paperwork now, right?

14                   MR. DEL VECCHIO:   Just you wait.

15                   COMMISSIONER GARCIA:   There goes  
16          another tropical forest.

17                   MR. DEL VECCHIO:   They could have  
18          afforded Aventura, Biscayne, Key Biscayne,  
19          but they love what Miami Beach has to  
20          offer.   This is not a battle between  
21          businesses and the nightlife industry,  
22          which I think has been misled.   We want the  
23          predominantly residential area of Miami  
24          Beach, which is south of 5th, which was  
25          zoned residential, which had a nightclub

1 prohibition, to be a predominantly  
2 residential and recreational area with all  
3 of the supporting businesses, tourists and  
4 residents benefit from having well-placed,  
5 lovely, safe, beautiful walking areas a few  
6 blocks from the entertainment district.

7 We have an entertainment district  
8 which is run down. The city's resources  
9 cannot keep up with the policing, the  
10 sanitation costs, the code costs. We would  
11 like the city's budget, which is being  
12 wasted in trying to clean up South Pointe  
13 residential streets from the litter and  
14 trash and disruption, which is brought in  
15 every weekend and on major event weekends  
16 by three to five thousand occupancy  
17 existing nightlife establishments with a  
18 loophole that could bring in many more.

19 I think we have a -- a common  
20 business and economic interest with the  
21 business community and with the nightlife  
22 and entertainment community.

23 Now, Commissioner Garcia always  
24 talks about being holistic and about a  
25 balance. I think we're looking at this

1           holistically. These residents bring their  
2           families, their business associates, their  
3           friends to shop here, they patronize the  
4           hotels, they patronize the restaurants.

5           Our two kids were down -- they're  
6           not our kids anymore, they're in their  
7           thirties. They came down. They went to  
8           the clubs. They went to Crobar. I was  
9           going to try to get them to go to Opium,  
10          but I thought that would not be politically  
11          appropriate. They, too, were surprised at  
12          the kind of outside activity that is now  
13          being attracted into our residential area.

14          If we can concentrate our resources  
15          in the mixed use entertainment area,  
16          support those businesses, give them clean  
17          streets and enforcement and let them  
18          operate properly, I think we have the  
19          balance we are looking for.

20          What we are doing here today is  
21          simply asking the city commission to close  
22          a loophole which was never intended, which  
23          permits restaurants south of 5th and in  
24          Sunset Harbor to operate as nightclubs  
25          until 5 a.m. That's not right, it's not

1 right for the business, it's not right for  
2 the residents, it has an adverse impact on  
3 tourists. We like you, we patronize you,  
4 and I think this will not be a disaster for  
5 the -- for the nightlife industry. Thank  
6 you.

7 MAYOR DERMER: Thank you, sir. All  
8 right. Moving across. Any hands here?  
9 Any folks from the back want to come in?  
10 Any competing view at all? Nothing? Okay.  
11 Come on.

12 MS. CLAYTON: Good morning,  
13 commissioners, mayor, city manager. I've  
14 been here since 1985. I hope -- I'm going  
15 to try and stay --

16 UNIDENTIFIED SPEAKER: Your name.

17 MS. CLAYTON: -- nonemotional.

18 UNIDENTIFIED SPEAKER: Judy, just  
19 for the record just say your name and  
20 your --

21 MS. CLAYTON: Judy Clayton, sorry.  
22 205 and 221 Collins. In 1987 I was  
23 appointed as chair of finance of the  
24 original redevelopment agency. At that  
25 time the South Pointe Towers wasn't even

1 up. What we did, we got together with Rob  
2 Parkins, we worked very hard with the city  
3 to get the developers to come down here.

4 I'm very, very upset and sad, I'm  
5 sorry, that what I'm seeing after all our  
6 hard work, the RFP, the first one we put up  
7 was The Courts, and we worked so diligently  
8 and so hard, worked with the police, worked  
9 with the code compliance and code  
10 enforcement to get the buildings up and  
11 operating, beautified, and consequently,  
12 what upsets me so much is that here today  
13 after all our hard work, we had a vision of  
14 a world-class city, we had a vision of  
15 making South Pointe the place to come.

16 We did our PR, we did the image and  
17 the PR. We worked diligently with the  
18 police, and for me to walk out on the  
19 corner of 2nd and Collins -- I have  
20 pictures of my building when it was --  
21 it was the ugliest building in the whole  
22 beach. Let me tell you, it was ugly.

23 And when I walk out now and see all  
24 of our hard work and all the buildings that  
25 we tried so hard to get the developers to

1           come and beautify this beach, and I walk  
2           out now and I see what's happening to our  
3           neighborhood, because as they call it, a  
4           loophole.

5                   I'm in the entertainment business.  
6           I'm an entertainer. I'm a singer. I have  
7           records out. I would love to have my  
8           record played in Opium, and if it was  
9           located at another place. I would love to  
10          have the entertainment have another  
11          section. We are not against entertainment.  
12          It's just that it cannot survive here with  
13          our vision of what we had when we started  
14          this whole action back in 1987.

15                   I beg of you, don't let the domino  
16          effect go back to a ghetto, because that's  
17          what we started out as. Thank you.

18                   MAYOR DERMER: Thank you. Okay.  
19          Come on up, please.

20                   MR. MOZOU: Hello, my name is Tofik  
21          Mozoui. I own the Oasis in South Beach,  
22          it's right on 1st Street between Alton and  
23          Washington. I have a small restaurant.  
24          It's a 60-seat restaurant. It's a Greek  
25          and Mediterranean restaurant, and part of

1           our heritage is to have belly dancer, and  
2           it's an entertainment, and because of that,  
3           I'm not allowed to have my belly dancer  
4           come and dance at my restaurant.

5                   I have been closed by the policeman  
6           at one o'clock because they said I don't  
7           have the dancing and entertainment for  
8           having a belly dancer in my place. They  
9           threw all my customers out. I'd love to  
10          have all those people come to my place.  
11          They're all my neighbors, and I do live on  
12          221 Meridian. This is our neighborhood.

13                  I don't like the big clubs to do  
14          what they're doing, but my restaurant will  
15          be affected greatly because of that. Thank  
16          you.

17                  MAYOR DERMER: Thank you. Sir.  
18          Okay. Come on up.

19                  MS. ETTTELSTEIN: (Inaudible.)

20                  MAYOR DERMER: Please.

21                  MS. ETTTELSTEIN: Good morning. My  
22          name is Terry Etttelstein. I live at 100  
23          Meridian Avenue, Apartment 214. I am this  
24          gentleman's neighbor. Our apartment faces  
25          in towards the pool at The Courts, but



1           we are essentially across the street from  
2           from his establishment. We have actually  
3           gone over and had dinner when it first  
4           morphed from a sort of take-out deli-type  
5           place to a restaurant, and we enjoyed our  
6           dinner there.

7           The problem is that the belly  
8           dancer, I don't think, is really what the  
9           problem is. It's the glass on the street  
10          the next morning, the cars honking, people  
11          waking us up at 5 a.m. when the  
12          establishment closed. The -- the notion  
13          that it's s belly dancer that's causing the  
14          problem is entirely wrong.

15          You need to walk the streets, and  
16          we're two blocks away from Ocean and three  
17          from -- or three from Ocean and two from  
18          Collins, and the people who walk on the  
19          street in the middle of the night wake us  
20          up.

21          There's yelling and traffic, and  
22          drunken brawls, and I'm not sure that --  
23          I signed up to live in a -- in a  
24          residential area. I was told that by the  
25          developer, and what's happening is we're

1           being assaulted by activities that are  
2           entirely inconsistent with that character.

3           MAYOR DERMER:   Thank you.

4           MS. ETTTELSTEIN:   And I used to come  
5           here in the 1970s with my children, and my  
6           mother was actually one of those people in  
7           (Inaudible) waiting room who would come to  
8           the Deledo for three months every winter,  
9           and we always lamented that we couldn't  
10          enjoy the character of the place, the  
11          history, the art history, and we were  
12          thrilled by the redevelopment south of 5th,  
13          and that's what caused us two years ago to  
14          buy what is our vacation home but will be  
15          our retirement home in 2001, but we can't  
16          live in a place where we can't sleep at  
17          night.

18          MAYOR DERMER:   Thank you, ma'am.  
19          Yes, sir.   We'll get the gentleman -- we'll  
20          get you first, come on, and we'll get you  
21          second.   Welcome.

22          MR. JOHNSON:   Hi, David Johnson, 208  
23          Jefferson Avenue.   I thought the comments  
24          of the last two people were interesting,  
25          because the -- the -- I've been in south of

1           5th Street for eight years now, and it's  
2           tremendous what the residents and the  
3           redevelopment agency and you as  
4           commissioners have accomplished in that  
5           neighborhood, it's really fabulous, but  
6           without a question in the last couple of  
7           years there's been a serious decline.

8                     And I think what's -- the real  
9           source of that is the clientele that is  
10          coming to these places, and unfortunately  
11          some of them, I think the Oasis, I don't --  
12          I'm not right across the street from it,  
13          but I suspect that it's probably a place  
14          that really doesn't cause that much  
15          trouble, but you have to -- you can't  
16          discriminate between individual  
17          establishments.

18                    And the problem is that particularly  
19          the larger ones are attracting a clientele  
20          that is extremely rowdy on the streets and  
21          it leaves all the litter and is  
22          disrespectful to the residents and so  
23          forth.

24                    So you've got to strike a balance,  
25          but it seems to me that the balance has

1           to -- has to come down in favor of -- of  
2           the residents and the establishments that  
3           are able to attract a clientele that don't  
4           cause problems, and if -- I think that  
5           closing up the loophole is your only option  
6           at the moment to -- to address that. Thank  
7           you.

8           MAYOR DERMER: Thank you, sir.

9           Yes, sir. A show of hands on this  
10          side who is waiting to speak still. Oh,  
11          okay. All right.

12          MR. ESDALE: How you guys all doing?  
13          For the record, my name is Jared Esdale.  
14          I've been on this beach for about ten  
15          years, and I came here knowing the fact  
16          that I wasn't coming to live in a quiet  
17          area, I was coming to live in an area that  
18          was going to be fun for me, as well as I'd  
19          be able to still, you know, live here, and  
20          there were quiet sections.

21          My parents have been on this beach  
22          for close to 25 years as well. They're  
23          business owners, and part of the business  
24          that comes in here is the tourists that  
25          come and go into their store and buy.

1 I have news that most of the people that  
2 live here all year round are not -- are not  
3 the people bringing us money, because when  
4 it's not season, we're not doing any  
5 business at our store. Okay?

6 If you want a quiet area, you go to  
7 where I grew up in New Jersey in a suburb  
8 area where there's families, where  
9 everybody knows each other, and it's a  
10 quiet neighborhood, but that's not what  
11 South Beach is all about.

12 This is supposed to be a fun place  
13 to live. This is supposed to be a place  
14 where you can go have a good time, and not  
15 exactly get -- get crazy and throw bottles  
16 all over the place either, don't get me  
17 wrong, but I truly believe that me  
18 personally, I also work over at the Purdy  
19 Lounge, and I personally every single  
20 morning go out and clean up any bottles  
21 I see, you know, in front of our  
22 establishment or on the beach as well as  
23 does everybody else that works with me.

24 So I just think that -- that really,  
25 you have to really look at where you --

1           where you move to. This isn't supposed to  
2           be an area that's supposed to be a quiet  
3           area. We're supposed to be here to have  
4           some fun as well, and I just think  
5           everybody should take that into  
6           consideration. Thank you.

7           MAYOR DERMER: Thank you. Next --  
8           next speaker. Next speaker, yes, come on  
9           up. Next, come on up.

10          MS. TENESOVA: My name is Daniella  
11          Tenesova, and I'm here --

12          COMMISSIONER BOWER: (Inaudible.)

13          UNIDENTIFIED SPEAKER: Get closer.

14          MS. TENESOVA: -- and I live here  
15          for 26 years. I've been here when we sold  
16          the -- the -- the (Inaudible.) I've been  
17          here when everything has happened. I came,  
18          and I cannot forget it that I came from a  
19          city, three -- four million city there,  
20          every other house, basement of the houses  
21          are now night -- nightclub.

22          I cannot forget that Gina  
23          (Inaudible) walking with high -- high heels  
24          was stopped by the police, tell her to take  
25          her -- to take her shoes off because it's

1 two o'clock in the morning. I cannot  
2 forget this. I think what they are  
3 talking -- talking here are saying that  
4 Miami Beach -- and I don't know who told  
5 them that Miami Beach, and who can really  
6 say, that South Miami Beach, it has to be  
7 something that you cannot control.

8 Now, we -- what we are asking is --  
9 is more civilized life in this site. This  
10 is what we like. And we have seen it, and  
11 it could be done. I cannot get out in the  
12 morning in front of my building, it's  
13 impossible. They are screaming like crazy.

14 Are these people that are bringing  
15 the money here? No. I -- I have -- I am  
16 seeing every night Joya's restaurant  
17 treating at least 3,000 people. You know  
18 what, there is no noise, and these people  
19 are not other people. These people are  
20 there to observe it on purpose. These  
21 people only have older people, but not too  
22 old, and the (Inaudible) are using the  
23 promises, the gardens, and they go -- go --  
24 they -- I don't know how they find the  
25 parking, they are right (Inaudible) and

1           this is what we want to have in South  
2           Beach. Thank you.

3           MAYOR DERMER: Thank you. Let me  
4           get this gentleman, we'll work our way  
5           around. Yes.

6           MR. STEVENS: Good morning. How you  
7           all doing?

8           MAYOR DERMER: Good afternoon.

9           MR. STEVENS: My name is Brad  
10          Stevens, good afternoon. Without beating  
11          a -- beating this with -- this issue here,  
12          it's all about quality of life, yes, and  
13          basically you've seen from the residents  
14          that it's a joke.

15          As far as people moving out of these  
16          sections and going to places like Aventura  
17          and up north and big beaches, well, that's  
18          not an option, because people bought here  
19          and they want things to change here.

20          The nightclub industry will survive  
21          if you roll back the hours, obviously,  
22          because you know what's going on in the  
23          design district and downtown and other  
24          places, it's always going to survive, and  
25          the argument that the nightlife is the



1 foundation of what's happening here in  
2 South Beach and the culture is just  
3 ludicrous.

4 Miami Vice, the modelling industry,  
5 all the models, the designers, Gianni  
6 Versace, those are the things that put a  
7 blueprint or a fingerprint on what's  
8 happening in South Beach. There needs to  
9 be a balance, and something -- something  
10 has to be done.

11 As far as the gentleman with Oasis,  
12 I don't know much about the place, but  
13 I did get an email showing pictures of the  
14 sound system in there, and it's like set up  
15 for a big disco. I don't know if you guys  
16 received any of that email, but -- Joya,  
17 that's another place. The entrance is in  
18 the alley. It's very disturbing to the  
19 people that live in that area of the alley.  
20 People are coming out all drunk, and it's  
21 just -- it's not an appropriate place to  
22 have an entrance.

23 There's many issues that everybody  
24 has here, but I guess -- I guess my bottom  
25 line is I'm opposed to it, so thank you.

1                   MAYOR DERMER:   Okay.   Thank you.  
2                   Let's get Juan, and we'll follow Juan with  
3                   Ira, Ira Elegant followed by Gary.   Go  
4                   ahead.

5                   MR. COVIAN:   Juan Covian, Portofino  
6                   Towers, South Pointe Towers.   And no pun  
7                   intended, but I think it's time to belly up  
8                   to the bar.   The commission has to make a  
9                   decision.   The decision -- the only  
10                  decision is the one that has to go with the  
11                  residents.   It is time to close the  
12                  loophole.   Period.

13                  It is time to give us back our city.  
14                  We have an area that is the pride of the  
15                  world, that we moved here because what it  
16                  was, but we have the right to have a  
17                  residence also.   You know, it's really  
18                  funny.   I think the majority of these  
19                  people, a lot of them, a lot of people that  
20                  everybody says we should move away from  
21                  this area because they really belong in  
22                  Aventura, a lot of those people go out to  
23                  eat to all those restaurants three and four  
24                  times a week.

25                  So we are the biggest supporters of

1           the business, per se. We are not the  
2           biggest supporter to what they do in terms  
3           of the trashing, in terms of the noising,  
4           everything that they do that is a disaster,  
5           it's just killing our neighborhood.

6           We don't want to look five years  
7           from now at this time as being the golden  
8           times of Miami Beach, because we are --  
9           if we don't stop the way we're going, we're  
10          just going to go down hill more and more,  
11          please.

12          MAYOR DERMER: Thank you. Ira.  
13          We'll have Gary and then (Inaudible.)

14          MR. ELEGANT: Mr. Mayor and members  
15          of the commission, Ira Elegant, Buchbinder  
16          & Elegant, 46 Southwest 1st Street, Miami,  
17          Florida. I'm representing Barbara  
18          (Inaudible) the party.

19          In listening to everything today and  
20          in reviewing the report that you've  
21          received, it's a good staff report, you  
22          really have distinct areas. You have  
23          concerns south of 5th Street which are  
24          really different than the -- then really  
25          the industrial pocket near Sunset Harbor.

1           That is the only industrial pocket that's  
2           existed on Miami Beach from the inception.

3           The reality is that folks purchased  
4           there, they bought at Sunset Harbor, and  
5           there's been a balance. My client has  
6           attempted to work with the residents,  
7           address their concerns.

8           For example, they'll be double doors  
9           at that restaurant and lounge. There will  
10          also be sound attenuation equipment. They  
11          do the usually safeguard to be sure that  
12          people don't leave with glasses and  
13          other -- and other things of that kind.

14          The problem that we have is that  
15          if you paint with this broad brush that's  
16          suggested for this amendment, you're  
17          dealing with two distinct areas.

18          I'm not here to deal with south of  
19          5th Street, that may be a different thing,  
20          and I think you've heard a number of  
21          speakers address the concerns, because that  
22          is truly partially residential and  
23          partially the uses that have been  
24          described.

25          When you deal with the Sunset Harbor

1 area, you have a distinct difference. You  
2 have the industrial uses, you have other  
3 heavy uses that existed when Sunset Harbor  
4 was -- was built, and the reality is there  
5 are two clubs, restaurants, that are  
6 identified in the staff report, my client  
7 and one other. There are two other  
8 restaurants. They don't function as clubs  
9 and do not provide any entertainment.

10 If you do consider this, at the very  
11 least you've got to consider the  
12 grandfather factors. One of the concerns  
13 that I have with the grandfather issues are  
14 certainly if -- if a use was destroyed by,  
15 let's say, a hurricane or some unintended  
16 action, certainly that use should be able  
17 to be reestablished within a given period  
18 of time.

19 In addition to that, if you don't  
20 have that provision, you'll have insurance  
21 issues which will almost render the  
22 premises uninsurable.

23 I respectfully suggest to you that  
24 insofar as the Sunset Harbor area is  
25 concerned, that probably should go on for

1 further discussion and perhaps refinement.  
2 South of 5th, that's another issue. How  
3 far, if you do address this, certainly  
4 we've got to deal with the grandfather  
5 issues.

6 I know that many people have spoken  
7 about hours, that's for another day and  
8 another time. That's really not before you  
9 today under the ambit of what's been  
10 presented. We suggest to you that the  
11 ordinance as it exists be left as  
12 it presently is contained in the code for  
13 the Sunset Harbor area, south of 5th is  
14 another issue.

15 I mean, you have a delicate balance  
16 between residents' concerns and very  
17 substantial investments, and you've got to  
18 come up with a fair balance. Thank you.

19 MAYOR DERMER: Let me ask you a  
20 question before you go, Ira, and I believe  
21 you to be correct that it is not properly  
22 before us today as far as the hours are  
23 concerned, but that is interjected as a  
24 side issue into this whole conversation  
25 when we look at it, and I'm curious, what

1 is your position or your client's position  
2 as to a 2 a.m. rollback in your particular  
3 area of Sunset Harbor.

4 MR. ELEGANT: I'll let my client  
5 address that because, frankly, I haven't  
6 been hired for that.

7 MAYOR DERMER: Okay.

8 MR. ELEGANT: But he's here.

9 MAYOR DERMER: That's a good answer.  
10 All right. All right.

11 MR. ELEGANT: Come up.

12 MAYOR DERMER: All right. You're  
13 retaining him now for the hours?

14 MR. ELEGANT: No, no, he's the  
15 client.

16 MAYOR DERMER: Go ahead. What --  
17 what is -- what is your position on that,  
18 I mean how --

19 MR. DONOVAN: We don't want to  
20 really limit any of our hours at all.

21 UNIDENTIFIED SPEAKER: Can you state  
22 your name, please.

23 MR. DONOVAN: I'm John Donovan. I'm  
24 the owner of the Purdy Lounge (Inaudible)  
25 and my daughter, Caitlin.

1                   MAYOR DERMER: Welcome.

2                   MR. DONOVAN: I mean, we're -- we're  
3                   basically just trying to eke out a living,  
4                   and you rolling back the hours are limiting  
5                   us possibly of making money, and all we're  
6                   trying to do is -- you know, we're not  
7                   insurgents, you know, we're not members of  
8                   the Taliban. We're good neighbors, dads  
9                   and moms, members of the community, we're  
10                  regular folks that just want to eke out a  
11                  living.

12                 We've always had our door open to  
13                 hear any complaints from any of the  
14                 neighbors. We live in an environment  
15                 that -- that has the luxuries of a city and  
16                 unfortunately the noise of city life.

17                 We feel we enhance the quality of  
18                 life. I mean, we're in the midst of  
19                 installing double doors. We've hired a  
20                 contractor, but everything takes five times  
21                 longer in South Florida than you expect  
22                 it to take, and --

23                 UNIDENTIFIED SPEAKER: Longer on the  
24                 beach.

25                 MR. DONOVAN: Yeah, Miami Beach.



1           We're talking to police now to patrol  
2           outside to eliminate the possibility of  
3           loitering, if there is any loitering going  
4           on. I know the community will see the  
5           difference. Recently Club Mays, which was  
6           Salvation just closed, and I felt  
7           personally that was 70 percent of the  
8           problems, because that club could hold, you  
9           know, 1,300 people.

10                   And, you know, in closing, we are  
11           members of the community. I mean, we're  
12           fathers, mothers, friends, neighbors.  
13           I work hard.

14                   MAYOR DERMER: If I may ask you, and  
15           listen, this is not about you and your  
16           family, you have a lovely wife and family.

17                   MR. DONOVAN: (Inaudible.)

18                   MAYOR DERMER: You seem like a hell  
19           of -- you seem like a hell of a nice guy to  
20           me, but I'm just -- I'm just curious as to  
21           do you feel you can make a living with a  
22           2 a.m. closing versus 5 a.m.?

23                   MR. DONOVAN: No, I think that Miami  
24           Beach is a 5 a.m. city. I mean, it  
25           costs --

1                   MAYOR DERMER: No, no, I'm talking  
2 about you.

3                   MR. DONOVAN: I'll use a perfect  
4 example.

5                   MAYOR DERMER: You talked about --

6                   MR. DONOVAN: I'll give you a  
7 perfect example.

8                   MAYOR DERMER: Hang on. You talked  
9 about you as it related to your family.  
10 I'm talking about you as it relates to you,  
11 too.

12                  MR. DONOVAN: Exactly, (Inaudible.)

13                  MAYOR DERMER: But don't give me  
14 Miami Beach, tell me 2 a.m., you've got a  
15 particular establishment there that sells  
16 alcohol. You can't live with 2 a.m. at all  
17 or is it not making enough money?

18                  MR. DONOVAN: I have an  
19 establishment in Coral Gables. As know  
20 it's 2 a.m., and quite honestly, we don't  
21 really make that much money there. We're  
22 open for lunch, we're open for dinner,  
23 we're open until 2 a.m., and Saturday  
24 forget it, Saturday night we rang \$2,400,  
25 and this is in the city of Coral Gables.

1           So you start -- what you're doing is  
2           you're eliminating the nightlife, the  
3           reason why people come into an area.  
4           I mean, you start -- they're just going to  
5           go to another place that's open until five.  
6           So I mean, we make about 35 percent more  
7           out of the Purdy Lounge than we do in Coral  
8           Gables, and that 35 percent is probably  
9           made between 2 and 5 a.m.

10           You know, unfortunately for the  
11           people who lived there, it's zoned an  
12           industrial area. You know, I mean --

13           MAYOR DERMER: Well, you're --

14           MR. DONOVAN: -- we picked our  
15           location (Inaudible.)

16           MAYOR DERMER: Your issue is correct  
17           when you say it's zoned in an industrial  
18           area, but my understanding is there is no  
19           rights to particular bar hours or liquor  
20           license hours, so though you may be there  
21           in an industrial and you may have a proper  
22           establishment there, you don't have any  
23           kind of right to a 5 a.m. versus a 2 a.m.,  
24           so -- but that is going to be something  
25           that I think that this commission is going

1           to tackle, we're going to explore, we're  
2           going to talk about it.

3           MR. DONOVAN: I'm kind of confused  
4           as to why -- I don't know why we do not  
5           have the right. I mean, it's there  
6           already, what, you're just going to take  
7           away (Inaudible.)

8           MAYOR DERMER: My understanding  
9           according to the legal advice that I have,  
10          is that correct, Mr. Attorney, that you  
11          have a right to a liquor license that may  
12          be grandfathered, however, you do not have  
13          a right as to those hours of 5 a.m.

14          MR. DONOVAN: (Inaudible), that's  
15          what I'm kind of confused about.

16          MAYOR DERMER: That's the law. So  
17          that's what -- why this is on the table  
18          now. Okay? All right. Thank you very  
19          much. Let us go -- let's go to  
20          Mr. Wallack. I mean, I haven't seen you,  
21          Dave, in a while, and you're wearing a  
22          suit. My God. First time in years that  
23          I've seen this.

24          MR. WALLACK: Is the tie nice?

25          MAYOR DERMER: Have you become the

1           solicitor general for North Beach or  
2           something? What's going on here?

3           MR. WALLACK: Actually, I thought  
4           there would be a lot of older people in the  
5           room today, so I dressed a little more  
6           formally.

7           MAYOR DERMER: Oh-oh, not a good  
8           kickoff. Back up a little bit. Take a  
9           step back and start again.

10          MR. WALLACK: Mr. Mayor, I am also  
11          representing the Ocean Drive Association in  
12          some of my comments, and so I would ask for  
13          just a couple of more minutes than two  
14          minutes, not many more but just a couple.

15          MAYOR DERMER: Sure, go ahead.

16          MR. WALLACK: The chamber of  
17          commerce came to me a couple of months ago  
18          and actually asked me to write a position  
19          on noise and what I thought, how I thought  
20          it should be remedied and the difficulties,  
21          especially that many of these residents --  
22          all of these residents are complaining of.

23                 It was my position then, and I  
24          standby it now, that zoning is the proper  
25          recourse for our city to take to organize

1           entertainment. It is the only method by  
2           which you can actually create the rules for  
3           each zone with a logic that would stand the  
4           test of law, I believe.

5           But we must remember the success of  
6           our city is predicated not on our beach,  
7           not on our concrete structures, it's  
8           predicated on people, it's predicated on  
9           human life, it's predicated on tourism.  
10          That is the business of our city.

11          When you change the basic success  
12          factor and you remove, let's say, a column  
13          in this building, will this building  
14          collapse? Maybe not, maybe just it will  
15          sag a little bit, but if you pull another  
16          main column, it may collapse.

17          I heard Fort Lauderdale mentioned.  
18          Fort Lauderdale was a pretty wild scene in  
19          the heyday of its spring break, however,  
20          when they closed it the way they closed it,  
21          it sent them into a spiralling depression  
22          of 15 years.

23          My message to this commission is to  
24          do this properly. Not to do it with an  
25          axe, but to do this with a surgical blade

1           and create the proper zoning for your  
2           entertainment zones.

3                   We need to workshop. You need to  
4           define the economic ramifications of what  
5           it means to roll back to 2 a.m., Mr. Mayor.  
6           Rolling back to 2 a.m., obviously this  
7           gentleman is a bit new in the community and  
8           new in business here. Let me explain to  
9           you what rolling back to 2 a.m. would  
10          actually mean.

11                   It would mean literally thousands of  
12          people unemployed. In my property, 900  
13          Ocean Drive, when my parents ran it, they  
14          had four employees in the season. I have  
15          240 employees on the same property. I'm  
16          only one property. Half of my employees  
17          live on South Beach.

18                   All of the small condos and the  
19          apartments of South Beach are filled with  
20          the employees of Lincoln Road and their  
21          cafes. The employees of Ocean Drive, the  
22          restaurants, the hotels that have sprung  
23          up, and of the South Pointe area.

24                   They spend their paychecks in the  
25          stores that have sprung up to service them

1 living in the apartments. How many  
2 hundreds of thousands and millions would be  
3 lost in their tax revenue alone in spending  
4 their paychecks. Will the residents pick  
5 up those losses that the city suffers to  
6 our tax revenue.

7 These are questions that you have to  
8 look at an examine. "Preservation" is a  
9 word that has been bandied around and  
10 bandied around, and Saul, I know you are a  
11 preservationist. Mr. Mayor, I know you are  
12 a staunch preservationist, and Matti,  
13 I know you are as well.

14 I'm not going to sit and go through  
15 every single person on the board, because  
16 it's not necessary, but I know these are  
17 the three that have stood out, but to me  
18 preservation goes beyond the concrete,  
19 because we had the concrete when we were  
20 dead. It's not the concrete, and it's not  
21 the beach.

22 The concept of Miami Beach is also  
23 what needs to be preserved, the concept of  
24 why the buildings were built and in  
25 which -- and the method in which they were



1           built reflected the mindset of the concept.

2                   In the 1920's we were a resort.

3           We were a place to enjoy all night long 24  
4           hours a day with casinos that were illegal.  
5           In the thirties we had prohibition in this  
6           country. You could not get a drink. In  
7           Miami Beach the alcohol flowed more than  
8           New York and more than Chicago.

9                   In the forties we were filled with  
10          thousands upon thousands of servicemen  
11          training for World War II, and the party  
12          flowed all night as well. In the fifties  
13          with Frank Sinatra, Dean Martin, and Jerry  
14          Luis, the stars of the hotels, it was  
15          partying into the night, and you went to  
16          Wolfies at four in the morning to see Sammy  
17          Davis, Jr., and Frank Sinatra.

18                  In the sixties Jackie Gleason,  
19          Arthur Godfrey. It's all based in  
20          entertainment. It's all based in  
21          personalities. The Beatles, Cassius Clay,  
22          and then we have the seventies and the  
23          early eighties. Devastation. The party  
24          stopped, the people got older, and they  
25          died, and that is what happened to our city

1           as well.

2                   The city services rolled back. City  
3 salaries, benefits, forget about it, there  
4 was no money to be had in this city, and  
5 then we came back out. What led us coming  
6 out? Entertainment. Miami Vice and all  
7 the other movies that came in that era.

8                   We must move in stages. And I am  
9 not saying that this is a bad move by the  
10 city. I think it's obvious you're going to  
11 pass this ordinance. I think that any fool  
12 sitting in the audience knows that, but  
13 there are, as Ira Elegant said, certain  
14 considerations that you should in your  
15 discussion make note of.

16                   We are a 5 a.m. city. To roll back  
17 to 2 a.m. in any district you must realize  
18 down to your bones will kill the  
19 entertainment factor in that area. It will  
20 not survive. 30 to 40 percent of every  
21 restaurant, business, nightclub and cafe  
22 will not be able to survive that in the  
23 entire city, and you can factor all of that  
24 income as well as 30 to 40 percent of all  
25 employees that live in this city would

1 migrate, because as a bartender or waiter  
2 or a server, you can live in any city in  
3 the world. They would just migrate out,  
4 break their leases, leases would mean  
5 nothing.

6 We are a 5 a.m. city. That is our  
7 unique asset. We don't have any other  
8 unique asset in this city. Our hotels are  
9 not unique, our beaches -- our beach is not  
10 unique. You can go from here to North  
11 Carolina and you can find a beach. You can  
12 go up the west coast, you can find  
13 absolutely beautiful beaches, you can go to  
14 Panama City and find a gorgeous beach,  
15 Cancun, the Bahamas, there are beaches all  
16 over the place now, we're not the only one,  
17 therefore, it is not unique. It's  
18 beautiful and it adds to what we are, but  
19 it is not unique.

20 Disney World is 2 p.m. If you want  
21 to put us in direct competition with  
22 Orlando, watch us die. Straight across the  
23 board, and the only thing you'll have is  
24 about 15 to 20 years of these faces before  
25 I'm back in the ACLF business, and I want

1           to be head of the board. And I don't say  
2           that -- I don't say that negatively,  
3           because that's the truth and that's the  
4           reality of our lives and who we are in each  
5           season that we live our lives in.

6           The key is entertainment and your  
7           organization of it. I am not standing here  
8           opposed to this ordinance, however,  
9           entertainment is the golden goose,  
10          entertainment is our success, it is our  
11          prosperity.

12          The way you grandfather and the way  
13          you use a sculpturing tool is the key to  
14          the success of this ordinance. Aside from  
15          we on Ocean Drive have been begging for  
16          more police protection, people walking the  
17          beat rather than in cars and more clean up.  
18          We even formed our own district to support  
19          the city and pay for more police and more  
20          clean up. There are areas of the city,  
21          Ocean Drive included, that are still --  
22          that would still like to participate with  
23          your counsel, your government in creating  
24          more city services.

25          So it's not that we don't want

1 organization. We do. Please do  
2 it judiciously with consideration to our  
3 industry. Remember people in our hotels as  
4 far as the Loews, the Fontainebleau, they  
5 all go to Nikki Beach. Not all but many.

6 They go to Opium, and I'm not saying  
7 Opium has been running a clean shop, and  
8 I'm not here to rubber stamp, and  
9 if they've been abusive, they've been  
10 abusive, but not all operators are, and  
11 this city still can find ways to garner  
12 control.

13 When you say we want to take our  
14 streets back, please remember the tourists  
15 created this city. The tourists created  
16 the resurgence of this city, and it is  
17 tourism that is our true business and our  
18 only business. Residential came as a  
19 result of tourism. Thank you.

20 MAYOR DERMER: David -- David --  
21 David, before you go, just a couple of  
22 quick questions. I want to -- I want to  
23 focus on your position so I understand it.

24 As to the 2 a.m. versus the 5 a.m.  
25 closing time for argument's sake, would you

1           be adverse to having a 2 a.m. closing time  
2           for, hypothetically speaking, let's say  
3           below 6th Street in the Purdy area and  
4           let's say along Ocean Drive you had a  
5           5 a.m., and that Ocean Drive district would  
6           include 900 Ocean, Mango's. Would you be  
7           adverse to doing that.

8           MR. WALLACK: I cannot stand the  
9           concept of destroying Nikki Beach. It's  
10          internationally known. I don't like the  
11          concept. 2 a.m. would destroy these  
12          businesses. It would turn them into  
13          restaurants, period, and they're not  
14          restaurants alone.

15          When you go to 2 a.m., David, you  
16          have to realize you are taking something  
17          and changing it. You are taking their  
18          clientele and saying go home, get a new  
19          clientele tell and change your business,  
20          because --

21          MAYOR DERMER: But you would be up  
22          here fighting against that if that were the  
23          case that --

24          MR. WALLACK: I think that's where  
25          the grandfathering and your contemplation

1 of the ripple effect and the domino effect  
2 of your action need to be studied. I truly  
3 think that this is really the job of an  
4 economic expert to really show you how many  
5 dominos are stacked up here. I don't think  
6 you truly realize it, how many families,  
7 how many children eat from 2 a.m. until  
8 5 a.m.

9 MAYOR DERMER: If we went into a  
10 2 a.m. closing in certain areas of the  
11 city, you think it would be -- the dominos  
12 would collapse on top of us, it would be  
13 the end of Miami Beach, we'd spiral into  
14 Somalia.

15 MR. WALLACK: Well, I -- I would  
16 not -- I will not go ahead -- I could not  
17 go ahead as an expert and stand here, and  
18 I think I am one of the city's true experts  
19 in this field, and (Inaudible.)

20 MAYOR DERMER: Everybody's an expert  
21 in our city.

22 MR. WALLACK: Well, I say -- I'm on  
23 the front lines of tourism, and I've been a  
24 resident here since 1955. I think I know  
25 South Beach pretty well. I've been here

1           before the prosperous period, and I've been  
2           here during, and I've been successful,  
3           quite frankly, in the ACLF business and  
4           creating them for the state of Florida as  
5           well as creating probably the number one  
6           nightclub in the south. So I think that  
7           I have something to say that maybe so.

8                     I would say that even where I am at,  
9           I would probably want to run thoughts  
10          against economic experts in different  
11          fields to truly understand how far the  
12          ripple effect goes in the economics -- the  
13          economic fabric of our city to answer your  
14          question exactly.

15                    I can say for certain that it would  
16          be between 30 and 40 percent of all  
17          businesses that would collapse, let's say,  
18          if overall you rolled this city back to  
19          2 a.m. There would be very few that could  
20          survive.

21                    VICE MAYOR GROSS: But that's not  
22          what he's asking you, David. He's asking  
23          you about residential zoning districts  
24          which don't -- aren't allowed to have night  
25          clubs to begin with, you know, and changing



1           the hours of liquor sales in those  
2           residential districts that aren't permitted  
3           to have nightclubs.

4           MR. WALLACK: Well, I'll tell you  
5           what it -- what -- I don't know what  
6           it wouldn't do, but what it would do is  
7           severely curtail the business of Penrod's,  
8           Pearl, Nikki Beach. It would severely,  
9           if not put under, Opium Gardens, and I'm --  
10          there are probably some other smaller  
11          businesses that could maybe survive or eke  
12          out a living as a restaurant, but certainly  
13          not make it worth your while to work, you  
14          know, as hard as we do work in this  
15          industry.

16          If you -- I know that the cabaret  
17          district is an eventuality, I knew it many,  
18          many years ago, and I believe that is so,  
19          and that is a five o'clock zone, and  
20          if we change that, then we will destroy the  
21          entire city. However, I also know that the  
22          Ocean Drive area alone is not enough to  
23          fill all the hotels even if we are a -- the  
24          only five o'clock zone. It's not enough in  
25          the diversity.

1           The diversity is what creates art.  
2           Diversity is what art is about. Opium  
3           Gardens, you may not like it, but it is a  
4           piece of art. It represents an aspect of  
5           art. Pearl and Nikki Beach are an aspect.  
6           They each bring a certain clientele from  
7           around the world that fill our hotels.

8           What would suffer the most David,  
9           what would suffer the most is the entire  
10          Collins Avenue corridor from 1st Street all  
11          the way up to 88th Street, the smaller  
12          hotels on the west side of the street.  
13          They would not be able to survive that  
14          impact of losing a major portion of our  
15          tourist business.

16                 MAYOR DERMER: Commissioner Cruz.

17                 COMMISSIONER CRUZ: David, you  
18                 bought up something and now you've entered  
19                 into --you've crossed the line of now into  
20                 hotels and the fact that the draw --

21                 MR. WALLACK: The ripple effect.

22                 COMMISSIONER CRUZ: -- and the  
23                 tourism, but I think the impression that  
24                 we have up here collectively and what  
25                 they're telling us, realistically it's

1           really the numbers that assault us on any  
2           given weekend from Thursday to Sunday  
3           night. It really isn't the clientele  
4           that's coming and staying at the hotels and  
5           going to the restaurants and going out to  
6           one of these places.

7           I think we do have, even if we had a  
8           cabaret district which, as you know,  
9           business will always adjust to the  
10          conditions and try to garner what it needs  
11          to survive, but I think the real problem,  
12          and we all have the pink elephant in the  
13          room and no one wants to say it, is really  
14          the bridge -- I was going to say the -- the  
15          cause of bridge and tunnel, that's my New  
16          York days, but really the Causeway, because  
17          if you look at any given weekend what is  
18          coming across the Causeway, it is amazing.

19          So the problem really comes down to  
20          not what's filling the rooms but the  
21          assault we get from the mainland that's a  
22          lot of young kids who you see, because you  
23          look into the cars, all you've got to do is  
24          be in a car driving and look into the other  
25          cars, and you see that it's mainly young

1 kids coming from other areas that are  
2 driving up and down. They're playing the  
3 loud music, and in general creating a  
4 problem. It's not the tourism which we're  
5 attracting, because the room rates that  
6 we have going these days, we are an  
7 expensive destination that is very  
8 discriminating.

9 I would say Miami Beach has become a  
10 boutique tourism destination. Forget about  
11 boutique hotel, we are a boutique  
12 destination driven by high quality standard  
13 hotels and a nightlife that is very  
14 discerning with the proliferation of  
15 high-end establishments of VIP rooms and  
16 Ocean Drive which has (Inaudible.)

17 MR. WALLACK: First those two. The  
18 high-end night clubs fill the boutique and  
19 the high-end hotels. That's the fuel.  
20 Every (Inaudible.)

21 COMMISSIONER CRUZ: No, because the  
22 VIP rooms, as you and I both know, because  
23 you do also have a VIP room, becomes a very  
24 select crowd, so that is -- that is a --  
25 the numbers are minimal compared to the

1           general numbers that you get to fill up the  
2           bigger dance floor and the like, but  
3           it's -- I just wanted to differentiate  
4           between the fact that we are getting --  
5           I think the main problem we're fronting --  
6           confronting, the kids coming over across  
7           the causeway.

8                     And as the mayor has asked,  
9           if we look at certain areas, and because as  
10          you said, we have to look at it with a  
11          surgical scalpel and say --

12                    MR. WALLACK: Right.

13                    COMMISSIONER CRUZ: -- you know,  
14          these areas were historically residential,  
15          they were intended to be residential, and  
16          by an act of oversight on the part of the  
17          city, we allowed certain establishments to  
18          creep in and begin to just sort of  
19          proliferate.

20                    MR. WALLACK: Yeah.

21                    COMMISSIONER CRUZ: That is what  
22          we're trying -- no one is saying we're  
23          going to put out the entertainment  
24          industry, because most of the people here,  
25          because they have chosen to be here is

1           because they like the ability to go to a  
2           restaurant, to a nightclub from time to  
3           time and just even walk the streets and  
4           feel the energy that, you know, vibrates  
5           from just the essence of being out here.

6           The thing is, we do have a crisis,  
7           and I think we all recognize that.

8           MR. WALLACK:   Zoning is the answer.

9           COMMISSIONER CRUZ:   We have a  
10          crisis, and we're trying to do it the way  
11          you said.

12          MR. WALLACK:   Zoning is the answer.

13          COMMISSIONER CRUZ:   With zoning,  
14          but --

15          MR. WALLACK:   I would say before you  
16          go to 2 a.m. --

17          COMMISSIONER CRUZ:   So the mayor's  
18          question was germane.   Isn't that a way of  
19          moving forward?

20          MR. WALLACK:   Yes.

21          UNIDENTIFIED SPEAKER:   And is  
22          it going to devastate the entire city?

23          MR. WALLACK:   No, no.

24          COMMISSIONER CRUZ:   Right, so  
25          I think (Inaudible.)

1                   MR. WALLACK: Zoning is the proper  
2                   answer.

3                   COMMISSIONER CRUZ: Right.

4                   MR. WALLACK: Zoning -- zoning is  
5                   the proper answer. You're leaning into the  
6                   concept, and we have a lot of attorneys on  
7                   the board, really attractive nuisance.  
8                   We've become an attractive nuisance to  
9                   people outside the clubs, as you say, just  
10                  hanging out on the street. They're young,  
11                  they're this, they're that, they're rowdy,  
12                  they're filthy, they're wild.

13                  And our city maybe does not have the  
14                  resources to police it or we happen to  
15                  (Inaudible.)

16                  MAYOR DERMER: No, no, David, I've  
17                  got to stop you here. I've got to stop you  
18                  here, and this is, I think, really you're  
19                  getting to the essence. You just said 20  
20                  seconds ago zoning is the answer.

21                  MR. WALLACK: Correct.

22                  MAYOR DERMER: And then you said,  
23                  oh, there's a problem because there's too  
24                  many people hanging out, this is attractive  
25                  nuisance. If the attractive nuisance

1           doesn't exist or it is limited, then you're  
2           not going to have all the people hanging  
3           out there if you're not going to have the  
4           service.

5                   MR. WALLACK:   But wait, David --  
6           David, you're wrong.  You don't close the  
7           swimming pool --

8                   MAYOR DERMER:   So you keep  
9           contradicting yourself over and over.

10                  MR. WALLACK:   You don't close the  
11           swimming pool because you have some  
12           people -- one person who drowned and they  
13           can't swim and you got -- you got to teach  
14           them, no.

15                  MAYOR DERMER:   No, no, no.

16                  MR. WALLACK:   Don't close the  
17           swimming pool.

18                  MAYOR DERMER:   But swimming pools  
19           have hours in certain places.

20                  MR. WALLACK:   But you have to  
21           realize --

22                  MAYOR DERMER:   Everybody -- you  
23           know, you don't have a 24-hour swimming  
24           pool going in certain neighborhood also,  
25           you know.



1                   MR. WALLACK: Again, what I'm saying  
2                   is --

3                   MAYOR DERMER: Or 24-hour tennis  
4                   courts.

5                   MR. WALLACK: Let's take Ocean Drive  
6                   for a moment, because it's a different  
7                   zone, and you're going to be discussing  
8                   this. It's a five o'clock area. If you  
9                   make it a 2 clock area, it will go dark.

10                  MAYOR DERMER: Yeah, but David, this  
11                  is always --

12                  MR. WALLACK: These people on their  
13                  strolls --

14                  MAYOR DERMER: It's always blaming  
15                  the city. See, it's the old argument that  
16                  has gone on.

17                  MR. WALLACK: No blame, no blame.  
18                  Organization.

19                  MAYOR DERMER: It's always -- no,  
20                  no, what happens is when -- when there is  
21                  resistance in trying to regulate through  
22                  the zoning that you're advocating from the  
23                  industry, the nightlife industry, there's  
24                  always a shifting of the focus of the  
25                  issue, and we've sat here many, many years

1 listening to this, shifting of the -- to a  
2 service issue, but the problem and focusing  
3 in on the problem is out of your own  
4 mouth --

5 MR. WALLACK: No, I agree.

6 MAYOR DERMER: Using your words, you  
7 said it's zoning.

8 MR. WALLACK: All I'm saying is that  
9 it's 2 a.m. rather than three or four, take  
10 a look at --

11 MAYOR DERMER: All right. Now we're  
12 getting somewhere. We're moving back a  
13 little. All right.

14 MR. WALLACK: I'm saying take a  
15 look --

16 MAYOR DERMER: We're around three or  
17 four now?

18 MR. WALLACK: No, no, I'm saying --

19 MAYOR DERMER: All right.

20 MR. WALLACK: -- David, in those  
21 areas --

22 MAYOR DERMER: Yeah.

23 MR. WALLACK: -- if you take five  
24 o'clock away from our city in general and  
25 these areas have emanated out of our

1           success -- I have neighbors behind me, I've  
2           spent millions for my neighbors that  
3           I didn't need to spend but for my  
4           neighbors, and I don't have problems with  
5           my neighbors, so I know what you're talking  
6           about. I know -- I lived on my alley for  
7           15 years. I know what the garbage truck is  
8           at 7:30 in the morning everyday clanging  
9           and clanging and waking you up. I know  
10          what people are. I know what that is.

11                 What I am saying is even in the  
12          areas that we create as five o'clock  
13          entertainment zones to keep the vitality,  
14          it still has to be managed properly. In an  
15          area such as South Pointe, you have the  
16          ability, and that's correct, this city does  
17          have the ability to say 2 a.m. You can say  
18          11 a.m., you can say whatever you want, you  
19          have that power, but you also have the  
20          power to roll back a little slower and take  
21          a look, and roll back and take a look  
22          before you just axe it.

23                         MAYOR DERMER: So you have no  
24          objection to a phasing in.

25                         MR. WALLACK: That is correct.

1 I think that is -- I think that is the  
2 responsible thing to do. I think that it's  
3 the way that the entertainment industry can  
4 also make its proper adjustments so that  
5 we're in step with the city, you can't get  
6 in step and in sync with a city that just  
7 lowers the guillotine. It's just too  
8 quick.

9 MAYOR DERMER: If we were to have,  
10 let's say, a 4 a.m. for six months and six  
11 months after that a 3 a.m., and after that  
12 go to a 2 a.m.

13 MR. WALLACK: I would be able -- you  
14 would be able --

15 MAYOR DERMER: In phasing you have  
16 no objection?

17 MR. WALLACK: I would say you would  
18 be able to study it as you go and see the  
19 effect and ripple effect as it occurs all  
20 the way up to the Fontainebleau from what  
21 you do at South Pointe.

22 MAYOR DERMER: Okay. I thank you  
23 for your comment.

24 MR. WALLACK: Thank you.

25 MAYOR DERMER: Let's get Gary and

1           we'll try to move along as briskly as  
2           possible so we can bring the discussion  
3           more up here.

4                   MR. KNIGHT: I'm Gary Knight.  
5           I reside at 2401 Collins, and I'm speaking  
6           on my own behalf. I'm in support of this  
7           effort by my neighbors in Sunset Harbor and  
8           South Pointe to -- to restrict -- to -- to  
9           pass this legislation. I'm in favor of it.

10                   I want to -- I want to make a couple  
11           of different observations that I think  
12           you've heard heretofore about some of the  
13           issues that I think have to do with the --  
14           with -- with -- with what is being  
15           considered.

16                   This is a very serious public policy  
17           question. I don't want to live in a  
18           city -- I came here because -- for one  
19           reason, my house had been destroyed by  
20           Hurricane Andrew. Second, I looked at Key  
21           Biscayne, and I thought it was pretty dull.  
22           Third, I came to Miami Beach, and Miami  
23           Beach had an interesting set of activities,  
24           especially located around Lincoln Road and  
25           Ocean Drive at that time in the 1992.

1                   And the -- what was interesting  
2                   about Ocean Drive is a lot of -- a lot of  
3                   people walking and blading and  
4                   skateboarding and bicycling and running and  
5                   so on, and a -- an interesting mix and  
6                   diverse number of people. And the same  
7                   thing applied on Lincoln Road with the  
8                   addition of a lot of cultural venues.

9                   We can all develop our own wig  
10                  history of what saved Miami Beach or what  
11                  brought Miami Beach back, whether it was  
12                  the modelling industry and Gianni Versace  
13                  or the gay community or nightclubs or Miami  
14                  Vice or historic preservation. The reality  
15                  is it was a basket of elements, and it was  
16                  all weaved together, and we were pretty  
17                  fortuitous.

18                 So the question now is how do  
19                 we preserve this wonderful place and to do  
20                 it in a -- in a way in which we can  
21                 preserve civil society at the same time.

22                 I'm -- I'm -- I -- I -- there are  
23                 other 5 a.m. towns in the world beside  
24                 Miami Beach and maybe New York City, for  
25                 example, Paris, but when you go out of a

1 club in Paris at five in the morning, no  
2 residents are disturbed.

3 So I think there are -- there are  
4 ways to manage some of these problems that  
5 we have -- we have to consider. One is --  
6 has to do with we legislate for the -- the  
7 best operators or the worst operators, and  
8 currently we're having to legislate for the  
9 worst operators, because we have some  
10 pretty bad -- bad operations, and I -- and  
11 I -- I think that one way to begin to do  
12 this is to have our planning department,  
13 we have our planning department crack down  
14 on those organizations that are in  
15 violation of the law regardless of what  
16 they are said and presented to the city.

17 For example, in your -- in your  
18 materials that you have for this meeting,  
19 Monty's is listed as having a seating --  
20 700 seats. China Grill, 486. Joe's Stone  
21 Crab, 512. All sounds reasonable.

22 Opium at 136 Collins, 225. Does  
23 that seem farfetched? I think so. In the  
24 Sunset Harbor area, you have Joe Allen, a  
25 place that operates pretty late at night,

1           100 seats. No problem. Jade Lounge, 61.  
2           That doesn't strike me as -- as correct.  
3           For one thing, if it's a restaurant, I'm  
4           unaware of it, and I've never seen food  
5           served, and I've never -- and I've been  
6           there, and I've never seen only 61 people  
7           in the place.

8                       So I think it's time, perhaps, that  
9           the planning department not just plan and  
10          review but also get out at midnight, at  
11          2 a.m., visits all the levels of the places  
12          that we have licensed and actually  
13          enforce -- and actually for the planning  
14          director to be given the authority by the  
15          manager to say to a place you are not --  
16          are in violation of what you said you were  
17          going to do, we're shutting you down.

18                      That's point number one. Point  
19          number two, one of the -- one of the things  
20          that has happened here and I think one of  
21          the reasons we have the crowds again goes  
22          back to what we -- what you all did, or  
23          several of you did when you were on the  
24          commission when -- when you banned people  
25          under 21 from the after hours clubs.



1                   Commissioner Garcia remembers and  
2                   Commissioner Bower, we were all out one  
3                   very late night, we were a 5 a.m. town for  
4                   that particular morning and visited a  
5                   number of the after hours clubs, and after  
6                   that you then banned people under 21 in  
7                   bars and clubs, and I think that was a very  
8                   wise thing.

9                   What that led to for a period of  
10                  time was a calming of our streets around  
11                  6th and 7th and Washington, and it led to  
12                  that because up until then, young women  
13                  were being led into the clubs with wrist  
14                  bands, those who were 18 to 21, and the  
15                  young men were out on the streets looking  
16                  to get in.

17                 I would -- I would suggest to you  
18                 that two things have happened. First, a  
19                 lot of the venue for the 18 to 21-year-old  
20                 crowd to get drinks in a more easy fashion  
21                 has migrated from clubs to pool decks and  
22                 hotel lounges and restaurants, and that's  
23                 one of the reasons restaurants are  
24                 beginning to act like clubs, and again, the  
25                 door policy lets the young women in, and

1 all of a sudden we have the young men  
2 outside looking for the young women who are  
3 able to get in and the young men are not,  
4 and we had a recent bust by the police in a  
5 couple the clubs in the south end of the  
6 city and on 6th street of a lot of underage  
7 dinners.

8 I believe in addition to the kind of  
9 law that you're -- you're -- you're  
10 reviewing today, which should be passed in  
11 my opinion, I believe a militant and  
12 aggressive and, if necessary, undercover  
13 support for the no drinking under 21 in the  
14 hotels, restaurants, bars, and clubs needs  
15 to be done, and I think that will also lead  
16 to a -- a reduction of the problems that  
17 we're having. Thank you.

18 MAYOR DERMER: Okay. Thank you.

19 UNIDENTIFIED SPEAKER: (Inaudible.)

20 UNIDENTIFIED SPEAKER: No, I agree  
21 with Gary. I was going to -- well, I'll  
22 save my remarks for later. I think you  
23 made some excellent points.

24 MAYOR DERMER: Okay. Come on up  
25 here, Carl, you wanted to speak after. Any

1           folks other -- okay. Let's take just a  
2           couple of more and then we'll close  
3           (Inaudible.)

4                   MR. CULVEY: David Culvey -- oh, I'm  
5           sorry.

6                   MAYOR DERMER: Go ahead, please. Go  
7           ahead.

8                   MR. CULVEY: 841 19th Street,  
9           formerly a residence of south of 5th  
10          Street. I would just like to comment,  
11          I don't think zoning is the problem -- is  
12          the solution entirely. I think the problem  
13          is enforcement. I think it's a little bit  
14          of a cop-out from the commission to sit  
15          here and say we really can't afford to  
16          manage this huge success of the beach.

17                   You know, taxes have skyrocketed,  
18          the beach is booming. It would be as  
19          if you said, well, the beach itself is  
20          really crowded now, so we can't afford to  
21          keep it clean. You know, I think there's a  
22          little bit of an onus to enforce what  
23          you -- what is in place.

24                   I've always been for down zoning, so  
25          if you want to say zone is the problem,

1 I would say yes, FAR is the problem on the  
2 beach. The beach is simply overbuilt, and  
3 I fought against that for decades, but what  
4 I'm saying is I think that you have to take  
5 a little bit of responsibility to enforce.

6 When I had a business south of 5th  
7 and I had a party, at 11:15 we would have  
8 the cops there with their little decibel  
9 machine and, "wham," 250 bucks. The second  
10 time 500 bucks. If you were to enforce  
11 more stringently, I think that you can  
12 remove some of the anomalies which are  
13 making everyone so furious.

14 For example, Amnesia. Amnesia was  
15 not a loophole. Let's be honest.  
16 It wasn't. It was an outrage. We all knew  
17 it when it was built. That's not a  
18 loophole, it wasn't a mistake, right, and  
19 it's been there forever, and it has  
20 infuriated everyone.

21 I just want you to be careful  
22 about -- about just, you know, react --  
23 overreacting. My empathy is with all the  
24 residents. I've always been for reducing  
25 the building on the beach, preserving the

1 buildings. I've heard some speakers say  
2 it's not about the buildings. Well, I've  
3 got news for you, it was about the  
4 buildings. It's always been about the  
5 buildings, because the models or whatever  
6 community, they never would have come  
7 if it weren't for the buildings. So it was  
8 always about the buildings.

9 And so all I'm -- all I'm saying is  
10 be careful, because the beach right now,  
11 it's booming and it's -- it's -- you know,  
12 it's a huge success, but there is this buzz  
13 and that opinion-forming community that  
14 it's not as edgy as it was. We know it's  
15 not. So just be careful and try to enforce  
16 better.

17 You can't say that you can't have  
18 nightlife because you're going to have  
19 chaos and that the answer is atrophy. It's  
20 up on you guys. You get the money from the  
21 residents, from the business. You've got  
22 to get rid of the anomalies that are  
23 infuriating everyone, and they've been  
24 there forever, and enforce the rules.

25 It is possible to have a club that

1 stays open late that doesn't destroy the  
2 neighborhood. It's -- it's not legal to  
3 break bottles on the beach. If you did  
4 that consistently, you'd be arrested, and  
5 what I'm saying is more enforcement, take  
6 care of some of the anomalies, and I'm not  
7 opposed at all to picking out areas and  
8 maybe being more stringent about -- about  
9 them.

10 I was against plastic chairs south  
11 of 5th. I was against -- yeah, I think  
12 they should be illegal. I think it's, you  
13 know, disgraceful. And I had a restaurant  
14 south of 5th, and I was against sidewalk  
15 tables.

16 So I'm not -- I'm here just to say  
17 be careful, be careful, because if you  
18 suddenly slam two o'clock and that gets out  
19 in the press, it's going to be bad for the  
20 beach of, you know, overseas and up north.

21 MAYOR DERMER: I appreciate your  
22 comments.

23 VICE MAYOR GROSS: But David, let  
24 me -- let me ask you a question. You're  
25 well traveled. What cities do you know

1           where the nightclubs are smack in the  
2           middle of the residential neighborhoods?  
3           I mean, usually nightclubs are more in  
4           commercial zones, and that's really what  
5           we're talking about here, trying to extract  
6           the nightclubs from a residential district,  
7           because the two, even with all the best  
8           enforcement, are not really compatible.

9                   MR. CULVEY: I agree with you, and  
10           I -- I -- and that's why I'm not -- I'm  
11           sort of half in favor of tightening up in  
12           certain areas, but what I'm saying -- I was  
13           actually watching this on TV. I haven't  
14           been here for a long time, I try to stay  
15           away.

16                   MAYOR DERMER: Well, you're always  
17           welcome.

18                   MR. CULVEY: But there seems to be  
19           this attitude that, well, we're going to  
20           protect south of 5th and we're going to  
21           protect up on Alton, exactly, but the  
22           actually entertainment district, well,  
23           that's a lost cause, just let it, you know,  
24           run wild, because we can't afford --

25                   MAYOR DERMER: I don't think that's

1           the message anybody here is sending. What  
2           we're sending is a combination message.  
3           We're talking about proper location, as  
4           Commissioner Gross has mentioned, and, you  
5           know, when you're trying to do police,  
6           fire, and sanitation and you focus it on  
7           one area of the city with your resources,  
8           you get to have more success at it rather  
9           than having it all spread out also.

10                 MR. CULVEY: Well, yeah.

11                 MAYOR DERMER: So I don't think  
12           anybody's -- you know, nobody's throwing  
13           their hands up in the air by any stretch of  
14           the imagination trying to (Inaudible.)

15                 MR. CULVEY: But I just -- I would  
16           just like to impose that burden on the  
17           commission to think hard about that.

18                 MAYOR DERMER: Sure.

19                 MR. CULVEY: Because in my day down  
20           at the Century, you know, when the -- when  
21           the beach had no property taxes to speak of  
22           because everything down there was knocked  
23           down anyway, right, those cops were there  
24           in 15 minutes, and it used to really piss  
25           me off, excuse me, but now seen in



1           retrospect, it was -- that was fair. That  
2           was the law, and they were there, and they  
3           measured it, and if it was over the noise  
4           limit, we were shut down or we were fined,  
5           consistently.

6           MAYOR DERMER: I thank you.

7           MR. CULVEY: And now you have a lot  
8           more money that comes from that, you know.

9           MAYOR DERMER: Thank you, sir,  
10          I appreciate your comments very much.  
11          Let's get -- let's get Carl and then we'll  
12          get you, and we've got two more. Go ahead.

13          MR. ZEBLOTNY: Hi. Carl Zeblotny,  
14          1800 Sunset Harbor. Yes, I am a resident  
15          here, so -- anyhow, the last speaker was  
16          very good. I really want to second what  
17          he said. He probably had the most  
18          articulate ideas that have been presented  
19          here today. Also David Wallack's concerns,  
20          I share his concerns very much.

21          Now, when I moved into 1800 Sunset  
22          Harbor, now, I particularly bought on the  
23          Oceanside, because I love that ocean view,  
24          but I knew exactly what I was buying into.  
25          I knew Tremont Towing was right outside my

1 door. I knew the other towing company was  
2 outside my door. I knew Purdy Lounge was  
3 right downstairs from me. That doesn't  
4 bother me. That's what I bought into.  
5 It was -- those places were there before  
6 I was there, and I thought it was -- you  
7 know, I -- I love the entertainment and  
8 nightlife.

9 That's why I moved to South Beach,  
10 because of its cutting edge entertainment  
11 and nightlife fun, and piece-by-piece we're  
12 taking that away.

13 And I think also I would like to  
14 second what Commissioner Garcia said, is  
15 that the bigger picture, rather than  
16 picking on neighborhood by neighborhood and  
17 closing down this and restricting that, I  
18 think you really ought to look at the big  
19 picture and where the entertainment zone,  
20 where the cabaret district ought to be  
21 first and make sure that that -- I mean,  
22 the big question here, the \$60 million  
23 question is how do you keep residents happy  
24 and how do you keep businesses happy, and  
25 how do you keep our nightlife on the

1 cutting edge so that tourists will still  
2 continue to come here.

3 Those are the issues that need to be  
4 addressed, and maybe, as somebody else did  
5 suggest, maybe we do need a workshop with  
6 all parties involved, because right now,  
7 you know, we have these tensions between  
8 residents, tensions between businesses, and  
9 I as a resident am somewhere in between,  
10 because I love the entertainment,  
11 I frequent these places, and I really don't  
12 have a problem with the noise.

13 The issue here that I really see is  
14 that -- is the noise, everybody keeps  
15 bringing that up, the litter, the crowd  
16 control. If you roll back hours to two  
17 o'clock or if you roll back hours to ten  
18 o'clock, it's still not going to alleviate  
19 the problem. There still will be litter,  
20 there still will be crowds, there still  
21 will be whatever is in the streets.

22 I see it not as a polish, but as an  
23 enforcement issue. We have rule after  
24 rule, ordinance after ordinance on the  
25 books, we're just not enforcing those rules

1 as much as we should, and when it comes to  
2 noise, when it comes to litter, you know,  
3 as the previous speaker said, they ought to  
4 be fined, you know, immediately.

5 There are ways to work around that.  
6 I don't want to see policy change, I don't  
7 want to see the five o'clock closing ever  
8 change on the beach. I would be willing to  
9 compromise myself or accept a compromise as  
10 a resident if we have that cabaret  
11 entertainment district established, and  
12 then we can say, okay, in some of these  
13 other neighborhoods let's try to negotiate  
14 what can happen. Thank you very much.

15 MAYOR DERMER: Thank you, sir.

16 COMMISSIONER CRUZ: Carl, Carl,  
17 I understand what you're saying regarding  
18 the cabaret district, we establish that  
19 first and go, but if you know that an area  
20 will not ever be considered a cabaret  
21 district and it is a source of problem at  
22 the moment, don't you think taking limited  
23 measures on that particular area while  
24 we move forward and establish a cabaret  
25 district would resolve the issue more

1           promptly, at least with the individuals  
2           that are being affected?

3           MR. ZEBLOTNY: But again, my fear is  
4           that you'll never get to that point, that  
5           there will be other neighbors -- after  
6           we deal with Sunset Harbor, after we deal  
7           with South Pointe, then you're going to  
8           have the Collins Park neighborhood, they're  
9           going to have about five other  
10          neighborhoods who are going to say, me too,  
11          me too, and we'll never get to establish --  
12          to the point of establishing a cabaret  
13          district. That's my fear.

14          And if -- if you're talking about  
15          problems, again, I don't understand what  
16          the problem is. If it's enforcement like  
17          I mentioned, or is it -- what's the  
18          difference of staying open until five  
19          o'clock or two o'clock in terms of the  
20          sanitation, crowd control, and everything  
21          else?

22          COMMISSIONER CRUZ: Well, there  
23          is -- there is a difference between five  
24          o'clock and two o'clock, because if you're  
25          out there at five o'clock in the morning,

1 I mean, you've had that much more time of  
2 just the hollering and the noise and the  
3 accumulation of additional litter. I mean,  
4 it's very obvious.

5 But that's -- that's a problem,  
6 really, that's germane south of 5th Street  
7 because of the large amounts of crowds that  
8 one club can attract. So it's kind of a  
9 little different from your area, but it is  
10 a very big concern can, and if you walk  
11 it at a certain time of night, you see that  
12 it's almost like it's, you know, Carnival,  
13 because it's that many people out on the  
14 street, and that is -- there's a big  
15 difference between two and five because of  
16 the shear number.

17 And then you have the taxis, which  
18 is a whole 'nother arena, because our taxis  
19 need a little education on manners, because  
20 they stand -- they park in the middle of  
21 the street, don't allow anybody to go,  
22 horns start honking, you know, arguments  
23 break out, and that just adds. And it's --  
24 it's the Chinese water torture, it's one  
25 after the other, and it goes building and

1           it gets to the point where you have the  
2           outcry that we have.

3                   And we didn't have this before,  
4           because we did not have the preponderance  
5           of residential in the area, because South  
6           Beach was a -- or South Pointe was a  
7           redevelopment area, and the whole argument  
8           and it was started back in the eighties was  
9           to bring residential to that area and to  
10          try to bring it back to life.

11                   And then all of a sudden we achieve  
12          what we were trying to do, and we have a  
13          problem, because in the interim, certain  
14          anomalies as they called it, I kept  
15          thinking of The Matrix when they said  
16          "anomalies," you know, crept in, and now  
17          it's -- it's incompatible of, and that's  
18          what we're trying to resolve, the  
19          incompatibility so we can get back.

20                   I don't think anybody wants to turn  
21          off the light. Particularly, I don't.  
22          I want to see this city -- city continue to  
23          be vibrant and in the forefront. I think  
24          everybody here believes the same thing, but  
25          it's how we are able to reconcile the

1 conflicts that really are not compatible.

2 MAYOR DERMER: Commissioner Garcia.

3 COMMISSIONER GARCIA: Yeah, don't go  
4 away yet, Carl. He said something that  
5 made a lot of sense, okay, and he -- you  
6 know, he pointed out the difference  
7 between -- between South Pointe and Sunset  
8 Harbor. You know, in South Beach the  
9 problem is magnified. So anyway --

10 MR. ZEBLOTNY: I agree with the  
11 (Inaudible.)

12 COMMISSIONER GARCIA: Also, also,  
13 also if someone complained that I have  
14 (Inaudible), every single member came here  
15 in favor or against is cleanliness, code  
16 enforcement, parking, traffic, all those  
17 things that we have failed as a city in  
18 controlling, plain and simple.

19 Yes, we didn't have the problem  
20 before with parking and police and  
21 whatever, but we didn't have the crowds.  
22 At that time employees were being laid off,  
23 and we were living in a desert, in a ghost  
24 town. So, you know, we need to find a  
25 solution, we need to have a happy median.



1                   Frank -- Frank at one time mentioned  
2                   the entertainment district, and again, you  
3                   know, I was (Inaudible) entertainment  
4                   district. I think -- I think that's a  
5                   place where we can grow on. You know,  
6                   we can like a process, we can identify a  
7                   district.

8                   You know, right now so many problems  
9                   that we have, it's we have put so many  
10                  regulations in -- in -- in what should have  
11                  been an entertainment district. For  
12                  instance, the -- the -- the space between  
13                  club and club, that what happens, you know,  
14                  that -- that is spreading out into the  
15                  community.

16                  We live in a community that is only  
17                  seven square miles. We cannot be compared  
18                  to New York, we cannot be compared to  
19                  Paris, because, you know, the land area --  
20                  we're located in the land area.

21                  MR. ZEBLOTNY: Uh-huh.

22                  COMMISSIONER GARCIA: So, you know,  
23                  the residents and the entertainment is  
24                  going to be butting heads all along. You  
25                  know what, let's try -- let's -- let's try

1           to control it. At the same time, let's not  
2           try to control it with one fail swoop.

3           Remember what happened with the sale  
4           of -- sale of alcohol in the gas stations?  
5           You know, we cut it back to, what, ten  
6           o'clock or whatever, and little-by-little,  
7           you know, we went back and, you know,  
8           started loosing it a little bit, because  
9           we realized that it had hurt an industry.  
10          And, you know, you roll it back little by  
11          little, you know, it -- it didn't make that  
12          big of a difference.

13          Why this time don't we do it the  
14          other way, let's go back, like you said,  
15          every six months we go back an hour and  
16          we'll evaluate it.

17          MAYOR DERMER: Exact --

18          COMMISSIONER GARCIA: You know  
19          I think that will be a very good  
20          (Inaudible.)

21          MAYOR DERMER: I think that's the  
22          way to build -- to build compromise and  
23          consensus. I -- I -- I have my own  
24          personal feelings on it, but obviously  
25          if that's the way to do it and the

1           commission is in agreement conceptually in  
2           doing it that way and the manager, we've  
3           had some discussion on that. I believe you  
4           felt that that's an appropriate way to  
5           handle it, then I see nothing wrong with  
6           it.

7                   COMMISSIONER GARCIA: Mr. Mayor, you  
8           know, right now because of the way of the  
9           Sunshine law, we cannot discuss this in  
10          private, this is the way that we have to  
11          brainstorm the issues, so I think this is a  
12          perfect venue to brainstorm it. You know,  
13          and you know what, you want to come up with  
14          a better idea, Commissioner Steinberg might  
15          come up with a better idea, Commissioner  
16          Smith, Commissioner Bower.

17                   MAYOR DERMER: Some of the folks --  
18          some of the folks I think living down  
19          there --

20                   COMMISSIONER GARCIA: (Inaudible.)

21                   MAYOR DERMER: Some of the folks  
22          living down there have been very patient  
23          for a long time, and if they see progress  
24          being made where, hey, it's going to go to  
25          four and then it's going to go to three and

1           then to two. I think those are Victories,  
2           and I think that that would --

3                   UNIDENTIFIED SPEAKER: Mr. Mayor --

4                   COMMISSIONER GARCIA: One second,  
5           and I want to (Inaudible) something that  
6           Commissioner Cruz said as far as we try to  
7           attract the residents down here. Let's  
8           not -- let's not lose sight that the first  
9           business that was there was Penrod's.  
10          Penrod's was there before the first  
11          high-rise was there, and at the time it was  
12          not a problem. Am I correct?

13                   UNIDENTIFIED SPEAKER: I didn't  
14          exactly here what you said.

15                   MAYOR DERMER: I'm sorry.

16                   COMMISSIONER GARCIA: One, one of  
17          the first businesses that was there was --  
18          I'm sorry, one of the -- you know of the  
19          first businesses that was there was  
20          Penrod's, that was there before any of the  
21          high-rises, and at that time because there  
22          wasn't and over proliferation of it, it was  
23          not a problem; am I correct?

24                   UNIDENTIFIED SPEAKER: (Inaudible.)

25                   COMMISSIONER GARCIA: You know, when

1 Penrod's was there, it was a good neighbor.  
2 It brought --

3 UNIDENTIFIED SPEAKER: (Inaudible)  
4 I'm happy to get a class act down there.

5 COMMISSIONER GARCIA: Huh?

6 UNIDENTIFIED SPEAKER: We were happy  
7 to have (Inaudible.)

8 VICE MAYOR GROSS: Come on,  
9 we can't -- you can't have a conversation.

10 MAYOR DERMER: All right. Let's --  
11 let's continue. Carl --

12 MR. ZEBLOTNY: Can I just --

13 MAYOR DERMER: -- if we can wrap it,  
14 I just want to get the rest of these three.  
15 We've got to get rolling.

16 MR. ZEBLOTNY: Do I -- do I hear  
17 support, though, for the establishment of  
18 an entertainment district from the  
19 commission, that --

20 MAYOR DERMER: There seems to be  
21 some support there.

22 VICE MAYOR GROSS: Yeah, I think  
23 we have a de facto entertainment district,  
24 and we have for the last 15 years,  
25 I mean --

1           MR. ZEBLOTNY: But that will be  
2           changed to two o'clock in the morning.

3           VICE MAYOR GROSS: No, I think any  
4           time anybody talks about changing the  
5           hours, I think it always has to be said, at  
6           least for me -- we're talking about in the  
7           middle of a residential district in a zone  
8           that doesn't permit nightclubs to begin  
9           with.

10           You asked the question what's the  
11           difference between two and five. The  
12           reason really is because in the residential  
13           districts where we don't want nightclubs,  
14           if you make a two o'clock time hour instead  
15           of five, of the nightclubs won't be able to  
16           operate, because their business is between  
17           two and five, and if what we want to do is  
18           stop that, then that's the way to do it,  
19           and rolling it back a half an hour at a  
20           time is not going to solve that problem,  
21           otherwise we're into enforcement.

22           You want code coming in at four  
23           o'clock in the morning saying, let me see,  
24           is the chef still working, are they still  
25           serving food, you know, are you running an

1           entertainment use or are you running a  
2           restaurant use. Nightclubs are not a  
3           permitted use in that zone.

4           COMMISSIONER GARCIA: So let's  
5           identify both zones. No, let -- let's  
6           identify the residential zones (Inaudible)  
7           and let's identify the independent zones,  
8           and I think -- I think that's a really the  
9           first step before we do anything.

10          MAYOR DERMER: Let's continue on.

11          VICE MAYOR GROSS: Well, the first  
12          step is going to be today. That may be the  
13          second step.

14          COMMISSIONER GARCIA: Well, you know  
15          what, again, I -- I --

16          MAYOR DERMER: Listen, we're making  
17          progress, we're making progress, you know.

18          COMMISSIONER GARCIA: (Inaudible.)

19          MAYOR DERMER: Come on. Let's --  
20          let's keep moving.

21          Welcome.

22          MR. DISPENZIERI: Good afternoon,  
23          mayor and commissioners. My name is rich  
24          Dispenzieri. I am the owner of the Purdy  
25          Lounge. What I hear -- what I'm hearing

1           now is kind of disturbing to me. I thought  
2           we were just going to be discussing, you  
3           know, possibly putting in a clause in the  
4           ordinance that would prevent nightclubs  
5           popping out of a restaurant. Now all of a  
6           sudden we're turning hours back to 2 a.m.,  
7           which I didn't know we would be talking  
8           about.

9                     Just to give you a little background  
10           on me, I moved to Miami Beach in 1986, and  
11           I worked with Tony Goldman, I worked with  
12           Leonard Horowitz, and my family opened up  
13           the News Cafe and the Van Dyke Cafe.  
14           We moved here because we saw the beauty in  
15           Miami Beach, and David Wallack is great,  
16           everything he said, except he said that  
17           Miami Beach -- Miami Beach was not unique.  
18           Miami Beach is very unique.

19                    It became a historic district in  
20           1986, and that's really what surged the  
21           second coming of Miami Beach. I saw the  
22           beauty in that. I saw the beaches and the  
23           buildings, and I helped Leonard, you know,  
24           transform the old dilapidated Ocean Drive  
25           hotels into what they are today.



1                   And we had a vision. Miami Beach  
2                   was always 5 a.m. That was part of its  
3                   uniqueness. When the buildings became  
4                   beautiful, the beautiful -- so-called  
5                   beautiful people came down here. The  
6                   modelling agency and the movies, and from  
7                   that we have celebrities who come down  
8                   here.

9                   These people come down here to work,  
10                  and they come down here to party as well.  
11                  They want to party until 5 a.m. This is  
12                  what Miami Beach is all about. It really  
13                  is, and as a resident and a business owner  
14                  since 1986, I can say that. I'm not just  
15                  some rich kid who wants to throw up a club.

16                 MAYOR DERMER: But you can't be  
17                  partying until 5 a.m. in a residential  
18                  neighborhood. That's what we're focusing  
19                  on.

20                 MR. DISPENZIERI: Okay.

21                 MAYOR DERMER: If they want to party  
22                  in a different area of the city that --  
23                  that --

24                 MR. DISPENZIERI: I did not open my  
25                  business --

1                   MAYOR DERMER: That's not going to  
2                   have that great impact.

3                   MR. DISPENZIERI: -- in a  
4                   residential area, though.

5                   MAYOR DERMER: Then that's  
6                   (Inaudible.)

7                   MR. DISPENZIERI: We were commercial  
8                   industrial.

9                   MAYOR DERMER: What you say I don't  
10                  argue with, but one thing I think we're  
11                  forgetting, we're looking at the history of  
12                  this city, and the argument keeps being  
13                  made over and over again how we've evolved.

14                 We're still evolving, we're evolving  
15                 right now, and as we evolve, we change,  
16                 we change to suit an area that's become  
17                 residential now. You have to be able to  
18                 have a certain quality of life in that  
19                 neighborhood, and granted, maybe when  
20                 Amnesia was there before, when it first  
21                 originated, it wasn't bothering anybody,  
22                 because nobody was there.

23                 Now we have a whole new dynamic, and  
24                 I think it's our obligation to offensively  
25                 respond, or I should say respond on the

1 offense, not to be offensive to anybody,  
2 when that happens.

3 And you've made the point of the  
4 historic district. That was a response to  
5 an evolving city. You know, all of this  
6 happens, and so there's nothing wrong when  
7 a city changes and then we try and ensure  
8 quality of life for people that have moved  
9 in there. I mean, that's -- that's all  
10 this is about.

11 So it isn't I was there first, you  
12 were there second, that's not what this is  
13 about, and to manage it properly I think  
14 conceptionally we're moving toward that  
15 point where we're seeing a district that  
16 can be more controlled at a later hour  
17 versus a residential that can be protected.  
18 I mean, what in the world would be wrong  
19 with doing that as the mayor or commission  
20 of a city?

21 MR. DISPENZIERI: There's nothing  
22 wrong with appeasing the residents.

23 MAYOR DERMER: It's not appeasing,  
24 it's doing the right thing for everyone  
25 concerned.

1                   MR. DISPENZIERI: Well, that's not  
2                   the right thing for the business owners,  
3                   because as David Wallack said, most of the  
4                   businesses will go out of business. Most  
5                   of the restaurants will go out of business.

6                   MAYOR DERMER: There will be certain  
7                   businesses -- there will be certain  
8                   businesses that, as was the testimony  
9                   before, that will not make as much money in  
10                  a certain neighborhood that they would have  
11                  made at a 5 a.m.

12                  MR. DISPENZIERI: (Inaudible.)

13                  MAYOR DERMER: Now, when you balance  
14                  that, talk about balancing, those interests  
15                  of making those extra bucks for those three  
16                  hours versus the interest of those all  
17                  residents around them to sleep at night and  
18                  have a good quality of life, how do you --  
19                  you've got to come down on the residents.

20                  COMMISSIONER GARCIA: Yeah, but  
21                  David --

22                  MR. DISPENZIERI: There has to be --  
23                  there does have to be a compromise, and  
24                  I can't say anything below 5th Street,  
25                  I don't live there. All I can talk about

1 is the Sunset Harbor area. There's only  
2 four places there right now. You've  
3 already limited it. No new ones can come  
4 in, no new nightclubs can come in. What  
5 I ask you to do is to look at that area  
6 separately, look that there's only four  
7 places. At the very least grandfather the  
8 current places in. Do not curtail our  
9 hours, because if you curtail our hours,  
10 you're killing us.

11 If you do that, I will sell the  
12 place, and I will move away, and maybe  
13 that's going to be great for the Sunset  
14 Harbor people, but it's going to be bad for  
15 business. Please think very seriously and  
16 very long about cutting those hours back,  
17 because it will really hurt Miami Beach a  
18 lot. Thank you.

19 MAYOR DERMER: Okay. I thank you  
20 for your comments.

21 COMMISSIONER GARCIA: Yeah, yeah.

22 MAYOR DERMER: We got to -- I just  
23 want to so we can wrap it up, because  
24 I know people -- we haven't even had a  
25 lunch break yet. I'm going to have one,

1 two -- you're going to be fast?

2 UNIDENTIFIED SPEAKER: Fast.

3 MAYOR DERMER: Three and Clotile  
4 Luz. We've got four speakers, and that's  
5 it, we'll close it.

6 COMMISSIONER GARCIA: The only thing  
7 I want to touch on what he said.

8 MAYOR DERMER: Yeah.

9 COMMISSIONER GARCIA: You know,  
10 he mentioned the models and the film  
11 industry and whatever, and what I was  
12 going -- what I was going to bring out is  
13 the fact that the film industry and the  
14 modelling, whatever, we drove it out of the  
15 city by overregulation. So that is my  
16 concern. My concern is we might be  
17 overregulating an industry to death. You  
18 know, right now -- at one time  
19 we complained about the film crews, that  
20 they were blocking the streets, and they  
21 had to get these permits, they had to get  
22 27 permits, whatever. You know what,  
23 they're not here anymore. Now we want  
24 them. You understand?

25 MAYOR DERMER: Uh-huh.

1                   COMMISSIONER GARCIA: So I think I'm  
2                   just trying -- you know, guys, I'm trying  
3                   to preserve the quality of life, while at  
4                   the same time I'm trying to preserve the  
5                   industry, you know?

6                   MR. BAYELL: Well, good afternoon.  
7                   My name is Dominic Bayell. I'm a resident  
8                   of 208 Jefferson Avenue. I'm here --  
9                   I think there are a few arguments that do  
10                  not -- do not hold water as far as who was  
11                  here first, who is coming next, and we all  
12                  are here in the same boat.

13                 I think there were a couple of  
14                 things brought up over the years.  
15                 I remember in 2001, end of the year 2001  
16                 when the industry asked us to come and  
17                 support them as residents, and I think  
18                 we did.

19                 I also remember in 2003 when we had  
20                 the Mayor on the Move meeting where  
21                 we residents asked the industry to clean up  
22                 some of their acts, some of their members  
23                 were not acting correctly as good corporate  
24                 citizens. Now we are today here at the  
25                 same point. Nothing has happened.

1           They haven't held our part of the deal, and  
2           I think it is time for you today to just  
3           act and the time is now.

4           MAYOR DERMER: I thank you for your  
5           comments.

6           MR. BAYELL: Yes, you're welcome.

7           MR. COUSINS: Mayor, commissioners,  
8           thank you very much for putting this time  
9           and effort into hearing everybody here.  
10          This is a turning point in a watershed --  
11          in our city's history.

12          VICE MAYOR GROSS: You need to state  
13          your name.

14          MR. COUSINS: My name is Phillip  
15          Cousins. I live at 240 Collins Avenue.  
16          I've lived here for seven years and moved  
17          here from Coconut Grove because Miami could  
18          not do what our commission is doing here  
19          today, make sense out of chaos.

20          I would like to share with you very  
21          briefly the results of information I've  
22          been gathering from community meetings as  
23          part of a way to understand what our  
24          problems are, and what you're looking at  
25          right now is a series of maps. If people



1 wish to take a look at this in the group,  
2 I'm happy to have you take a look.

3 The main point of my coming before  
4 you today is simply to have you look at the  
5 interrelationship between the issues that  
6 we're facing together. I believe it is a  
7 time to make a decision today, and  
8 I support the decision on the table,  
9 however, as a result of today's hearing,  
10 there has to be a follow-up planning  
11 exercise, and what is different for me  
12 today is that there is a strong will to  
13 carry forward from your decision today both  
14 with planning, with input, and with  
15 systematic understanding.

16 The three maps you're looking at,  
17 you'll notice, show our strategic plan  
18 that's on our website on the far map to the  
19 left. The middle is a result of my  
20 attendance last night at the Nightlife Task  
21 Force, and the ten items listed Nos. 1  
22 through, I guess, 11 are the agenda items  
23 from last night's meeting, which was the  
24 public hearing.

25 The third map has the 11 major

1 issues that the police chief has asked us,  
2 the three maps across one page. There's  
3 one -- one map -- I mean one page with  
4 three maps on it. And the third map on the  
5 far right shows the issues from policing  
6 and safety.

7 And what I hope you'll recognize is  
8 that the issues of graffiti, litter, trash,  
9 assault, loitering, burglary, noise are  
10 part of a systematic planning exercise that  
11 we have to look at together, and that it's  
12 not so much a matter today from what I've  
13 heard of who's right or who's wrong,  
14 although that's part of it, it's also a  
15 matter of how does one issue interact with  
16 the next.

17 I, as a local business person, am  
18 also offering this information for the use  
19 of the commissioners and our city members.  
20 This is basically a pro bono exercise that  
21 my partner and I are doing to help us all  
22 make sense, and as people have called for  
23 strategic planning, I would like everyone  
24 who is interested in that to consider  
25 participating in giving you input into this

1 next stage. Thanks very much.

2 MAYOR DERMER: Thank you, Phillip.

3 I appreciate your time.

4 Welcome. Come on up.

5 MS. RUBENSON: Mayor, commissioners,  
6 my name is Jamie Rubenson. I am born and  
7 raised in Miami Beach. I am also an  
8 attorney and real estate agent, and I also  
9 work with the Opium Group.

10 I had the great opportunity to hear  
11 David Wallack's comments and wanted to  
12 comment specifically on the synergy that  
13 exists in Miami Beach between all business.  
14 Specifically today we're dealing with south  
15 of 6th Street and also in the Purdy Lounge  
16 area, Sunset Harbor. I'm specifically  
17 going to address south of 6th, because the  
18 issues are the same.

19 I had the privilege of listening to  
20 Mr. Wallack on the television and the  
21 privilege of speaking with Myles Chefetz  
22 from Nemo, Big Pink, Prime 112 on the way  
23 over here, and what's very important and  
24 why I think David's comments were so  
25 important is that any rollback, be

1           it 2 a.m. or placing an entertainment  
2           restriction on existing restaurants or new  
3           restaurants south of 6th Street creates a  
4           problem.

5                   People invest and people invest in  
6           their businesses, and people are reliant on  
7           customers, and those customers in Miami  
8           Beach eat at 10 a.m. -- at 10 p.m. They  
9           eat at 11 p.m. I'm sorry, I'm like  
10          shaking.

11                   MAYOR DERMER: Take your time.

12                   MS. RUBENSON: No, it's very funny,  
13          I -- I flew in last night, so I'm a little  
14          bit jet lagged.

15                   MAYOR DERMER: Uh-huh.

16                   MS. RUBENSON: In any case, I spoke  
17          with Myles, and as you are well aware,  
18          Opium was briefly closed last year, and  
19          during that time Myles came to our  
20          establishment every single day and said,  
21          when are you opening, when are you  
22          reopening, and that is because whether it's  
23          Big Pink, Nemo, Prime 112, or any of the  
24          other establishments in that area, they  
25          derive their customers from our customer

1 base. It is synergistic.

2 The number one reservation in Miami  
3 Beach at large is 10 p.m. or 11 p.m. It is  
4 not eight o'clock. We are not in Chicago  
5 where people dine at seven o'clock. This  
6 is a different society that's comprised of  
7 all the residents from many different  
8 countries who have different cultural  
9 experiences than in other places.

10 The 2 a.m. restriction would  
11 obviously as you well know impact Opium and  
12 Nikki Beach and the nightclubs you hope to  
13 eliminate significantly, but more than  
14 that, it would impact all of the businesses  
15 in that area.

16 In addition, as David talked about  
17 getting economic consultants, the reality  
18 is that Miami Beach does receive resort  
19 taxes, and those resort taxes are based on  
20 the dollars that we do sell in our  
21 establishments, in all establishments.

22 And while you're looking to limit  
23 the activities south of 6th Street and in  
24 the Purdy Lounge area, the reality is that  
25 it could impact the city, citywide.

1           If people have no place to go once they're  
2           done with dinner or if their place of  
3           choice has now moved across the water, they  
4           will now choose to spend their dollars in  
5           other places for convenience.

6           Nemo, all those restaurants do what  
7           they do because Opium is there, because  
8           Pearl is there, and should you limit the  
9           general activities there, those people and  
10          customers all around Miami Beach may take  
11          their business elsewhere.

12          Somebody -- a commissioner discussed  
13          the hotel rooms. The reality is, and this  
14          might be not the right time or place, but  
15          the City of Miami Beach's hotel rooms as  
16          far as I'm concerned are substandard, and  
17          the reason why we do get the room rates  
18          that we do get is because of the nightlife.  
19          It's because of what we do have to offer.

20          Because if we -- if people were to  
21          pay dollar for dollar, they would be  
22          staying in Coconut Grove or other locations  
23          based on the same room rate. They're  
24          paying the room rates specifically --  
25          particularly on the Collins Avenue corridor

1           and the Washington Avenue corridor because  
2           of the nightlife. If the nightlife is  
3           somehow curtailed, then those hotels would  
4           suffer.

5                   And one last thing. With response  
6           to the people coming across the Causeway,  
7           the fact is when you're hot, you're hot.  
8           People want to be here. People get on a  
9           plane to come here, people cost -- excuse  
10          me, cross the causeway to be here. It's  
11          unavoidable. And that's my (Inaudible.)

12                   MAYOR DERMER: Thank you for your  
13          comments. Okay. Last speaker will be  
14          Clotile Luz.

15                   MS. LUZ: Good afternoon, everybody.  
16          Clotile Luz. I live at 301 Ocean Drive.  
17          I'm at the confluence of three DJ's. I get  
18          thump, thump from Joya. I get thump, thump  
19          from Penrod's, and I get thump, thump from  
20          the Marriott, and I wanted to make a  
21          comment on balance as is being used by  
22          proponents of you using hotels and  
23          restaurants as nightclubs in a residential  
24          area.

25                   Balance by this definition only fits

1           the kind of balance that you find in a  
2           consenting sadomasochistic couple. In  
3           other words, you have -- you have one party  
4           on the accepting end of distress and pain,  
5           and the other party doling out the distress  
6           and pain, and that is balance for some  
7           people, but the problem is you --

8           MAYOR DERMER: I want to read that  
9           line in the Herald tomorrow, Nichole. That  
10          was the best line of the day, you got to  
11          put that in. Go ahead.

12          MS. LUZ: The problem is, is I don't  
13          think enough masochists bought enough  
14          condominiums. And -- and I am not wired to  
15          be a masochists, and I love music, but  
16          I don't see why I am consistently on the  
17          receiving end of someone else's DJ's. And  
18          that is the problem with their notion of  
19          balance. Thank you.

20          MAYOR DERMER: Very creative.

21          MS. LUZ: Thank you. And I just had  
22          one more constructive comment to make.  
23          I think that the commission might consider  
24          a small investment in the kind of  
25          technology which would be a laugh track,



1           and you would set that up, and that would  
2           be triggered in this chamber any time  
3           somebody from this microphone, this  
4           microphone, or one of your microphones says  
5           if you don't give us what we want, this  
6           city is going back to be boarded up like  
7           1980 with old people and you can drive 80  
8           miles down Ocean Drive and not have  
9           anybody.

10                 I don't think there's any evidence  
11           ever of your having passed a quality of  
12           life ordinance and all of a sudden the  
13           crowds, you know, coming to a screeching  
14           halt at -- at the Causeway. I don't see  
15           any evidence. When they said, oh, my God,  
16           if you start handing out fines for the boom  
17           boxes, the young people won't come anymore.  
18           Did that work out that way?

19                 I mean, I have not seen -- if --  
20           if you down zone, this town is going to go  
21           back to the bad old depressed days. That  
22           did not happen. This is not going to  
23           happen. People are going to always come to  
24           Miami Beach. They should go to clubs.  
25           I think indoor clubs are the answer.

1 Anything outdoors with amplification which  
2 they did not have in the 1960s when it was  
3 Sammy Davis, Jr., and people were doing bar  
4 mitzvahs outside, the sound technology has  
5 changed, the situation has changed. You do  
6 have residents. We ask you to roll back  
7 those hours in the residential  
8 neighborhoods, and God help the people that  
9 are going to be living in the Bourbon  
10 Street area. Thank you.

11 MAYOR DERMER: Thank you. Okay.  
12 Motion to close the public hearing?

13 UNIDENTIFIED SPEAKER: (Inaudible.)

14 MAYOR DERMER: All right. That is  
15 closed. On the item itself, is there a  
16 motion?

17 COMMISSIONER BOWER: I'll move.

18 MAYOR DERMER: That's a motion by  
19 Bower, second by Smith.

20 COMMISSIONER BOWER: (Inaudible.)

21 MAYOR DERMER: Discussion by Gross.

22 VICE MAYOR GROSS: Yeah, I --

23 MAYOR DERMER: You cleared your  
24 throat, I was --

25 COMMISSIONER BOWER: The item does

1 not discuss the rollback.

2 MAYOR DERMER: No.

3 COMMISSIONER BOWER: It --

4 MAYOR DERMER: That is for future,  
5 but I hope somebody at the dais as will  
6 make the motion to move that along, yeah.

7 COMMISSIONER BOWER: Well, we  
8 could -- so do we have to do it  
9 second -- separate?

10 MAYOR DERMER: I think we can do  
11 it in two separate motions.

12 MR. GONZALEZ: I would recommend  
13 that at a minimum you pass the ordinance  
14 before you and give us direction if you  
15 want us --

16 MAYOR DERMER: Right.

17 MR. GONZALEZ: -- to do any further  
18 stuff that we go further.

19 MAYOR DERMER: First the ordinance  
20 and then the record.

21 COMMISSIONER BOWER: Okay.

22 (Inaudible.)

23 COMMISSIONER GARCIA: How about the  
24 grandfather clause?

25 VICE MAYOR GROSS: Right, that's my

1 comment, too.

2 MAYOR DERMER: Okay.

3 COMMISSIONER BOWER: Well, that's  
4 the hours.

5 VICE MAYOR GROSS: Well, there are  
6 other ways with possibly dealing with  
7 grandfathering. So one of the things that  
8 I think we have to make clear is that the  
9 way the staff has written this up is  
10 anybody with an existing license is going  
11 to be grandfathered.

12 You know, if you were issued a  
13 restaurant license and you're operating a  
14 nightclub under a restaurant license, that  
15 doesn't entitle you to grandfather.  
16 I mean, you -- you're driving a truck  
17 through the loophole and saying that you're  
18 grandfathered.

19 So how we deal with the  
20 grandfathering is I think the key issue  
21 that -- that we have to address. One way  
22 to do it is by talking about rolling the  
23 hours back to two o'clock. There may be  
24 other ways of doing it. I mean --

25 COMMISSIONER BOWER: What is the

1 (Inaudible.)

2 VICE MAYOR GROSS: I don't know.  
3 I don't have the answer. I mean, that may  
4 be something we want to send to the  
5 planning board as a separate issue once --  
6 once we are doing it, but I think we need  
7 to be clear that we're not grandfathering  
8 people who really don't have -- are not  
9 really operating under the proper license  
10 to begin with.

11 UNIDENTIFIED SPEAKER: (Inaudible.)

12 VICE MAYOR GROSS: Yeah.

13 COMMISSIONER BOWER: So the  
14 ordinance as is written is the one that you  
15 want to pass or --

16 MAYOR DERMER: It's the only one  
17 that's before us.

18 COMMISSIONER BOWER: -- or do you  
19 want to add an amendment to that ordinance  
20 of somehow to address the grandfathering  
21 in?

22 VICE MAYOR GROSS: Let's ask our  
23 legal department.

24 COMMISSIONER BOWER: Okay. Let's  
25 ask the legal department.

1                   VICE MAYOR GROSS: Murray, can  
2 we deal with the grandfathering separately?

3                   MR. DUBBIN: Gary and I have not  
4 really gotten into this, but my opinion is  
5 this, the word "grandfather" is misused.  
6 The word should be a "legal nonconforming  
7 use," and under the law, legal  
8 nonconforming uses may continue until  
9 they're terminated also as provided by law.

10                  This ordinance does not make  
11 reference to legal nonconforming uses.  
12 That's governed by the general law.

13                  Gary, do you want to supplement what  
14 I've just said?

15                  MR. HELD: Sure. Obviously, there's  
16 some intent on the commission to allow some  
17 establishments, for example, that may have  
18 made a particular kind of investment to  
19 allow a use related to that investment  
20 beyond this ordinance.

21                  Between first and second reading, if  
22 you give us some direction, we can look at  
23 ways to address particular circumstances,  
24 and you should give us guidance on the  
25 kinds of circumstances that you're

1 interested in protecting.

2 COMMISSIONER SMITH: So I'm not sure  
3 what you mean or anybody else means by  
4 grandfathering. Suppose a club has a dance  
5 license, and that club is currently  
6 operating a restaurant and a club after  
7 hours, are you saying that that club is or  
8 is not grandfathered and distinguish that  
9 from a situation where a restaurant has not  
10 yet obtained a dance license, how do you --  
11 how do you reconcile one situation with the  
12 other situation?

13 VICE MAYOR GROSS: Right, I think in  
14 my mind the places that opened to be  
15 nightclubs that really are not restaurants  
16 are the easier case, because I think that  
17 they really don't have --

18 COMMISSIONER BOWER: Right.

19 UNIDENTIFIED SPEAKER: -- the valid  
20 license. Now, we -- we may need some kind  
21 of policy that says -- that says for those  
22 people who got their license under, you  
23 know, the fact that it was a restaurant  
24 with a dance hall, when we say restaurant,  
25 it means X, Y, and Z, because, you know,

1           there has to be some way of saying they're  
2           really a restaurant if that's the license  
3           that they got.

4           COMMISSIONER BOWER: Right, right.

5           VICE MAYOR GROSS: Now, the easy way  
6           of avoiding that is by doing the hours,  
7           because if you can't operate after two  
8           o'clock, the clubs are not going to operate  
9           in the residential zone. Again, I want to  
10          always say, you know, when we're talking  
11          about rolling the hours back is only in the  
12          residential zones. I mean, we don't have  
13          clubs in single-family neighborhoods.

14          MAYOR DERMER: Commissioner  
15          (Inaudible.)

16          UNIDENTIFIED SPEAKER: Yeah,  
17          whatever we do, I just want to make sure  
18          that the rules are clear for everybody to  
19          follow.

20          MR. HELD: But it sounds like --

21          UNIDENTIFIED SPEAKER: What  
22          is allowable under a restaurant, what is  
23          not allowable.

24          MR. HELD: We're not making this --  
25          we're not making this retroactive in that



1           we're prohibiting uses that currently  
2           exist. Those uses (Inaudible.)

3           VICE MAYOR GROSS: No, but we also  
4           don't intend to say that somebody who got a  
5           license pretending to be a restaurant but  
6           is really a club, that that's legal what  
7           they're doing, because it's not.

8           MR. GOMEZ: Right, that's --  
9           that's -- and that's an enforcement issue.

10          VICE MAYOR GROSS: Yeah.

11          MR. GOMEZ: They come in and obtain  
12          licenses with a restaurant with  
13          entertainment, and they're not operating a  
14          restaurant. Well, that's -- that's a code  
15          issue. But then the question --

16          VICE MAYOR GROSS: But it's also a  
17          policy, issue --

18          MR. GOMEZ: No, it is.

19          VICE MAYOR GROSS: -- because  
20          there's no statement in the ordinance about  
21          what it really means to be a restaurant.  
22          The fact that -- the way we've interpreted  
23          it before, as long as they built a kitchen,  
24          even if they don't ever use it, and even  
25          if they don't ever serve any food, then

1           that's a legitimate restaurant, and that's  
2           part of where the problem has come in.

3           COMMISSIONER SMITH: That's not what  
4           the ordinance says, though.

5           VICE MAYOR GROSS: I know, and  
6           that's the problem. We need to give some  
7           direction on it, because we don't want to  
8           have somebody say, oh, okay, based on what  
9           we passed today --

10          COMMISSIONER SMITH: And the  
11          ordinance -- the ordinance -- the ordinance  
12          never said just a full kitchen. It said  
13          full kitchen and serving full meals.

14          VICE MAYOR GROSS: But how many,  
15          when? So the fact that the chef serves a  
16          meal for himself and for the staff, is that  
17          satisfactory? I mean, you know, there's  
18          all kinds of ways to look at it, and that's  
19          how we got ourselves into the problem that  
20          we're here today.

21          COMMISSIONER SMITH: That's why I'm  
22          saying we need -- we need to know what the  
23          rules are.

24          VICE MAYOR GROSS: Yeah, agree.

25          COMMISSIONER SMITH: And we don't

1 (Inaudible.)

2 VICE MAYOR GROSS: Right.

3 MAYOR DERMER: I think the  
4 easiest -- we're going -- look, the history  
5 of these ordinances have been, I believe,  
6 that it's been so piecemeal, for any  
7 particular person or business that wanted  
8 to go anywhere, it's been to satisfy their  
9 particular need. I think the cleanest way  
10 to do this is with the hours.

11 VICE MAYOR GROSS: I agree.

12 MAYOR DERMER: And hopefully we can  
13 get consensus on that. You know, I --  
14 I would like -- let me suggest this.  
15 If we do go with this on first reading  
16 between first and second --

17 COMMISSIONER BOWER: (Inaudible.)

18 MAYOR DERMER: For us to work on  
19 hours. Listen, if we can't get hours done  
20 by the second reading, then we'll, you  
21 know, put it off a little bit.

22 VICE MAYOR GROSS: But would hours  
23 have to go to the planning board or can you  
24 commission do that by itself?

25 MR. GONZALEZ: (Inaudible) on that.

1                   MAYOR DERMER: Jorge, does it have  
2                   to go to (Inaudible.)

3                   MR. GONZALEZ: If you're  
4                   distinguishing between zoning categories,  
5                   I believe it should be done through the  
6                   LDR's, Chapter 142, so you should refer  
7                   that issue (Inaudible.)

8                   COMMISSIONER BOWER: What is that?

9                   UNIDENTIFIED SPEAKER: It's a  
10                  planning board.

11                  MR. GOMEZ: It needs planning board  
12                  approval.

13                  UNIDENTIFIED SPEAKER: Mr. Mayor.

14                  MAYOR DERMER: Well, we have to --  
15                  it has to be by zoning categories, I mean,  
16                  how else are we going to do it.

17                  MR. HELD: Yes, something that is  
18                  done in the land development regulations.

19                  MAYOR DERMER: It would have to run  
20                  through planning.

21                  MR. HELD: Yes.

22                  COMMISSIONER GARCIA: Mr. Mayor?

23                  MAYOR DERMER: Okay. Yes.

24                  MR. HELD: And separate -- we would  
25                  initiate a new ordinance.

1                   COMMISSIONER GARCIA: You know, as  
2                   long as we're referring hours, Commissioner  
3                   Gross, commissioner --

4                   VICE MAYOR GROSS: What?

5                   COMMISSIONER GARCIA: As long as  
6                   we're referring hours, would you be opposed  
7                   to also referring the creation of a cabaret  
8                   district?

9                   VICE MAYOR GROSS: Not at all.

10                  COMMISSIONER GARCIA: You know,  
11                  I think that they go hand-in-hand, and, you  
12                  know, (Inaudible) community participation  
13                  on it.

14                  MAYOR DERMER: Okay.

15                  COMMISSIONER BOWER: Let me  
16                  understand this. If we pass this ordinance  
17                  today, we are only avoiding further --

18                  VICE MAYOR GROSS: Proliferation.

19                  COMMISSIONER BOWER: Proliferation,  
20                  but we are not helping the community sleep  
21                  any better, and what I would like to do is  
22                  somehow, and now you're telling me no,  
23                  somehow address and for second reading  
24                  we can do something about helping the  
25                  community sleep and letting them -- you

1 know, either roll the hours back, whatever  
2 it is that needs to be done. I mean, why  
3 are we going through -- we listened to 200  
4 people with the hours on the thing, and now  
5 we're saying we can't do it.

6 MR. HELD: Hours are covered in  
7 Chapter 6, generally. If you wanted to  
8 adopt a citywide ordinance, then you can do  
9 it through Chapter 6. That's not even  
10 what's before you.

11 MAYOR DERMER: Keep in mind this has  
12 been traveling its own path. The hours  
13 discussion has been recently interjected  
14 into this entire discussion. This has  
15 been --

16 MR. GONZALEZ: Yeah, the issue --  
17 let me just say, the issue -- this has been  
18 worked through from zoning to prevent  
19 proliferation. The question as we've done  
20 zoning matters like this, usually the case  
21 is those legal nonconforming uses remain.

22 And what I've brought to the table  
23 and we've been talking about it is if what  
24 you really want to address is the root  
25 cause of why you have this room full of

1 people here is this alone doesn't cover it.  
2 This needs to be done, but then you need to  
3 go one step further, which is give us  
4 direction on how you want to capture those  
5 entities that exist today in the areas in  
6 which you're dealing with, south of 5th and  
7 near Sunset Harbor, and you can do it by,  
8 you know, any number of ways.

9 I've suggested, you know,  
10 considering the hours and rolling that back  
11 to 2 a.m. as a -- as a possible solution  
12 that could accomplish what you want to  
13 accomplish. This ordinance presented to  
14 you today doesn't accomplish it just yet.

15 But what we have is we have zoning  
16 and progress to prevent the proliferation,  
17 and you want to pass this and bring it at a  
18 subsequent in May as well so at least you  
19 don't allow further erosion, but then give  
20 us direction on what do you want to do with  
21 the hours if it's the hours or some other  
22 manner.

23 COMMISSIONER BOWER: Okay. Let's  
24 move this one, then.

25 MAYOR DERMER: Yeah, okay.

1                   COMMISSIONER BOWER: And let's  
2                   (Inaudible.)

3                   MAYOR DERMER: Motion seconded, and  
4                   you also want to send to planning board the  
5                   discussion of hours along with  
6                   entertain the cabaret district.

7                   UNIDENTIFIED SPEAKER: Mayor,  
8                   there's --

9                   COMMISSIONER BOWER: Oh --

10                  UNIDENTIFIED SPEAKER: (Inaudible)  
11                  separate motion.

12                  MAYOR DERMER: Yes, I'm sorry,  
13                  Commissioner Steinberg.

14                  COMMISSIONER STEINBERG: I thought  
15                  we were bringing up here for discussion  
16                  first not action immediately.

17                  MAYOR DERMER: No, go ahead, please.

18                  COMMISSIONER STEINBERG: First, let  
19                  me say that I think the biggest fault here  
20                  has been the city. The city hasn't done  
21                  its job to police the laws that we have on  
22                  our books today, and had we been doing a  
23                  good job of making sure the sound ordinance  
24                  was enforced properly, to make sure that  
25                  the streets were clean and that we were



1           doing our job to get the services that our  
2           residents deserve and demand, we wouldn't  
3           have a room full of residents and a room  
4           full of the business community butting  
5           heads, but unfortunately, that hasn't  
6           happened yet, and I think it should.

7                   Let's look back at the actual  
8           language and think what would have been in  
9           the commission's mind when it created the  
10          loophole, which I think has been abused.  
11          If you read the definitions of things an  
12          the way the ordinance -- which,  
13          unfortunately, I asked the administration  
14          to distribute the definitions today to my  
15          colleagues, but unfortunately even though  
16          I asked for that in agenda review,  
17          it didn't happen.

18                   But if you look at the definitions  
19          of what is a "dance hall," a dance hall is  
20          any -- any place in which the owner allows  
21          dancing to take place. What could that be?  
22          If someone is at Joe's having a drink at  
23          their bar and decides to dance around their  
24          date, theoretically, they are a dance hall  
25          at that time unless the owner tells them

1 not to.

2 Entertainment, the guy from Oasis  
3 brought it up. If someone wants to have a  
4 dancer as entertainment for their people  
5 there, for their people in a restaurant,  
6 that all of a sudden requires an  
7 entertainment license. If a Mexican  
8 restaurant opens up and wants to have a  
9 Mariachi band going from table to table to  
10 entertain their guests, that requires an  
11 entertainment license.

12 I think the rationale of --

13 MAYOR DERMER: Hang on. If I can  
14 interject one second. No one can figure  
15 out exactly why you're here. It's kind of  
16 like the guy that runs into the wrong  
17 courtroom.

18 UNIDENTIFIED SPEAKER: That's on  
19 Commissioner Garcia's --

20 MAYOR DERMER: Are you in the right  
21 commission?

22 UNIDENTIFIED SPEAKER: I'm on  
23 Commissioner Garcia's itemized (Inaudible)  
24 on the condo.

25 MAYOR DERMER: Oh, it's a condo

1           wording.

2                   COMMISSIONER GARCIA:  I -- I -- I  
3           never expected to have that type of  
4           reaction.

5                   MAYOR DERMER:  Okay.

6                   COMMISSIONER GARCIA:  I'm sorry, all  
7           I was doing is being sympathetic to  
8           (Inaudible.)

9                   MAYOR DERMER:  I didn't want them to  
10          be at a City of Miami Beach from Coral  
11          Gables.  You're in the right place, good.  
12          All right.

13                   COMMISSIONER GARCIA:  You know,  
14          Mr. Mayor, I'm almost as surprised as you  
15          are (Inaudible.)

16                   MAYOR DERMER:  Okay.  That's --  
17          that's -- I'm sorry, Commissioner  
18          Steinberg.

19                   COMMISSIONER STEINBERG:  That being  
20          said, I think there has been abuse of the  
21          loophole.  I think -- I think it wasn't  
22          intended as a loophole, it was intended to  
23          allow restaurants that had a legitimate  
24          reason to have a license to go in and get a  
25          license so that they could have some

1           entertainment in their dining  
2           establishment, some dancing in their dining  
3           establish. Because they didn't find  
4           themselves operating illegally.

5                   What should we do to address it?  
6           I think this goes too far, frankly.  
7           I think what we should look at is finding a  
8           way to identify places that are true  
9           restaurants and let them have that  
10          auxiliary use while they're operating as a  
11          restaurant.

12                   For example, instead of saying full  
13          kitchen and full food, because as  
14          Commissioner Gross pointed out, who knows  
15          what that is. The state deals with this  
16          all the time, and it deals with it based on  
17          what type of alcohol permit they require  
18          people to have.

19                   If you're a restaurant, you can get  
20          for a very nominal charge the proper  
21          license to serve alcohol in your  
22          establishment, and if you do that, no more  
23          than 50 percent of your sales can be from  
24          alcohol, and the state audits the  
25          businesses to make sure they're complying

1 with that.

2 On the other hand, if they're really  
3 a bar or really a nightclub, presumably  
4 more than 50 percent of their sales will be  
5 from alcohol. And so what we're doing is  
6 we're taking the ability for a restaurant  
7 to open up and have some entertainment or  
8 some dancing, which I don't think any of us  
9 would be against a mariachi band in a  
10 Mexican restaurant that happens to be in  
11 South Pointe or near Purdy Lounge. I don't  
12 think any of us --

13 UNIDENTIFIED SPEAKER: (Inaudible.)

14 COMMISSIONER STEINBERG: I'm sorry?

15 UNIDENTIFIED SPEAKER: (Inaudible.)

16 COMMISSIONER STEINBERG: You don't  
17 know what's going to be there in five years  
18 from now.

19 UNIDENTIFIED SPEAKER: You're  
20 missing the present problem.

21 COMMISSIONER STEINBERG: I'm not  
22 missing the -- I'm not missing anything.

23 MAYOR DERMER: Go ahead.

24 COMMISSIONER BOWER: Okay, okay.

25 MAYOR DERMER: Hey, hey, keep the

1 discussion up here.

2 COMMISSIONER STEINBERG: But I think  
3 we need to borrow one of David Wallack's  
4 comments today, we need to look at this  
5 with a surgical scalp -- scalpel rather.  
6 We don't need to have something that goes  
7 beyond what we need to address as far as  
8 the proliferation. If you want --

9 MAYOR DERMER: David, you put on a  
10 suit, you've been quoted three times  
11 already.

12 COMMISSIONER STEINBERG: Instead  
13 of -- instead of making this so broad brush  
14 that you may prevent restaurants that the  
15 neighbors may want, we should focus on  
16 making sure it addresses those that are  
17 basically operating as nightclubs and not  
18 as restaurants, and that's truly what  
19 we should be doing to preserve the intent  
20 of the initial commission.

21 I honestly do believe, like I said,  
22 I think the loophole has been abused,  
23 I think it is too big, and I think it needs  
24 to be tightened up. I just don't think  
25 it needs to be tightened up to the point

1           that it makes it so new restaurants that  
2           have a legitimacy as a restaurant cannot be  
3           in place.

4                   And just -- I want to comment on the  
5           one comment that I heard earlier that the  
6           zoning for this area was intended to make  
7           these neighborhood establishments. I think  
8           Joe from Joe's Stone Crab would be turning  
9           over in his grave if he heard people  
10          referring to Joe's as merely a neighborhood  
11          establishment.

12                   The reality is most of the  
13          restaurants that are there, if they only --  
14          if there was someone at that door that said  
15          okay. You're now a neighborhood  
16          establishment, people have to show you ID  
17          that says you're from the neighborhood to  
18          go there, they'd be out of business, and  
19          you guys wouldn't have the facilities that  
20          you want.

21                   So I think there has to be a balance  
22          of having people come in with things that  
23          would appeal to the residents, appeal to  
24          the neighborhood, and give them the  
25          flexibility to have a restaurant that works

1 as a restaurant.

2 And I'm not saying Oasis does or  
3 doesn't. I see you're nodding your head  
4 no. I'm not saying they do or don't, I'm  
5 just saying that if they are legitimately a  
6 restaurant and happen to have something  
7 going on that is basically a belly dancer  
8 that comes by ever hour or so, who cares,  
9 and, frankly, we should allow that to  
10 happen.

11 If they're going beyond that, of  
12 course, then we need to address it, but  
13 I think we need to go ahead and have --  
14 change this to look at the restaurant and  
15 allow the restaurant that is a legitimate  
16 restaurant to have those auxiliary uses and  
17 not allow the auxiliary uses to be the  
18 controlling use, and I would challenge my  
19 colleagues to come up with a way to address  
20 that.

21 I mean, maybe the votes are here  
22 without that, but, frankly, I can't support  
23 it if it goes to far, because I think in  
24 hindsight, I think the commission will look  
25 back at it as a mistake, because it will



1           prevent new restaurants from coming in the  
2           future that the neighbors would want when  
3           the reality is we should be making sure  
4           that the restaurants that come in don't  
5           turn themselves into a nightclub and  
6           exploit the loophole but that the loophole  
7           be used the way it was intended to be used.

8           COMMISSIONER BOWER: But can't  
9           we look at it between first and second  
10          reading?

11          VICE MAYOR GROSS: Richard, just out  
12          of curiosity, what's your position on the  
13          two o'clock on the hours in the residential  
14          zone, because if they're really  
15          restaurants, they're not going to be  
16          operating past two o'clock?

17          COMMISSIONER STEINBERG: Well,  
18          I think that you have people who have --  
19          well, first, I think that the city needs to  
20          enforce the laws. I think if the City was  
21          out there enforcing the laws and cleaning  
22          up, we would not have the concern from the  
23          residents that we have today. That is my  
24          belief.

25          MAYOR DERMER: Yeah, okay.

1                   COMMISSIONER STEINBERG: And I think  
2                   that -- I think when this comes to the  
3                   hours --

4                   MAYOR DERMER: But you've got to  
5                   still ask yourself, you know, what's there  
6                   going to be to clean up if the place is  
7                   closed at two.

8                   COMMISSIONER STEINBERG: But I think  
9                   what's going to end up happening is the  
10                  places won't be closing at two, the place  
11                  will just close, and --

12                  MAYOR DERMER: Yeah, and then  
13                  that's -- it will go back to a normal  
14                  intensity.

15                  COMMISSIONER GARCIA: David --

16                  COMMISSIONER STEINBERG: I'm not  
17                  here to put them out of business if they're  
18                  operating legally and if we enforce the  
19                  laws and we can make sure that the harmony  
20                  is there.

21                  I think our challenge is to find the  
22                  resources to make sure that we can create  
23                  the harmony as opposed to throwing our  
24                  hands up in the air and saying we can't  
25                  deal with this problem so we're just going

1           to cut it off, because I don't think that's  
2           fair to the people.

3           MAYOR DERMER: I don't think that's  
4           the proper characterization of it.

5           COMMISSIONER STEINBERG: But you're  
6           saying, David, you're saying let's cut back  
7           the hours --

8           MAYOR DERMER: (Inaudible.)

9           COMMISSIONER STEINBERG: -- and  
10          we know that -- we know that that may force  
11          them out of business.

12          MAYOR DERMER: Well, you know, I got  
13          to tell you something --

14          VICE MAYOR GROSS: Nightclub is not  
15          a permitted use in a residential zone.

16          COMMISSIONER STEINBERG: They were  
17          before.

18          VICE MAYOR GROSS: No, they weren't.  
19          No, they were not.

20          COMMISSIONER STEINBERG: The  
21          industrial building.

22          VICE MAYOR GROSS: No, I'm talking  
23          about South Pointe.

24          COMMISSIONER STEINBERG: Okay.  
25          Well, this ordinance deals with both.

1 VICE MAYOR GROSS: Yes, it does.

2 COMMISSIONER STEINBERG: And you're  
3 treating an industrial area the same way as  
4 you're treating a residential area.

5 COMMISSIONER GARCIA: Can I -- can  
6 I bring something up, because I do happen  
7 to agree with Richard. First of all,  
8 I think that the city has failed miserably  
9 enforcing the codes and the cleanliness and  
10 whatever, and it's still doing it. Okay.  
11 That's -- that's number one.

12 With that said, you know, as far as  
13 restaurants closing at two o'clock. That's  
14 not necessarily so. Because you know what,  
15 traditionally Miami Beach, you know,  
16 we have restaurants that have been open 24  
17 hours a day.

18 COMMISSIONER STEINBERG: Should the  
19 diner close at two o'clock?

20 COMMISSIONER GARCIA: How about  
21 David's cafe, you trying to put David's  
22 cafe out of business? I don't think so,  
23 you know.

24 VICE MAYOR GROSS: They're not in a  
25 residential zone.

1                   COMMISSIONER GARCIA: Yeah, I  
2 understand. I understand.

3                   VICE MAYOR GROSS: That's correct,  
4 yeah.

5                   COMMISSIONER GARCIA: You know what,  
6 guys, let's look at it, and right now,  
7 right now we have a chance to do something  
8 that is not reactive, something that is --

9                   COMMISSIONER BOWER: Okay. So  
10 I made a motion.

11                  MAYOR DERMER: There's a motion and  
12 a second, commission (Inaudible.)

13                  VICE MAYOR GROSS: I'll call the  
14 question.

15                  COMMISSIONER SMITH: No, I have one  
16 (Inaudible.)

17                  MAYOR DERMER: I'm sorry,  
18 Commissioner Smith.

19                  COMMISSIONER SMITH: Yes, the city  
20 has done some awful planning. My own  
21 problem is with the accessory use language  
22 in the code. We have allowed accessory  
23 uses to become primary uses. We have  
24 hotels that have 10, 15 rooms and 199  
25 tables. We have areas of the city that

1           really do not -- are not compatible with  
2           residential neighborhoods, and we concede  
3           that.

4                   Having said that, I think that the  
5           industry has to take some responsibility  
6           for the problems that we're seeing today.  
7           When a recent club on Washington Avenue  
8           closed at or was shut down, I should say,  
9           by the City of Miami Beach, there were over  
10          90 underage kids inside that had no  
11          business being there.

12                   The bouncers were arrested, the  
13          bartenders were arrested. This goes on all  
14          the time, and believe me, the word gets out  
15          to all the high schools and even some of  
16          the junior high schools throughout South  
17          Florida that certain clubs cater to  
18          underage drinking.

19                   We also know for a fact that certain  
20          service stations serve alcohol, beer to  
21          minors. We know that. We know that  
22          there's a lot of chaos, and we know that  
23          there is a lot of drug dealing going on  
24          outside of some of these clubs, but the  
25          clubs seem to feel that they have no

1 responsibility, so everybody points the  
2 finger at the city. I think the clubs have  
3 caused a lot of these problems, and that's  
4 why we're here today.

5 So I don't have a problem with the  
6 hours, I don't have a problem with this  
7 ordinance, I think it's a good first step.  
8 It is not a panacea. We're still going to  
9 have problems. We're going to have litter,  
10 we're going to have a lot of stuff going on  
11 outside, and we need better enforcement,  
12 but we have to look at it in a holistic  
13 way, as everybody likes to use that word,  
14 not one --

15 COMMISSIONER GARCIA: (Inaudible.)

16 UNIDENTIFIED SPEAKER: Not one --  
17 yes, and Matti also likes that word very  
18 much, but -- but I think that --

19 COMMISSIONER GARCIA: Yeah, but  
20 I coined it. I coined that word.

21 COMMISSIONER SMITH: Whatever --  
22 whatever we decide to do, whatever we do,  
23 let's make sure that we understand what the  
24 rules are, what is appropriate and what is  
25 not appropriate. If Joe's Stone Crab or

1           Smith and Wollensky decides to have a Super  
2           Bowl party on a Sunday afternoon or a  
3           Sunday evening, is that -- is that okay?  
4           I don't know whether this ordinance deals  
5           with that issue or not, I think that the  
6           issue of the belly dancer is a legitimate  
7           issue. Is that appropriate? If it doesn't  
8           disturb the neighbors, I don't see why that  
9           shouldn't be allowed.

10                   So let's -- let's deal with all of  
11           these issues collectively, and let's figure  
12           out once and for all what is appropriate in  
13           a residential district and what is not  
14           appropriate. Thank you.

15                   MAYOR DERMER: Okay. Thank you.

16                   COMMISSIONER GARCIA: (Inaudible) do  
17           that between the first and second reading.

18                   COMMISSIONER BOWER: Yes.

19                   MAYOR DERMER: That should be put in  
20           there also for planning board discussion.

21                   COMMISSIONER BOWER: Yes.

22                   MAYOR DERMER: As you know, that's  
23           part of the referral as well.

24                   MR. GONZALEZ: All right. Let's  
25           talk about --



1 MR. GOMEZ: Well --

2 MR. GONZALEZ: Hang on. Let's talk  
3 about zoning in progress a sec, because --

4 MR. GOMEZ: You have issues that you  
5 want us to deal between first and second  
6 reading and things that you referred to the  
7 planning board, so --

8 MAYOR DERMER: Okay. Excuse me,  
9 let's -- you know what, let's just keep  
10 knows hours where they are. Leave the  
11 hours to the planning board.

12 VICE MAYOR GROSS: Yes, yes, and the  
13 district.

14 MAYOR DERMER: Okay. So let's move  
15 on the (Inaudible) -- and the district.

16 VICE MAYOR GROSS: And the cabaret  
17 district.

18 MAYOR DERMER: There's a motion and  
19 a second, let's call the question, call the  
20 roll.

21 COMMISSIONER STEINBERG: Before  
22 we do that, if I -- I will support this  
23 if we limit it to the issue of the 50  
24 percent. I don't think it makes sense.  
25 I mean, you're saying we're going to deal

1 with this, yet we're going to pass on first  
2 reading. When is it going back to the  
3 planning board? Why not deal with that --

4 COMMISSIONER BOWER: (Inaudible) 50  
5 percent.

6 MAYOR DERMER: No, the issue --

7 COMMISSIONER STEINBERG: As far as  
8 the issue is one of --

9 MAYOR DERMER: (Inaudible) dealt  
10 with --

11 COMMISSIONER STEINBERG: Allowing a  
12 restaurant as Commissioner Smith pointed  
13 out as well, there are legitimate concerns  
14 for businesses, and that's why this  
15 loophole was created, frankly, loophole,  
16 the language is horrible, which is why it's  
17 been used to abuse the law.

18 But what we should do instead is  
19 address how do we leave the loophole to  
20 allow legitimate businesses to operate and  
21 make sure that the illegitimate ones that  
22 are causing the problem can't.

23 MR. HELD: I thought that's what  
24 we would be bringing back (Inaudible)  
25 second reading.

1                   COMMISSIONER STEINBERG: You're  
2 going to bring that on second reading?  
3 Okay. Then I'll support it.

4                   UNIDENTIFIED SPEAKER: Bringing back  
5 on second reading, because anything we --

6                   MR. HELD: We have to refine when a  
7 restaurant can continue to operate with  
8 entertainment in this district -- in the  
9 two districts that we're talking about.

10                  MR. DUBBIN: I just don't want to  
11 bollox --

12                  VICE MAYOR GROSS: Right, and  
13 I don't think you want to send the wrong  
14 message to the planning board when -- well,  
15 they're not going to do it between first  
16 and second. They're just going to do --  
17 they're going to do the hours.

18                  COMMISSIONER BOWER: They're going  
19 to do the hours.

20                  COMMISSIONER STEINBERG: They are  
21 going to deal with the hours of the  
22 operation.

23                  COMMISSIONER BOWER: The hours.

24                  COMMISSIONER STEINBERG: And the  
25 entertainment.

1                   COMMISSIONER BOWER: We're doing the  
2 ordinance.

3                   COMMISSIONER GARCIA: Also, is there  
4 any way that we can separate South Pointe  
5 from Sunset Harbor? I think that -- that  
6 might -- that might be another way to go.

7                   MR. DUBBIN: I just want to say  
8 we're dealing with a zone be ordinance, a  
9 ban use ordinance that affects rights, and  
10 I don't want -- I recommend that you do not  
11 bollox it up with throwing in hours or  
12 other (Inaudible.)

13                  COMMISSIONER GARCIA: But Murray --

14                  COMMISSIONER BOWER: We're just  
15 (Inaudible.)

16                  COMMISSIONER GARCIA: No I know,  
17 Murray, but merely -- merely we are  
18 differentiating between our industrial zone  
19 and an residential zone; is that correct?

20                  MR. DUBBIN: I -- well --

21                  MR. HELD: Mr. Mayor, maybe  
22 we should have two separate motions, one  
23 dealing directly with the ordinance and  
24 clarifying between first and second  
25 reading, and the other motion would deal

1 with the referral to the planning board.

2 COMMISSIONER BOWER: That's what  
3 we're going to do. We're just dealing with  
4 the ordinance.

5 MR. GOMEZ: Right, but think --

6 UNIDENTIFIED SPEAKER: That's  
7 correct.

8 VICE MAYOR GROSS: Well, hold on,  
9 what Commissioner Garcia is trying to  
10 bifurcate the zone.

11 MR. GOMEZ: (Inaudible) to split the  
12 vote on the ordinance because it has  
13 possible two areas, one (Inaudible.)

14 MAYOR DERMER: You want to do South  
15 Pointe and (Inaudible.)

16 COMMISSIONER BOWER: Well, that is  
17 not my motion. My motion is the ordinance  
18 as in place (Inaudible.)

19 COMMISSIONER GARCIA: But just hear  
20 my out, because, you know, my colleague to  
21 the right right here, he's been stressing,  
22 you know, residential, and I think  
23 it carries a lot of weight. With that  
24 said, we're dealing with industrial, you  
25 know, and I think that to look at both of

1           them under the same legislation might be  
2           wrong. You know, correct me if I'm wrong,  
3           I don't know, Murray.

4                   UNIDENTIFIED SPEAKER: (Inaudible.)

5           MAYOR DERMER: You're looking at it,  
6           you're looking at it from -- for the  
7           future.

8                   UNIDENTIFIED SPEAKER: Gary, let  
9           me -- Gary, let me --

10           COMMISSIONER GARCIA: Yeah, yeah,  
11           right now -- right now --

12           UNIDENTIFIED SPEAKER: I mean, do  
13           you want now --

14           MAYOR DERMER: Commissioner  
15           (Inaudible.)

16           COMMISSIONER BOWER: Can  
17           we bifurcate -- let me ask the question,  
18           sir. Maybe I (Inaudible) can we do,  
19           if we decide next -- if we look at that  
20           issue also between first and second  
21           reading, can we then vote for one and leave  
22           the other one out if we --

23           UNIDENTIFIED SPEAKER: Let me -- let  
24           me suggest it this way --

25           COMMISSIONER BOWER: I don't want to

1           bifurcate.

2                   VICE MAYOR GROSS: Yeah, I don't  
3           think you want to do that. I think your  
4           issue, Commissioner Garcia, Mr. Mayor, has  
5           more to do with how you deal with the legal  
6           nonconforming uses, because I don't --  
7           you're not advocating having more  
8           nightclubs open in the Sunset Harbor  
9           district.

10                   COMMISSIONER GARCIA: Hear me out.

11                   VICE MAYOR GROSS: Yeah.

12                   COMMISSIONER GARCIA: I'm okay for  
13           proliferation (Inaudible.)

14                   VICE MAYOR GROSS: Yeah, so let's  
15           pass this, because this stops  
16           proliferation.

17                   MAYOR DERMER: Stops proliferation.

18                   COMMISSIONER GARCIA: Yeah, but, you  
19           know, how it's going to affect the  
20           (Inaudible.)

21                   VICE MAYOR GROSS: That's what I'm  
22           saying, that's what they're going to work  
23           out between first and second reading.

24                   UNIDENTIFIED SPEAKER: That was --  
25           yeah, that's what I was about to ask. Back

1 to you to address that.

2 COMMISSIONER GARCIA: Yeah, you  
3 know, if that is the case, I'll -- you  
4 know, I mean, I'll --

5 UNIDENTIFIED SPEAKER: Okay.

6 COMMISSIONER GARCIA: As long as  
7 we can look at it that way, and as long as  
8 we can look at a (Inaudible) district,  
9 I will support you.

10 MAYOR DERMER: Okay. We got a  
11 motion, second. Call the question, call  
12 the role, please.

13 THE CLERK: Just to be clear, this  
14 is just on the ordinance?

15 MAYOR DERMER: It's on the  
16 ordinance, correct.

17 COMMISSIONER SMITH: What are  
18 we voting?

19 THE CLERK: Commissioner Bower?

20 COMMISSIONER BOWER: Yes.

21 COMMISSIONER SMITH: What ordinance  
22 are we voting?

23 THE CLERK: Commissioner Cruz?

24 COMMISSIONER CRUZ: Yes.

25 THE CLERK: Commissioner Steinberg?



1 COMMISSIONER STEINBERG: Yes.

2 THE CLERK: Commissioner Smith?

3 COMMISSIONER SMITH: Yes.

4 THE CLERK: Vice Mayor Gross?

5 VICE MAYOR GROSS: Yes.

6 THE CLERK: Commissioner Garcia?

7 COMMISSIONER GARCIA: Yes.

8 THE CLERK: Mayor Dermer?

9 MAYOR DERMER: Yes.

10 THE CLERK: 7 in favor, the motion  
11 carries. The second reading and second  
12 public hearing is scheduled for, Jorge,  
13 May -- Jorge, May 5th okay?

14 MR. GONZALEZ: Yes.

15 THE CLERK: Let's go for May 5th.

16 MAYOR DERMER: Let us -- wait a  
17 minute, we have a motion now referral to  
18 planning board on the hours and also the  
19 (Inaudible.)

20 COMMISSIONER BOWER: I'll move that.  
21 I move the hours --

22 COMMISSIONER SMITH: I'd like -- Mr.  
23 Mayor, I'd like to the planning board to  
24 once and for all define for us -- Jorge  
25 Gomez, I'd like the planning board once and

1           for all to define for us what is an  
2           "accessory use" as opposed to a "main  
3           permitted use," because if "accessory use"  
4           mean, you know, what everybody understands  
5           them to be, we would not have allowed a lot  
6           of these problems to exist, and by having  
7           accessory uses become primary uses,  
8           it aggravates the problem. So I'd like to  
9           see a definition of that come back from the  
10          planning board.

11                 MR. GOMEZ: It's one of the issues  
12           that we've identified that need -- that  
13           needs to be addressed. Indeed, a year or  
14           so ago we had an ordinance that would tie  
15           the -- the scale of the restaurant to the  
16           hotel rooms and the structure so that  
17           we would have (Inaudible) restaurant with a  
18           hotel.

19                 Unfortunately, that ordinance was  
20           not accepted by the planning board and  
21           we've been (Inaudible.)

22                 MAYOR DERMER: Well, bring -- bring  
23           us an ordinance that deals with that issue.

24                 VICE MAYOR GROSS: Right, I think  
25           the problem there was it was packaged with

1           some other citywide initiatives that people  
2           were against.

3           MR. GOMEZ: It was similar --  
4           it also had this very similar ordinance.

5           VICE MAYOR GROSS: Yeah, but this  
6           provision in the previous ordinance applied  
7           citywide. What we did today was we said  
8           we're not going to permit nightclubs in  
9           residential districts.

10          MR. GOMEZ: Right, it had three  
11          component. It had a citywide for  
12          restaurants that had entertainment, and  
13          outside of these areas it would be treated  
14          just like a nightclub.

15          VICE MAYOR GROSS: Right.

16          MR. GOMEZ: Then we had this very  
17          same provision and then the units and the  
18          (Inaudible.)

19          VICE MAYOR GROSS: All right.

20          MAYOR DERMER: Okay. That will be  
21          part of the referral as well, a discussion  
22          item for planning to get the "accessory  
23          uses" better defined, more defined.

24          VICE MAYOR GROSS: Right, and  
25          I think that -- yeah, I think the referral

1 to planning should include -- I mean, they  
 2 need to look at the businesses that are  
 3 legal nonconforming uses, see how they're  
 4 going to be effected by the hours, see  
 5 whether the city contractually made  
 6 different deals with Nikki Beach.  
 7 I don't -- I don't know. We have a lease  
 8 with them, I don't know if that has  
 9 anything different in it. I mean, there's  
 10 other things that they have to look at.

11 MAYOR DERMER: I know.

12 COMMISSIONER BOWER: Yes.

13 MAYOR DERMER: Okay. You got it.  
 14 All right. That's a motion and a second.  
 15 All in favor?

16 Opposed.

17 UNIDENTIFIED SPEAKER: Who seconded?

18 MAYOR DERMER: Opposed?

19 UNIDENTIFIED SPEAKER: Who seconded?

20 MAYOR DERMER: Second was

21 Commissioner Gross.

22 UNIDENTIFIED SPEAKER: Okay.

23 MAYOR DERMER: Okay. I -- I just  
 24 want to in closing, first of all, I want to  
 25 thank the residents for coming out in force

1           like they did today, because if you want  
2           to, just like I told you from the very  
3           beginning at the Mayor on the Move, if you  
4           want to succeed in this process, you've got  
5           to keep on coming. Don't ever let up or  
6           let your guard down.

7                     This is going to go, the issue of  
8           the hours is going before the planning  
9           board, and, frankly, the more you are  
10          proactive the more you are persistent, the  
11          success will come at the end, but don't  
12          leave this. This is going to take time and  
13          time and time. If you're gone, the guard  
14          goes down, and you know what I'm saying.  
15          All right.

16                    UNIDENTIFIED SPEAKER: Are you  
17          encouraging Frank Del Vecchio further?

18                    MAYOR DERMER: I'm encouraging  
19          everybody that's interested, you know. Let  
20          us adjourn.

21                    (End of recording.)

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CERTIFICATE

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I, Matthew J. Haas, Court Reporter and  
Transcriptionist, do hereby certify that I was  
authorized to and did listen to and  
stenographically transcribe the foregoing  
recorded proceedings and that the transcript is a  
true record to the best of my professional  
ability.

Dated this 22nd day of January,  
2017.



MATTHEW J. HAAS  
Court reporter

