

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CITY OF RIVERSIDE
BOARD OF ETHICS HEARING PANEL
THE PREHEARING FOR COMPLAINT: LARRATT-SMITH v. CONDER
THURSDAY, OCTOBER 6, 2022

Transcribed by:
Christine Aiello

J8781624

BOARD OF ETHICS HEARING PANEL

Chair Freya Foley
Member Rikka De Herrera
Member Annette Demont
Member Kimberly Foreman
Member Gloria Huerta

OTHERS PRESENT ON BEHALF OF THE BOARD

Eva Arseo, City Clerk

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

	Page
Public Comment	4, 38
Motion by the Board	19, 22, 27, 30, 33, 36
Settlement Discussion	20
Evidence Review	22
Adjournment	64

P R O C E E D I N G S

(On the record)

CHAIR FOLEY: The first item on the agenda is public comment. And are we -- are there any -- anyone on the phones, do we know? First, we need to see if there's anyone on the phones. I know we're waiting for the -- well, the techs usually tell us if there's somebody on the phone.

One? Okay.

Can we hear from caller number one, please?

THE ATTORNEY: (Indiscernible) --

CHAIR FOLEY: Okay.

THE ATTORNEY: -- the call.

CHAIR FOLEY: All right, okay. Uh-huh.

Okay. To participate virtually, please call (669) 900-6833 and enter meeting ID 926 9699 1265. Press star nine to request to speak. Individuals in the queue will be prompted -- will be prompted. Press six to unmute and speak.

Do we have anybody in the queue, in the caller queue? We'll give it a little -- one more minute, and then we'll go forward. Nothing?

Okay, all right. So now we're going to go with audience communications. Can -- the first speaker is Rich Gardner.

1 Are you going to time him? Oh, it
2 automatically times him, okay.

3 MR. GARDNER: Okay. Anyway, good evening,
4 Board of Ethics members. I don't know the exact title.
5 My name is Rich Gardner. I live in Ward 4, which is
6 Chuck's ward. And I apologize, I'm a little rattled.
7 I -- my mom moved up to Westmont Village, up to that
8 area, and I'm having a lot of issues right now so I --
9 I'm kind scatterbrained.

10 But I just caught wind that Councilman Conder
11 is being brought before the Board of Ethics. I really
12 didn't even have time to open up all the different
13 things, but I'm hear to speak to the person I know,
14 Chuck Conder, Council Member Conder. I've known him
15 since he was an assistant to Chris MacArthur in Ward 5,
16 when I lived in Ward 5. And I've known him, I guess,
17 for about six, seven years now. I've always known him
18 to be an honest person.

19 So basically, I'm just here to support my
20 council member, and I would do the same for any council
21 member in this city that I have a personal relationship
22 with and that I know is honest.

23 I think -- well, first of all, I think it's a
24 shame that I'm down here defending a person of this
25 high character, in my mind. And anyway, like I said,

1 I'm really sorry, I'm just a little rattled because
2 Westmont Village up there is a horrible place. Please,
3 don't -- don't ever send your parent to Westmont
4 Village. That's beside the point.

5 Chuck Conder is a great guy. And I've got to
6 go take care of some issues up at Westmont Village
7 because they don't know how to take care of my mom.
8 Have a good night.

9 CHAIR FOLEY: Thank you for your comments,
10 sir.

11 Do we have anybody else for this
12 (indiscernible)?

13 Okay. Are there -- is there anybody on the
14 line now?

15 MR. MCCARTHY: Good evening, honorable
16 citizens of the ethics board. Thank you for your
17 service to the city. My name is Mike McCarthy. I live
18 in Mission Grove in Ward 4, and I am a member in
19 Riverside Neighbors Opposing Warehouses. I come here
20 today to speak on the issue of Councilman Conder's
21 conduct with regards to the West Campus upper plateau
22 industrial warehouse project that's being proposed by
23 the March JPA in our neighborhood.

24 We ask that he recuse himself due to his
25 public and written statements on this issue.

1 Basically, he's supposed to be a neutral referee on
2 this topic. And I'm going to use an analogy for
3 baseball. You know, it's like -- it's like the Yankees
4 and the Dodgers are playing a baseball game and the ref
5 -- the umpire came out ahead of the game and said, hey,
6 I'm a member of team Yankees and I stand by the
7 Yankees. People who like the Dodgers would be like,
8 that -- that umpire can't be trusted to call balls and
9 strikes. He's not a neutral observer.

10 Well, we think that Chuck Conder has been
11 doing exactly that, except his team is Team Developer.
12 So he's publicly and privately commented that he's a
13 part of the developer three separate times. My
14 colleague, Jennifer Larratt-Smith, has provided you
15 video evidence of him saying that he stands with the
16 developers. We also have two emails saying that he
17 stands with Team Developer, one in February and one in
18 November.

19 I want the commission to have a neutral
20 commissioner who is going to make a decision on this
21 project. We don't think Councilman Conder is that
22 person.

23 We've also done a public records request,
24 which was completed after the submission for this
25 ethics complaint was due, and we -- we asked for all

1 the emails that Councilman Conder sent to and from the
2 members -- members of Riverside Neighbors Opposing
3 Warehouses' leaders. We have sent him 35 emails. He
4 has responded zero times.

5 He has, however, responded to one email that
6 I wrote regarding the possibility of residential zoning
7 in this area. And he, instead of responding to me, he
8 responded to the planning commissioner of the March JPA
9 saying that that person did an excellent job of
10 responding to me, but he did not respond to me with
11 that. So he basically just kept me out of the process.
12 So it is also the case that that area can be zoned
13 residential, and Councilman Conder was incorrect on
14 that.

15 So in addition, in August the Councilman
16 Conder stated that there was going to be an -- that
17 there was going to be an open house for us to discuss
18 this project with the developer. Councilman Conder
19 sent an email to the director of the J -- JPA saying,
20 it was going to be a "lively meeting." And he's just
21 been showing contempt for his constituents and has not
22 had an open mind towards them, towards us, like he has
23 towards the developer.

24 And so on multiple occasions he's showed his
25 friendliness and that he's part of Team Developer, and

1 on multiple occasions he has showed his contempt for
2 us. So we just think he is not a neutral party for
3 this commission, and, therefore, we'd ask that he
4 recuse himself or that you hold -- uphold that he has
5 prejudged his opinion on this project.

6 Thank you for your time.

7 CHAIR FOLEY: Thank you.

8 Are there any other calls? No, okay.

9 All right. We're now closing public
10 communications at this -- public comment at this time.

11 Can -- if the respondent and the plaintiff are
12 both here, please identify yourselves.

13 MS. LARRATT-SMITH: I'm the complainant.

14 CHAIR FOLEY: Okay. But you have to stand up
15 and tell me who you are.

16 MS. LARRATT-SMITH: Okay. My name is Jennifer
17 Larratt-Smith. I'm the complainant.

18 CHAIR FOLEY: Thank you.

19 COUNCILMAN CONDER: Chuck Conder here.

20 CHAIR FOLEY: Thank you.

21 Okay. I'm going to ask the city clerk to
22 confirm that all the complaint procedures have been
23 followed. And I believe that is Ms. Arseo going to --
24 there she is, okay. The name, address, telephone
25 number, and email, if available, the complainant

1 provided?

2 MS. ARSEO: Yes, it was. And this is Eva
3 Arseo, the assistant --

4 CHAIR FOLEY: We can't hear you.

5 MS. ARSEO: -- city clerk. Let me raise my
6 -- can you hear me now?

7 CHAIR FOLEY: No.

8 MS. ARSEO: Still can't hear me?

9 CHAIR FOLEY: Now we can.

10 MS. ARSEO: I'll speak louder. This is Eva --

11 CHAIR FOLEY: Thank you.

12 MS. ARSEO: -- Arseo, the assistant city
13 clerk. Yes, I -- I did review the complaint when we
14 received it. The complainant did complete the name,
15 address, and information.

16 CHAIR FOLEY: Thank you.

17 Did they provide the name and the position of
18 the public official against whom the complaint is made?

19 MS. ARSEO: Yes.

20 CHAIR FOLEY: Did they provide the date of the
21 alleged violation?

22 MS. ARSEO: Yes.

23 CHAIR FOLEY: Did they provide the date the
24 complainant became aware of the alleged violation?

25 MS. ARSEO: Yes.

1 CHAIR FOLEY: And were -- was the specific
2 provision of the prohibited conduct section of this
3 chapter -- chapter alleged to be violated provided?

4 MS. ARSEO: Yes.

5 CHAIR FOLEY: And was there a description of
6 the specific facts of the alleged violation provided?

7 MS. ARSEO: Yes.

8 CHAIR FOLEY: And were the names, addresses,
9 telephone numbers, email addresses, if known, of each
10 person the complainant intends to call as a witness at
11 the hearing provided?

12 MS. ARSEO: Yes.

13 CHAIR FOLEY: And were copies of any and all
14 documents, photographs, recordings, or other tangible
15 materials to be introduced and considered at the
16 hearing provided?

17 MS. ARSEO: Yes.

18 CHAIR FOLEY: And was the complainant's
19 complaint signed under penalty of perjury of the laws
20 of the State of California?

21 MS. ARSEO: Yes.

22 CHAIR FOLEY: And was it filed within 180
23 calendar days of discovery of the alleged violation of
24 this chapter, but no more than three years from the
25 date of the alleged violation?

1 MS. ARSEO: Yes, for the --

2 CHAIR FOLEY: Okay.

3 MS. ARSEO: -- majority of the dates listed.

4 CHAIR FOLEY: Yes, okay. And so, Ms. Arseo,
5 have you identified that all of the complaint
6 procedures have been followed?

7 MS. ARSEO: Yes.

8 CHAIR FOLEY: Okay. And would you please make
9 a statement to that effect?

10 MS. ARSEO: Yes. City clerk's office did
11 review the complaint and identified that all -- all
12 procedures were followed and was deemed complete.

13 CHAIR FOLEY: Thank you.

14 Okay. I'm now going to ask the hearing panel
15 to discuss, yes or no, is the complaint against a
16 public official subject to the code.

17 You can -- I -- we can try to see if that's
18 working. Press your --

19 MEMBER FOREMAN: Oh, I -- I don't think we can
20 vote that way if Gloria --

21 CHAIR FOLEY: Oh, that's --

22 MEMBER FOREMAN: -- is --

23 CHAIR FOLEY: -- right.

24 MEMBER FOREMAN: -- virtual.

25 CHAIR FOLEY: Okay.

1 MEMBER FOREMAN: I think we have to do it
2 this --

3 CHAIR FOLEY: Okay.

4 MEMBER FOREMAN: -- way.

5 CHAIR FOLEY: So can you do a vote roll call
6 if everyone agrees, yes or no, please?

7 THE CLERK: Okay.

8 CHAIR FOLEY: Because we have to do that
9 because Gloria is in another area.

10 THE CLERK: Okay. Chair Foley.

11 CHAIR FOLEY: Yes.

12 THE CLERK: Member Foreman.

13 MEMBER FOREMAN: Yes, yes.

14 THE CLERK: Member De Herrera.

15 MEMBER DE HERRERA: Yes.

16 THE CLERK: Member Huerta.

17 MEMBER HUERTA: Yes.

18 THE CLERK: Member Demont.

19 MEMBER DEMONT: Yes.

20 THE CLERK: Okay. It carries.

21 CHAIR FOLEY: Thank you.

22 Okay. Also, yes or no, could you please --
23 the -- let us know whether or not could you do another
24 hearing -- hearing -- could you do another roll call
25 vote to see if the complaint alleges a violation of one

1 or more prohibited conduct sections of the code?

2 THE CLERK: All right. Chair Foley.

3 CHAIR FOLEY: Yes.

4 THE CLERK: Member Foreman.

5 MEMBER FOREMAN: Yes.

6 THE CLERK: Member De Herrera.

7 MEMBER DE HERRERA: Yes.

8 THE CLERK: Member Huerta.

9 MEMBER HUERTA: Yes.

10 THE CLERK: Member Demont.

11 MEMBER DEMONT: Yes.

12 CHAIR FOLEY: Okay. And again, roll call,
13 please, does the complaint not restate allegations of
14 violations that were subject of a previous complaint?

15 THE CLERK: Chair Foley.

16 CHAIR FOLEY: Wait a second. Yes, it doesn't.

17 THE CLERK: Member Foreman.

18 CHAIR FOLEY: No, it doesn't, is what I want
19 to say.

20 MEMBER FOREMAN: Yes, that's true that it does
21 not.

22 CHAIR FOLEY: Yeah.

23 MEMBER FOREMAN: You know -- you know what
24 we --

25 CHAIR FOLEY: That was very --

1 MEMBER FOREMAN: -- all mean.

2 CHAIR FOLEY: -- worded very strange.

3 MEMBER FOREMAN: You know what we mean.

4 CHAIR FOLEY: We know what we mean.

5 MEMBER DE HERRERA: So you're saying it
6 doesn't include -- yes, it does not?

7 CHAIR FOLEY: Yes, it does not.

8 MEMBER FOREMAN: It does not. Yes, it does
9 not. It was -- it was done correctly because --
10 because it does not include --

11 CHAIR FOLEY: Okay. So the question is
12 whether or not it contains allegations -- the subject
13 does not restate allegations of violations that were
14 subject of a previous complaint. So the answer -- so
15 the answer would be no, actually, no, it does not
16 contain that.

17 MEMBER DE HERRERA: Well, I have a question.

18 CHAIR FOLEY: Okay. Go ahead.

19 MEMBER DE HERRERA: Because he had a -- he was
20 part of a previous --

21 CHAIR FOLEY: You have to --

22 MEMBER DE HERRERA: Oh, I'm sorry, wrong
23 button.

24 MEMBER FOREMAN: Yeah, and use hat.

25 MEMBER DE HERRERA: Well, I have a -- because

1 he was subject to a previous complaint, and this all
2 kind of circles back to the JPL, no? Or is this
3 completely --

4 CHAIR FOLEY: It's not the same allegation.

5 MEMBER DE HERRERA: It's not -- no, it's a
6 different allegation.

7 CHAIR FOLEY: Right.

8 MEMBER DE HERRERA: So it's --

9 CHAIR FOLEY: Uh-huh.

10 MEMBER DE HERRERA: -- a different --

11 CHAIR FOLEY: Right.

12 MEMBER DE HERRERA: Okay. Yes.

13 MEMBER FOREMAN: Okay.

14 CHAIR FOLEY: I understand.

15 THE CLERK: Looking at you.

16 CHAIR FOLEY: Annette.

17 THE CLERK: Member -- Member Huerta.

18 CHAIR FOLEY: Oh, okay. Oh, Huerta, sorry.

19 MEMBER HUERTA: I believe it is similar in
20 content and allegations as a prior complaint.

21 THE CLERK: Okay. SO that's a yes. Okay.
22 Member Demont.

23 MEMBER DEMONT: I do not believe that the
24 complaint is the same or the allegations are the same.

25 CHAIR FOLEY: Are different, okay.

1 So okay. So okay. I'm trying to understand,
2 so Ms. Huerta and Ms. Demont, you're saying that --

3 THE ATTORNEY: Demont.

4 CHAIR FOLEY: -- the allegations are the same
5 as the previous complaint, or they are not?

6 MEMBER DEMONT: They are not.

7 CHAIR FOLEY: Okay.

8 THE CLERK: They are different, uh-huh.

9 CHAIR FOLEY: Just Gloria feels --

10 MEMBER HUERTA: I believe they are.

11 CHAIR FOLEY: Uh-huh.

12 THE CLERK: Gloria.

13 CHAIR FOLEY: And, Gloria, did you want to
14 have a --

15 MEMBER HUERTA: No.

16 CHAIR FOLEY: -- say anything to support that?
17 Okay.

18 MEMBER HUERTA: No.

19 CHAIR FOLEY: So could you please --

20 MEMBER HUERTA: I think the facts stand for
21 themselves.

22 CHAIR FOLEY: Okay. Thank you.

23 So could you give us the tally, please?

24 THE CLERK: So the Chair Foley, Member
25 Foreman, Member De Herrera, Member Demont, yes.

1 Four --

2 CHAIR FOLEY: Uh-huh.

3 THE CLERK: -- yes, and Huerta -- Member
4 Huerta no.

5 CHAIR FOLEY: Okay. Thank you.

6 MEMBER DE HERRERA: So those -- the similar
7 one, like because I think there's still -- sorry, you
8 can't hear me. Sorry. I think it's still similar,
9 too, so then I would be no, because I think it's still
10 similar to the previous complaint, even though it's by
11 a different person, but it's kind of like the same
12 context.

13 CHAIR FOLEY: Well, I don't know if the --
14 that's not the -- the ordinance is that it does not
15 restate allegations of violations that were subject to
16 -- of a previous complaint. So --

17 MEMBER DE HERRERA: So because a different box
18 was checked on number five, it's a different thing,
19 whereas like the previous allegations were like two
20 boxes were checked on five, correct? So that's why
21 they're different?

22 CHAIR FOLEY: No. It would be -- I don't have
23 that previous one in front of me, but this one is
24 alleging M, a violation of M.

25 MEMBER DE HERRERA: Okay.

1 MEMBER FOREMAN: Could I make a comment? I
2 was on the hearing panel --

3 CHAIR FOLEY: Uh-huh.

4 MEMBER FOREMAN: -- for the previous one.
5 This is a different allegation. It's regarding the --

6 CHAIR FOLEY: Okay.

7 MEMBER FOREMAN: -- same organization, the
8 Joint Powers Authority, and his role on it; but it's a
9 very, very different allegation of alleged conduct.

10 MEMBER DE HERRERA: Okay. Thank you.

11 CHAIR FOLEY: So, Commissioner De Herrera, are
12 you staying with your position?

13 MEMBER DE HERRERA: Yes.

14 CHAIR FOLEY: And can you speak into that mic
15 so I can hear that?

16 MEMBER DE HERRERA: Yes. Sorry.

17 CHAIR FOLEY: Okay. Thank you, thank you.

18 Okay, okay, okay. So can I please get a
19 motion that the complaint either does or does not
20 comply with all of the requirements that we just set
21 forth?

22 MEMBER FOREMAN: I move that we vote that it
23 does comply with all the requirements set forth.

24 CHAIR FOLEY: Okay. May I have a second,
25 please? Okay.

1 MEMBER DEMONT: I move for a second.

2 CHAIR FOLEY: Thank you.

3 Okay. The motion -- well, we have to vote
4 now. I like to go from motions to -- and --

5 THE CLERK: Okay. Chair Foley.

6 CHAIR FOLEY: Yes.

7 THE CLERK: Member Foreman.

8 MEMBER FOREMAN: Yes.

9 THE CLERK: Member De Herrera.

10 MEMBER DE HERRERA: Yes.

11 THE CLERK: Member Huerta.

12 MEMBER HUERTA: No.

13 THE CLERK: Member Demont.

14 MEMBER DEMONT: Yes.

15 THE CLERK: Motion carries, four-one.

16 CHAIR FOLEY: Okay. Thank you.

17 Okay. The code requires us to see --
18 determine if the parties can settle the matter. Is
19 there a possibility for settlement? Can we have -- do
20 -- are there any ideas for settlement? Could the -- do
21 the complaint and the respondent, would they like to
22 have -- take an ethics board member with them and have
23 a discussion about possible settlement? What's the
24 possibilities here?

25 You --

1 MS. LARRATT-SMITH: Well --

2 CHAIR FOLEY: You can come forward and speak
3 in the mic.

4 MS. LARRATT-SMITH: Well, our ask is that he
5 recuse himself from the JPA commission because of
6 having prejudged this proposal. So we would be okay
7 with that if he was willing to do that. So --

8 COUNCILMAN CONDER: Good evening,
9 commissioners, and Ms. Huerta out there. I'm still not
10 sure why we're here because I'm being accused of
11 prejudging a project that doesn't exist. No plans have
12 been sent into the Joint Powers planning team. There
13 is no CEQA actions. There is no EIR. There is no
14 project. I just don't understand why we're here
15 because it doesn't exist.

16 Now, the developer is doing what he's
17 supposed to do, he floats a proposal and has meetings,
18 and that's what been going on. There's a procedure and
19 a process to this. And I -- I just don't understand at
20 all --

21 CHAIR FOLEY: Okay.

22 COUNCILMAN CONDER: -- what they're trying to
23 do, because I can't prejudge what doesn't exist.

24 CHAIR FOLEY: Okay. Thank you for your --

25 COUNCILMAN CONDER: So --

1 CHAIR FOLEY: -- comment, Councilman Conder.

2 So I'm going to presume from those two
3 statements that there's no settlement possible.

4 Okay. I will now ask the hearing panel to
5 review the submitted evidence and determine if any
6 evidence is irrelevant and should be deemed
7 inadmissible.

8 MEMBER FOREMAN: I had a comment.

9 CHAIR FOLEY: Who am --

10 MEMBER FOREMAN: I --

11 CHAIR FOLEY: -- I -- okay.

12 MEMBER FOREMAN: This --

13 CHAIR FOLEY: Go ahead.

14 MEMBER FOREMAN: Is that okay?

15 CHAIR FOLEY: Yeah.

16 MEMBER FOREMAN: Okay. I didn't want to jump
17 in front of anyone.

18 I appreciated the information in the general
19 plan from 2010, but I don't think it has any direct
20 bearing on the allegations against Council Member
21 Conder. So I would -- I would move, or whatever I do,
22 to suggest that that be not included.

23 CHAIR FOLEY: So could you please restate
24 which documents you were stating?

25 MEMBER FOREMAN: The general plan, the

1 Riverside General Plan --

2 CHAIR FOLEY: Okay.

3 MEMBER FOREMAN: -- from 2010 --

4 CHAIR FOLEY: Okay.

5 MEMBER FOREMAN: -- correct?

6 CHAIR FOLEY: Okay.

7 MEMBER FOREMAN: Yeah.

8 MEMBER DEMONT: Can we have a page number on
9 that, please?

10 MEMBER FOREMAN: It's an entire document. So
11 I -- I --

12 MEMBER DEMONT: It's the entire thing?

13 MEMBER FOREMAN: Yeah.

14 MEMBER DE HERRERA: It's attachment B.

15 MEMBER DEMONT: Thank you.

16 CHAIR FOLEY: Yeah, it's part of the --

17 MEMBER FOREMAN: Thank you.

18 CHAIR FOLEY: -- packet.

19 MEMBER FOREMAN: Thank you.

20 CHAIR FOLEY: Okay.

21 MEMBER HUERTA: And I would second that
22 motion. This is --

23 CHAIR FOLEY: Okay.

24 MEMBER HUERTA: -- Dr. Huerta, Gloria Huerta.

25 CHAIR FOLEY: Okay. Thank you, Gloria.

1 Do you have to have a moment to look it up, or
2 are we ready to vote?

3 MEMBER DEMONT: It's -- it's not in our
4 paperwork. It was --

5 CHAIR FOLEY: It's in the --

6 MEMBER DEMONT: It was on the -- the thumb
7 drive and the --

8 CHAIR FOLEY: The thumb drive.

9 MEMBER DEMONT: -- links within the original.
10 So -- so it was (indiscernible).

11 MEMBER FOREMAN: Sorry, I'm -- I was just
12 brought into this, so I'm a little --

13 CHAIR FOLEY: Okay. So --

14 MEMBER FOREMAN: I did read it, though.

15 MEMBER DEMONT: You could ask (indiscernible).
16 So --

17 MEMBER FOREMAN: But it was a while ago.
18 I will.

19 CHAIR FOLEY: Okay.

20 MEMBER FOREMAN: Thank you.

21 CHAIR FOLEY: It's -- okay. So, madam clerk,
22 can we do a roll call vote, please? There's been a
23 motion and a second, may we -- may we please maybe have
24 a roll call vote?

25 THE CLERK: Chair Foley.

1 CHAIR FOLEY: And --

2 THE CLERK: Oh.

3 CHAIR FOLEY: Okay. So and do you want to
4 restate -- restate --

5 THE ATTORNEY: The motion.

6 CHAIR FOLEY: -- your --

7 MEMBER FOREMAN: I move -- I move that the
8 Riverside County General Plan from 2010 be excluded as
9 being irrelevant to this allegation.

10 CHAIR FOLEY: Okay, all right.

11 THE CLERK: Chair Foley.

12 CHAIR FOLEY: Yes.

13 THE CLERK: Member Foreman.

14 MEMBER FOREMAN: Yes.

15 THE CLERK: Member De Herrera.

16 MEMBER DE HERRERA: Yes.

17 THE CLERK: Member Huerta.

18 MEMBER HUERTA: Yes.

19 THE CLERK: Member Demont.

20 MEMBER DEMONT: Abstain.

21 THE CLERK: Okay. Four-one, motion carries.

22 CHAIR FOLEY: Thank you.

23 Okay. The motion carries.

24 Is there ever -- any other evidence that
25 anyone thinks should -- is irrelevant and should be

1 deemed inadmissible?

2 MEMBER FOREMAN: I would like to hear some of
3 the other panel members' thoughts on this, but some of
4 the emails where Council Member Conder was included,
5 either himself or his assistant, they don't -- they
6 look like, you know, he's part of this, you know,
7 project, but really, they -- they are also simply
8 emails of discussing planning public meetings, which
9 anyone would do, no matter what their thoughts were on
10 how --

11 CHAIR FOLEY: Uh-huh.

12 MEMBER FOREMAN: -- they were going to vote or
13 their thoughts on the record project. And those would
14 be -- if you want to hear specifically, let me get my
15 glasses.

16 CHAIR FOLEY: Yeah, they're on --

17 MEMBER FOREMAN: -- page -- page 17 through
18 page 20. Like I say, I think they're simply -- any --
19 anybody would have been part of that planning process,
20 as his role as a Joint Powers member --

21 CHAIR FOLEY: Right.

22 MEMBER FOREMAN: -- and as a council member.

23 CHAIR FOLEY: So would you --

24 MEMBER FOREMAN: So --

25 CHAIR FOLEY: Do you want to make a motion,

1 please?

2 MEMBER FOREMAN: I move that we exclude those
3 emails, those particular ones.

4 CHAIR FOLEY: Do we have a second?

5 MEMBER DE HERRERA: I second.

6 CHAIR FOLEY: Okay.

7 MEMBER FOREMAN: It looks like we have a
8 comment from --

9 CHAIR FOLEY: Do you have a comment?

10 MEMBER FOREMAN: -- the complainant.

11 MS. LARRATT-SMITH: Am I allowed to speak on
12 that? The relevant part is that --

13 CHAIR FOLEY: No, you're not allowed to --

14 MS. LARRATT-SMITH: Oh.

15 CHAIR FOLEY: -- speak --

16 MEMBER FOREMAN: Oh, is she --

17 CHAIR FOLEY: -- on that.

18 MEMBER FOREMAN: My -- the -- my reasoning is
19 that --

20 CHAIR FOLEY: You don't have to -- you don't
21 respond.

22 MEMBER FOREMAN: Oh, okay. Well --

23 CHAIR FOLEY: Okay.

24 MEMBER FOREMAN: -- just in case any of the
25 other panel members are wondering.

1 Did any of the other --

2 CHAIR FOLEY: Okay.

3 MEMBER FOREMAN: -- panel members have any
4 questions about that or comments?

5 MEMBER DEMONT: I would like to hear your
6 comment.

7 MEMBER FOREMAN: Oh, that at first it looks
8 like oh, you know, he's in on it, he's helping -- he's
9 helping the developers plan this, so he must be for it.
10 I'm -- I'm kind of guessing that's sort of the -- the
11 thought.

12 No, okay. She's shaking her head.

13 But anyway, I didn't see that, I'm not
14 responding to that.

15 MS. LARRATT-SMITH: And I couldn't respond.
16 So --

17 CHAIR FOLEY: Excuse me. Can we have order?
18 The -- it's -- panel's discussion is taking place, and
19 there will be no comments from the audience at this
20 time. Thank you.

21 MEMBER FOREMAN: It -- it just looks to me
22 that these emails are simply planning and discussing
23 public meetings, who's going to attend, when they're
24 going to be, how they're going to be run. I think
25 those would be appropriate for anybody on the Joint

1 Powers. And but I -- I'm not like -- I don't have this
2 really passionate feeling about that, I just, that was
3 my belief.

4 Does anyone else have any comments?

5 CHAIR FOLEY: I agree. I agree with that. I
6 was looking at them, and I kind of -- and I felt that
7 they were not -- they were just meeting setups, who's
8 going to attend, who doesn't want to attend the
9 meetings. I thought they were rather perfunctory and
10 didn't really belong.

11 MEMBER FOREMAN: And I believe --

12 MEMBER HUERTA: And -- and I also agree with
13 those comments.

14 CHAIR FOLEY: Okay.

15 MEMBER HUERTA: I did not find them of value,
16 too, one way or the other. I felt like it was more a
17 behind-the-scenes setting up meetings.

18 CHAIR FOLEY: Uh-huh. Does anyone else have
19 any comments or discussion? Any questions?

20 Okay. Could you please do a roll call?

21 THE CLERK: Chair Foley.

22 CHAIR FOLEY: What am I saying? Yes, I think
23 it should be removed, they should be removed.

24 THE CLERK: Okay. Member Foreman.

25 MEMBER FOREMAN: Yes.

1 THE CLERK: Member De Herrera.

2 MEMBER DE HERRERA: Yes.

3 THE CLERK: Member Huerta.

4 MEMBER HUERTA: Yes.

5 THE CLERK: And, Member Demont.

6 MEMBER DEMONT: Abstain.

7 THE CLERK: Motion carries --

8 CHAIR FOLEY: Okay.

9 THE CLERK: -- four-one.

10 CHAIR FOLEY: All right.

11 THE CLERK: All right.

12 CHAIR FOLEY: I'm -- I'm going to -- I think
13 in terms of -- caselaw from Kansas was provided, Gold
14 -- Golden versus the City of Overland Park, and it has
15 no relevance to the State of California. And the laws
16 that apply there do not necessarily apply here. I
17 think it's irrelevant. So I make a motion to remove
18 the caselaw from Golden versus City of Overland Park
19 from Kansas, the State of Kansas.

20 MEMBER FOREMAN: I had a question, too.

21 MEMBER HUERTA: I'll second it.

22 CHAIR FOLEY: Thank you.

23 MEMBER FOREMAN: I -- I had just a quick --
24 that's not a federal law, correct? That's a state,
25 Kansas?

1 CHAIR FOLEY: Yeah.

2 MEMBER FOREMAN: I just wanted to make sure I
3 was correct in --

4 CHAIR FOLEY: No, it's not --

5 MEMBER FOREMAN: -- that.

6 CHAIR FOLEY: -- federal. It's state. I
7 checked that.

8 MEMBER DEMONT: Can I have a question?

9 CHAIR FOLEY: Sure.

10 MEMBER DEMONT: What page is it on?

11 CHAIR FOLEY: Oh, (indiscernible).

12 MEMBER DEMONT: Sorry, I'm catching up.

13 CHAIR FOLEY: Does anybody know what page
14 that's on? I don't know what -- I think you have to --
15 it's on the thumb drive. You have to --

16 MEMBER DEMONT: Okay. Thank you.

17 CHAIR FOLEY: And then you had to click on the
18 reference and go and read it.

19 MEMBER DEMONT: It's been a while. Thank you.

20 CHAIR FOLEY: Okay, all right. So do we have
21 a --

22 Gloria, you second?

23 THE CLERK: Yes, we have a --

24 CHAIR FOLEY: Yeah.

25 THE CLERK: -- second --

1 CHAIR FOLEY: Okay.

2 THE CLERK: -- on the floor.

3 CHAIR FOLEY: Can we have a roll call vote,
4 please?

5 THE CLERK: Okay. Chair Foley.

6 CHAIR FOLEY: Yes.

7 THE CLERK: Member Foreman.

8 MEMBER FOREMAN: Yes.

9 THE CLERK: Member De Herrera.

10 MEMBER DE HERRERA: Yes.

11 THE CLERK: Member Huerta.

12 MEMBER HUERTA: Yes.

13 THE CLERK: And, Member Demont.

14 MEMBER DEMONT: Abstain.

15 THE CLERK: Motion carries.

16 CHAIR FOLEY: Okay. Thank you.

17 Okay. I had another one, and it was the other
18 caselaw presented in that it wasn't the Black's Law
19 where the full case, it wasn't able to be opened and
20 was not able to be authenticated. So I don't know what
21 relevance it has or if it's -- how authentic it is. So
22 I would also like to have that removed.

23 MEMBER FOREMAN: Could you clarify what that
24 is that you're referring to? I -- I'm not sure what
25 you're referring to. Is that the one from Best Best &

1 Krieger?

2 CHAIR FOLEY: Best Best & Krieger, right. But
3 it's not -- it's not authenticated. The full case
4 isn't there, and there's no way to get to the full
5 case. I've asked the attorney's office if they could
6 get it, and they couldn't get it, as well. So I'd like
7 to have that removed. So I make a motion --

8 THE CLERK: (Indiscernible) motion.

9 CHAIR FOLEY: -- to remove that caselaw
10 information. Is there a second?

11 MEMBER HUERTA: I'll second it for
12 discussion's sake.

13 CHAIR FOLEY: Okay. Thank you. All right.

14 THE CLERK: Okay.

15 MEMBER FOREMAN: My comment is I did click on
16 the link when we first got the materials. And it's
17 been a couple of weeks now. I -- my feeling is that it
18 seemed like it was something I was able to verify. It
19 did look legitimate, but this has been --

20 CHAIR FOLEY: Well, I'm not saying --

21 MEMBER FOREMAN: -- a couple weeks.

22 CHAIR FOLEY: -- that it isn't legitimate.
23 I'm saying that --

24 MEMBER FOREMAN: That it couldn't be verified
25 for the --

1 CHAIR FOLEY: Okay.

2 MEMBER FOREMAN: -- purpose of --

3 CHAIR FOLEY: Okay.

4 MEMBER FOREMAN: Okay. I -- I feel it's a
5 legitimate piece of evidence.

6 CHAIR FOLEY: Okay. Is there any other
7 discussion? None, okay.

8 THE CLERK: Do we want to take a roll call
9 or --

10 CHAIR FOLEY: Yeah. I was going to say, I
11 think I've got to -- yes, I think it should be removed.

12 THE CLERK: Okay, okay. So, Member Foley --
13 or Chair Foley.

14 CHAIR FOLEY: Yes.

15 THE CLERK: Yes. Member Foreman.

16 MEMBER FOREMAN: No.

17 THE CLERK: Member De Herrera.

18 MEMBER DE HERRERA: I abstain.

19 THE CLERK: Member Huerta.

20 MEMBER HUERTA: Abstain.

21 THE CLERK: And, Member Demont.

22 MEMBER DEMONT: Abstain.

23 CHAIR FOLEY: Okay.

24 THE CLERK: It fails. So we've got --

25 CHAIR FOLEY: I understand, okay.

1 THE CLERK: Yeah.

2 CHAIR FOLEY: All right. Are there -- is
3 there any other evidence that anyone would like to have
4 reviewed at this time?

5 Okay, all right. Then we're going to move
6 forward. The -- the next factor that we're going to
7 consider is that the hearing panel will not consider
8 whether the complainant has shown that the evidence, if
9 taken as true, more likely than not shows a potential
10 violation of a prohibited conduct of the Code of
11 Ethics.

12 And the complainant has checked off M, and M
13 states, violations of federal, state, or local law
14 prohibited, no public official of the City of Riverside
15 shall intentionally or repeatedly violate the Charter
16 of the City of Riverside, Riverside Municipal Code, or
17 any other established policies of the City of Riverside
18 affecting operations of local government, or be
19 convicted of violation of any state or federal law
20 pertaining to the office which they hold.

21 Okay. And now -- now, the -- the respondent
22 now begins her case, right?

23 THE ATTORNEY: If -- if you decide that -- if
24 you decide that --

25 CHAIR FOLEY: We have to make that decision?

1 THE ATTORNEY: Yeah.

2 CHAIR FOLEY: Okay.

3 THE ATTORNEY: Based on --

4 CHAIR FOLEY: All right.

5 THE ATTORNEY: -- just (indiscernible).

6 CHAIR FOLEY: Okay. So before we proceed with
7 the case, we have to decide if there is enough evidence
8 to proceed, if the evidence were taken as true.

9 MEMBER FOREMAN: I move that we vote to
10 proceed.

11 MEMBER: I second.

12 CHAIR FOLEY: Okay.

13 THE CLERK: Chair Foley.

14 CHAIR FOLEY: Yes.

15 THE CLERK: Member Foreman.

16 MEMBER FOREMAN: Yes.

17 THE CLERK: Member De Herrera.

18 MEMBER DE HERRERA: Can I get a second reading
19 of M one more time, please?

20 CHAIR FOLEY: Sure.

21 MEMBER DE HERRERA: Thank you.

22 CHAIR FOLEY: Okay. It says that violations
23 of federal, state, or local law prohibited, no public
24 official of the City of Riverside shall intentionally
25 or repeatedly violate the Charter of the City of

1 Riverside, the Riverside Municipal Code, or any
2 established policies of the City of Riverside affecting
3 the operations of local government, or be convicted of
4 violation of any state or federal law pertaining to the
5 office which they hold.

6 MEMBER DE HERRERA: So we're voting on whether
7 or not, with just what we got in our packet, if he did
8 that, yes or no, to move to a hearing, if what we got
9 says, yes, it's enough to move forward; that's what
10 we're voting on right now, correct?

11 CHAIR FOLEY: If it is enough to move forward
12 to have the hearing.

13 MEMBER DE HERRERA: To have the hearing.

14 CHAIR FOLEY: Yes. I mean, if -- if the -- if
15 the evidence presented were presumed to be true, would
16 you, in fact, want to proceed forward? Is there enough
17 evidence to proceed forward for a hearing.

18 MEMBER DE HERRERA: No.

19 CHAIR FOLEY: Okay.

20 THE CLERK: Member Huerta.

21 MEMBER HUERTA: No.

22 THE CLERK: And, Member Demont.

23 MEMBER DEMONT: Yes.

24 CHAIR FOLEY: You know, I -- I'm going to
25 change -- can I change my vote?

1 THE CLERK: Okay.

2 CHAIR FOLEY: I -- am I allowed to change my
3 vote?

4 THE ATTORNEY: You are.

5 CHAIR FOLEY: Okay. Just checking. I'm going
6 to change my vote to no.

7 THE CLERK: Okay. So the motion, it fails,
8 huh?

9 THE ATTORNEY: Uh-huh.

10 THE CLERK: (Indiscernible).

11 So the motion to proceed fails, three -- two
12 yes and two noes. The motion fails.

13 CHAIR FOLEY: I'm sorry. Say it. I can't
14 hear you. What?

15 THE CLERK: The motion to proceed fails --

16 CHAIR FOLEY: Okay.

17 THE CLERK: -- because we've got three noes --

18 CHAIR FOLEY: All right.

19 THE CLERK: -- and two yes.

20 CHAIR FOLEY: So now do we ask the clerk to --

21 THE ATTORNEY: Public -- public comment.

22 CHAIR FOLEY: Okay, all right. We're going to
23 open up for public comment again. And to call in, the
24 call-in number is (669) 900-6833. And enter meeting ID
25 number 926 9699 1265. Press star nine to request to

1 speak.

2 MS. LARRATT-SMITH: Okay. Can I speak or
3 shall I put in a card or --

4 CHAIR FOLEY: No.

5 MEMBER HUERTA: Madam chair --

6 CHAIR FOLEY: You have to fill out a card.

7 MEMBER HUERTA: -- and legal counsel in
8 chambers, can you hear me?

9 CHAIR FOLEY: Yes. Gloria, yes.

10 MEMBER HUERTA: May I? Okay. I'm -- I'm
11 sorry I'm not there. I am deployed to Louisiana for
12 the hurricane, so I apologize, but I would like a point
13 of order. If we voted that it was unlikely there was
14 sufficient information to move forward to a hearing,
15 isn't this is the end of our prehearing today? Do --
16 is there any other action we are needing to take?
17 Because we've determined that there's no need for a
18 hearing, based upon our vote, three to two.

19 CHAIR FOLEY: Right.

20 MEMBER HUERTA: I mean, I'd like to point
21 of --

22 CHAIR FOLEY: The --

23 MEMBER HUERTA: -- clarification.

24 CHAIR FOLEY: The attorney had said to do
25 public comment, so we did it.

1 MEMBER HUERTA: No, I -- and I'm just asking
2 the public -- the --

3 CHAIR FOLEY: Right, he can --

4 MEMBER HUERTA: -- attorney --

5 CHAIR FOLEY: -- explain.

6 MEMBER HUERTA: -- for --

7 CHAIR FOLEY: Yeah, he can tell us why he said
8 that.

9 MEMBER HUERTA: -- point --

10 THE ATTORNEY: Yeah.

11 MEMBER HUERTA: -- of order confirmation --
12 confirmation.

13 CHAIR FOLEY: Okay.

14 THE ATTORNEY: Yeah, the decision has been
15 made that the complaint does not state a cause of
16 action for violation of the municipal code. That is
17 the end. There will be no hearing, but they're -- I
18 think they're still entitled to public comment.
19 Thereafter, there will be procedures to write up a
20 decision to -- have -- have a written decision made.
21 So this is just public comment at this point.

22 MS. LARRATT-SMITH: So they can't change their
23 decision based on public comment?

24 CHAIR FOLEY: Okay. So we have -- we'll call
25 you when it's time to speak. Everybody in the

1 audience, please sit down.

2 Okay. The first, we're going to take speakers
3 in the -- in the audience right now. Our first speaker
4 is Chuck Conder.

5 COUNCILMAN CONDER: Good evening, again.

6 And, Gloria, thank you for what you're doing
7 for those victims down there in Louisiana. We
8 appreciate you.

9 So again, I came in this evening hoping that
10 this would not go beyond because there's no reason to.
11 I don't know what I would have violated. There is no
12 project. I have opinions, but there's no project.
13 There is no CEQA. There's no EIR. There is no plans.

14 Members of the of this group have come before
15 the city council asking the council for resolution
16 ordering Council Member Perry and I on how to vote.
17 That's a violation of the Brown Act, the Serial Meeting
18 Act. That's a -- it's a felony. You can't do that.

19 They've asked for a resolution for to -- to
20 have no more warehouses. This is not Riverside land,
21 ladies and gentlemen. This is County of Riverside, and
22 it will remain unincorporated County of Riverside until
23 at least 2041 when the bonds are paid off and
24 annexations could then occur.

25 The developer is under a DDA. You know what

1 a DDA is, it's a disposition and development agreement.
2 It's a contract, a legal binding document.

3 And I have never said that I support a
4 hundred percent the developer. I said I would not vote
5 against the law. Now, in an email when the developer
6 said, this is how I wish to proceed; I said, if that is
7 the way you want to go, I'm a hundred percent behind
8 you. It is not my right to tell a business how to run
9 their business or a developer how to proceed with the
10 public. There are processes, and the follow --
11 processes are being followed.

12 Riverside has no planning authority over
13 this. This is County of Riverside land in the
14 incorporated -- unincorporated county, and it's
15 currently in the possession of the Joint Powers
16 Authority.

17 What's been going on with this is nothing
18 more than political bullying, it's cancel culture. I
19 have not made opinions because nothing has come before
20 the commission. There is nothing. We don't know. All
21 there is is a potential proposal that is out there.

22 And again, there's been an awful lot of
23 misrepresentations that have been taken out of context.
24 And there is no prejudging. I can't prejudge what
25 doesn't exist.

1 So I appreciate your time this evening.

2 Again, I'm sorry that you had to go through this.

3 Gloria, please travel safe and be well, and
4 thank you for coming in on that.

5 And I'm here for any questions, if you have
6 any technical questions, on what the Joint Powers
7 Authority, the Joint Powers commissioners, which we are
8 below the Authority, and then what's going on with the
9 -- the potential of the sunseting of the JPA.

10 Thank you.

11 CHAIR FOLEY: Okay. Jen, I believe Jen
12 Smallet (phonetic) is -- I can't read the writing, the
13 handwriting here. I believe it's the complainant.

14 MS. LARRATT-SMITH: I -- I'm just going to say
15 I'm very disappointed. I -- I realize my argument is
16 nuanced and so it's hard -- but it is based on state
17 law. He's not to prejudge. I provided video clips and
18 that email at the very top where he talks about he's a
19 hundred percent behind the developer. He says he
20 stands with the developer. In my video clips, he says
21 he cannot vote no. He says it's against the law, as he
22 repeated tonight, that he cannot vote no.

23 I had a video clip of your own city attorney
24 saying that that is inaccurate. He also said the
25 developer owned the land to our -- to 120 constituents,

1 more than once, and that is not true. The March JPA
2 owns the land. He is on the voting commission to
3 approve or disapprove land use.

4 I have a lot of evidence. And I have -- I --
5 and I can't believe I'm not even going to be allowed to
6 present it. I -- on what basis do you think there was
7 not enough evidence? Did you watch all the video
8 clips? Do you understand my argument?

9 That's what I'm understanding -- I'm -- I'm
10 trying to understand how you could throw out my
11 evidence when I have so much evidence that he has
12 prejudged and that he is biased in this -- in this --
13 in this instance. And I -- I honestly, I just can't
14 even wrap my brain around how you could think that
15 there was no evidence to support my claim. And I don't
16 know that there's more to say.

17 Thank you.

18 CHAIR FOLEY: I believe Gabriella, I think,
19 Wilba (phonetic). I'm not sure, I can't read the
20 handwriting. I'm not sure, I -- I -- I'm not -- I
21 can't read --

22 MS. MENDEZ: No, I'm --

23 CHAIR FOLEY: -- that.

24 MS. MENDEZ: -- not -- I don't care. No
25 worries. And sorry --

1 CHAIR FOLEY: So tell --

2 MS. MENDEZ: -- about the --

3 CHAIR FOLEY: -- me your name, please.

4 MS. MENDEZ: Gabriella Mendez.

5 CHAIR FOLEY: Yes, okay. That's it.

6 MS. MENDEZ: Yeah, thank you.

7 I'm a resident here in the City of Riverside.

8 And I just want to say I'm a witness to everything that
9 the Arnell group is saying. I have been at these
10 meetings where I have heard Chuck Conder say these
11 things, even at some point where he said that our --
12 that our community doesn't care about these kinds of
13 developments, talking about Ward 6, where I live, which
14 is not only false, but it's discouraging.

15 And I'm a bit confused. I know it was stated
16 that there is no project, that the project just
17 disappeared. Because I recall going to a meeting at
18 the March Air Force Base Museum where they held
19 revisions of -- of this project, also asking community
20 what they thought about this development. If it
21 doesn't exist, why are they having communities to
22 negotiate with the community -- or why are they having
23 meetings to talk to the community about what could
24 better the project? I'm confused.

25 There's another clip that I -- that I

1 recorded myself with Chuck Conder and the developers.
2 And also, where I was at that meeting at the Orange
3 Crest Community Center where he says, I cannot vote no.
4 What does that actually mean as a representative, that
5 you cannot vote no against something? The whole reason
6 why people are on boards and commissions and why they
7 are represented is because they have the choice to vote
8 yes or no or support their community or not.

9 I completely disagree with this, and I don't
10 know if it will make any difference, but as a resident,
11 I am so disappointed. And the whole city is watching
12 this movement happen. Because there's so much evidence
13 against this, and it's incorrect, it's immoral, it's
14 unethical, it's everything.

15 We've tried to resolve the conflict -- the --
16 everything that's going on by having these meetings and
17 allowing Chuck Conder to come in to speak to the
18 community, and that is what he tried -- that's what he
19 treated us with, and that is what he said. I don't
20 know what could be more sufficient evidence than that.

21 So I'm 23 years old, but I'm sure that a lot
22 of my friends that are also paying attention to this
23 feel the same way. And I will be speaking to my
24 community about what's going on because this isn't
25 right, this isn't fair.

1 And this -- this community has so much
2 evidence. I can't even imagine what another person who
3 doesn't have the same quantitative of -- of evidence,
4 videos, emails, everything above the line that could --
5 like potentially be, you know, considered by you folks,
6 imagine they don't have that, what chance do they
7 stand? Zero. This is what you're telling the
8 community. This is not right.

9 And I don't -- like I said, I don't really
10 know how this works, how this process truly works as a
11 resident, but I am truly disappointed, and I really
12 wish better because this is not fair. Those are my
13 comments. I respect all of you, but I do wish the
14 decision would have been different.

15 Thank you.

16 CHAIR FOLEY: Thank you.

17 Taylor Keen.

18 MS. KEEN: Hi. I'm kind of throwing together
19 a comment on the fly. So and I'm -- I'm -- I'm feeling
20 lots of feelings right now for a number of reasons, so
21 pardon me with that.

22 I'm going to speak in two capacities. First,
23 I am Taylor Keen, resident of Ward 6. I have known
24 Chuck for a very long time. We've had a good
25 relationship. Like, I've known him for a long time.

1 So this is -- anything I say now is nothing personal to
2 the man, Chuck Conder. I also want to point out that I
3 have never met any of the complainants before.

4 I am dumbfounded by the decision that was
5 just made. First, as someone who sat through the last
6 complaint, this complaint and the last complaint are
7 nothing alike.

8 CHAIR FOLEY: Excuse me.

9 MS. KEEN: They have nothing --

10 CHAIR FOLEY: But, Ms. Keen, you are speaking
11 as a member of the public. Please keep your comments
12 to --

13 MS. KEEN: As a --

14 CHAIR FOLEY: -- that.

15 MS. KEEN: -- member of the public, I don't
16 appreciate you interrupting my comment. As a member of
17 the public, I sat and listened to the previous hearing,
18 so I can comment as I see fit, but thank you for your
19 input.

20 They are nothing alike, not even kind of.
21 They were not the same complaint. The evidence is not
22 the same. They're not about the same project. The
23 same people, March JPA, owned both plots of land that
24 were in question for the two complaints; but the
25 complaints were not at all alike, and they're very

1 clearly dictated as not alike.

2 So I'm -- I'm truly shocked by what's
3 happening. Chuck has openly prejudged this
4 non-project. Just because it has not made its way
5 through planning does not mean that it's not a proposed
6 -- proposed plan. And he has openly stated the things
7 that are in the complaint.

8 I read through the complaint in great detail
9 more than once, because this is in my ward, and I feel
10 strongly that this project should not be going in. He
11 has openly prejudged and stated it, fairly aggressively
12 in numerous forums, that he will not vote against. And
13 that is the evidence that she has provided. I'm going
14 to just stop there.

15 I am now going to speak, I am also the vice
16 chair of the Board of Ethics. I have been sitting on
17 this board for the last two and three-quarter years. I
18 did -- I was up for a second term, but I -- due to my
19 work schedule, I had already said that I would not be
20 coming back in March.

21 I've had a lot of concerns about the city
22 staff and the city council's ability to take this
23 panel, this board seriously and actually see any
24 benefit to it. I don't see that we have been fairly
25 effective. I think very highly of all of us on this

1 panel, but I don't feel like the Board of Ethics has
2 been very effective or the city council has been very
3 open to helping make it more effective.

4 And I feel like this prehearing is proof of
5 that, so I'll probably be sending over an early
6 resignation from the Board of Ethics. I am
7 dumbfounded.

8 MR. SHEARER: Thank you.

9 CHAIR FOLEY: Thank you for your comments.
10 I think it's either Terry or Jerry Shane.
11 I can't always read handwriting, so please
12 tell me your name.

13 MR. SHEARER: I'm Jerry Shearer.

14 CHAIR FOLEY: Thank you.

15 MR. SHEARER: I -- yeah, I have some of the
16 same loss of words. I'm not usually lost for words,
17 but it's hard to understand how this isn't compelling
18 enough to have a hearing. It just doesn't register.

19 Mr. Conder likes to say words and phrases
20 that are misleading at times, and he said there was no
21 project. And that's another code word for saying it's
22 a proposal. A proposal is right. That is what it is.
23 There's a project, Grace Martin sat here and said it at
24 the September 6th city council meeting when she
25 addressed every single council member into talking

1 about the project. She used the word project. It's on
2 video. It's part of the public record.

3 When arguing about it, we've also discussed
4 about this idea that there is a project. The builder
5 talked to us about a project. It may be a proposed
6 project, but it is a project, and it has been sitting
7 on the JPA's website since February when I became aware
8 of it. It has not changed, not one bit. Though while
9 it might be a proposal, the next step is to become a
10 project. And yes, there is a vote involved. And yes,
11 we do believe that he has predetermined his decision --
12 decision.

13 We do ask that you look at all the evidence,
14 specifically the -- the video evidence that we have
15 pointed to.

16 I think that's all I have to say. Thank you.

17 CHAIR FOLEY: Thank you.

18 And Jing Linteno (phonetic).

19 MS. LINTENO: Good evening. I just, I -- I'm
20 lost for words as to why there is not sufficient
21 evidence to have a hearing. I think out of all the
22 reasons, this is one reason that I did not think would
23 -- would be the reason why that there would be not a
24 hearing.

25 We have so much evidence of what Council

1 Member Conder has said to the community. Time after
2 time, he has openly supported the developer about this
3 project. And he has openly told the community in
4 numerous meetings that this is going to happen, that he
5 will not vote no for this project. If this does not
6 exist, why would he say those words, which are shown in
7 the video clips that was presented to you?

8 I -- I truly think that the evidence was not
9 reviewed thoroughly if this was the decision that you
10 all come to. And I don't think that it is justified,
11 and it is not fair for the community that are waiting
12 for your decision to see how our community is going to
13 be impacted by this so-called nonexistent project, yet
14 still moving forward.

15 Thank you.

16 CHAIR FOLEY: Thank you.

17 The -- are there any more comments? Are there
18 any -- any phone -- anyone on the line? Two, okay.

19 Caller, please go forward.

20 MR. MCCARTHY: Well, hello again. I guess my
21 baseball analogy didn't quite work. I -- I asked for
22 an umpire who was going to call the balls and strikes
23 fairly, and it turns out that we don't even get to
24 throw the first pitch in this proceeding. We -- we
25 don't even get to have the starting lineup take the

1 field.

2 We are going to have the comment judged by
3 this committee without actually us getting to provide
4 evidence.

5 CHAIR FOLEY: Okay. I'll make sure.

6 MR. MCCARTHY: And it's extremely
7 disappointing.

8 CHAIR FOLEY: Thank you.

9 MR. MCCARTHY: I -- I'm sorry, is somebody
10 talking over me for a reason?

11 CHAIR FOLEY: No.

12 MR. MCCARTHY: I -- I -- you know, your
13 microphone is on. I can -- I can hear you.

14 So I -- I don't know what the other complaint
15 is that -- that Council Member Conder was accused of --
16 of being done in the past. I'm not sure why that would
17 have any relevance to the things that we are saying
18 that he has done with regards to this project.

19 That we are not even allowed to give our
20 testimony prior to having the complaint thrown out is
21 -- it's -- it's mind-boggling. It's -- it's a
22 mind-boggling ethics committee hearing that doesn't
23 even allow evidence to be presented prior to making its
24 decision.

25 And, you know, that's -- that -- it says a

1 lot about -- about -- about how this community has been
2 treated throughout this whole process, by the city, by
3 this ethics panel, by the staff of the city, by the
4 March JPA. It is -- it is the most disempowering
5 public process I could ever have imagined. I cannot
6 imagine being more cynical with regards to the function
7 of government than I am right now, and it's super
8 disappointing.

9 And I -- I really, really had hoped that this
10 was going to be a hearing where we had -- had community
11 members who would be able to see what we have been
12 going through, and apparently not. Apparently, we're
13 not able to communicate what it is. And so I wish you
14 all the best, and I thank you for the service to the
15 city; again, but I am dumbfounded, dumbfounded that you
16 don't think we have enough evidence to even hear us
17 out. It's extremely disappointing. And I'm --

18 Anyway, thank you for your time.

19 CHAIR FOLEY: Thank you.

20 Next caller, please.

21 MS. DONIEL: Good evening. My name is Karen
22 Doniel (phonetic), and I'm Ward 1 resident. I have a
23 procedural comment. A board member cannot change a
24 vote once it is cast.

25 MS. KEEN: Yeah.

1 MS. DONIEL: Robert's Rules and all
2 parliamentary procedures are clear that once a vote is
3 cast, it is cast, and it can't be changed, particularly
4 once that voting member has heard the votes of other
5 members.

6 So I ask that the city attorney state that
7 the original votes stand. And that was taken tonight
8 before it was changed. And to not -- not to do that
9 calls into question your entire proceedings today. So
10 I wanted to point that out before you closed your
11 hearing.

12 Thank you very much.

13 CHAIR FOLEY: No, we're not going to address
14 it because the final vote had not been taken.

15 Okay, all right. So I'm going to -- are
16 there any more calls?

17 Okay. I am going to close public comment for
18 the evening.

19 Okay. So the majority of the panel determined
20 that the complaint does not comply with all of the
21 provisions of prohibited conduct and did not provide
22 any evidence for a violation of prohibited conduct and,
23 therefore, we ruled that we were not going to go
24 forward.

25 Do we need to take another -- another -- or

1 do we just ask -- need to have -- request that the
2 clerk write it up?

3 THE ATTORNEY: (Indiscernible).

4 CHAIR FOLEY: Okay. So now we're going to
5 request that the clerk write up our findings and that
6 the findings be presented to the Board of Ethics for a
7 vote of approval at the next regular board meeting.

8 MEMBER DE HERRERA: I have -- I have a
9 question. Can we further look into what that caller
10 just stated on the phone, on whether -- because I -- I
11 am more curious about that.

12 CHAIR FOLEY: Well --

13 MEMBER FOREMAN: I am, as well. I would like
14 to just hear what you had to say about that.

15 MEMBER DE HERRERA: Yeah.

16 MEMBER FOREMAN: Just for my own --

17 MEMBER DEMONT: I am, too.

18 MEMBER DE HERRERA: Yeah.

19 THE ATTORNEY: And this is in regards to
20 changing the vote?

21 MEMBER FOREMAN: Yes.

22 MEMBER DE HERRERA: Yes.

23 THE ATTORNEY: Yeah. So a member of the board
24 can change their vote as long as the vote has not been
25 -- has not been confirmed by the entire board. So if

1 you -- if you -- for example, if you say --

2 MS. KEEN: Is that in writing --

3 THE ATTORNEY: -- no --

4 MS. KEEN: -- somewhere?

5 THE ATTORNEY: -- and then someone else says
6 yes, and -- and it hasn't been confirmed that that vote
7 -- the -- the entire board has voted on it, you can
8 change -- change your vote.

9 MS. KEEN: Where is that in writing?

10 CHAIR FOLEY: But the person stated that the
11 vote had already been taken, but the vote had not been
12 taken.

13 MEMBER FOREMAN: I thought it had been. I
14 thought we had all responded yes or no.

15 CHAIR FOLEY: But the vote had not been taken.

16 MEMBER FOREMAN: Well, I'm --

17 MEMBER DE HERRERA: I --

18 MEMBER FOREMAN: -- not sure what the --

19 MEMBER DE HERRERA: I --

20 MEMBER FOREMAN: -- difference is.

21 MEMBER DE HERRERA: -- believe the vote was --
22 was taken.

23 THE ATTORNEY: Yeah, I don't -- I don't recall
24 if it was taken or not.

25 CHAIR FOLEY: No.

1 THE ATTORNEY: She informed me --

2 MEMBER FOREMAN: What does --

3 THE ATTORNEY: -- that it was not taken.

4 MEMBER FOREMAN: What --

5 THE ATTORNEY: So --

6 MEMBER FOREMAN: What does it -- what
7 constitutes the vote having been taken?

8 CHAIR FOLEY: That she gives us the final
9 count, and she hadn't done that yet, which means that
10 anybody could still have changed their mind, until she
11 gives the final count.

12 THE ATTORNEY: Yeah, I'm not exactly sure
13 where it says in -- in the code that says you can't
14 change your vote.

15 MS. KEEN: If it doesn't say you can, then I
16 will be (indiscernible).

17 THE ATTORNEY: But until the vote is final --

18 MEMBER HUERTA: Chair --

19 THE ATTORNEY: Oh, go ahead.

20 MEMBER HUERTA: Chair.

21 CHAIR FOLEY: Yes, thank you.

22 MEMBER HUERTA: I would make a motion that we
23 revote that -- that motion.

24 CHAIR FOLEY: Okay, all right.

25 MS. KEEN: What?

1 CHAIR FOLEY: Does anybody second that
2 motion?

3 MEMBER DE HERRERA: I second that motion of
4 revoting.

5 CHAIR FOLEY: Okay.

6 MEMBER FOREMAN: Is this even --

7 MS. MENDEZ: Are you guys allowed to do this?

8 MEMBER FOREMAN: Are we allowed to do that,
9 Mr. Attorney?

10 THE ATTORNEY: If you guys are -- I mean, is
11 -- is -- are you guys saying that you're challenging
12 the past vote, or you guys just want to -- to affirm
13 the vote that you --

14 CHAIR FOLEY: Right.

15 THE ATTORNEY: -- that you previously
16 confirmed?

17 MS. KEEN: Oh, my God. Oh, my God.

18 MEMBER HUERTA: Well, my motion would be that
19 we --

20 MS. KEEN: (Indiscernible).

21 MEMBER HUERTA: -- revote to confirm the vote
22 that we had previously taken so that it is clear what
23 each of the panel members' feelings, votes, philosophy
24 is.

25 THE ATTORNEY: I -- I -- I think the vote was

1 -- was taken and recorded. I don't think that another
2 vote is required to confirm a previous vote. I think
3 you can state it for the --

4 MEMBER HUERTA: Then I'll --

5 THE ATTORNEY: -- record what -- what you
6 vote.

7 MEMBER HUERTA: -- withdraw my -- I'll
8 withdraw my motion.

9 CHAIR FOLEY: Okay.

10 THE ATTORNEY: Yeah.

11 CHAIR FOLEY: Thank you, Gloria.

12 I think it's just a little --

13 MS. HUERTA: I -- I --

14 CHAIR FOLEY: -- too confusing.

15 MEMBER HUERTA: -- would like to comment,
16 though, if there's -- if it's time to comment.

17 CHAIR FOLEY: Yeah, you can comment.

18 MEMBER HUERTA: I -- I -- I don't think we
19 didn't hear those individuals. And I think some of us
20 may have similar thoughts or feelings or fears, but we
21 are bound by what is in the ordinance.

22 CHAIR FOLEY: Yeah.

23 MEMBER HUERTA: And section M is very clear
24 that it's not that if a city council member says
25 something we don't like or we disagree with or we feel

1 they're biased or that they've prejudged something;
2 it's very clear that there has to be a violation of a
3 law, an ordinance, a code. And I -- I just -- I just
4 didn't see that in what was presented in all the
5 evidence.

6 And yes, I looked at your evidence. And yes,
7 I -- I felt very strongly that there were some comments
8 made that probably were not in anyone's best interest
9 to make if they felt that way and definitely would make
10 me be as concerned as the individuals in the audience
11 are tonight; but I just didn't have, after reading
12 everything and listening to everything, I did not feel
13 like it rose to a level of violation of M.

14 CHAIR FOLEY: Thank you, Gloria.

15 I -- I'd like to say something. I feel the
16 same way. I read all the evidence. I researched all
17 the caselaw. I did everything, and I still did not
18 find any evidence presented that suggested there was a
19 violation of M.

20 And while we might not like behavior, you
21 know we have to go by a code, we have to go by what our
22 ordinance tells us to go by, and that's what we have --
23 we're bound to do. But I did read all of the evidence,
24 and I do understand how everyone feels; but again, we
25 are bound by our ordinance.

1 MS. LARRATT-SMITH: Caselaw it is state law.
2 If you violate caselaw, you violated the state law.
3 That's -- that's what my argument is. Caselaw is state
4 law.

5 CHAIR FOLEY: Well --

6 MS. LARRATT-SMITH: Precedent is --

7 CHAIR FOLEY: Yeah.

8 MS. LARRATT-SMITH: -- state law.

9 CHAIR FOLEY: And okay.

10 MS. LARRATT-SMITH: He's violated precedent --

11 CHAIR FOLEY: Okay.

12 MS. LARRATT-SMITH: -- in the city of
13 California --

14 CHAIR FOLEY: Okay.

15 MS. LARRATT-SMITH: -- in the State of --

16 CHAIR FOLEY: Just a second.

17 MS. LARRATT-SMITH: -- California.

18 CHAIR FOLEY: Okay, okay. I have to skip --
19 wait a minute. Okay.

20 MS. LARRATT-SMITH: I feel like you're not
21 understanding my arguments.

22 CHAIR FOLEY: We are not taking comments from
23 the audience at this time.

24 MS. LARRATT-SMITH: Well, no, we're not --

25 MS. KEEN: You interrupted public comment --

1 MS. LARRATT-SMITH: -- giving you a comment.

2 MS. KEEN: -- so we're interrupting you.

3 MS. LARRATT-SMITH: We're just talking among
4 ourselves.

5 MS. KEEN: My public comment was interrupted,
6 and that's just what happened, so now it's eye for an
7 eye, and we're all good.

8 MEMBER FOREMAN: My -- my comment is I would
9 have like to have heard -- had a hearing to hear more
10 evidence to explore this deeper, but I was outvoted.
11 So --

12 MS. MENDEZ: We just wanted an opportunity to
13 do that.

14 MS. LARRATT-SMITH: We just wanted to be
15 heard and to make our case.

16 MS. MENDEZ: And if by that time you guys --

17 CHAIR FOLEY: Okay.

18 MS. MENDEZ: -- (indiscernible).

19 CHAIR FOLEY: So, city clerk, you have been
20 instructed to prepare the final statement. Please do
21 so.

22 THE CLERK: Okay.

23 CHAIR FOLEY: And I'm going to close the
24 meeting at this time.

25 MS. ARSEO: Chair Foley, I have --

1 CHAIR FOLEY: Yes.

2 MS. ARSEO: -- a question.

3 CHAIR FOLEY: Sure.

4 MS. ARSEO: Could you please state the
5 deficiencies for the record?

6 CHAIR FOLEY: Yes. I had stated them earlier,
7 that there was no evidence presented of any violations
8 of M, subsection M.

9 MS. ARSEO: Thank you very much for the
10 clarification.

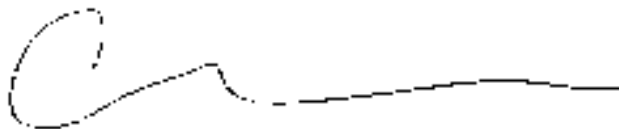
11 CHAIR FOLEY: So I think -- so the meeting is
12 now closed and adjourned. Thank you, everyone.

13 * * *
14
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF WASHINGTON)
2 COUNTY OF WHATCOM) SS

3
4
5 I, CHRISTINE AIELLO, do hereby certify
6 that I transcribed the audio, and that the foregoing is
7 a true and complete transcription of the audio
8 transcribed under my personal direction.

9 IN WITNESS WHEREOF, I do hereunto set my
10 hand at Blaine, Washington, this 30th day of October,
11 2022.

12
13
14 
15

16
17 Christine Aiello
18
19
20
21
22
23
24
25