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

Transcribed by:
Christine Aiello

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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

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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.

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

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

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

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

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

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

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

CHAIR FOLEY: Thank you for your comments, sir.

Do we have anybody else for this (indiscernible)?

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

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

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

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

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

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

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

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

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

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

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

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

Thank you for your time.

CHAIR FOLEY: Thank you.

Are there any other calls? No, okay.

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

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

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

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

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

CHAIR FOLEY: Thank you.

COUNCILMAN CONDER: Chuck Conder here.

CHAIR FOLEY: Thank you.

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

provided?

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

CHAIR FOLEY: We can't hear you.

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

CHAIR FOLEY: No.

MS. ARSEO: Still can't hear me?

CHAIR FOLEY: Now we can.

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

CHAIR FOLEY: Thank you.

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

CHAIR FOLEY: Thank you.

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

MS. ARSEO: Yes.

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

MS. ARSEO: Yes.

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

MS. ARSEO: Yes.

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

MS. ARSEO: Yes.

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

MS. ARSEO: Yes.

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

MS. ARSEO: Yes.

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

MS. ARSEO: Yes.

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

MS. ARSEO: Yes.

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

MS. ARSEO: Yes, for the --
CHAIR FOLEY: Okay.
MS. ARSEO: -- majority of the dates listed.
CHAIR FOLEY: Yes, okay. And so, Ms. Arseo, have you identified that all of the complaint procedures have been followed?
MS. ARSEO: Yes.
CHAIR FOLEY: Okay. And would you please make a statement to that effect?
MS. ARSEO: Yes. City clerk's office did review the complaint and identified that all -- all procedures were followed and was deemed complete.
CHAIR FOLEY: Thank you.
Okay. I'm now going to ask the hearing panel to discuss, yes or no, is the complaint against a public official subject to the code.
You can -- I -- we can try to see if that's working. Press your --
MEMBER FOREMAN: Oh, I -- I don't think we can vote that way if Gloria --
CHAIR FOLEY: Oh, that's --
MEMBER FOREMAN: -- is --
CHAIR FOLEY: -- right.
MEMBER FOREMAN: -- virtual.
CHAIR FOLEY: Okay.

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

CHAIR FOLEY: Okay.

MEMBER FOREMAN: -- way.

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

THE CLERK: Okay.

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

THE CLERK: Okay. Chair Foley.

CHAIR FOLEY: Yes.

THE CLERK: Member Foreman.

MEMBER FOREMAN: Yes, yes.

THE CLERK: Member De Herrera.

MEMBER DE HERRERA: Yes.

THE CLERK: Member Huerta.

MEMBER HUERTA: Yes.

THE CLERK: Member Demont.

MEMBER DEMONT: Yes.

THE CLERK: Okay. It carries.

CHAIR FOLEY: Thank you.

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

or more prohibited conduct sections of the code?

THE CLERK: All right. Chair Foley.

CHAIR FOLEY: Yes.

THE CLERK: Member Foreman.

MEMBER FOREMAN: Yes.

THE CLERK: Member De Herrera.

MEMBER DE HERRERA: Yes.

THE CLERK: Member Huerta.

MEMBER HUERTA: Yes.

THE CLERK: Member Demont.

MEMBER DEMONT: Yes.

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

THE CLERK: Chair Foley.

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

THE CLERK: Member Foreman.

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

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

CHAIR FOLEY: Yeah.

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

CHAIR FOLEY: That was very --

MEMBER FOREMAN: -- all mean.
CHAIR FOLEY: -- worded very strange.
MEMBER FOREMAN: You know what we mean.
CHAIR FOLEY: We know what we mean.
MEMBER DE HERRERA: So you're saying it doesn't include -- yes, it does not?
CHAIR FOLEY: Yes, it does not.
MEMBER FOREMAN: It does not. Yes, it does not. It was -- it was done correctly because -- because it does not include --
CHAIR FOLEY: Okay. So the question is whether or not it contains allegations -- the subject does not restate allegations of violations that were subject of a previous complaint. So the answer -- so the answer would be no, actually, no, it does not contain that.
MEMBER DE HERRERA: Well, I have a question.
CHAIR FOLEY: Okay. Go ahead.
MEMBER DE HERRERA: Because he had a -- he was part of a previous --
CHAIR FOLEY: You have to --
MEMBER DE HERRERA: Oh, I'm sorry, wrong button.
MEMBER FOREMAN: Yeah, and use hat.
MEMBER DE HERRERA: Well, I have a -- because

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

CHAIR FOLEY: It's not the same allegation.

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

CHAIR FOLEY: Right.

MEMBER DE HERRERA: So it's --

CHAIR FOLEY: Uh-huh.

MEMBER DE HERRERA: -- a different --

CHAIR FOLEY: Right.

MEMBER DE HERRERA: Okay. Yes.

MEMBER FOREMAN: Okay.

CHAIR FOLEY: I understand.

THE CLERK: Looking at you.

CHAIR FOLEY: Annette.

THE CLERK: Member -- Member Huerta.

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

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

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

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

CHAIR FOLEY: Are different, okay.

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

THE ATTORNEY: Demont.

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

MEMBER DEMONT: They are not.

CHAIR FOLEY: Okay.

THE CLERK: They are different, uh-huh.

CHAIR FOLEY: Just Gloria feels --

MEMBER HUERTA: I believe they are.

CHAIR FOLEY: Uh-huh.

THE CLERK: Gloria.

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

MEMBER HUERTA: No.

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

MEMBER HUERTA: No.

CHAIR FOLEY: So could you please --

MEMBER HUERTA: I think the facts stand for themselves.

CHAIR FOLEY: Okay. Thank you.

So could you give us the tally, please?

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

Four --

CHAIR FOLEY: Uh-huh.

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

CHAIR FOLEY: Okay. Thank you.

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

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

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

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

MEMBER DE HERRERA: Okay.

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

CHAIR FOLEY: Uh-huh.

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

CHAIR FOLEY: Okay.

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

MEMBER DE HERRERA: Okay. Thank you.

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

MEMBER DE HERRERA: Yes.

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

MEMBER DE HERRERA: Yes. Sorry.

CHAIR FOLEY: Okay. Thank you, thank you.

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

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

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

MEMBER DEMONT: I move for a second.
CHAIR FOLEY: Thank you.
Okay. The motion -- well, we have to vote now. I like to go from motions to -- and --
THE CLERK: Okay. Chair Foley.
CHAIR FOLEY: Yes.
THE CLERK: Member Foreman.
MEMBER FOREMAN: Yes.
THE CLERK: Member De Herrera.
MEMBER DE HERRERA: Yes.
THE CLERK: Member Huerta.
MEMBER HUERTA: No.
THE CLERK: Member Demont.
MEMBER DEMONT: Yes.
THE CLERK: Motion carries, four-one.
CHAIR FOLEY: Okay. Thank you.
Okay. The code requires us to see -- determine if the parties can settle the matter. Is there a possibility for settlement? Can we have -- do -- are there any ideas for settlement? Could the -- do the complaint and the respondent, would they like to have -- take an ethics board member with them and have a discussion about possible settlement? What's the possibilities here?
You --

MS. LARRATT-SMITH: Well --

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

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

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

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

CHAIR FOLEY: Okay.

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

CHAIR FOLEY: Okay. Thank you for your --

COUNCILMAN CONDER: So --

CHAIR FOLEY: -- comment, Councilman Conder.

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

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

MEMBER FOREMAN: I had a comment.

CHAIR FOLEY: Who am --

MEMBER FOREMAN: I --

CHAIR FOLEY: -- I -- okay.

MEMBER FOREMAN: This --

CHAIR FOLEY: Go ahead.

MEMBER FOREMAN: Is that okay?

CHAIR FOLEY: Yeah.

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

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

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

MEMBER FOREMAN: The general plan, the

Riverside General Plan --

CHAIR FOLEY: Okay.

MEMBER FOREMAN: -- from 2010 --

CHAIR FOLEY: Okay.

MEMBER FOREMAN: -- correct?

CHAIR FOLEY: Okay.

MEMBER FOREMAN: Yeah.

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

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

MEMBER DEMONT: It's the entire thing?

MEMBER FOREMAN: Yeah.

MEMBER DE HERRERA: It's attachment B.

MEMBER DEMONT: Thank you.

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

MEMBER FOREMAN: Thank you.

CHAIR FOLEY: -- packet.

MEMBER FOREMAN: Thank you.

CHAIR FOLEY: Okay.

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

CHAIR FOLEY: Okay.

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

CHAIR FOLEY: Okay. Thank you, Gloria.

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

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

CHAIR FOLEY: It's in the --

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

CHAIR FOLEY: The thumb drive.

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

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

CHAIR FOLEY: Okay. So --

MEMBER FOREMAN: I did read it, though.

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

MEMBER FOREMAN: But it was a while ago.

I will.

CHAIR FOLEY: Okay.

MEMBER FOREMAN: Thank you.

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

THE CLERK: Chair Foley.

CHAIR FOLEY: And --
THE CLERK: Oh.
CHAIR FOLEY: Okay. So and do you want to restate -- restate --
THE ATTORNEY: The motion.
CHAIR FOLEY: -- your --
MEMBER FOREMAN: I move -- I move that the Riverside County General Plan from 2010 be excluded as being irrelevant to this allegation.
CHAIR FOLEY: Okay, all right.
THE CLERK: Chair Foley.
CHAIR FOLEY: Yes.
THE CLERK: Member Foreman.
MEMBER FOREMAN: Yes.
THE CLERK: Member De Herrera.
MEMBER DE HERRERA: Yes.
THE CLERK: Member Huerta.
MEMBER HUERTA: Yes.
THE CLERK: Member Demont.
MEMBER DEMONT: Abstain.
THE CLERK: Okay. Four-one, motion carries.
CHAIR FOLEY: Thank you.
Okay. The motion carries.
Is there ever -- any other evidence that anyone thinks should -- is irrelevant and should be

deemed inadmissible?

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

CHAIR FOLEY: Uh-huh.

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

CHAIR FOLEY: Yeah, they're on --

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

CHAIR FOLEY: Right.

MEMBER FOREMAN: -- and as a council member.

CHAIR FOLEY: So would you --

MEMBER FOREMAN: So --

CHAIR FOLEY: Do you want to make a motion,

please?

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

CHAIR FOLEY: Do we have a second?

MEMBER DE HERRERA: I second.

CHAIR FOLEY: Okay.

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

CHAIR FOLEY: Do you have a comment?

MEMBER FOREMAN: -- the complainant.

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

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

MS. LARRATT-SMITH: Oh.

CHAIR FOLEY: -- speak --

MEMBER FOREMAN: Oh, is she --

CHAIR FOLEY: -- on that.

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

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

MEMBER FOREMAN: Oh, okay. Well --

CHAIR FOLEY: Okay.

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

Did any of the other --

CHAIR FOLEY: Okay.

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

MEMBER DEMONT: I would like to hear your comment.

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

No, okay. She's shaking her head.

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

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

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

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

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

Does anyone else have any comments?

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

MEMBER FOREMAN: And I believe --

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

CHAIR FOLEY: Okay.

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

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

Okay. Could you please do a roll call?

THE CLERK: Chair Foley.

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

THE CLERK: Okay. Member Foreman.

MEMBER FOREMAN: Yes.

THE CLERK: Member De Herrera.
MEMBER DE HERRERA: Yes.
THE CLERK: Member Huerta.
MEMBER HUERTA: Yes.
THE CLERK: And, Member Demont.
MEMBER DEMONT: Abstain.
THE CLERK: Motion carries --
CHAIR FOLEY: Okay.
THE CLERK: -- four-one.
CHAIR FOLEY: All right.
THE CLERK: All right.
CHAIR FOLEY: I'm -- I'm going to -- I think in terms of -- caselaw from Kansas was provided, Gold -- Golden versus the City of Overland Park, and it has no relevance to the State of California. And the laws that apply there do not necessarily apply here. I think it's irrelevant. So I make a motion to remove the caselaw from Golden versus City of Overland Park from Kansas, the State of Kansas.
MEMBER FOREMAN: I had a question, too.
MEMBER HUERTA: I'll second it.
CHAIR FOLEY: Thank you.
MEMBER FOREMAN: I -- I had just a quick -- that's not a federal law, correct? That's a state, Kansas?

CHAIR FOLEY: Yeah.
MEMBER FOREMAN: I just wanted to make sure I was correct in --
CHAIR FOLEY: No, it's not --
MEMBER FOREMAN: -- that.
CHAIR FOLEY: -- federal. It's state. I checked that.
MEMBER DEMONT: Can I have a question?
CHAIR FOLEY: Sure.
MEMBER DEMONT: What page is it on?
CHAIR FOLEY: Oh, (indiscernible).
MEMBER DEMONT: Sorry, I'm catching up.
CHAIR FOLEY: Does anybody know what page that's on? I don't know what -- I think you have to -- it's on the thumb drive. You have to --
MEMBER DEMONT: Okay. Thank you.
CHAIR FOLEY: And then you had to click on the reference and go and read it.
MEMBER DEMONT: It's been a while. Thank you.
CHAIR FOLEY: Okay, all right. So do we have a --
Gloria, you second?
THE CLERK: Yes, we have a --
CHAIR FOLEY: Yeah.
THE CLERK: -- second --

CHAIR FOLEY: Okay.
THE CLERK: -- on the floor.
CHAIR FOLEY: Can we have a roll call vote, please?
THE CLERK: Okay. Chair Foley.
CHAIR FOLEY: Yes.
THE CLERK: Member Foreman.
MEMBER FOREMAN: Yes.
THE CLERK: Member De Herrera.
MEMBER DE HERRERA: Yes.
THE CLERK: Member Huerta.
MEMBER HUERTA: Yes.
THE CLERK: And, Member Demont.
MEMBER DEMONT: Abstain.
THE CLERK: Motion carries.
CHAIR FOLEY: Okay. Thank you.
Okay. I had another one, and it was the other caselaw presented in that it wasn't the Black's Law where the full case, it wasn't able to be opened and was not able to be authenticated. So I don't know what relevance it has or if it's -- how authentic it is. So I would also like to have that removed.
MEMBER FOREMAN: Could you clarify what that is that you're referring to? I -- I'm not sure what you're referring to. Is that the one from Best Best &

Krieger?

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

THE CLERK: (Indiscernible) motion.

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

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

CHAIR FOLEY: Okay. Thank you. All right.

THE CLERK: Okay.

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

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

MEMBER FOREMAN: -- a couple weeks.

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

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

CHAIR FOLEY: Okay.
MEMBER FOREMAN: -- purpose of --
CHAIR FOLEY: Okay.
MEMBER FOREMAN: Okay. I -- I feel it's a legitimate piece of evidence.
CHAIR FOLEY: Okay. Is there any other discussion? None, okay.
THE CLERK: Do we want to take a roll call or --
CHAIR FOLEY: Yeah. I was going to say, I think I've got to -- yes, I think it should be removed.
THE CLERK: Okay, okay. So, Member Foley -- or Chair Foley.
CHAIR FOLEY: Yes.
THE CLERK: Yes. Member Foreman.
MEMBER FOREMAN: No.
THE CLERK: Member De Herrera.
MEMBER DE HERRERA: I abstain.
THE CLERK: Member Huerta.
MEMBER HUERTA: Abstain.
THE CLERK: And, Member Demont.
MEMBER DEMONT: Abstain.
CHAIR FOLEY: Okay.
THE CLERK: It fails. So we've got --
CHAIR FOLEY: I understand, okay.

THE CLERK: Yeah.

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

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

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

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

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

CHAIR FOLEY: We have to make that decision?

THE ATTORNEY: Yeah.
CHAIR FOLEY: Okay.
THE ATTORNEY: Based on --
CHAIR FOLEY: All right.
THE ATTORNEY: -- just (indiscernible).
CHAIR FOLEY: Okay. So before we proceed with the case, we have to decide if there is enough evidence to proceed, if the evidence were taken as true.
MEMBER FOREMAN: I move that we vote to proceed.
MEMBER: I second.
CHAIR FOLEY: Okay.
THE CLERK: Chair Foley.
CHAIR FOLEY: Yes.
THE CLERK: Member Foreman.
MEMBER FOREMAN: Yes.
THE CLERK: Member De Herrera.
MEMBER DE HERRERA: Can I get a second reading of M one more time, please?
CHAIR FOLEY: Sure.
MEMBER DE HERRERA: Thank you.
CHAIR FOLEY: Okay. It says that violations of federal, state, or local law prohibited, no public official of the City of Riverside shall intentionally or repeatedly violate the Charter of the City of

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

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

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

MEMBER DE HERRERA: To have the hearing.

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

MEMBER DE HERRERA: No.

CHAIR FOLEY: Okay.

THE CLERK: Member Huerta.

MEMBER HUERTA: No.

THE CLERK: And, Member Demont.

MEMBER DEMONT: Yes.

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

THE CLERK: Okay.
CHAIR FOLEY: I -- am I allowed to change my vote?
THE ATTORNEY: You are.
CHAIR FOLEY: Okay. Just checking. I'm going to change my vote to no.
THE CLERK: Okay. So the motion, it fails, huh?
THE ATTORNEY: Uh-huh.
THE CLERK: (Indiscernible).
So the motion to proceed fails, three -- two yes and two noes. The motion fails.
CHAIR FOLEY: I'm sorry. Say it. I can't hear you. What?
THE CLERK: The motion to proceed fails --
CHAIR FOLEY: Okay.
THE CLERK: -- because we've got three noes --
CHAIR FOLEY: All right.
THE CLERK: -- and two yes.
CHAIR FOLEY: So now do we ask the clerk to --
THE ATTORNEY: Public -- public comment.
CHAIR FOLEY: Okay, all right. We're going to open up for public comment again. And to call in, the call-in number is (669) 900-6833. And enter meeting ID number 926 9699 1265. Press star nine to request to

speak.

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

CHAIR FOLEY: No.

MEMBER HUERTA: Madam chair --

CHAIR FOLEY: You have to fill out a card.

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

CHAIR FOLEY: Yes. Gloria, yes.

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

CHAIR FOLEY: Right.

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

CHAIR FOLEY: The --

MEMBER HUERTA: -- clarification.

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

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

CHAIR FOLEY: Right, he can --

MEMBER HUERTA: -- attorney --

CHAIR FOLEY: -- explain.

MEMBER HUERTA: -- for --

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

MEMBER HUERTA: -- point --

THE ATTORNEY: Yeah.

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

CHAIR FOLEY: Okay.

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

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

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

audience, please sit down.

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

COUNCILMAN CONDER: Good evening, again.

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

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

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

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

The developer is under a DDA. You know what

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

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

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

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

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

So I appreciate your time this evening. Again, I'm sorry that you had to go through this.

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

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

Thank you.

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

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

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

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

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

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

Thank you.

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

MS. MENDEZ: No, I'm --

CHAIR FOLEY: -- that.

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

CHAIR FOLEY: So tell --

MS. MENDEZ: -- about the --

CHAIR FOLEY: -- me your name, please.

MS. MENDEZ: Gabriella Mendez.

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

MS. MENDEZ: Yeah, thank you.

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

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

There's another clip that I -- that I

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

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

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

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

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

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

Thank you.

CHAIR FOLEY: Thank you.

Taylor Keen.

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

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

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

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

CHAIR FOLEY: Excuse me.

MS. KEEN: They have nothing --

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

MS. KEEN: As a --

CHAIR FOLEY: -- that.

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

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

clearly dictated as not alike.

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

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

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

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

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

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

MR. SHEARER: Thank you.

CHAIR FOLEY: Thank you for your comments.

I think it's either Terry or Jerry Shane.

I can't always read handwriting, so please tell me your name.

MR. SHEARER: I'm Jerry Shearer.

CHAIR FOLEY: Thank you.

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

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

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

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

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

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

CHAIR FOLEY: Thank you.

And Jing Linteno (phonetic).

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

We have so much evidence of what Council

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

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

Thank you.

CHAIR FOLEY: Thank you.

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

Caller, please go forward.

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

field.

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

CHAIR FOLEY: Okay. I'll make sure.

MR. MCCARTHY: And it's extremely disappointing.

CHAIR FOLEY: Thank you.

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

CHAIR FOLEY: No.

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

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

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

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

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

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

Anyway, thank you for your time.

CHAIR FOLEY: Thank you.

Next caller, please.

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

MS. KEEN: Yeah.

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

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

Thank you very much.

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

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

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

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

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

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

THE ATTORNEY: (Indiscernible).

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

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

CHAIR FOLEY: Well --

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

MEMBER DE HERRERA: Yeah.

MEMBER FOREMAN: Just for my own --

MEMBER DEMONT: I am, too.

MEMBER DE HERRERA: Yeah.

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

MEMBER FOREMAN: Yes.

MEMBER DE HERRERA: Yes.

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

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

MS. KEEN: Is that in writing --

THE ATTORNEY: -- no --

MS. KEEN: -- somewhere?

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

MS. KEEN: Where is that in writing?

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

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

CHAIR FOLEY: But the vote had not been taken.

MEMBER FOREMAN: Well, I'm --

MEMBER DE HERRERA: I --

MEMBER FOREMAN: -- not sure what the --

MEMBER DE HERRERA: I --

MEMBER FOREMAN: -- difference is.

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

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

CHAIR FOLEY: No.

THE ATTORNEY: She informed me --
MEMBER FOREMAN: What does --
THE ATTORNEY: -- that it was not taken.
MEMBER FOREMAN: What --
THE ATTORNEY: So --
MEMBER FOREMAN: What does it -- what constitutes the vote having been taken?
CHAIR FOLEY: That she gives us the final count, and she hadn't done that yet, which means that anybody could still have changed their mind, until she gives the final count.
THE ATTORNEY: Yeah, I'm not exactly sure where it says in -- in the code that says you can't change your vote.
MS. KEEN: If it doesn't say you can, then I will be (indiscernible).
THE ATTORNEY: But until the vote is final --
MEMBER HUERTA: Chair --
THE ATTORNEY: Oh, go ahead.
MEMBER HUERTA: Chair.
CHAIR FOLEY: Yes, thank you.
MEMBER HUERTA: I would make a motion that we revote that -- that motion.
CHAIR FOLEY: Okay, all right.
MS. KEEN: What?

CHAIR FOLEY: Does anybody second that motion?

MEMBER DE HERRERA: I second that motion of revoting.

CHAIR FOLEY: Okay.

MEMBER FOREMAN: Is this even --

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

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

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

CHAIR FOLEY: Right.

THE ATTORNEY: -- that you previously confirmed?

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

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

MS. KEEN: (Indiscernible).

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

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

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

MEMBER HUERTA: Then I'll --

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

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

CHAIR FOLEY: Okay.

THE ATTORNEY: Yeah.

CHAIR FOLEY: Thank you, Gloria.

I think it's just a little --

MS. HUERTA: I -- I --

CHAIR FOLEY: -- too confusing.

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

CHAIR FOLEY: Yeah, you can comment.

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

CHAIR FOLEY: Yeah.

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

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

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

CHAIR FOLEY: Thank you, Gloria.

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

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

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

CHAIR FOLEY: Well --

MS. LARRATT-SMITH: Precedent is --

CHAIR FOLEY: Yeah.

MS. LARRATT-SMITH: -- state law.

CHAIR FOLEY: And okay.

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

CHAIR FOLEY: Okay.

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

CHAIR FOLEY: Okay.

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

CHAIR FOLEY: Just a second.

MS. LARRATT-SMITH: -- California.

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

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

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

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

MS. KEEN: You interrupted public comment --

MS. LARRATT-SMITH: -- giving you a comment.
MS. KEEN: -- so we're interrupting you.
MS. LARRATT-SMITH: We're just talking among ourselves.
MS. KEEN: My public comment was interrupted, and that's just what happened, so now it's eye for an eye, and we're all good.
MEMBER FOREMAN: My -- my comment is I would have like to have heard -- had a hearing to hear more evidence to explore this deeper, but I was outvoted. So --
MS. MENDEZ: We just wanted an opportunity to do that.
MS. LARRATT-SMITH: We just wanted to be heard and to make our case.
MS. MENDEZ: And if by that time you guys --
CHAIR FOLEY: Okay.
MS. MENDEZ: -- (indiscernible).
CHAIR FOLEY: So, city clerk, you have been instructed to prepare the final statement. Please do so.
THE CLERK: Okay.
CHAIR FOLEY: And I'm going to close the meeting at this time.
MS. ARSEO: Chair Foley, I have --

CHAIR FOLEY: Yes.

MS. ARSEO: -- a question.

CHAIR FOLEY: Sure.

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

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

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

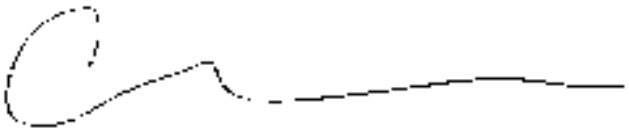
CHAIR FOLEY: So I think -- so the meeting is now closed and adjourned. Thank you, everyone.

* * *

STATE OF WASHINGTON)
) SS
COUNTY OF WHATCOM)

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

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



Christine Aiello